

The Emergence of Ontario Microbreweries: A Socio-Historical Analysis

by

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Abstract

Since the 1980s microbreweries in Ontario have gained in popularity, winning over beer drinkers in the province and earning the support of the provincial government that funds the expansion of this creative industry. The Emergence of Ontario Microbreweries, adopting the theoretical perspectives of Margaret Archer and Michel Foucault, looks at the factors explaining the emergence of the craft beer industry. Through the morphogenetic approach, which sees enablements take shape through entrepreneurial pursuits, and disenablements through Foucauldian disciplinary processes, we observe that Ontario microbreweries were constrained by strict government laws. Enforced by the Liquor Control Board of Ontario, these laws acted upon the individuals and their ability to consume alcohol both privately and publicly. Over time, the strict governmental regimes which constrained beer drinkers and micro-brewed beer producers gradually transformed to allow for the expansion of microbreweries that create unique, distinct and authentic products that have specific geographic links to community.

List of Acronyms

AB InBev	Anheuser-Busch InBev
AmBev	Companhia de Bebidas das Américas
BASR	Beverage Alcohol System Review
CAMRA	Campaign for Real Ale
DDD	Discernment, deliberation, and dedication
GATT	General Agreement on Tariffs and Trade
ICONI	Internal Conversation Indicator
InBev	Merger of <i>Interbrew</i> and <i>AmBev</i>
LCA	Liquor Control Act
LCBO	Liquor Control Board of Ontario
MADD	Mothers Against Drunk Driving
MTO	Ministry of Transportation
OCB	Ontario Craft Brewers
OCSA	Ontario Convenience Stores Association
SOP	Special Occasion Permit
UFCW	United Food and Commercial Workers
VQA	Vintners Quality Alliance
WCTU	Women's Christian Temperance Movement
WTO	World Trade Organization
TBS	The Beer Store

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Introduction

Anyone can drink beer, but it takes intelligence to enjoy beer.

— Stephen Beaumont

Cold, smooth, crisp, and refreshing tasting beer was all that was available in Ontario until December of 1984 when the first Ontario microbrewery opened. Since this time, the number of microbreweries operating in the province has significantly increased. Microbreweries have been successful in bringing to market exciting, radical, flavourful and extreme beers, without all of the corporate rhetoric about their “lite” and “mild” qualities, with their cold and refreshing tastes. Since when did cold have a taste? The brewing of beer that uses hand-crafted, traditional methods is desired by people in Ontario and the microbrewers deliver. Perhaps consumers have become aware of microbreweries through word-of-mouth, through visiting a brew-pub, or just wanting to try a new beer. Regardless of the motivation, people in Ontario desire micro-brewed beer, and the government of Ontario wants to support the growth of this industry. Support has taken the form of money that is given to members of the industry, tax reductions for microbrewers, and help in creating the Ontario Craft Brewers Association (an organization that helps promote and sell the beer crafted by its members). In addition to support from government financing projects to stimulate the industry the provincial government also helps microbreweries by periodically relaxing the laws concerning the public and private consumption of alcohol. This idea of relaxing alcohol laws dates back for some time in the recent history of alcohol in Ontario.

The government's current position is radically different from its approach towards alcohol throughout the first half of the 20th century. Drinkers were considered morally bankrupt, the act of drinking was sinful, and a “bread-winner” who drank was often seen as the cause of a destitute family. At one time, Ontario banned the sale of alcohol completely, during prohibition, which lasted from 1916-1927. When prohibition ended, the provincial government regulated drinkers heavily. Through the Liquor Control Board of Ontario

(LCBO), the privilege of drinking was restored, but through a new and tightly controlled regime. Drinkers were required to carry around a liquor permit, enabling them to purchase alcohol. In this permit was a record of their drinking history. These permits were considered public property and could be seized by the police without warrant. Drinkers could have their permits taken away from them, their privileges revoked. For those that wanted to drink in public, among the company of friends, found that drinking establishments were subject to the pervasive eye of the LCBO. From 1934 until 1947, public drinking was limited to spaces called beer parlours, rooms where small groups of men or women were permitted to meet and drink. A list of rules and regulations controlled their behaviour in these spaces. Gender segregation kept men and women apart. There were to be no activities, no dancing, singing, card games or gambling. Standing while drinking was prohibited as patrons were required to sit down and drink their beer. Those who broke the rules put the drinking establishment at risk, as the establishment was liable for the behaviours of their customers.

Over time, these strict regulations have been relaxed, and under a modernized alcohol regime microbreweries have been able to emerge. The government now supports small and independent microbreweries and wants them to become successful. People now have the freedom of choice to drink from microbreweries that offer a range of experiences of hand-crafted, traditional, unique and distinct tasting beers that are locally produced.

Analyzing the emergence of Ontario microbreweries from a theoretical perspective requires looking at the co-determinism that takes place between the structure and the agents. It is not clear that the governmental structure was complete in determining the social relations of all the actors over the course of history. From the time of prohibition, the government's attempts to prohibit the sale of beer and alcohol within the boundaries of the

province failed. The people acted against the governmental structure and found their own ways to gain access to the alcohol they desired. While the provincial government was able to prohibit the sale of alcohol, the jurisdiction regulating the production of alcohol fell within the hands of the federal government. This meant that the alcohol producers continued to brew beer and produce other forms of alcohol. The people, acting against the wishes of the government, devised their own methods of attaining alcohol through legal channels of inter-provincial alcohol trade.

Following prohibition a new era of intense social and moral regulation of alcohol began. Despite the government's willingness to continue to control and regulate the people concerning their alcohol consumption practices, the strength of the people through their desire to consume alcohol caused the gradual reduction of the government's control. The actions of the government served to inhibit alcohol consumption, but ultimately the level of inhibition the governmental structure wished to produce was never achievable, and what we see through an historical account is the relaxation of the strict laws preventing the people from enjoying alcohol freedom.

The balancing act between the structure of strict alcohol social and moral regulation and the agents who sought to reduce this regulation brings forward the co-deterministic theoretical approach which encompasses the interactions between the structure and the agents. Over time, as the inhibitory mechanisms declined, the structure changed and became transformed. What we find is that the original position of the provincial government who reduced access to alcohol was influenced by a multitude of agents to take the position where the structure stands today, where the government now actively supports, endorses, and encourages the production, consumption, and sale of Ontario produced micro-brewed beer.

With respect to Ontario microbreweries, social theories of moral and social regulation have enabled me to trace out the genealogical and historical development of the rules and regulations that concern the private and public consumption of alcohol in Ontario. Imagining a time in the not so distant past when drinking beer was seen as something shameful, and how it was hidden from view behind the closed doors and curtained windows of Ontario beer parlours for almost half a century is a radical shift from the attitudes that we hold towards beer today. Imagining a time when men and women were separated from one another in Ontario beer parlours is not only seen by today's standards as odd, but surprising. Furthermore, the amount of resources that the government invested towards the control of alcohol through its Liquor Control Board of Ontario, who used their Liquor Permits, their drunk lists, their punch cards, and other forms of hierarchical observation that permitted and prohibited the drinker from what, when, and how they would consume alcohol is an incredible testament to the extent that the government was willing to go in order to keep control over alcohol in Ontario.

To help put into perspective the use of alcohol, food expert Margaret Visser, said while being interviewed by CBCs Peter Gzowski says, “One of the fascinating things about drink, is the following: Drink is very, very, dangerous when people drink for escape, when people drink for their private problems... but when alcohol is part of a culture, when it is drunk in community with other people, when it is something which is put in perspective because it is a societal thing, and all sort of societal pressures are brought to bear on your behaviour when you are drinking, then, alcohol is not a problem. Alcohol generally, is not a problem” (Gzowski & Visser, 1983).

The attitude towards alcohol today falls in line with the sentiments expressed by Margaret Visser. Alcohol has its practices, its addictions, and dangers such as the consumption of alcohol and operation of motor vehicles continues to be highly stigmatized, yet, compared with the attitudes of the past, the manner in which alcohol is controlled has been relaxed. Our government, when informing us of their plans to make changes to the way that alcohol is to be regulated tells us that it will be relaxing the laws.

Gradually, slowly, over the decades since prohibition, alcohol has been “reintroduced” to us. We have been disciplined into respecting alcohol and we have demonstrated our ability to follow the rules of alcohol. As our disciplining process became more engrained in our culture, and the necessity of the mechanisms inflicting the moral and social regulation of alcohol have reduced, the relaxation of regulation was established. This, in turn, paved the way for the factors affecting the emergence of microbreweries in Ontario.

This thesis is divided into four chapters. The first chapter provides a discussion of the theoretical perspectives that were used and developed for the purposes of understanding and explaining the emergence of Ontario microbreweries. Chapter 2 discusses the history of alcohol policy and regulations in Ontario. This chapter provides an historical account of the beer industry in the province and explains the reasons why microbreweries were unable to emerge until 1984. Chapter 3 examines the current government policies towards beer and alcohol and provides a discussion on how microbreweries have been enabled to emerge, and areas where they continue to be constrained. Chapter 4 provides information from Ontario microbrewers themselves, as a result of semi-structured interviews. Interviews were conducted over the period of December 2012 to December 2013. The majority of the interviews were requested by contacting the microbrewer by telephone, in person, or by

email. The interviews were conducted on-site at the microbrewery, with the exception of one microbrewery that chose to remain anonymous for the purpose of this study and this interview was conducted by telephone. Open-ended questions were used in this study to promote open-ended answers, and the interviewees were encouraged to deviate from the original questions to express their own ideas, personal experiences and observations within the industry. The results of these interviews, the ways in which these microbrewers emerged, their current challenges, and the future of the industry are featured in this chapter.

Chapter One:

Theoretical Perspectives

So, if people didn't settle down to take up farming, why then did they embark on this entirely new way of living? We have no idea – or actually, we have lots of ideas, but we don't know if any of them are right. According to Felipe Fernández-Armesto, at least thirty-eight theories have been put forward to explain why people took to living in communities: that they were driven to it by climatic change, or by a wish to stay near their dead, or by a powerful desire to brew and drink beer, which could only be indulged by staying in one place.

— Bill Bryson, *At Home: A Short History of Private Life*

1.1 Archer, Critical Realism, and Microbrewers as Entrepreneurs

In this section I outline the theoretical perspective I adopt for this thesis. Studying a segment of the alcohol industry raises several concerns. Primarily, the alcohol industry is a heavily regulated and controlled industry in Canada. In addition to rigorous governmental controls, the industry is also highly competitive. The emergence of the microbrewers as an entrepreneur within this industry is the focus of this research and I am interested in explaining and understanding this emergence within the geographic boundary of Ontario.

The research question guiding this project asks: What are the factors that have affected the emergence of Ontario microbreweries? In this way, by viewing the microbrewers as entrepreneurs and as individuals we can examine them in terms of their aspirations, life-projects, and their agency. Margaret Archer's critical realist approach has shown that it is the most appropriate theoretical lens by which we are able to describe and explain the agency of these entrepreneurs (Mole and Mole, 2010). In this fashion, we discuss several aspects of critical realism; namely, reflexivity, the internal conversation, constraints and enablements, and morphogenesis.

Critical realist theory

Margaret Archer's critical realist theory is useful in explicating the emergence of Ontario microbreweries. Her theoretical perspective provides us with tools that allow us to see the emergence of this industry through her lenses. Most importantly for the purposes of my research is Archer's morphogenetic approach, which explains the process of the

analytical dualism between morphogenesis and morphostasis, which is used to describe and understand the enabling and constraining factors that have affected the emergence of Ontario microbreweries. The second conceptual tool that Archer provides that is adopted in this thesis is the use of the internal conversation which, effectively, allows us to look at the wishes and desires of the entrepreneurs of these microbrewers and allows us to see their motivations for creating the businesses that they own. The internal conversation is linked to a person's life-project (Vandenbergh, 2005: 234), and it is analyzed with reference to the morphogenetic approach to observe the development of the enabling factors through societal morphogenesis over an historical timeline.

Analyzing microbrewers as entrepreneurs is an approach that has been discussed in the work of Mole and Mole (2010), who have suggested that Archer's critical realist approach is the best way for not only understanding but explaining the relationship between entrepreneur and opportunity. They explain:

Of all the management sciences, entrepreneurship is probably the most agent-centred. Archer's (1995) agents have causal power, and ultimate concerns, which they try, fallibly, to put into practice. In comparison Giddens gives us the recursive knowledgeable agent produced via social practices and experiences. However the only way to study this is to talk to knowledgeable agents at different points in time. In addition Archer is also able to embrace the psychological aspects with use of her ultimate concerns. Though Archer's approach takes it as axiomatic that structures are objective, with independent causal powers, that constrain and enable the actions of agents; agents also have causal power (Archer, 2003). Archer's agents are able to view and react to the emergent properties of structures. In essence they are reflexive, as they come up against the constraints and enablement of society in accordance with their ultimate concerns, they have the ability to learn. In essence, entrepreneurship is the study of the interplay between the structures of a society and the agents within it. Entrepreneurs start businesses, fail, start another business or decide they do not possess the 'right stuff' (Audretsch, 2001). We propose entrepreneurship is the study of the interplay between the structures of a society and the agents within it with the implications of fallibility made explicit. (Mole and Mole, 2010: 231).

The advantage of the critical realist approach over other methods of inquiry towards the emergence of entrepreneurs is based on critical realism's ability to examine the interaction between structure and agency. Other approaches towards entrepreneurship have been

examined and found to have weaknesses in this aspect. These approaches are discussed in Mole and Mole's (2010) article that examines three perspectives on this topic. The three major theoretical perspectives in this debate are: (1) an integrating framework that incorporates influence and individual differences developed by Shane and Venkataraman (2000); (2) structuration theory put forward by Sarason, Dillard and Dean (2006); and (3) the critical realist approach used by Archer. Mole and Mole (2010) argue Archer's "critical realist framework [is] a more complete meta-theory for entrepreneurial research" (Mole and Mole, 2010: 232).

Shane and Venkataraman (2000) argue that there is a need for conceptual framework towards the phenomenon of entrepreneurship. They state, "What appears to constitute entrepreneurship research today is some aspect of the setting (e.g., small businesses or new firms), rather than a unique conceptual domain" (Shane and Venkataraman, 2000: 217). As a preliminary study of the field of entrepreneurial research the authors introduce the concepts within the field of entrepreneurship, and define this study as "...the scholarly examination of how, by whom, and with what effects opportunities to create future goods and services are discovered, evaluated, and exploited" (Shane and Venkataraman, 2000: 218). Consequently, their "contribution is to situate the entrepreneur within the context of the opportunities they discover" (Mole and Mole, 2010: 232). As a result, their analysis has a tendency to rely on entrepreneurs exploiting existing opportunities, rather than granting these entrepreneurs the agency to create or produce their own opportunities. This is a limitation in their approach, an example of what Archer describes as 'downward conflation', where agency is merely a by-product of structure.

Entrepreneurship within the structuration theory advanced by Sarason, et al. “proposes that the entrepreneur and social systems co-evolve” (Sarason, et al., 2006: 286), and treating this as such, Sarason, et al. define their approach as an improvement over Shane and Venkataraman’s (2000). While the latter argue that opportunities exist outside of the individual and it is up to them to realize the potential to seize these existing opportunities, the structuration theory proposed by Sarason, et al. “implies that opportunities are not separate from the individual in that opportunities take form as the entrepreneur defines them as such, and that through the process of defining and evaluating opportunities, the entrepreneurial process emerges” (Sarason, et al. 2006: 293). Consequently, this approach places the concepts of entrepreneurship and opportunity within a duality (Mole and Mole, 2010: 233), as Sarason et al. argue “that entrepreneurs both create and are created by the process of entrepreneurship and therefore can be constructively viewed as a duality” (Sarason, et al., 2006: 292). Duality is problematic since rather than examining the interaction between structure and agency, it problematizes these two concepts. As a result, this “implies that it is not possible to study the interplay between opportunity and entrepreneurship, as this interaction necessitates analysis of the interplay between structure and agency” (Mole and Mole, 2010: 233).

Unlike structuration theory, Archer’s critical realism relies not on a duality approach but rather a dualism approach. The difference allows for an examination of the interactions between structure and agency. In addition, Archer’s theoretical approach takes into consideration many additional features that are neglected in the former two approaches. These features provide for a more holistic perspective that takes into account elements of the individual as entrepreneur that are enabling and view the entrepreneur not as a passive agent.

While Shane and Venkataraman's (2000) approach viewed the entrepreneur as one who responds merely to environmental conditions, such as pre-existing opportunities, Archer's perspective allows for the entrepreneurs to take an active role in the creation of their opportunity. While the structurationist approach sees the agents and structures as independent from one another, critical realism allows for the interactions between agent and structure to be perceived. These interactions are fundamental to the critical realist approach, and consequently, by examining these interactions we are provided with the basis for better understanding and explaining the emergence of the entrepreneur.

In terms of these interactions, Archer looks at the manner in which agents create the opportunities that allow for them to become entrepreneurs. She uses several conceptual tools that allow for us to bring forward this understanding. Reflexivity as a concept brings forth the individual's independent thoughts and allows us to look at how they create ideas that guide their life-histories and life-projects. The internal conversation is the result of this reflexivity. These conversations held within the individual build upon this reflexivity and guide the entrepreneur towards action. Making reference to their structural conditions, the entrepreneur perceives specific constraints and enablements that either allow or inhibit their progress. Furthermore, through the morphogenetic process, the entrepreneur as an agent is able to place pressures upon the pre-existing structures and in effort to change structural constraints that inhibit his ability to realize his life-projects and goals. Because of these reasons, the critical realist approach provides the entrepreneur as agent the ability to exercise causal power in transforming the society through the morphogenetic process, and, it is for this reason that Archer's perspective "...enables a more complete understanding of the nexus between entrepreneurship and opportunity, including the sources of opportunities, the

processes of discovery and the set of agents who discover and exploit them” (Mole and Mole, 2010: 232). In the following sections, I will describe in further detail the conceptual tools of reflexivity, the internal conversation, constraints and enablements, and morphogenesis.

Reflexivity

Reflexivity is defined as “the regular exercise of the mental ability, shared by all normal people, to consider themselves in relation to their social contexts and vice versa” (Archer, 2007: 65). As a mode of inner-thinking, reflexivity results in an inner-dialogue that Archer calls the internal conversation. As the internal conversation within an individual takes place, there are different styles or fashions of reflexivity that are unique to each individual. To this, Archer introduces the concept of the ‘modes of reflexivity’, which are the different types characteristic to each person. The first mode of reflexivity is the *communicative reflexivity*, defined as “[T]hose whose internal conversations require completion and confirmation by others before resulting in courses of action” (Archer, 2007: 93). For these individuals, it is necessary to receive feedback from others before setting their reflexivity into action. As a result, these people “will tend to avoid contact with structures” (Mutch, Debridge, and Ventresca, 2006: 617; Mutch, 2007: 1129). An interesting aspect of the communicative reflexive put forward by Archer is its tendency towards ‘normative conventionalism’, as these individuals rely on “‘thought and talk’ with interlocutors who are also ‘similar and familiar’... [who in turn become enmeshed]... in local custom and practice, it drags flights of fancy down to earth, [and] it valorizes the familiar over the novel...” (Archer, 2012: 33). Individuals who rely on the communicative reflexivity are less likely to

become entrepreneurs in this sense as they are less likely to put their thoughts into plans and actions, as well as being less likely to take risks as the people they rely on for confirmation of their ideas may not encourage risk-taking in the forms associated with entrepreneurial pursuits.

The second type of reflexivity, *autonomous reflexivity* can be seen aligned alongside with an individual with entrepreneurial aspirations, as individuals who exercise this mode “sustain self-contained internal conversation leading directly to action” (Archer, 2007: 93). These people think and act upon their ideas, ideas of which result from their reflexivity, and whose “internal reflections are primarily goal-oriented” (Vandenbergh, 2005: 235). As a mode of reflexivity, it appears individuals who register with an autonomous reflexivity are most likely to engage in entrepreneurship than other modes, as “the courses of action they adopt are often innovative, risky, and something ruthless... the autonomous mode is more concerned with self-advantageous action, as individually defined,” (Archer, 2007: 95). In dealing with their social environments, the autonomous reflexives “attempt to use such structures to pursue their projects, necessarily elaborating them as they encounter them” (Mutch, 2004: 434). And, furthermore, “it appears that, early on in their life, they had articulated life projects that burst the bounds of their social environment. Keen to act on social enablements, they also know how to circumvent anticipated constraints to accomplish their own ends” (Vandenbergh, 2005: 235). In terms of identifying those persons most likely to engage in entrepreneurial activity, and, furthermore, with participation within the microbrewery industry, they are most likely to be found among those individuals operating under an autonomous reflexivity.

The third reflexivity Archer identifies is the *meta-reflexive*. These individuals are those who are critically reflexive about their own internal conversations and they are critical about effective action in society (Archer, 2007: 93; Archer, 2012: 13). In essence, they are ‘society’s critics’ (Mutch, 2004: 434). For those operating under a meta-reflexivity, they “consistently engage in self-evaluation (about being the person they seek to be) and display social awareness (about circumstances hindering the realisation of their ideals). Because of this, pronounced meta-reflexives have greater difficulties in defining a satisfying and sustainable *modus vivendi* for themselves than do markedly communicative or autonomous reflexives” (Archer, 2007: 95). They are critical of themselves and their own ideas, and their interrogative nature and self-criticism of their own thoughts often limits their capacity for entrepreneurial projects.

The *fractured reflexivity* is the final form identified in Archer’s work. This form of reflexivity is, perhaps, the most difficult to for an individual to operate with. It is characterized by “those whose internal conversations intensify their distress and disorientation rather than leading to purposeful courses of action” (Archer, 2007: 93). These people are seen as those living ‘broken lives’ and as individuals whose reflexivity, in terms of determining one’s way through the world, or ‘life-project’ is either difficult or unachievable. “The more they think and talk to themselves, the more they get emotionally distressed and cognitively disorientated. Unlike full reflexives, fractured reflexives have no real projects and no strict personal identity either” (Vandenbergh, 2005: 236). In Archer’s book, she typically provides examples of persons exhibiting this mode of reflexivity after experiencing personal trauma or negative life experiences.

The distribution of these reflexivities across the population is fairly equalized. In a study conducted by Archer (2007) she investigated participants to discover which mode of reflexivity they utilized, through the construction of her ICONI (internal Conversation Indicator) test. In her study, she found that 21.2 per cent of participants operated under the communicative reflexive, 27.3 per cent autonomous reflexive, 22.7 per cent meta-reflexive, and 21.9 per cent registered fractured reflexivity (Archer, 2007: 93). However, in subsequent studies, Archer discovered wide variables across different populations. For instance, in a series of studies taken by Archer on the modes of reflexivity endorsed by first-year university sociology students she found 13.5 per cent of her population represented by the communicative reflexivity, 19.0 per cent of the autonomous, 38.6 per cent meta-reflexive, and 7.9 per cent of her sample were identified operating within the fractured reflexivity. This suggests that among different populations the displacement of the modes of reflexivity vary according to the types of individuals within specific groups, and where they are in terms of their life, (for example, first-year university students would have a different outlook on life than members of the general population, and one would expect this to have an impact on their expression of their modes of reflexivity).

Ultimately, reflexivity is an important aspect of the critical realist approach that work towards our understanding and explanation of the emergence of Ontario microbreweries. Examining reflexivity and understanding the different modes of reflexivity allow us to understand why some people become entrepreneurs and why others do not take this direction as a life-project. There is merit to the argument that the thought processes experienced by different people will lead them to take different paths and directions in life. In addition, it has been found that those who expressed an autonomous reflexivity were most likely to

undertake entrepreneurial pursuits in their lifetimes, although it is apparent that people who operate under different reflexivities can become entrepreneurs, just as not every autonomous reflexive individual will become an entrepreneur. Overall, the aspect of reflexivity is an improvement upon the theoretical perspective advanced by Shane and Venkataraman (2000) who argued that entrepreneurs seize existing opportunities within their environments.

The internal conversation

Drawing from an individual's mode of reflexivity is their internal conversation. The inner-dialogue that takes place within each individual culminates in what Archer describes as the internal conversation, which is also known as 'self-talk', 'intra-communication', 'musement', 'inner dialogue', and 'rumination' (Archer, 2007: 2). The internal conversation, which results from reflexivity, is important within the context of the emergence of microbreweries in Ontario. The manner in which the microbrewer emerges in society is seen as a result of his 'project' to establish a microbrewery and begin producing this specific variety of beer. Understanding the microbrewery as a 'project' of the microbrewer is essential as the 'project' of an individual is seen as a result of the 'internal conversation', as explained by Archer.

There is a distinction to be made concerning active and passive individuals who compose society. A person who is an active individual must be understood as a person who possesses a form of 'agency', and that a passive person who occupies space within society is one to which things simply happen, and that the passive individual experiences either little or no agency. The possession of agency in this sense is essential to the microbrewer, as an

individual who transforms, creates, and produces cultural products. The microbrewer as an agent is a person whose internal conversation, a result of his reflexivity, and his own thought processes allow him to design and determine his own their own life project. These life projects are the structures he creates, the microbrewery.

Within the internal conversation, there are three phases which are to be examined that develop the ‘DDD scheme’: discernment, deliberation, and dedication. This scheme builds upon our existing body of knowledge concerning the microbrewer and his project of building his enterprise. When we reflect upon the DDD scheme, we are able to produce knowledge concerning the process, or the steps, involved in the beginning of a reflexive idea, as a product of an internal conversation, and them putting this idea into reality.

- (1) Discernment is fundamentally about the subject putting together reflexive, retrospective and prospective considerations about the desiderata to which she is drawn through an inner dialogue that compares and contrasts them... It does so by clarifying our predominant satisfactions and dissatisfactions with our current way of life.
- (2) Deliberation is concerned with exploring the implications of endorsing a particular cluster of concerns from those pre-selected as desirable to the subject during the first moment. This is performed by disengaging the demands, the merits and the likely consequences of that constellation of concerns were the subject to embrace them.
- (3) Dedication represents the culminating moment of experimentation between thought and feeling that has occupied the preceding phases. In it, the subject has to decide not only whether a *particular modus vivendi* is, in her view, worth living, but also whether or not she is capable of living such a life. Thus, the moment of dedication is also one of prioritisation because the very accentuation of someone’s prime concern is simultaneously the relegation or elimination of their others. Within internal conversation, dedication is a phase of inner dialogue struggle because of completion (*pro tem*) of the dialogue has to achieve both prioritisation of an alignment between the concerns endorsed, but also resignation to those relinquished. (Archer, 2007: 20-21)

It can be seen that the development of a microbrewery occurs in a manner similar to this DDD scheme as a process. And, that the microbrewer would progress along this continuum, in his reflexive process. Reflexivity is central to Archer’s conceptualisation of her theoretical approach. Reflexivity, as the thinking of oneself in relation to one’s social position is important, and it is interesting to note the varieties of reflexivity, that each person possesses a

different variety of reflexivity. Thus, each mode of reflexivity determines a person's ability to follow the DDD scheme.

The internal conversation of an individual is his means of communicating with himself. While individuals communicate with themselves for a variety of reasons, for our purposes, we are interested in studying and understanding the reflexive internal conversations, those conversations with oneself where the individual poses questions to oneself, to answer those questions, "to speculate about ourselves, any aspect of our environment and, above all, about the relationship between them" (Archer, 2007: 63). In terms of the microbrewer's internal conversation, there we must consider the types of knowledge that he possesses that allow him to emerge, as well, as the enabling and constraining factors related to their emergence.

Archer says that for any individual, the internal conversation is a result of his life experiences. Understanding the microbrewery as a life project, we must ask ourselves questions that concern the origin of the ideas within the mind of a microbrewer that pertain to where the roots of his ideas emerge. In the series of interviews that I held with Ontario microbrewers, I will discuss how they decided in becoming entrepreneurs, microbrewers, and the routes they took in their deliberations, and their dedication to their projects.

Morphogenesis, morphostasis, constraints and enablements

Archer argues that "society is that which nobody wants, in the form in which they encounter it" (Archer, 1995: 165). Here, she is providing the basis for the morphogenetic approach, and she is explaining the constraints that society places upon agency, and the ways

in which the agents are constrained by social structures. The two terms that she introduces in relation to analytic dualism are morphogenesis and morphostasis. For Archer, morphogenesis refers to “those processes which tend to elaborate or change a system’s given form, state of structure”, and morphostasis is defined as “those processes in complex system-environmental exchanges which tend to preserve or maintain a system’s given form, organisation or state” (Archer, 1995: 166). The relation between morphogenesis and constraining factors towards the emergence of Ontario microbreweries is central to the explication of the first factor affecting this emergence. In this thesis, I argue constraining factors prevented the emergence of microbreweries until the late period of the twentieth century. I analyze government laws, regulations, and government agencies, notably the LCBO, and demonstrate that societal constraints as a result of these ‘structures’ were responsible for delaying the emergence of Ontario microbreweries. For microbrewers, from 1916, when prohibition was introduced, until 1984, when the first microbrewery opened, the society of Ontario would have been the society that none of these ‘creative brewers’ would have wanted. With respect to the microbrewers themselves, as agents making interactions within the society, they are seen as being constrained and their abilities to express their creativity through craft beer. This is observed through Archer’s analytical dualism, where morphostasis was experienced within Ontario.

These descriptions of morphogenesis and morphostasis are useful in understanding the social institutions which provide constraining and enabling factors that are placed upon agents that must interact with these structures. When we relate these conceptions to Archer’s ‘basic morphogenetic/static cycle with its three phases’ (Archer, 1995: 157) we are able to

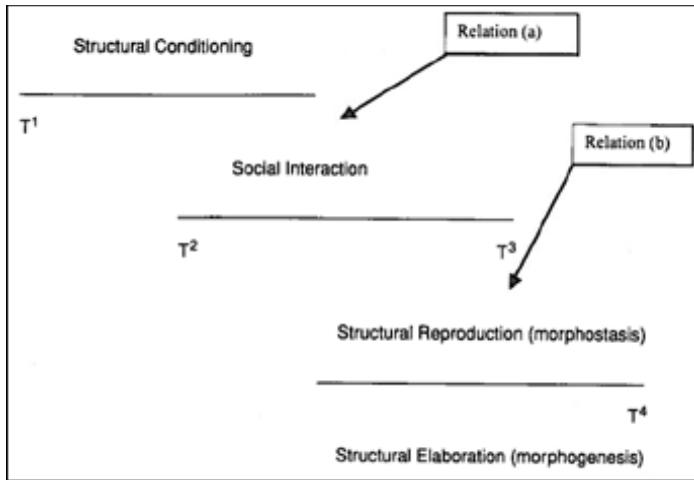


Figure 1: The basic morphogenetic sequence

extract meaning from these concepts as they relate to the enabling and constraining factors. Essentially, for Archer, within the basic morphogenetic/static diagram, its basic theorems constitute “(i) that structure necessarily pre-dates the action(s) which transform it..., (ii) and that structural elaboration necessarily post-dates those actions which have transformed it” (Archer, 1995: 157). And, this is what we find using Archer’s approach towards the investigation of the emergence of Ontario microbreweries. The interesting feature of the morphogenetic cycle is that it is primarily used as a tool for investigation. In Figure 1, which depicts the basic morphogenetic cycle, we find that

it does remain contingent which properties actually do exist at any given T1 (though this can be explained by investigating anterior morphogenetic cycles) and also precisely what is elaborated in term of structural, cultural and agential change at T4; because the social system is open, open because peopled, and therefore of no fixed form due to human powers of unpredictable innovation. Hence, the kind of explanation which the morphogenetic approach proffers takes the form of analytical histories of emergence for the practical issue under investigation. It does so by examining the interplay *within and between* the three cycles, for the ultimate benefit of analytical dualism is that it is not a static method of differentiation but a tool for examining the dynamics by which the ‘parts’ and the ‘people’ shape and re-shape one another through reciprocal interaction over time (Archer, 1995: 194).

Through the morphogenetic-static approach, we, as researchers, are provided with an investigative tool that allows us to study the interactions between structures and agents, and

in addition to being able to fit the sequence of events along a time line in which the interactions take place. While this approach may be a step away from other conceptual models of society, Archer's critical realist perspective does allow us as researcher to produce knowledge that is useful, as well as explanatory of phenomena within the social.

In terms of the social transformation that is observed using the morphogenetic approach, the description by Vandenberghe provides us with a concise explication; the society is seen as operating under:

a series of endless morphogenetic cycles of systemic conditioning, socio-cultural interaction and systemic elaboration whereby the particular configuration of the system (at T1) conditions the practices of the life-world (at T2). Which aim to reproduce or transform the system and lead, eventually at (at T3), to a new elaboration of the system, which will be contested and modified in a second cycle, and so forth. (Vandenberghe, 2005: 229).

In addition to Vandenberghe's description of morphogenesis, François Dépelteau's description provides further explication:

She proposes an approach based on a time sequence where past structural (and cultural) conditions impose themselves (T1) to social actors (who interact at T2-T3) without determining them, before being reproduced (morphostasis) or "elaborated" (morphogenesis) through their actions (in T4). Then, T4 becomes T1 and the cycle of social life keeps going endlessly. In this dynamic, initial structures can be transformed if and when actors use their "agency", which starts with the use of reflexivity through "internal conversations". Archer consistently reiterates that her dualism is an "analytical" one, meaning she recognizes that the causal powers of structural (and cultural) conditions are always mediated through human agency. There is no structure without human agency even if the former pre-exists and "conditions" the latter. (Dépelteau, 2013: 815).

The significance of morphogenesis and morphostasis within analytical dualism is important for our purposes of understanding the emergence of Ontario microbreweries. In the first half of the twentieth century, the social structures are seen as highly controlled and regulated. It is seen that the social attitude towards alcohol was highly constraining, and the social structures of this era maintained a system of morphostasis. The prohibition era in Ontario, which began in 1916, was responsible for prohibiting the sale of all alcohol in Ontario. This lasted until 1927 when prohibition was repealed, although, a new system of

constraints was introduced at this time that continued to constrain the ability for entrepreneurs, wishing to start their own breweries. It is not until 1984 that the first Ontario microbrewery was to emerge, and this seen as a result of period of time where slow and gradual ‘relaxation’ of the provincial liquor laws occurred, eventually allowing, or ‘enabling’ the emergence of this new sub-sector of the alcohol industry.

Most importantly concerning the interplay between agency, constraints and enablements, and morphogenesis is the social transforming that result from their interactions. Concerning microbreweries, social constraints prevented their emergence, and it required the morphogenetic process, over a long duration of time, to allow for the emergence of microbreweries. Today, now that microbreweries are enabled to operate, the microbrewers must interact with social structures that are enabling, while simultaneously, there are continued constraints which they must deal with. Using the morphogenetic approach, we are able to perceive the fact that while opportunities exist, there are remain disenabling factors that microbrewers that further prevent this industry from moving forward. As an example, changes to the liquor distribution system in Ontario, moving away from the overly-publicly owned liquor retail sales to a private retailing system would certainly allow for more people to have access to micro-brewed beer.

1.2 Foucault, Alcohol Surveillance, Discipline, and Constraint of the Individual

The second part of my theoretical approach consists of an examination of Foucauldian discussions concerning discipline, surveillance, and moral regulation. Through this examination, we find that Foucault’s approaches are useful in understanding the early

actions of the LCBO in the post-prohibition period. Furthermore, there are connections to be made between Foucault and Archer's critical realist theory, primarily with respect to morphogenesis. This will be discussed in the conclusion later in this section.

From an examination of the surveillance technologies employed by the LCBO in the post-prohibition period we find that these strategies are consistent with Foucault's concepts of discipline. The early actions of the LCBO in the immediate post-prohibition period established an apparatus of control over the population of Ontario. Specifically, the LCBO was created to eradicate many of the attitudes and behaviours associated with alcohol consumption that existed prior to prohibition. And, as a consequence, a strict bureaucracy was created to enforce a system of control that used several surveillance technologies that clearly resemble the disciplinary machinery that is discussed in the work of Foucault.

Disciplinary technologies, surveillance, and the LCBO

In terms of discipline, the LCBO established a clear system of surveillance which was articulated from its outset. In one of the first documents circulated amongst all of its retail locations, with respect to the Liquor Permit Books, the Board advised all of its employees that “[o]f all kinds of control, the best is self-control. Persons who cannot or will not exercise self-control and moderation in the use of liquor are hardly suitable as permittees” (LCBO Circular no. 497, Oct. 10, 1928). This conception of self-control is, of course, consistent with Foucault's descriptions of self-discipline. As we have seen through the use of Board surveillance technologies, self-disciplining was the primary means by which control over the consumption of alcohol was achieved in Ontario.

The LCBO's three primary means of attaining self-control over the population were the use of Liquor Permit Books, hierarchical observation, and inspection of public drinking establishments. In addition to this, there were also techniques of control involving the use of Indictment Lists, the collation of names of listed individuals of whom their drinking behaviours had become troublesome. There were a number of methods that the Board used in determining how a person would be placed on the Indictment List.

With respect to Foucault, we see his models of discipline appearing within the apparatus of the LCBO. Foucault writes that within the context of discipline, there exists an *art of distributions*. Within disciplinary mechanisms, it is necessary that the individuals to be disciplined are distributed in specific ways. It is required that individuals are sometimes placed within *enclosures*, those specific spaces that are “heterogeneous to all others and closed in upon itself” (Foucault, 1995: 141). In this respect, we find immediately following the end of prohibition in Ontario that the only spaces where the purchase of alcohol could occur was within the state-monopolized LCBO retail outlets where the state exercised its control over all liquor sales (Valverde, 1998: 148). In addition, the only space where the consumption of alcohol could legally take place was within the private home. To further initiate self-disciplinary processes concerning drinking in the home, severe restrictions within the *Liquor Control Act* were created. “Under section 42.2(2) of the LCA, the private residence of listed person could have his residence converted into a public place”, the purpose of which was to stipulate that:

any building or part of a building or tent where a person resides” can be converted into a public place, defined as “any place building or convenience to which the public has, or is permitted to have, access.” These orders were designed to eliminate the need for the police or LCBO investigators to obtain a search warrant for a converted premise and also made it illegal for anyone to consume liquor on the premises (Thompson & Genosko, 2006: 19).

There were 3,400 homes converted into private property through the Liquor Control Act between 1939 and 1947. Although this law remained in effect until the late 1960s, the actual number is of private residences converted is likely higher than 3,400 as data were no longer published by the Board after 1947. Having a person's private residence converted into a public space would make it illegal for alcohol to be consumed or possessed within that space, effectively banning that person from the ability or opportunity to consume alcohol at home.

In response to public pressures to reintroduce drinking outside of the home, in 1934 the first public drinking establishments were created. These spaces, known as 'beer parlours', permitted the public consumption of alcohol, albeit, with strict disciplinary rules and regulations. In accordance with Foucault, by placing the object of interest within a confined space, there is greater ability in the prevention and remedy of abuses "that may arise among the [individuals] and arrest their progress at the outset" (Foucault, 1995: 143). Considering the spatial components in the disciplinary process, it is shown that the LCBO utilised these instruments of disciplinary power.

The second disciplinary feature identified by Foucault is *partitioning*, which is seen emulated in the regulations established by the Board. With respect to partitioning, it is important to "avoid distributions in groups; [to] break up collective dispositions; [and that] disciplinary space tends to be divided into as many sections as there are bodies or elements to be distributed" (Foucault, 1995: 143). This furthermore corresponds with the rule of *functional sites*, which is concerned with the architecture of particular spaces, designed to supervise and create useful places where activity can be observed. Again, within the first public spaces for alcohol consumption, the regulations involved a specific list of criteria of which the drinking establishment had to operate. According to these regulations, it was

necessary that drinking spaces were gender segregated, and as such, men and ‘ladies and escorts’ used separate entrances and were seated in separate rooms within the drinking establishment. Furthermore, the furniture used within the drinking spaces was required to be kept small, so that no more than four persons could sit around a table. The LCBO sent inspectors into the drinking establishments, and as part of their inspection routine they would create maps of the precise locations of all the furniture within the establishment to ensure that rules were being followed by the owners. (Valverde 1998: 149). The aim of the Board, in this manner, was “to establish presences and absences, to know where and how to locate individuals, to set up useful communications, to interrupt others, to be able at each moment to supervise the conduct of each individual, to assess it, to judge it, to calculate its qualities or merits” (Foucault, 1995: 143).

Using these disciplinary powers enabled the Board to differentiate each drinker from each other, which alludes to Foucault’s conception of the individual created through discipline. “Discipline ‘makes’ individuals; it is the specific technique of a power that regards individuals both as objects and as instruments of its exercise” (Foucault, 1995: 170). Taking into account the apparatus of the LCBO, and its alcohol purchasing system established in 1927, it is clear how Foucault’s examination of discipline and the creation of the individual is relevant in explaining and understanding this phenomenon. Foucault introduces three instruments of disciplinary power: hierarchical observation, normalizing judgement, and the examination.

In terms of hierarchical observation, discipline is exercised through a mechanism which coerces through observation. Foucault’s analysis takes place at the level of the military camp, and extends further into other institutions such as hospitals, asylums, schools, and

prisons. “The perfect disciplinary apparatus would make it possible for a single gaze to see everything constantly” (Foucault, 1995: 173). To achieve this, groups of people are subjected to constant observation, the purpose of which is to break them into smaller, cellular, and individualized elements. Along these smaller groupings are people organized into levels of observation; subordinates, supervisors, officers, directors; all of whom are perpetually observed. In Ontario, in the post-prohibition period, individual drinkers were observed at multiple sites. Their conduct was observed in the public drinking establishment by the owner of the location, who was in turn observed by the LCBO inspector, who was observed by the LCBO headquarters. Individual drinkers purchasing alcohol from the retail outlets were observed and examined each time they made a purchase of alcohol by the store clerk, who, in turn, examined the Liquor Permit of the individual and applied an employee numbered stamp to the permit, making the identity of the clerk and his judgement to permit the sale of alcohol to the said individual at the time of all future inspections. Finally, individual drinkers were also constantly aware of the gaze of their friends and family when consuming alcohol. The apparatus of the LCBO permitted individuals to make complaints to the Board to have an individual placed on the Indictment List. If a person’s drinking became problematic, family members or friends could contact the Board and to initiate an investigation, by the Board, to have the ‘problem-drinker’ revoked of his drinking privileges. His name would be added to the Indictment List, preventing all further liquor purchases and ordered to return his Liquor Permit. Through these levels of observation, subjects are coerced to obey the rules, social expectations, and to behave in the manners deemed appropriate by the observers.

With normalizing judgement, Foucault addresses the question of how individuals are seen when observed. Within the mind of the observer is a collectively agreed upon norm of

which individuals are perceived as either obeying or disobeying. Normalizing judgement “...refers individual actions to a whole that is at once a field of comparison, a space of differentiation and the principle of a rule to be followed” (Foucault, 1995: 182). Among beer drinkers in the province’s first beer parlours, the normalizing judgement that was produced can be seen as an artificial judgement imposed upon beer drinkers, artificial in the sense that the norms associated with the normalizing judgement were not the norms that they created for themselves, but rather the norms created and imposed upon them by the Board. When the first public establishments opened that permitted public drinking, the Board initiated a social project to undo many of the habits and practices that took place within the ‘saloons’ of the pre-prohibition period (Valverde: 1998: 154). The saloons of the 19th and 20th centuries have been seen as a place of vice, and were depicted “... as the home of the dangerous classes and the vivid symbol of a popular culture that spawned immorality” (Valverde, 1998: 154). To effect change, the Board utilized a number of techniques to ensure the non-return of the saloon through the creation of a reimagined ‘normalization’. Examples of these techniques include the censorship of the words ‘saloon’ and ‘bar’, and the creation and enforcement of a long list of rules and regulations to be followed at all times within the beer parlour. In effect,

Drinkers who entered the beverage rooms... were expected not to drink themselves into intoxication, fight, or otherwise disturb other customers, utter profanities, or otherwise make too much noise. In 1938 an LCBO official sternly warned one hotel-keeper that on one Saturday night ‘there was so much noise that it almost amounted to disorder,’ and instructed another that ‘your waiters and yourself will see that patrons do not indulge in loud talking or rowdyism of any kind.’ Certainly patrons could not sing, because that could too easily unite all the drinkers present into a rowdy crowd prone to heavier drinking. Nor could customers cash cheques, listen to live or recorded music or other entertainment, dance, or play games, including cards. All forms of gambling, including poker and bingo, were forbidden. The only legitimate activity in a beverage room was drinking (Heron, 2005: 437).

In time, as we shall see, the rowdy behaviours associated with the saloon from the pre-prohibition era were slowly dismantled and a new code of social behaviour emerged among

the alcohol imbibing crowd. Although there were discrepancies, and some drinkers challenged the norm, those who did were met with disciplinary mechanisms, such as removal from the beer parlour for inappropriate behaviour, and in other cases warning letters from the Board were sent to the home of the violator indicating they were placed either under intensified surveillance or a revoking his Liquor Permit privileges. With the emphasis on the norm, normalization imposes homogeneity upon the population. As Foucault states, “It is easy to understand how the power of the norm functions within a system of formal equality, since within a homogeneity that is the rule, the norm introduces, as a useful imperative and as a result of measurement, all the shading of individual differences” (Foucault, 1995: 184).

The final disciplinary power addressed by Foucault is the examination, which represents the techniques of hierarchical observation and the normalizing judgement. Through the technology of the examination, a shift in the economy of visibility occurs. While, “Traditionally, power was what was seen... In discipline, it is the subjects who have to be seen” (Foucault, 1995: 187). While traditional approaches of power allowed for the sovereign to always be visible to the subjects, it did not allow for the subjects to be visible to the sovereign. Using the examination allowed for two-way communication to occur, enabling the sovereign to make his subjects visible, so that he might be able to individualize his subjects, and enter them into a field of documentation. Placing “individuals in a field of surveillance also situates them in a network of writing; it engages them in a whole mass of documents that capture and fix them. The procedures of examination were accompanied at the same time by a system of intense registration and of documentary accumulation” (Foucault, 1995: 189). Through the accumulation of knowledge on his subjects, the sovereign is able to take a group of people, individualize them, categorize them, and develop a case

surrounding each one. Each individual becomes a case to be analyzed and documented. Subjects are observed for deviations from the norm, they are to be corrected, and normality is to be achieved.

Panoptic power

Foucault's discussion on panoptic power is essential towards our discussion of alcohol surveillance. There are two sites of observation which are especially significant, firstly, the observation of the individual drinker, and secondly, the observation of the public drinking establishment. Gary Genosko and Scott Thompson's work on surveillance technologies provides an excellent description of the technologies of surveillance used by the LCBO towards the individual, whereas Mariana Valverde's work focuses on the effects of observation upon the owners of the drinking establishments. It is important to note the differences between these two sites of observation, and the implications of the different uses of disciplinary power towards these two different sites. Although there are differences which occur, the purpose of observation was, of course, to maintain the reproduction of docile bodies through disciplinary power.

Beginning the discussion concerning sites of observation, it is useful to first examine the panopticon. The panopticon is an idea developed by Jeremy Bentham and is analyzed by Foucault in *Discipline and Punish*. For Bentham, the panopticon was a means of bringing the prisoner out of the dungeon and into the light, where he could be observed (Thompson & Genosko, 2009: 40).

[The] Panopticon aims at a total, centralized surveillance of individuals who are constantly aware of being visible. Visibility replaces force as a tool of control. It is more economical, it

reduces the need for physical contact between the supervisors and supervised, and any contact that is required is visible to the Inspector in the central tower (Bentham, 1995; Perrot, 1977). Bentham lauds his design as a “new mode of obtaining power of mind over mind, in a quantity hitherto without example: and that, to a degree equally without example, secured...against abuse” (Los, 2004: 16).

Ultimately, for Bentham, the “Panopticon principle of construction, security, in this respect, is maximized, and rendered entire” (Smith & Burston, 1983: 106). The idea of the maximization of security through the exercise of panoptic power over its subjects is achievable through the forms of surveillance that render the subject of the gaze constantly aware of its presence, who, consequently, must practice self-discipline to avoid punishment. The gaze must be constant and the subject always aware of its presence. Bentham’s panopticon, as described by Foucault, has

... at the periphery, an annular building; at the centre, a tower; this tower pierced with wide windows that open onto the inner side of the ring; the peripheric building is divided into cells, each of which extends the whole width of the building, they have two windows, one on the inside corresponding to the windows of the tower,; the other, on the outside, allows the light to cross the cell from end to the other (Foucault, 1995: 200).

Two effects as a result of this architectural design is that the visibility and unverifiability of the observer. As an inmate, the prisoner must always be aware that he is being watched, yet, be unable to confirm the moment of observation. That is, to always know that his actions and activities are being observed, yet, unable to verify the moment of inspection. Not having the ability to verify when they are being observed has the effect of being under the constant constraint of being under continuous surveillance.

While the panopticon, as discussed by Bentham, was destined for use as an architectural design for prisons, in an effort to observe, control, and discipline inmates, for the contemporary reader, one agrees that the circular architectural design of Bentham’s panopticon need not be, as modern technologies such as closed-circuit televisions, and other

tools of surveillance allow for the constant monitoring of inmates. (Foucault, 1995: Los, 2004). The prisoners know they are being watched and monitored, even if the guards on the other end of the cameras are not actively watching them.

Typically associated with the prison system, the panopticon was also applied by Bentham in other domains where surveillance was important, including hospitals, schools, workhouses, and factories. Within the context of the LCBO, and the surveillance apparatus established to monitor alcohol consumption in the post-Prohibition period, there are critical similarities between this system and panoptic power. As Thompson and Genosko identified in Foucault's work, "a physical structure was not necessary for panoptic power... [Foucault] argued that specific surveillance-based social relations could develop 'the panoptic schema' outside of the structure's walls, 'without disappearing as such or losing any of its properties'" (Thompson & Genosko, 2009: 42-43). Under the context of the panoptic power exercised by the LCBO, the panopticon acts as a representative form of power, "which made possible the meticulous control of the operations of the body, which assured constant subjection of its forces and imposed upon them a relation of docility-utility" (Foucault, 1995: 137). The state of constant surveillance and constant visibility "assures the automatic functioning of power" (Foucault, 1995: 201), which is the essential component of panoptic power. This in turn, coerces the subject into becoming his own jailer, in the sense that self-disciplining and self-surveillance is forced upon the individual. To accomplish this level of coercion, the LCBO's technologies of surveillance completed this task, primarily through the use of the Liquor Permit Book, which "played a central role in creating the conscious state of 'permanent visibility' needed to efficiently induce panoptic power" (Thompson & Genosko, 2009: 44).

As a tool of panoptic power, the Liquor Permit Book required the purchaser to submit to the gaze of the LCBO's surveillance system each time they made a purchase from one of the Board's retail stores. For any person wanting to purchase liquor in Ontario, they were required to apply for a permit. Inside the permit there were two separate sections. The first section identified the permit holder and included the holder's name, address, marital status, occupation, and employer. This information allowed the "Board employees, when scrutinizing purchases, to extrapolate the permit holder's social and economic standing" (Thompson & Genosko, 2009: 44). The second section of the permit book was designed to allow for Board employees to maintain a record of the permit holder's "purchases, including the type, volume, date, store and number, and initials of the employee who made the sale" (*Ibid.*, 45-46). Provided with this information, Board employees were required to make a decision at each point of sale, if there were evidence of bootlegging, over consumption, misspending of income, previous disciplinary action from the Board, or abuse of the permit privilege (LCBO Circular no. 829, 1929). In cases where a Permit holder's purchases reached a questionable level, an intensification of Board surveillance would occur, through a number of mechanisms. Board employees received frequent communication from the LCBO Headquarters which provided on-going advice in dealing with a number of situations. In a circular dated 4 October 1928, the Director of Permits of the LCBO advised board employees to speak privately with customers whose drinking behaviours had been observed to be problematic. "Usually a liquor addict realizes his failing and does not resent kindly, well-placed words", and that they should take "such men aside for a frank talk; the time may be well spent. The permit endorser can sometimes plant a few well-directed words" (LCBO Circular no. 497, 1928). Additional measures taken by the board included the use of

disciplinary letters sent to permittees to inform them that were under ‘investigation’ for their liquor use, when “the Board [had] observed a lack of self-control” (Thompson & Genosko, 2009: 48); the retail clerk could place a ‘regional stamp’ on a customer’s liquor permit to prevent him from purchasing at other retail stores, which increased the LCBO’s surveillance of the individual; and the clerk could also confiscate a customer’s permit book and send it to head office with a recommendation of cancellation (LCBO Circular no. 497). There were, of course, other measures possible that were enacted through the use of LCBO Circulars and legislation through the *Liquor Control Act* that granted disciplinary powers to the Board. Clearly, all of which were made possible through the LCBOs utilization of the panoptic gaze which subjected individuals to the disciplinary apparatuses of the Board.

In Mariana Valverde’s investigation of the public drinking establishment, the beer parlour, she has discovered that the “governmental activities do govern drinkers, but only indirectly, and they proceed without making any distinctions between alcoholics, abstainers, and moderate drinkers” (Valverde, 1998: 143). Furthermore, Valverde finds that while alcohol “has been a site on which the governance of individuals has been historically intertwined with the governance of the health and the morals of national populations”, the techniques used in Ontario have not sought “to maximize health, but rather to organize and regulate consumption, producing orderly, disciplined drinking” (Valverde, 1998, 144). Valverde identifies an important problem within the regulation of public alcohol consumption. While the Board established a system of alcohol regulation within the private sphere, through the use of surveillance technologies that monitored the drinker as an individual, within the public realm, the Board’s primary target of surveillance focused not on the individual drinker but rather the entrepreneur who held the liquor license and business

premises. As it was the case, “In Ontario, the person holding the licence was heavily and very personally disciplined by the Board, with their name and family circumstances known personally not only to inspectors but even to the members of the board in the provincial capital” (Valverde, 1998: 150).

The arrangement of the physical space within the drinking establishment is an area of particular concern in Valverde’s analysis. “Valverde argues that the regulatory efforts of the LCBO were designed specifically to create a moral environment that represented certain bourgeois discourses of social order and morality” (Malleck, 2012: 69). In the newly designed public drinking spaces following the end of prohibition, the “LCBO administrators kept a heavy hand on the operations of these places. Beverage rooms had to be designed and furnished according to strict specifications that were intended to shape behaviour within them” (Heron, 2005: 437). Rules within these spaces acted upon the body, which forced patrons to remain seated while drinking, a limitation of four guests per table to prevent large groups from forming, gender segregated spaces, food restrictions, and regulations that prevented virtually all forms of activity within the beer parlour with the exception of drinking occurred during this time (Valverde, 1998; Heron, 2005; Coutts, 2010; Malleck, 2012).

Somewhat problematic with Valverde’s analysis of the LCBOs surveillance practices within the public sphere is that her examination leads her to conclude that the Board governed drinkers only indirectly. Compared against the work conducted by Thompson and Genosko, one finds that the Board’s surveillance practices within the private realm did have a direct impact on the drinking attitudes and behaviours of individuals. What we find are two separate sites of observation taken by the LCBO, one site located upon the individual, the second site located upon the drinking establishment. What is consistent among these two

sites of observation is that the Board's surveillance apparatuses functioned in such a manner as to provide the maximum level of surveillance, which was designed to coerce the individual towards self-discipline.

Biopower and the repressive hypothesis

Foucault's analysis of discipline and panopticism allows us to understand the social constraints towards the consumption of alcohol that existed in Ontario in the period following prohibition. Considering the disciplinary measures instituted by the LCBO, it is clear that they were forced upon the population of Ontario, as Malleck states, "the board [is seen] as an essentially oppressive agency that kept Ontarians under tight surveillance" (Malleck, 2012: 17), and as a result of this oppression and forcefulness we see over the period of 1927 to the present the general decline in disciplinary technologies and panoptic power used by the Board.

The connection between the Board's disciplinary regime and Foucault's conception of *biopower* has been identified by Dan Malleck, who argues that the LCBO's activity can be seen as an expression of biopower.

Biopower is the active principle of bio-politics, the process by which the government's role expands from the simple management of trade and other external facets of life to the subtle but pervasive management of the *internal* life of the individual, the way we conduct our physical selves... The LCBO's biopower was subtle but extensive. It sought to reshape the individual's relationship with his or her body by internalizing self-control over the consumption of liquor and to restructure an individual's ideas about the physical and neurochemical effects of that substance (Malleck, 2012: 8).

Linking the concept of biopower with Foucault's description of the *repressive hypothesis* is, furthermore, useful in explaining the motivations of the Board's disciplinary regime. The

repressive hypothesis stipulates that the purpose of biopower has been to advance capitalism. Foucault, addressing the repression of sexuality through the repressive hypothesis argues its intention as a project for advancing the capitalist work ethic, “The minor chronicle of sex and its trials is transposed into the ceremonious history of the modes of production... A principle of explanation emerges after the fact: if sex is so rigorously repressed, this is because it is incompatible with a general and intensive work imperative” (Foucault, 1990: 5-6). There is an obvious connection between sexuality and alcohol consumption, with respect towards the repressive hypothesis. While Foucault argued that sexuality was regarded as a distraction taking away from capitalist forms of production, it is apparent that having a population fueled by alcohol would be less productive than a society without alcohol. Dreyfus and Rabinow explain that “[s]ex was repressed because it was incompatible with the work ethic demanded by the capitalist order. All energies had to be harnessed to production” (Dreyfus & Rabinow, 1983: 128). Limiting the consumption of alcohol to the public does achieve an increase in capitalist productivity, assuming that there is widespread alcohol abuse occurring within society. The issue at hand are the discourses advanced by Protestant Christian groups, such as the Dominion Alliance and the Women’s Christian Temperance Union, whose early efforts to encourage the temperate use, and then finally abstention from the use of alcohol, were among the factors that led to the creation of prohibition laws in Canada. These groups’ alignment with work mentality and productivity certainly are in accordance with the capitalist work ethic.

Furthermore, the disciplinary technologies described in Foucault’s *Discipline and Punish*, are primarily centered on the rise of capitalism. The disciplinary regimes that were discovered are seen as a direct result to the expansion of capitalism. While capitalism

emerged and spread across European societies, it is important to realize that the great motivation for this expansion was in agreement with the need for a disciplined workforce, a workforce containing bodies that had been made ‘docile’ and obedient. Foucault writes, “the massive projection of military methods into industrial organization was an example of the modelling of the division of labour following the model laid down by the schemata of power. But this schemata did not arise in the economic sectors and it was not restricted to it” (Foucault, 1995: 221). What is important to see, is that the expansion of capitalism and its demands on the population, in order to be productive, occurred simultaneously. “Without the insertion of disciplined, orderly individuals into the machinery of production, the new demands of capitalism would have been stymied” (Foucault, 1995: 135).

Finally, Foucault discusses the relation between desire and power, which is the component that enables us to link Foucault’s discussion with Archer’s critical realist theory. Our concern, of course, with respect to disciplinary apparatuses and panoptic power is how these devices have operated within the historical context, and that they can be used to facilitate our understanding of how social constraints and enablements have influenced the emergence of microbreweries in Ontario. The argument that I have made in this section has been primarily that we can examine the historical evidence of social constraints towards alcohol consumption in the post-prohibition period in Ontario to understand its influence on how the emergence of Ontario microbreweries occurred. As Foucault states, in *The History of Sexuality*, desire only exists when there is a repressive power that prevents a person from attaining what she wants (Foucault, 1990: 81). However, people only have a desire towards those things which they do not already have; in essence, desire implies an inability for a person to realize the goals and dreams experienced through his internal conversations. For

example, in *The History of Sexuality*, Foucault argues that if a person was able to act upon all of his sexual impulses and deviances, within a society that did not constrain the expression of these urges, then there would be no need for sexual desire since all forms of expression would be available. For beer drinkers, we are dealing with two forms of expression, the expression of freedom to drink and enjoy alcohol, and the expression of creativity through the production of micro-brewed beer. As Archer has stated, “society is that which nobody wants, in the form in which they encounter it” (Archer, 1995: 165), we can use Foucault’s discussions on human desires to further demonstrate the morphogenetic process, that process in which social constraints are transformed through human action and activity to enable the expression of those desires of which they want.

1.3 Conclusion

The strategies employed by the LCBO served to produce societal constraints that limited people’s access to alcohol. While prohibition may have been lifted, constraints produced by the Board significantly led to a reduction in per-capita consumption of beer in Ontario. In 1913 the average Ontario drinker consumed 9.4 gallons of beer; by 1932, the average drinker only consumed 2.6 gallons (Bowering, 1993: 150). Under these conditions, it is apparent that the emergence of Ontario microbreweries was prevented. While constraints were placed upon individuals that limited their access to purchase and consume alcohol, there were further constraints within provincial laws that prevented microbreweries from opening between 1927 and 1984. During this period, the provincial government, through its liquor control board, worked in a concerted effort to limit and reduce people’s access to alcohol.

While there were no laws that prevented breweries from re-opening during this time, the “regulations forbidding brewers to retail their suds through taverns they owned, or ‘tied’ houses prevented cottage breweries from re-emerging until the 1980s” (Bowering, 1990: 12). Between the years following the end of prohibition and the opening of the first Ontario microbrewery, there were breweries that opened, either within the facilities of a former brewery that closed during prohibition, or in a new location, (Sneath, 2001); however, none of these breweries’ would be classified as microbreweries. Occurring simultaneously, while beer drinkers within Ontario were subjected to the panoptic gaze of the LCBO each time they purchased alcohol or entered one of the province’s public drinking establishments under heavily surveillance, the Canadian beer industry was being consolidated and homogenized by three large companies: Molson, Labatt, and Carling O’Keefe. When prohibition began in the mid-1910s, there were 118 breweries operating across the country, (Eberts, 2007); however, as a result of this consolidation and acquisition phase, by the 1980s, “[t]hrough the continued mergers and takeovers, Canada’s operating breweries [were] reduced to an all time low of 40, with only eight of these not owned by Molson, Labatt, or Carling O’Keefe” (Sneath, 2001: 400).

The general agreement for the emergence of the microbreweries in Ontario is due to a number of reasons, including, but not limited to the lack of variety within the Canadian beer industry, Canadians’ exposure to import beers, and influence from organizations such as the Campaign for Real Ale (CAMRA), who lobbied the government for microbrewery legislation. “Whatever the case may be, there is no dispute that once the Canadian Federal government permitted cottage brewing in 1982, that John Mitchell’s Horseshoe Bay Brewery... was Canada’s and North America’s first modern brewery to produce cask-

conditioned ale”, and, in addition, “[o]nce microbrewing and brewpubs gained a toehold they increased rapidly” (Bowering, 1990: 8).

In conclusion, studying the emergence of Ontario microbreweries through the critical realist perspective is a useful approach for understanding this form of entrepreneurship. The inclusion of Foucault’s analyses compliments the morphogenetic process. Foucault’s writings on discipline, panopticism, biopower, and the repressive hypothesis allow us to understand the historical difficulties that existed that constrained microbrewers from emerging in Ontario until late in the 20th century.

Chapter Two:

Regulation of alcohol in Ontario and Canada

That's the problem with drinking, I thought, as I poured myself a drink. If something bad happens you drink in an attempt to forget; if something good happens you drink in order to celebrate; and if nothing happens you drink to make something happen.

— Charles Bukowski

An examination of the history of the regulation of alcohol in Ontario and Canada demonstrates the social morphogenesis occurring throughout Canadian society. The present study is concerned with the emergence of Ontario microbreweries, which came into existence in the early 1980s. In the long sweep of Canadian brewing history, Stephen Beaumont has identified four eras which can be distinguished from one another as a distinct time period which is related with Archer's morphogenetic approach (Beaumont, 1994; Archer, 1995). Beaumont's eras of Canadian brewing history are categorized in the following eras: *traditional brewing*, *prohibition*, the *decline of distinction*, and the *renaissance*. In this project, during the interview phase of the research when speaking with microbrewers from across Ontario, it was apparent that these four eras in Canadian brewing history were not only evident to these creative entrepreneurs, but it has also been found consistent throughout the academic literature on the growth and development of microbreweries.

The phases of Canadian brewing history enables research into the emergence of Ontario microbreweries by aligning our thoughts on this subject and allows us to make visible not only Archer's morphogenetic approach but as well as the social constraints and enablements that lead towards structural elaboration (Archer, 1995). This chapter focuses on the explication of the morphogenetic process as it relates to the development of the microbrewery industry in Ontario, and paying particular attention to highlighting the periods of intensive social constraints which are best explained and are compared and observed through the Foucauldian lens that brings into our perspective the concepts of discipline, panopticism, biopower, and the repressive hypothesis (Foucault, 1990, 1995).

Through the theoretical perspectives elaborated upon in Chapter 1, these conceptual ideas are applied as they relate to the emergence of Ontario microbreweries. Aligning with

Beaumont's categorization of the Canadian brewing history, we can trace out the morphogenetic process. Beginning with the temperance movements during the *traditional brewing* era of the Canadian brewing history, we witness the introduction of social constraints as a response to the 'unregulated' and 'undisciplined' social environment existing during the period. The second era identified by Beaumont as the *prohibition* era, beginning in 1916 and continuing into the post-prohibition period with the surveillance technologies of the LCBO is the second phase of the morphogenesis. The third era, *decline of distinction*, is aligned with the reduction of competition in the Ontario brewery market which is seen as contributing to an intensification of the creative entrepreneur's desire for expression. Lastly, the *renaissance* era, as identified by Beaumont, is identified as the emergence of Ontario microbreweries.

2.1 The Beginning of Prohibition

During the *traditional* brewing era, the movement towards the prohibition of alcohol in Ontario began after several decades of struggle between those who drank alcohol and the temperance groups that were opposed to alcohol. The temperance movement is seen as a result of two forces that advocated a temperate approach to drinking (Coutts, 2010: 50). The first force was composed of evangelical Protestants who arrived in North America in the early 1800s and the second force coming from the influence of the United States of America (Hallowell, 1972: 6). Nation-wide in scope, the early adherents of the temperance movement swore to give up hard liquors, feeling that beverages such as wine and beer were morally acceptable, but the hard liquors were associated with demons (Coutts, 2010: 50) and other

evils (Richardson, 1888: iii). At this time, the province of Ontario was known as Upper Canada, and the first temperance society to be founded was in a town with the most unlikely of names, in Bastard on June 10, 1828. (Hallowell, 1972: 8) In the early years of the movement, advocates for temperance found success in promoting their movement travelling across the country encouraging others to swear temperance oaths. As a movement, although successful in acquiring large numbers of people willing to ‘take the pledge,’ the oath of temperance involved abstaining from the consumption of hard alcohol while wine and beer remained permissible. This came to be known as the ‘short oath’ (Coutts, 2010: 50). With the influx of Irish immigration in the 1840s to 1850s, advocates of the temperance movement, concerned with the working man and his over-drinking of the permissible forms of alcohol, began demanding that people take the ‘long oath,’ also known as total temperance. This meant complete abstention from the consumption of alcohol.

The temperance movement continued to cause change across the nation. Leading up to the 1900s, a series of small victories were scored in a number of provinces by members of the temperance movement, notably two groups the Dominion Alliance for the Total Suppression of the Liquor Traffic and the Women’s Christian Temperance Movement (WCTU) (Coutts, 2010: 54). The changes that they achieved included shortening the number of hours and days that saloons and other liquor serving establishments were able to operate, a reduction in the number of these establishments by limiting the number of liquor licenses granted, and outlawing certain activities common in saloons such as boxing and billiards (Coutts, 2010: 54). The reason behind the ‘mini-prohibition’ of activities was to encourage drinking men to lose interest in spending time in the liquor serving establishment and to spend more time at home with their wives and children (Valverde, 1998). Furthermore, the

temperance movement was successful in making drinking seen as socially undesirable habit, and drinking became stigmatized (Coutts, 2010: 54). From the beginning of the temperance movement, with its members declaring ‘short-oaths,’ ‘long-oaths,’ and then beginning to influence the owners of liquor serving establishments and the moral perception of alcohol drinking, the movement built momentum that would soon cause the implementation of legislation that banned alcohol entirely.

Influence south of the border was also certainly a factor in the temperance movement in Canada, as the origins of the Woman's Christian Temperance Union began in the United States. There are additional notable stories about some of the more radical members of the movement who found their way across Canadian cities and towns, bringing with them their unique messages of temperance and abstention from alcohol. One of the more interesting radical members, Carrie A. Nation, was well known to Canadians prior to the advent of prohibition for her crusade across saloons from Ottawa, Ontario to Santa Cruz, California. She is particularly noteworthy for the promotion of her views on alcohol through vandalism. Often depicted in historical images wielding a hatchet in hand, Nation's ‘hatchetations’, as they came to be known, involved the destruction of physical property within the saloon, as well as the occasional attack against the individuals who sold the alcohol (Kansas Historical Society, 2013). In addition to the use of a hatchet in her destruction of saloons across the continent, she was known for entering saloons and “[destroying] alcohol bottles and other objects by throwing the rocks. She similarly... [used] not only rocks but brickbats, bottles, and a billiard ball as ammunition” (Hanson, 2013).

Stories and tales of her (mis-)adventures were well known at the time, and one particular story involving a hotel operator in a small city in Ontario demonstrates a

dimension of the temperance movement and some of the feelings and fears that existed among owners of the liquor serving establishments. During the early 1900s, word had spread to a small hotel owner in Peterborough, Ontario that Carry A. Nation would be arriving shortly and was intending on staying at his venue. He advised his two sons who worked at the hotel that under no circumstances should Nation be allowed a room, and directed his sons to tell Nation that they were fully booked and that she would have to stay at another location. Although Nation never did arrive at the hotel that day, his two sons devised a plan to trick their father. On the day of her arrival, the first son, upon greeting his father in the afternoon, apologized profusely and expressed that Nation had been given a room by another staff member while he was away from the front-desk. The father immediately asked his son which room Nation was occupying and proceeded to said room demanding that she vacates the premises right away. Upon knocking on the door, the other son, hiding in the hotel room, carefully opened the door a crack, not revealing his identity, and wearing a boxing glove punched his father in the face and slammed the door shut. The father, obviously shaken from the assault, spoke through the closed door to who he thought was Nation and told her that she would be permitted to stay the night but would have to leave first thing in the morning. While the story of Nation's supposed travels to Peterborough may be more tall-tale than non-fiction, the fact that stories such as these exist are interesting from a sociological perspective in making visible the outrage that existed towards alcohol during this period, as well as showing some of fears that hotel operators had during a seemingly volatile time.

Taking all matters into consideration, were the actions of those in favour of total temperance, or ‘teetotalers,’ as they came to be known, justifiable? For what reason would people in Canada want to abandon drinking? Gerald A. Hallowell explains in *Prohibition in*

Ontario, 1919-1923, that there was a need for temperance in the drinking in the 20th century and that the social context for which temperance was needed was quite different from the social context of today. Hallowell explains there “were plenty of examples of homeless waifs whose fathers had turned to alcohol and whose mothers had died or given up through unhappiness—with no welfare state to take charge of society’s wretched.” (Hallowell, 1972: 4) It was not uncommon to find incapable drunks on the street, and alcohol was blamed for causing social problems such as poverty, vice, and crime (Hallowell, 1972: 4-5). While members of the temperance movement were able to push forward their agenda of alcohol abstention, this period of Canadian history was marked as an era of prohibition, and it was not just alcohol that was prohibited, but many other things as well. For example, “[o]n an Ontario Sunday in 1919, for example, it was forbidden to buy ice cream, newspapers, or a cigar; to play baseball, tennis, or golf; to fish or take a steamboat excursion” (Hallowell, 1972: 5). The importance of the Sabbath was carefully guarded against during this time. While the Women’s Christian Temperance Union (WCTU) was championing abstention from alcohol, they were simultaneously fighting for laws “whereby Canadians [would] wear bib and tuckers, [and] curtsy to the Methodist Preacher” (Hallowell, 1972: 5). The WCTU fought for “the right for every woman to have a comfortable home, of every wife to have a sober husband and of every mother to have sober sons” (Hallowell, 1972: 9).

The province of Ontario passed legislation, the *Ontario Temperance Act* in 1916, that made forbidden the selling, giving, keeping and having liquor for the purpose of drinking in any place except a private dwelling (Coutts, 2010; Hallowell, 1972: ix). The law was implemented during the First World War and would remain until the end of the war. In October of 1919, the government of Ontario held a referendum to determine if the act should

be upheld or withdrawn at the end of the war. The citizens of Ontario voted in favour of the prohibition of alcohol, making it a permanent law in the province. A further referendum held in April 1921 strengthened these laws, resulting in the “termination of the private importation of liquor ordered from outside the province” (Hallowell, 1972: ix).

Consequences of the *Ontario Temperance Act* prohibited the possession of beer or alcohol in Ontario except in an individual’s home. The sale of alcohol was banned entirely. A possible, legal method of acquiring alcohol at this time was from a doctor who had issued their patient with a prescription. The patient must have been ill and required alcohol as a medicine (Hallowell, 1972: ix). Since the sale of alcohol within the province was forbidden, people wishing to acquire alcohol in Ontario exposed a massive loophole in the legislation and would make purchases from outside the province, such as from Quebec. Breweries operating at the time would open a regional office in Quebec and would take orders for beer that could be picked up at a local warehouse located in Ontario.

Consensus among members of the public towards retention of prohibition proved to be a contentious and divisive issue. Although there were people who were opposed to prohibition, in a series of referenda held in Ontario voters continued to vote in support of maintaining the legislation. Bringing about the end of prohibition proved to be a controversial issue to Ontarians and required the actions of a government to ‘secretly’ pass legislation in Queen’s Park.

2.2 Alcohol consumption immediately following Prohibition

Prohibition in Ontario remained in effect until 1927. Ultimately, the end of prohibition in Ontario was brought about following a controversial vote in the Ontario legislation, led by Premier Howard Ferguson. Public support for prohibition remained high and was supported by public opinion.

Between 1902 and 1927 there were four separate occasions put forward by the government to decriminalize liquor sales and they had all been voted down by the highly temperate population. Political circumstances were hitting a period of vulnerability, as the Conservative government led by Ferguson was on the eve of an election and needed to do something to ensure that their government would be re-elected to office. In an effort to appease Conservative minded voters, Ferguson pressed forward with the *Liquor Control Act* (LCA), legislation that would end prohibition and enable the sale of alcohol for private and at home consumption. After narrowly passing its second reading in the legislature, the LCA “faced extreme opposition in both the press and the house” (Thompson & Genosko, 2006: 2). Desperate to enable the sale of alcohol as an attempt to drum up support, Ferguson passed the legislation when “the final reading occurred without warning at 10 pm on March 30th 1927 and due to the sudden nature of the vote only a “handful of members” were present, according to the published newspaper reports” (Thompson & Genosko, 2006: 2).

With the passage of the *LCA*, the government immediately took upon the project of establishing the Liquor Control Board of Ontario (LCBO). As mentioned earlier, the LCBO was given powers that enabled this organization to control the sale and consumption of alcohol within the province. The LCBO established a number of surveillance technologies in

1927 that were used to control the drinking habits of the population. Notable technologies developed in 1927 included the Liquor Permit Books, (see Figure 2).

Liquor Permit Books were closely watched. These books were issued at a cost of two dollars and were required to be renewed annually. When applying for a permit, a person was required to be examined for good character, that they were not Indian, and that they had not already been previously disqualified by the LCBO. At each point-of-sale, the liquor permit holder's book would be scrutinized and reviewed for over-consumption and misspending of income. Misspending was identified as a person spending more than their means on alcohol, and this level of examination was meant to ensure that applicants were not overspending on alcohol and that they were still able to provide for their families. Further criteria during the application procedure involved an examination of any previous LCBO disciplinary action, and any abuse of the permit privilege, which included abuses at the local level of the vendor. The Liquor Permits were considered public documents, they could be examined by a police officer without a warrant, and courtrooms would periodically examine permit books in assessing a person's character. This led to convictions and imprisonment of some individuals. In addition, if a permit holder were not exercising proper self-discipline and control over his liquor consumption, he could be issued a letter from the LCBO that his liquor use was under serious investigation and that he was to take this in consideration when exercising his purchasing privilege. These letters underlined that a lack of self-control had been observed and the level of individual surveillance had been intensified.

The function of the liquor permit is notable. In appearance, it resembled a passport in size and shape. Liquor permits were easily identifiable as each included a six digit number that was used to geographically organize the holders based on their place of residence. Inside

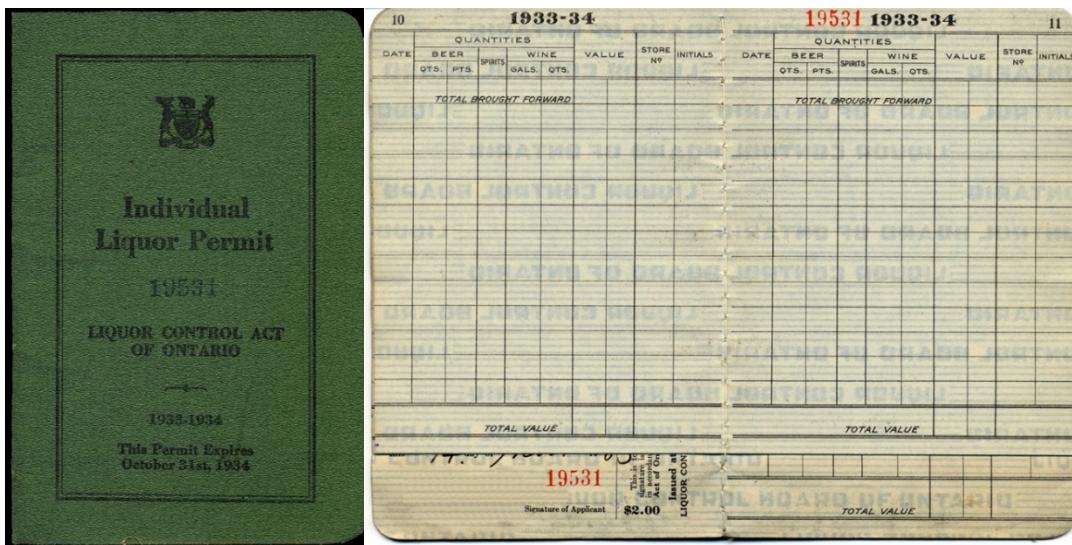


Figure 2: Liquor Permit from 1933-1934, Cover and Inside Purchase Section

the permit book included vital information on the holder, such as his name, address, and place of employment (Thompson & Genosko, 2006: 6). For women who were considered homemakers, this was not considered enough information for the LCBO for the purposes of determining whether or not the applicants had been drinking ‘beyond their means’ and, consequently, their husbands’ occupation would be noted. The following pages inside the permit book were used to record every purchase the holder made at a liquor vendor. Here, the vendor recorded each purchase made for home consumption including the date, liquor type, volume and cost (Thompson & Genosko, 2006: 5)

The gaze of the LCBO did not rest at the level of the individual consumer. The vendors were also noted in each individual sale. Every sale of alcohol required a three-step process. First, the consumer was required to fill out a purchase order form. The form involved signing a declaration that stated “I am of the full age of twenty-one years and in accordance with the provisions of the LIQUOR CONTROL ACT OF ONTARIO, I am entitled to make this purchase” (Thompson & Genosko, 2009: 57). The purchase order form

was then taken to the vendor who would examine his permit book and decide whether or not that person had consumed alcohol excessively and to check for any “misspending of income” (Thompson & Genosko, 2006: 5). If the permit book was clean and the vendor deemed the purchase appropriate, then:

As explained in the LCBO *Vendor’s Instructions* (1927: 1), after an original Purchase Order Form was filled out, signed by the permitted, and the purchase accepted by the permit clerk, the form was to be stamped “ENDORSED” by the clerk’s individually numbered stamp (*LCBO Vendor’s Instructions*: 1; LCBO *Manual* 1951: 6; LCBO Circular no. 653, 1929). After a purchase was endorsed the permittee handed the form to an employee behind the counter who went back into the stock room to retrieve the order. After handing the permittee the purchase, that “counterman” was also to “stamp the purchase order ‘filled’ with a rubber stamp.” The vendors were to take “the greatest care” in this matter, making sure that no employee used another employee’s stamp (Thompson & Genosko, 2009: 58).

Completed purchase order forms were sent to the LCBO’s head office in Toronto where a staff of about 200 employees would manually review each purchase for any abnormalities. In addition, “the Board regularly offered its purchase records to local and provincial police as well as relief organizations.” Through the purchase order form, it was possible to “reconstruct purchase events through [each form’s] recorded permit number, endorsed stamp number, filled stamp number, cash register number, and register tape number (Thompson & Genosko, 2009: 57). Purchase Order Forms were used from 1927 until the 1970s when the LCBO eventually converted its stores into self-serve locations. Provided below, in Figure 3 is an example of a Purchase Order Form. Noticeably absent is the signature and address of the purchaser.

Abuses of the privilege of drinking had a number of responses from the Board. Among these included receiving a regional stamp on your Liquor Permit, which geographically tied a person to his local liquor store and prevented him from purchasing alcohol from any other vendor.

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LIQUOR CONTROL BOARD OF ONTARIO

Please Supply the Undermentioned Goods:

Brand No.	No. Bottles	KIND OF LIQUOR	PRICE	Total Amount
6731	1	Walker's 58	320	
320		I am of the full age of twenty-one years and in accordance with the provisions of the LIQUOR CONTROL ACT OF ONTARIO, I am entitled to make this purchase.		
		ENDORSER'S STAMP		
		 LIQUOR CONTROL BOARD OF ONTARIO 34-6 ENDORSED <i>CUT OUT</i> Permit No. _____ Form No. S-23		
		AMOUNT to be Entered Above by ENDORSER		
		Signature _____ Street and Number _____ City, Town, Village, etc. _____		

Figure 3: Purchase Order Form (Thompson & Genosko, 2009: 57)

Since the drinking behaviour of each individual was not only to be regulated and overseen by the Board, the local vendor also played a role in over-seeing each of his customers. One tool that the local vendor had in controlling the drinking behaviour of his clients included the ‘Regional stamp.’ Should a customer’s behaviour become suspect, that he was on the verge of abusing his drinking privileges, the vendor could place a numbered Regional Stamp in his Permit Book. Since it was known that some drinkers would frequent several different stores, the vendor could take the responsibility to overseeing by limiting all of their purchases to a single liquor store. By placing a numbered Regional Stamp on a Liquor Permit, no other liquor store could sell alcohol to the individual with the exception of the single store identified by the number on the stamp. “Vendors were instructed by Head Office to use the Regional Stamp liberally, ‘to stamp all permits under suspicion...’ If a

vendor felt that a permittee was over-consuming liquor, he was to stamp the permit with the Regional Stamp and ‘write on the permit the quantity of beer [or liquor] per week to which he considers such permittee should be restricted’ (Thompson & Genosko, 2006: 6-7). Further use of the regional stamp was used when a person entered a liquor store and attempted to purchase alcohol while intoxicated. His Permit Book would be regionally stamped and his “Liquor Permit Book would be marked by vendors with red capital letter ‘R’s in each column of the purchase section,” (Thompson & Genosko, 2006: 7) noting that his purchase had been refused.

2.3 Beer parlours and moral and social regulation practices

The end of prohibition did not bring about an immediate return to the social practices that were carried out prior to prohibition. The stigma that was generated towards alcohol and its consumption by the temperance movement continued to persist at the end of prohibition. Following prohibition, the only place that alcohol could be purchased was from the government run liquor stores for private consumption in the home. Persons wanting to purchase alcohol required a liquor permit, which needed to be renewed annually. However, seven years after the end of prohibition, Ontario citizens were about to see new changes to the laws regulating the consumption of drinking, specifically related to the public consumption of alcohol.

On the eve of an election in 1934, a desperate Conservative government, this time led by Premier George Henry, passed legislation to permit drinking of regular-strength beer and wine in public spaces. Henry’s attempts seeking re-election by winning over voters with this

legislation did not prove to be successful, and although the “*Act to Amend the Liquor Control Act, 1927*” was passed, Henry lost the election and was replaced by the Liberal government led by Mitchell Hepburn.

Dealing with this new legislation, “Hepburn was left to figure out how his party, which drew considerable support from the quite vocal and active temperance movements, would make this new legislation work” (Malleck, 2012: 6). Because it was not clearly stated in the *Liquor Control Act 1934* where public drinking would take place specifically, Hepburn’s government was charged with deciding which public spaces where the public consumption of alcohol would occur. It was widely understood that Henry’s Conservatives had apparently planned “to extend the permission to several types of public establishments, including restaurants and hotels” (Malleck, 2012: 6), Hepburn, taking into consideration the temperate sentiments of his supporters, “decided the best way to operate the *LCA (1934)* was to limit the sites of public drinking” (Malleck, 2012: 6), and therefore the types of establishments where drinking would be permitted were in “hotel beverage rooms and dining rooms, private clubs, steamships and trains” (Malleck, 2012: 6-7), of these spaces, the most prominent quickly became the hotel beverage room.

Beverage rooms, as they were known officially, and ‘beer parlours’ as they were known by those who used them (Heron, 2005: 436), became the first dominant domains where public consumption of alcohol, restricted to beer and wine, were held in the province since the end of prohibition in 1927. In designing the beverage room, the government of Ontario, acting through the LCBO, embarked on a task of constructing the ideal form of drinker within these social constructed spaces. The LCBO, in allowing alcohol to be served in public, set out to create what could be thought of as the ‘anti-saloon’ (Coutts, 2010: 69).

By taking all of the qualities of the original saloon, regulators at the LCBO essentially banned all original practices and permitted the exact opposite. While the saloon featured a long bar that was lined with beer taps and a brass foot rail, a space where patrons were able to order beer directly from the bar and be able to stand and drink, the beer parlour established a small serving counter accessible only to wait-staff (Coutts, 2010: 69). In some of these beer parlours the serving counter even had a large wall set up with a serving pass-through hole in the wall. The purpose of these serving holes was to keep beer out of sight from the patrons. While the saloon allowed patrons the ability to stand while drinking their beverages, the beer parlour required guests to remain seated, four at a small table, each with its own salt shaker and ash tray (Coutts, 2010: 70). The liquor boards established regulations towards the furniture permitted inside, as “beverage rooms had to be designed and furnished according to strict specifications that were intended to shape behaviour within them” (Heron, 2005: 437).

The stigma of alcohol consumption persisted in controlling the social practices of people inside these constructed places, as drinkers in these establishments were removed from the public’s view as beer parlour owners were “... forced to permanently cover their windows so that passerbys were not offended by the sight of drinking” (Valverde, 1998: 149). Furthermore, provincial regulation had many other mini-prohibitions that the owners of beer parlour establishments were required to enforce. Among this list includes activities such as listening to music, dancing, and standing while drinking.

Further regulations of the beer parlours include the movement and activities of patrons within the parlour. While patrons were required to remain seated, they were not able to approach the serving counter to order their beer. Only wait-staff were permitted to use the serving counter. Restrictions concerning standing and holding a glass of beer were so strict

that if you wanted to move to another table, “you asked the waiter to transport your glass to that table” (Pashley, 2009: 56). Dancing in the beer hall was prohibited, as was singing, and listening to recorded music. What was the reason for this prohibition of singing? Craig Heron writes, “Certainly patrons could not sing, because that could too easily unite all the drinkers present into a rowdy crowd prone to heavier drinking” (Heron, 2005: 437). Patrons of these establishments were further removed from activities such as gambling, playing poker, and bingo. Inside the beer parlour, the only legitimate form of activity was drinking.

The LCBO had explicit rules concerning the naming of a beer parlour. Officially, beer parlours were referred to as ‘beverage rooms,’ of course for patrons who attended these rooms the purpose was for the consumption of beer. Since these spaces used serving counters and were not allowed to have a bar, they were not called ‘bars’. Keeping in theme with the LCBO’s eradication of any reference to the saloon, for the alcohol serving establishment to have a name that would otherwise indicate its function of serving alcohol most licensees used the word ‘tavern’ to describe their enterprise. In fact, if you visit an old tavern today, it is likely that you will see the distinct features of the beverage room in these strictly government regulated beverage rooms; everything from the furniture, distinctive size of glasses, the gender segregated seating areas, and perhaps even a short serving counter, in place of a bar.

Issues concerning gender played a role in the introduction of the beer parlour. When we look historically at public alcohol consumption in Ontario, for many years the gender segregation of men and women occurred in public drinking situations. In 1934 when the government permitted public drinking of alcohol, initially, there were attempts to exclude women entirely from beer parlours. However, after such attempts were seen as unreasonable,

women were granted access, but only under the condition that beer parlours installed partitions to isolate men from women.

Gender segregation was established in beer parlours. Entrances for men and a separate entrance for women and their escorts were requirements (Valverde, 1998: 151). Several reasons for gender segregation exist, including the prevention of prostitutes from preying on ‘unsuspecting’ men, and to encourage men to return home to their wives and families. It appears that in Ontario, the experiment of beer parlours followed in the traditions of British Columbia, which had developed beer parlours almost a decade earlier in 1925 (Campbell, 2001: 52). In B.C., there was an ongoing campaign against the spread of venereal disease. Most doctors believed that prostitutes constituted the principal reservoir of venereal diseases. Nearly everyone had a tendency to blame prostitutes, rather than their customers, for spreading venereal disease.

Dr. Williams of Vancouver director of the Division of Venereal Disease examined 65 professional prostitutes and found 70% had been infected with gonorrhoea or syphilis, or both (Campbell, 2001: 58-59). His concern was that many prostitutes used beer parlours to solicit men. They would take a man to a hotel room that was attached to the beer parlour, and the man would end up infected with venereal disease. Dr. Williams was concerned because, in his words, alcohol flares an almost healed gonorrhoea into full blown activity and it cancels out the value of treatment in syphilis (Campbell, 2001: 60). He launched a campaign to construct barriers in beer parlours to physically separate men and ladies in hopes to prevent these ill-reputed women from the men.

Ontario also experienced this partitioning, which lasted until 1947 when the LCBO permitted the opening of the cocktail lounge, where spirits could be consumed in the presence of men and women, together (City of Toronto, 1998-2012).

Undoubtedly, the LCBO's control over the beer parlours was strict, and at times, forms of resistance towards the LCBO's rules have occurred and were documented. In the cases of rebellion that have been seen, the LCBO has been consistent with their disciplinary approach by always targeting the liquor establishment as the site of control. Forms of resistance have come both from the patrons and the owners of the beverage-serving establishments. Some owners of beer parlours allowed their patrons to finish their drinks after closing time, which was in defiance of board regulations. Although the government continued to prohibit the sale of alcohol on Sunday, there are known cases where beverage room owners continued to sell beer or bootleg liquor during on the Sabbath, as well as on other days of the week afterhours in backrooms or bedrooms.

While the owners resisted government regulations, patrons to these premises are also known to have resisted governmental regulations. The violation of the rules caused by patrons included incidents of singing, where one LCBO inspector in 1937 was forced to break up “a ‘deafening’ outburst of ‘community singing’” causing the owner to receive “a tongue-lashing on the spot and a formal warning from the board two days later. The owner explained that he ‘at all times stopped singing when the patrons start to do so,’ but they regularly resisted his instructions” (Heron, 2005: 442). Some men, known as ‘cross-overs’ or ‘wanderers’ breached rules confining men to the Men’s Only rooms and invaded the Ladies and Escorts area, in some cases to be prevented by staff, in other cases their actions went unnoticed (Coutts, 2010: 72).

2.4 The Growth of the Three Major Brands

During the time that the beer parlours operated in Ontario, I have demonstrated the intense social constraints that took place. This period can be seen as an intensification of the type of discipline, observation and surveillance, panopticism, biopower, and the repressive hypothesis that was outlined during my discussions on Foucault. The intensity of government regulation and control during this period highlights my argument that social constraints disenabled the emergence of Ontario microbreweries throughout this period. Also consistent with Archer's morphogenetic approach, we have seen the gradual release of intense social constraint over the decades since prohibition. While beer parlours were the only places where public drinking was permitted, in 1947, changes enabled people to purchase and consume cocktails publically in 'newly-created' social spaces called 'cocktail lounges' (Bateman, 2013). The LCBO slowly phased out Liquor Permit Books beginning in 1958, with the introduction of Liquor Permit Cards the same year. By 1962 both technologies were eliminated. Purchase order forms and the LCBOs Interdiction List were maintained until 1975. Social norms were gradually relaxed over this time, allowing for the current 'night-life' culture that exists today across Ontario.

While it is important to point out the constraints beer drinkers faced, there is also validity in continuing this discussion from the perspective of the beer producers. What is found during the time of intense social regulation of alcohol is a period of amalgamation among the beer producers. This is seen as a result of the intensification of social constraints upon beer drinking, as was explained through the activities of the LCBO, but also, a result of the impact these regulations had upon the beer producers. Certainly the reduction of the

availability of beer for sale, through the constraint of its sale, is a guarantee of repercussions towards beer producers. This is seen through the mid-20th century in Ontario as many of the smaller beer producers are impacted negatively by these constraints. The historical record has demonstrated that they were either forced out of business, or purchased by larger beer manufacturers and had their products either discontinued in an effort to ward off competition within the beer markets, or have their breweries closed and their products amalgamated among the provinces larger breweries.

As a consequence of the changing social landscape with respect to alcohol consumption, the history of the Canadian beer industry and its products from the period of time beginning with the end of prohibition through the Second World War and into the 1980s can be characterized as the story of consolidation and homogenization (Coutts, 2010), and as the *decline of distinction* era (Beaumont, 1994).

Central to this theme is the disintegration of the beer market in Ontario, and all across Canada, with the rise of three major beer companies, Labatt, Molson, and Canadian Breweries (later renamed Carling-O'Keefe), that ultimately become two companies, Labatt and Molson. This takes place over the period of time from the beginning of prohibition into the 2000s. During the years of prohibition the brewing business in Ontario had been legislated out of business, breweries brewed weak legal beer at 2.2 percent alcohol, used their bottling lines for soft drinks, or made other products. Many of these breweries did not survive and many were forced to close their doors and shut down production. While there were sixty-four breweries operating in the province in 1916, after prohibition in 1927, only fifteen remained (Eberts, 2007). Once constraints on breweries were lifted with the repeal of prohibition, there was a resurgence of breweries in the province, although not all endeavours

were profitable. “In Ontario, in 1930, there were thirty-six breweries... operating at 25 per cent of capacity. Only six of the thirty-six breweries were earning a fair return on investment; fifteen were just getting by, and fifteen were losing money” (Shea, 1955: 7). This resulted in far too many companies competing for little business. As a result of the restrictions placed on the sale of beer by the LCBO in the post-prohibition period, the annual per-capita consumption of beer had reduced significantly, from 9.4 gallons per capita annually in 1913, to 2.6 gallons in 1932 (Shea, 1955: 9).

With the increased social constraints placed upon the consumption of alcohol, the historical record reveals to us the dire situation that faced brewers in Ontario. In addition to the decline in demand for beer from consumers, attributed to the lack of accessibility to this beverage, there are other factors responsible for the diminishing beer market in the post-prohibition period. Employers had difficulty hiring competent brewmasters because many of the individuals trained in this area had either died during prohibition or moved into other occupations. The government banned advertising of beer and alcoholic beverages, and this also constrained growth in this industry. Finally, from 1927 until 1934, the consumption of alcohol was restricted to permit holders who could only consume within the private residence; no public drinking was permitted during this period.

Taking all of these issues into consideration, Ontario beer historians point to the actions of one man, E.P. Taylor, who throughout the post-prohibition era, amalgamated the beer industry in an effort to increase sales and demand for beer, while simultaneously bringing about the *decline of distinction* era in Ontario and, more generally, the entire of the Canadian beer industry. This was achieved through his rapid purchase of smaller breweries starting in Ontario, and later throughout the country, and moving production from small

producers to larger and more industrialized breweries, in addition to, but limited to, the purchase of and shutting down of brands that were not competitive. Taylor began his process of business mergers and acquisitions in 1930. By the end of his first year in operation, his holding company had purchased ten breweries in Ontario, all of which accounted for 26 percent of total beer sales in Ontario (Coutts, 2010). Within the course of two decades, his company, originally named Brewing Corporation of Ontario Limited and later Canadian Breweries Limited, had purchased almost thirty breweries and had reduced the total number of beer brands produced by all of these breweries from one-hundred-fifty to eight (Beaumont, 1994). Taylor's business model that acquired small breweries across the country, shut down operations, closed locations and moved operations to larger centres, and shut down lesser known beer brands were all part of a strategy to build well-known beer brands in the country.

Obviously, one must take into account that there were technological advances that occurred during this time that permitted the brewing industry to develop in such fashion. Advances in refrigeration and storage, as well as beer pasteurization methods were developed and refined which allowed for an increased shelf-life of beer products. Expansions and improvements in transportation infrastructure throughout the country also permitted breweries to increase their distribution networks and enabled them to expand operations into larger and more centralized locations. Taking all of these innovations aside, perhaps the most significant thing that occurred during this time was not that the quality of beer was increasing, but rather, beer all across the country was becoming more and more homogenous, many styles of beer were being neglected, and the only beer brands that remained were those ones that sold in the greatest quantity and were the most popular with beer drinkers. The styles that were the most marketable were the lagers and pilsners, which were known for their light

colors and flavours. Not only was the trend towards lighter tasting beer experienced across Canada, but this was also seen in the United States, the United Kingdom, and in other countries to varying extents during this time. All things considered, the homogenization of mass produced beer left a large number of people demanding darker and more flavourful beers, which is seen through various beer movements in the latter period of the 20th century.

An interesting thing to note about beer is the acquisition of taste that is required to fully enjoy and appreciate the different styles of beer that exist. We must take into account that for the full period of prohibition, beer drinkers were not being exposed to different styles of beer. After prohibition, the sale of beer was heavily regulated and controlled by the government, and there was no public consumption of alcohol either. The taste for more varied and flavourful beers would have declined during this period, which, from the perspective of the microbrewer and more specifically the craft brewer, is an important part of the story of the emergence of Ontario microbreweries.

Returning to our original thesis, concerning the emergence of Ontario microbreweries, it is useful, from an historical standpoint, to note the challenges and difficulties faced within Canada in the post-prohibition and the *decline of distinction* periods. Prohibition obviously presented many challenges for breweries across the country, with many of them unable to survive financially during prohibition and afterwards. The actions of Taylor and his Canadian Breweries Ltd. holding company, and the manner in which he purchased smaller breweries from all over the country, and either shut them down to decrease competition, or moved their production to larger and more modern facilities can be seen as actions that, on one hand, can be seen as a necessary evil, in the sense that this was required to build a strong and profitable brewing industry within Canada in the years following

prohibition. While on the other hand, these actions can be seen as an assault on the finer aspects of beer and its production, driving away all of the distinguishing features of beer and creating a force for homogenized beer devoid of, or of little, taste and pleasure.

Regardless, during this *decline of distinction* era, Labatt and Molson also made changes to their business models that also contributed to the increased homogenization of beer across Canada, including Ontario. In an effort to increase capital investment, John Labatt Ltd., headquartered in Toronto, Ontario, became a public company in order to fund expansion efforts across Canada in 1945. This was the same year that Molson, headquartered in Montreal, Quebec, became a joint stock-owned company. In the years following this change in their corporate structure Labatt also purchased breweries across Ontario to increase their production. Later in 1953, Labatt began out-of-province purchasing, involving three Manitoba breweries, all of which were shut down immediately, or merged and later closed. This process of acquisition, expansion, merger, and shut-down would also be completed by Molson Breweries Ltd., with their first out-of-province expansion into Ontario in 1955 with the construction of a new \$12 million facility in Toronto. In 1951, Labatt introduced its first nation-wide in scope beer, Labatt Pilsner, which would later be re-branded as Labatt Blue, and in 1959, Molson introduced Molson Canadian as its flagship national beer. Meanwhile, Taylor's Canadian Breweries Ltd. continued its expansion across Canada, acquiring shares in Carling and O'Keefe Breweries, growing and expanding his business.

By the beginning of the 1980s, the big three Canadian breweries held 96 percent of the beer market. Of the forty beer plants in Canada, these three companies owned and controlled thirty-two breweries (Coutts, 2010: 116). Throughout the 1980s and 1990s, competition within the beer industry continued to increase, and the big three brewers required

competitive strategies to stay in business. Additionally, among beer drinkers, there were signs of fatigue towards the fewer and fewer varieties and brands of beer available for consumers (Melia, 2007), which eventually became the motivation for the emergence of Ontario microbreweries. Among the big three, deals were brokered in the form of foreign-partnerships with American breweries which allowed Canadian brewers to expand into foreign markets while introducing foreign brands in Canada. In 1980, Anheuser-Busch brokered a deal with Labatt to manufacture and distribute Budweiser and Michelob beer in Canada under license (Labatt Brewing Company, (2014). The partnership between these companies continued throughout the 1980s, and increased the brands of beer sold within Canada and the United States. However, as with many of these partnerships between similar companies with similar marketing strategies, the styles and varieties were very similar to one another, and brought very little distinguishing features to the beer market in the province.

Ultimately, competition from domestic and international sources within the beer industry would change the corporate structures of the Canadian big three beer companies, as each would eventually fall under the control of foreign ownership. Following the partnership between Labatt and Anheuser-Busch in the 1980s, Molson Breweries entered into licensing deals with two American brewers, Miller Brewing Company and Coors Brewing Company. Throughout the 1990s, Canadian beers competed fiercely in American markets, but by 1993, Molson had emerged as the victor over American markets and had placed itself as America's second favorite imported beer. Meanwhile, Canadian Breweries Ltd., Taylor's brewing conglomerate, would be renamed Carling O'Keefe in 1973, and merged with Molson Breweries Canada in 1989. Later, in 2005, Molson of Canada would merge with Coors

Brewing Company of the United States to become the Molson Coors Brewing Company, the seventh largest brewing company in the world.

Labatt would be purchased in 1995 by Interbrew, a Belgian company that would later merge with a Brazilian company, *Companhia de Bebidas das Américas* (AmBev), in 2004 to become InBev, which in 2008, purchased the largest American brewer, Anheuser-Busch to become Anheuser-Busch InBev (AB InBev) (Knoedelseder, 2012: 313).

From Archer's theoretical perspective, there are a number of ways that the *decline of distinction* era can be examined with respect to the emergence of Ontario microbreweries. On one hand, we can understand the post-prohibition and *decline of distinction* periods as a period characterized by Archer's concept of morphostasis. The disciplinary technologies created and used in the post-prohibition era maintained the structure of the beer industry. As a consequence of the structural reproduction, many of the beer producers during this period were unable to elaborate, nor were they able to compete with much larger breweries. Over time, as the system was constrained and unable to elaborate itself, the only place for growth to occur within the brewery industry was among the corporate sector. As we have witnessed - with Taylor's initial process of mergers and acquisitions, which translated into trans-national corporate mergers and acquisitions across the 20th and 21st centuries - without room to grow, the brewery industry was hijacked by the corporate world, and with it, the process of brewing. The centralized system of mass-production and manufacturing removed beer from its traditional roots, and to become a mere commodity, as opposed to a cultural product.

On the other hand, from Archer's morphogenetic approach, we see the foundations laid out for the expression of beer as a cultural product taking place during the years that the

corporate sector took over the beer industry. While the corporate world was transforming the idea of beer, what it is and what it could be, through target marketing and advertising campaigns that focused far more attention to what was ‘on the label’, as opposed to what was ‘in the bottle’, movements were already underway that can be seen as a backlash against this corporate idea of beer. This opposition is the birthplace of the emergence of Ontario microbreweries.

2.5 The Rise of Microbreweries

The story of the emergence of Ontario microbreweries cannot be told without first introducing the emergence of microbreweries in Canada. The first Canadian microbrewery opened in 1982. It was a small operation located in the small community of West Vancouver in British Columbia. It was named Horseshoe Bay Brewery, after the community of about 1,000 residents who lived in the area. Acquiring the license to open and operate this first brewery was an ordeal for owner and operators Frank Appleton and John Mitchell. Appleton, a trained microbiologist arrived in Canada in the 1960s. He worked as a brewmaster for O’Keefe breweries in Vancouver until he left the industry. For a nine year hiatus, Appleton worked as a freelance journalist for the *Harrowsmith* magazine. One particular article that Appleton wrote for the *Harrowsmith* was critical of the state of the Canadian beer industry, and it caught the attention of an emerging entrepreneur, John Mitchell. Appleton had claimed, that:

All the big breweries are making virtually the same product, with different names and labels. Accompanying this trend is a shift in power from the hands of the brewmaster to the marketing, accounting and advertising men. Like tasteless white bread and the universal cardboard hamburger, the new beer is produced for the tasteless common denominator. It must not offend anyone, anywhere. Corporate beer is not too heavy, not too bitter, not too

alcoholic, not too malty, not too yeasty and not too gassy. In other words, corporate beer reduced every characteristic that makes beer, beer (Sneath, 2001: 214-215).

These words inspired Mitchell, who later tracked down Appleton and encouraged him to assist Mitchell with his plans on opening the first Canadian microbrewery. With the support of an experienced brewmaster, Mitchell's next step was to receive the appropriate licensing to operate a microbrewery in British Columbia. To do so, Mitchell would need to contact British Columbia's liquor board so that he could begin his operations. After meeting with Peter Hyndman, the Minister of Consumer and Corporate Affairs, and the head of the B.C. Liquor Board, Mitchell and Hyndman entered into a series of negotiations towards acquiring a microbrewery license. After six months of negotiations, an agreement was reached and Mitchell and Appleton would go on to open the Horseshoe Bay Brewery under the designation that it was a 'cottage brewery' (Sneath, 2001: 216). The brewery officially opened in June of 1982 and its beer was sold by draught at a pub and restaurant named Spinnakers located in Victoria. Horseshoe Bay Brewery was ground-breaking for becoming the first the microbrewery to operate in Canada. Unfortunately, after the departure of Appleton just one year after operations began, Horseshoe Bay Brewery struggled to remain in business. After a period of closures, re-openings, and location changes, in 1997 the Horseshoe Bay Brewery closed its door a final and last time (Sneath, 2001: 216).

Since the failure of Horseshoe Bay Brewery, the Granville Island Brewing Company, located in Vancouver, British Columbia is generally regarded as Canada's first microbrewery. Granville continues to operate today from its iconic location in a redesigned urban downtown Vancouver neighbourhood. Granville Island Brewing Company opened in June of 1984 after founding partners Mitch Taylor and Bill Harvey spent two years in negotiations with government officials to determine the appropriate licensing legislation that was required for

them to produce beer sold by bottle, not by draught. In addition to selling beer by the bottle, the founders also required legislation to be passed that would allow for on-site retail sales.

Notable about Granville Island Brewing Company is the style of beer they produce. Following the traditional German-style lager, according to the German beer purity law of 1516, known as *Reinheitsgebot*, Granville Island's beer is produced using only water, hops, malt, and yeast. (Webb & Beaumont, 2012). According to the *Reinheitsgebot*, any chemical additives are prohibited, such as sugar, rice, corn, and un-malted barley. By following traditional standards, and by offering free microbrewery tours of their premises, the Granville Island Brewing Company raised awareness and public acceptance of the microbrewery movement that would be followed by other brewers across Canada.

The emergence of Ontario microbreweries began in December of 1984. In Waterloo, Jim Brickman had begun plans to open a microbrewery in 1978 after seeing the growth of the microbrewery movement in the United States. Brickman, who had little formal training in the brewery business, toured over 60 breweries to gain a perspective on the industry. After acquiring the support of several partners and accumulated \$2.5 million in investments, Brickman opened his brewery, the Brick Brewing Company in Waterloo, next-door to the enormous Labatt Waterloo plant (Sneath, 2001: 224). While the Labatt plant has since closed, Brick Brewing Company still stands, and like the Granville Island Brewing Company, his company continues to produce his distinctive and naturally produced beer according the *Reinheitsgebot*.

Since this time, the number of microbreweries has expanded significantly. While there have been many success stories of microbreweries across Canada, there have also been a significant number of failures. There are as many reasons why some microbreweries have

been successful as there are reasons for why they have failed. Notable examples of successes include the Granville Island Brewing Company, Creemore Springs Brewery, Sleeman Brewing & Malting Co., Wellington County Brewery Limited, Steam Whistle Brewing, Unibroue, Dieu du Ciel!, Brasserie McAuslan Brewing, Le Trou du Diable, Les Brasseurs du Nord, and Big Rock Brewery. Failures over the years have included microbreweries such as The Connors Brewing Company Ltd., the Strathcona Brewing Company, Sculler Brewing Company Ltd., Ottawa Valley Brewing Co. Ltd., and the Island Brewing Co. of Charlottetown, P.E.I. On Table 1, statistics of growth in the Canadian Craft Brewery Segment are shown from 1982-2000. Numbers of growth are compared against the numbers of microbreweries that have closed.

Microbreweries operating in Ontario and Quebec have seen, by far, the most growth and success in Canada. By 2012, the Ontario microbrewery industry boasted a total of 53 microbreweries and employed over 600 people (Yuen, 2012). The emergence continues today without any sign of coming to a halt. Consumer demand for micro-brewed beer is increasing annually. Microbrewers continue to create and produce more and more styles of a craft beer to meet growing demand from their consumers who want to try and experiment with new beers. All the while new entrepreneurs join the craft beer movement and they are opening new microbreweries across the province.

2.6 Ontario Government Policies

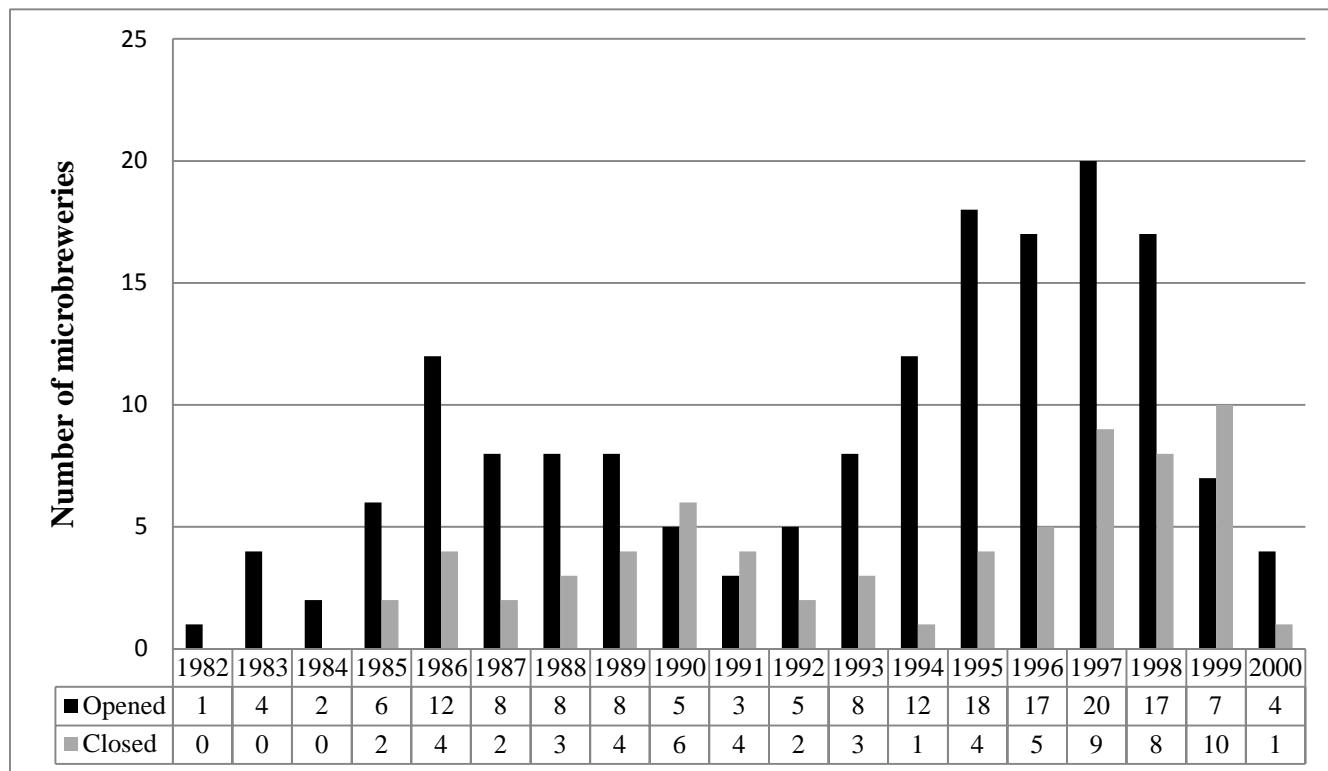
In July 2012, the government of Ontario released a report stating the McGuinty government celebrates the success of the craft brewing industry. The press release provided

details concerning the growth of the industry. The number of microbreweries has increased from 31 in 2005 to their current numbers. Sales of Ontario craft beer reached \$190 million in 2010, and craft brewery sales now represent 5 per cent of the beer market, up from 2 per cent just several years previously. While other segments of the alcohol industry have experienced reduced growth, Ontario craft beers now lead the LCBO in sales growth, with nearly a 45 per cent increase. Furthermore, the provincial government announced Ontario craft breweries had won 19 awards at the 2012 Canadian Brewing Awards (Ministry of Economic Development and Innovation, 2012, July 28). Certainly the government of Ontario can be seen celebrating the successes of the microbrewery industry, as the government did play a contributing factor to the growth in the Ontario microbrewery industry in supporting, promoting, and developing this emerging market.

The government of Ontario has promoted and supported the Ontario microbrewery industry and has created several initiatives to support its growth. Initiatives such as the Ontario Microbrewery Strategy, the creation of the Ontario Craft Brewers Association, the Ontario Craft Brewers Opportunity Fund, modernization of liquor laws, and public endorsements of the growing success of the industry have played an important role of the governmental policy.

The Ontario Microbrewery Strategy continues to support the industry with \$1.2 million fund given annually to microbreweries to assist them with their marketing, training, and development strategies (Ministry of Economic Development and Innovation, 2012, May 25). Part of the Ontario microbrewery Strategy is the Ontario Craft Brewers (OCB), which is a trade association that represents many of the provinces 53 microbrewers. The OCB is responsible for raising awareness of the province's microbrewers and develops advertise-

Table 1: Canadian Craft Brewery Segment 1982-2000



Source: (Sneath, 2001: 302).

ments in print and on radio, and they also created applications for iPhone and Android devices to help consumers find locations that sell and serve Ontario craft beer.

The Ontario Craft Brewers Opportunities Fund was a four-year plan that provided up to \$2 million per year to support the growth and development of craft beer manufacturers in Ontario. The fund was introduced in 2008 and ran until 2012. Microbreweries were able to apply for grants to undertake new projects, expand their existing facilities and activities to develop the microbrewery industry to become more competitive in Ontario markets. John Hay, president of the Ontario Craft Brewers, said that out of the 53 licensed microbreweries in Ontario about 40 microbreweries took advantage of this fund. Although no longer running, while the program was in operation it assisted with job creation and accelerating the growth of the microbrewery industry in Ontario (Ontario Craft Brewers, 2012).

Changes to the province's liquor laws occurred in 2011, which 'relaxed' some of the more 'strict' areas of Ontario's alcohol regime. The rules and regulations that concerned drinking in public spaces were adjusted to facilitate waiters in restaurants that served alcohol on licensed patios and other licensed areas. In some cases there was an unlicensed area, such as a sidewalk, that separated licensed areas and waiters were not permitted to carry alcoholic beverages through these spaces. The liquor modernization laws not allow waiters to carry alcohol through these areas. The size of outdoor drinking areas, such as beer tents at public events, are now permitted to occupy larger spaces to reduce crowding. Other changes included allowing all-inclusive vacation packages, which allow for all-you-can-drink getaways and easier application procedures for Special Occasion Permits (SOPs) that allow the serving of alcohol at events such as weddings and charity fundraisers.

Modernization of the beer laws in Ontario has been an ongoing project of the government since the time of prohibition. For the past several decades, when reading and referring to the official discourse of the provincial government, we see the use of the word 'relaxation.' Since the 1980s, the government has reported in press releases their plans to 'relax' Ontario's drinking laws. It is interesting because it confesses that the laws are strict or up-tight, and the government is sympathizing with the people by acknowledging this fact about the strict nature of the alcohol laws. The use of the word 'relax' is therefore an important word because of the connotations that it reveals. Underneath the laws governing the drinking and consumption of alcohol in Ontario has been the apparatus of a repressive governmental program that came into effect in the years immediately following the end of prohibition in Ontario. Understanding the contrast between the government's policies towards beer and alcohol in the present and its radically different policies of the past plays an

important role in understanding the significance of the rise of microbreweries in Ontario. In the following section, I will discuss the theoretical approaches used in this project that lead to the factors of the emergence of Ontario microbreweries.

Chapter Three:

Current government alcohol policies

A biochemical imperfection exploited by the beer, wine, and liquor industries, which profitably manufacture this addictive and dangerous drug, C₂H₅OH (where C stands for carbon atom, O for oxygen, and H for Hydrogen). Millions of people worldwide die from imbibing it each year. Or, looked at another way, distillers have been exploited by the fermenting bacteria and yeast, who have gotten us to arrange for their growth and reproduction on a worldwide, industrial scale - because we love to drink ourselves senseless on microbial wastes. If they could speak, perhaps they would boast about how cleverly they've domesticated the humans.

— Carl Sagan, *Shadows of Forgotten Ancestors*

This chapter gives an overview of the current government policies towards alcohol and microbreweries in Ontario. The emergence of Ontario microbreweries began in 1984, and in its first few years the microbrewery movement had a slow start, but in the 2000s, microbreweries and craft beer have increased in popularity.

Of particular concern to Ontario microbrewers is the province's unique retailing system. The history of this retailing system was explained in previous chapters to provide a basis for understanding how the system has evolved, as it exists today, and it has also been discussed in an effort to provide a basis towards the direction in which the system will move in the future.

Retail sales points for beer in Ontario occur in select and few places. Consumers may purchase beer from the LCBO, The Beer Store (TBS), from a microbrewer's retail store, or from one of the many licensed establishments that permit on-site drinking. All licensed establishments purchase their alcohol directly from The Beer Store, the LCBO, or directly from Ontario wineries and breweries (Jazairi, 1994).

Retail sales of micro-brewed beer in Ontario have increased significantly in the past decade as a result of a strategy established by the Government of Ontario to promote the province's microbrewery industry. Established in 2003, the Ontario Small Brewers Association was created to facilitate marketing and promotional campaigns of local breweries in Ontario. Two years later, in response to grants from the provincial government, this organization was renamed the Ontario Craft Brewers Association (OCB). In that same year, the LCBO launched a new strategy to showcase Ontario craft beers in partnership with the Ontario Craft Brewers. (LCBO Annual Report, 2004-2005: 27). In 2007, the LCBO announced the goal of increasing market share of provincially-made micro-brewed beer to 12

percent by 2014. (LCBO Annual Report, 2005-2006: 18). While substantial growth of the microbrewery industry has been achieved, as of 2014, this market share only amounts to a little under half of their 2007 goal, hovering around 5 per cent.

Although the LCBO has not yet reached its 12 per cent target in Ontario microbrewery sales, the Ontario microbrewery strategy has a number of features which have increased awareness and the presence of craft beer in their stores. For example, the year 2007 marked the province's first craft-beer festival, the Summerhill Beer Festival in Toronto. Today, there are a number of craft beer festivals taking place all over the province during the summer months. Additionally, in 2007, the LCBO employed 118 new staff designated as 'Beer Guys' and 'Beer Gals' who underwent specialized training "...to help customers with product information, tasting notes and recommended food matches for Ontario craft beers" (LCBO Media Centre, 2007). The organization of space within certain LCBO locations was transformed to promote members of the Ontario Craft Brewers Association through prominent signage and display units. After the initial year of the promotional program, the partnership between the LCBO and the OCB, as a result of "...in-store promotional initiatives and dedicated staff to promote these products — [micro-brewed beer sales] rose by 27.6 per cent, while sales of imported beers increased 8.2 per cent" (LCBO Annual Report, 2006-2007: 10). Over the following years, Ontario's microbrewers continued to increase sales by 35.2 per cent to 52.7 per cent increases in annual growth over the previous year.

In this chapter, my aim is to discuss the ways in which the microbrewery industry has expanded as a result of various strategies and from support from the government. Through an analysis of the various tools at the disposal of the government, it is clear that some strategies which could have easily been implemented were ignored. In addition, there are some fears

which have been expressed by the microbrewers themselves, which appears to have hindered full growth within this industry. From a retail perspective, we will discuss the near monopoly state of sales over beer in Ontario the government is able to take advantage from, as well as an analysis of government policies that were explored, yet, never implemented. Finally, a discussion at the end of this chapter will be offered that provides insight on some the reasons for the stunted growth of the microbrewery industry. It appears on some levels that moral regulation continues to be at the heart of the issue concerning all modernization and changes to the province's alcohol industry. Theoretical constructs established by Archer, Foucault, and Marina Valverde will be addressed and these will be analyzed with respect to the expression of morphogenesis.

3.1 The Government of Ontario

The growth of the microbrewery industry in Ontario can be attributed to the sponsorship of the development of this industry by the Government of Ontario. In Ontario, as we have seen historically and, which continues today, the provincial government exercises control over the sale, transportation, and delivery of alcoholic beverages. Support from the provincial government is required for the microbrewery industry to flourish. This is due to the fact that one of the largest segments of the retail beer industry is controlled by the provincial government through the Liquor Control Board of Ontario. The other retail location for the sale of beer in Ontario is through The Beer Store.

During the premiership of Dalton McGuinty, the government of Ontario has promoted and supported the Ontario microbrewery industry and has created several

initiatives to support its growth. Initiatives such as the Ontario Microbrewery Strategy, the creation of the Ontario Craft Brewers Association, the Ontario Craft Brewers Opportunity Fund, modernization of liquor laws, and public endorsements of the growing success of the industry have played an important role of the governmental policy.

The Ontario Microbrewery Strategy was created in 2004 and continues to support the industry with \$1.2 million annually to microbreweries to assist them with their marketing strategies (Ministry of Economic Development and Innovation, 2012, May 25: Hinkson, 2013). The purpose of this strategy is to help create jobs and expand the microbrewery industry by helping small brewers explore new marketing, training, and tourism development opportunities (Ministry of Economic Development, Trade and Employment, 2013). This strategy is part of the government's plan to build a prosperous and fair province that facilitates the business investment, job creation and economic growth (Liedtke, 2013). It works in collaboration with the Ontario Craft Brewers Association (OCB), which operates alongside the provincial government.

The OCB is a trade association that represents many of the province's 53 microbrewers. It was founded in 2003 and promotes micro-brewed beer in Ontario, as well as develops marketing and communications strategies. Some of its promotional strategies include the OCB Discovery Pack, which is a six-pack of beer that contains beer produced by six different Ontario microbrewers. Additionally, the OCB produces advertisements in print and on radio, and more recently have created applications for iPhone and Android devices to help consumers find locations that sell and serve Ontario craft beer. While effort has been made to make craft beer more visible in LCBO retail locations, it remains an issue that craft

beer products produced by Ontario microbreweries are not prominently featured, displayed, advertised, or marketed in Beer Store locations.

The Ontario Craft Brewers Opportunities Fund was a four-year plan that provided up to \$2 million per year to support the growth and development of craft beer manufacturers in Ontario. The fund was introduced in 2008 and ran until 2012 (Flavelle, 2012). Microbreweries were able to apply for grants to undertake new projects, expand their existing facilities and activities to develop the microbrewery industry to become more competitive in Ontario markets. Ontario small brewers producing less than 300,000 hectolitres of beer annually were eligible to receive money as part of this grant. Licensed Ontario small brewers received grants of up to 6 cents per litre up to a maximum of \$1 million per brewery annually. In addition, an annual amount of \$200,000 was allocated to the Ontario Craft Brewers Association to support this organization's efforts towards marketing and promotion of the microbrewery industry. (Ministry of Economic Development and Innovation, 2008). John Hay, president of the OCB, said that out of the 53 licensed microbreweries in Ontario about 40 microbreweries took advantage of this fund. Although no longer running, while the program was in operation, it assisted with job creation and accelerating the growth of the microbrewery industry in Ontario (Ontario Craft Brewers, 2012). The cuts towards this program were reviewed in the Drummond Report, a document submitted to the Government of Ontario, which called for cuts across the province to reduce the Ontario government's deficit. Many microbrewers have said in response to the termination of the Ontario Craft Brewers Opportunities Fund that development and growth within their industry have been stunted as a result of these cuts.

Additional efforts made by the McGuinty government have included changes to legislation. On 1 June 2011 the government passed new liquor laws that ‘relaxed’ where, when, and how alcohol could be served and consumed in public. These modernized laws essentially reduced some of the barriers to the consumption of alcohol publicly. For instance, a beer drinker familiar with the drinking rules of Ontario is likely to have seen or experienced the beer tent at a public event. The beer tent is a means of separating the beer drinker from the rest of the general population. At any type of outdoor public event where beer is being served in Ontario the rules have required that the drinker must purchase and consume their alcoholic beverage under a beer tent protected by a fence that ran the complete perimeter of the licensed area. During the consultation phase of these new modernized laws, proposals were made that would remove “the need for beer tents at events and festivals so people [could] walk around freely with drinks” (Ministry of Tourism and Culture, 2011, February 23). Ultimately, at the end of discussions, it was agreed upon that the province would maintain its beer tents at public events, but under new modernization laws, the size of these beer tents could be increased to allow for greater movement of the customers within. Other changes included allowing all-inclusive vacation packages, which permits all-you-can-drink getaways to be sold in the province. Moreover, restaurant owners and servers can now carry drinks on public sidewalks to licensed areas such as patios. Additionally, government issued identity cards, such as First Nations status cards, and Ministry of Transportation (MTO) cards, which can now be used as proof of age. Easier application procedures for SOPs allow the service of alcohol at events such as weddings and charity fundraisers, as well as extending the number of hours that permit the service of alcohol to a maximum of 2 a.m.

have also been created (Finkelstein, 2011). In addition to these changes, rules now permit business owners to give a complimentary drink to customers to celebrate special occasions.

On 2 August 2011, another set of alcohol modernization laws came into effect. Businesses not normally associated with the food and beverage industry, such as art galleries and spas, are now eligible to apply for ongoing liquor licenses and are no longer required to apply for a SOP. However, new restrictions were also implemented as part of these alcohol modernization laws. Organizers of public events are now required to give more advance notice to municipalities, police, and local officials when there will be alcohol to be consumed during the event. Organizers are required to give 30-day notice, up from 21 days, for events with fewer than 5,000 attendees, and 60-day notice for events with more than 5,000 attendees. (Ministry of the Attorney General, 2011).

The third set of new regulations as part of this ‘roll-out’ of alcohol modernization laws took place on 1 July 2012. All of these changes involved the province’s SOPs. Former event categorizations, specified as receptions, trade and consumer shows, and market-research events, have been simplified and are now categorized as either private events or industry promotional events. These SOPs can now be issued for multiple days, as opposed to single days, and an application for a permit can now be made at any LCBO retailer.

3.2 Controversies within the government’s alcohol retailing system

An issue that remains controversial among lawmakers and members of the brewery industry in Ontario pertains to the province’s alcohol retailing system. The government controlled near-monopoly that exists through the LCBO retailing chain, controls the sale of

spirits in the province, as well as a significant portion of all wine and beer sales. The other major retailer of alcohol is The Beer Store, a chain of stores controlled by three foreign-owned brewing companies: AB InBev, Molson Coors, and Sapporo. Changes to the retailing of alcohol have been suggested and proposed at different times since the 1980s; yet, each time, any proposed changes have been rejected.

David Petersen's Liberal government reviewed the issue of beer and wine in corner stores in 1985 and rejected it after Parliamentary Committee feedback on the issue. A review of potential privatization of the LCBO, was part of the Mike Harris's Common Sense election platform, but the government, once elected, never moved forward with a review or radical changes to the LCBO system. Dalton McGuinty's Liberal government established the Beverage Alcohol System Review (BASR) Panel to recommend potential changes to the liquor retailing system in 2005, but more or less shelved BASR's recommendations on the day they were released. Even Bob Rae's NDP government reviewed potential changes to beverage alcohol retailing in the early 1990s following a GATT (now WTO) ruling that found several Ontario retail practices (and other policies) to be a violation of international trade law. All of these reviews ended with political decisions not to radically alter Ontario beverage alcohol retailing system (The Beer Store, 2014).

Despite calls from consumers and business associations in the province to make changes to the province's alcohol retailing system, the government continues to be reluctant to address the issue in any meaningful way.

History has shown us, as it was outlined in Chapter 2 where I went into detail of the history of prohibition and post-prohibition eras, that it has traditionally been during the reign of the Progressive Conservative Party of Ontario where the greatest movement towards changes in alcohol legislation have been made. While McGuinty's Liberal government made modernization of alcohol laws and the promotion of the craft beer and microbrewery industry priorities of his government, he failed to make changes to the province's alcohol distribution system. Tim Hudak, head of the Conservative party and the Leader of the Opposition in Ontario, has stated publicly his support for the sale of beer, wine, and spirits in convenience stores across the province, as well as being open to the idea of a complete sell-off of the

LCBO, or at least parts of the LCBO to the private sector (Crawley, 2012). As was the case in Alberta, where the provincial Conservative party privatized its system of alcohol distribution and retailing in the 1990s, it has been argued by Paquette & Lacassagne (2009) that Alberta's motivation to do so was primarily for ideological reasons. It appears that Hudak's reasons in support of alcohol privatization are equally ideologically based. The traditional conservative perspective views the ideal form of the state as a reduced role of government intervention in the affairs of its people and its businesses, and furthermore, that the government has a decreased role in interfering in the market place with a preference towards *laissez-faire* economics. With respect to Ontario's near monopolization over the alcohol retailing industry, it is clear from a Conservative perspective that the motivation for changes towards this sector is based on party ideology.

Political ideologies aside, there remains a majority of Ontarians who feel that the province's alcohol retailing system is outdated and inconvenient. A public opinion poll conducted by Angus Reid Public Opinion showed that 69% of respondents want to see more private retailers of beer in the province (Canadian News Wire, 2013; Schukov, 2014). Opinions of Ontarians towards their province's alcohol retailing system reveal a desire for change:

LCBO [and] The Beer Store locations are often inconvenient, and hours of operation limit access. Allowing sales in convenience stores would allow for less traveling, add the convenience purchasing snacks and drink mix, as well as boost sales in convenience stores, which also benefits store owners.

It would be so much more convenient to buy beer in convenience stores in Ontario. There is not always a beer store near where you live but there usually is a convenience store nearby.

It's archaic that we can't buy beer and wine in convenience stores. It reminds me of the old Sunday shopping laws... (FreeOurBeer.ca, 2014b).

Another finding as a result of this poll was that a significant majority of Ontarians, 87 per cent, were unaware that The Beer Store was a privately-owned business controlled by foreign multinationals, and not by the provincial government. Two out of three respondents reacted negatively when told about this and said “its monopoly powers should be revoked so that private retailers [can] compete” (Cohn, 2013). Bruce Watson, Director of Customer Relations and Government Compliance with Mac’s Convenience Stores, says that

The Beer Store is a private operation... It is no different than a Mac’s store or a variety store, or any other kind of business in the province. It’s not a government store. They have developed this mystique through the franchise that they were granted in 1927 that they are an arm of the government. It’s very important for people to understand that that’s not the case (Thompson, 2014).

Brewers Retail Inc., operating under the trade name The Beer Store, which opened in 1927, was originally made up of Canadian brewing companies, Labatt, Molson, and Carling O’Keefe. What has happened over the years, through business mergers and acquisitions is that The Beer Store is now owned and operated by foreign businesses; something which Watson finds does nothing to serve the needs of Ontario consumers. In Anindya Sen’s analysis of The Beer Store and monopoly profits, he finds that “[t]he province has given beer manufacturers the legal right to a retail monopoly in the province. This is unparalleled in most OECD countries” (Sen, 2013).

The issue at stake, in this respect, regarding the emergence of Ontario microbreweries, has to deal with the government-mandated private near-monopoly on the sale of beer. Considering that The Beer Store is responsible for approximately 80 per cent of all beer sales by volume in the province, and that it is privately owned, there are issues concerning the accessibility that microbrewers have with respect to acquiring the right to place their product on The Beer Store’s shelves. The three foreign multinationals, AB InBev, Molson Coors, and Sapporo, supply the store with nine of the store’s top ten selling brands

(with the exception being Heineken Lager, brewed by Heineken International), all of which are prominently displayed in their retail stores and on their website. Many of the retail spaces in these stores lack customer-accessible shelf space as part of their sales strategy, which reduces the customers' ability to browse through the offerings available, thereby preventing the number of opportunities for customers to encounter a micro-brewed beer, and increases customers' number of interactions with the multinationals' brands (Mysicka and McKendry, 2013).

Listing fees are required for Ontario microbreweries, or any other brewery not owned by The Beer Store, to sell products within the store. The cost of these fees is high, and as such, continues to limit the ability of microbreweries to have their products sold in Ontario.

There are two fees that TBS charges breweries to have their products sold in its store. The first is a one time listing fee with a base charge of \$2,650.14 plus \$212.02 per store that the product is sold in. This amount is paid per product that the brewery would like to sell. For example, if a brewery had six distinct brands of beer and wanted to sell each brand in packages of 6, 12, and 24, they would need to pay a listing fee for 18 products. The second is what TBS refers to as a "handling fee." This fee is charged at between \$43.40/hectolitres and \$49.40/ hectolitres or between \$3.65 and \$4.15 for every case of 24 beers. Both of these fees only apply to non-owner breweries (Beer Store Operational Report, 2009: 34-35). In principle the fees are meant to recover an unspecified amount of cost, but critics have claimed that the fee exceeds the likely costs of TBS operations (MacIntyre, 2013: 25).

Microbrewers are prevented from experiencing higher rates of growth as a result of the high cost associated with placing their products on Beer Store shelves. The quantities of micro-brewed beer are affected as a result. While an Ontario consumer may purchase beer produced from a large brewery in 6-bottle, 12-bottle, and 24-bottle cases, the majority of microbrewers sell their beers in individual cans or 6-bottle cases. Beer consumers wishing to purchase larger quantities of micro-brewed beer at The Beer Store are required to purchase multiple 6-bottle cases, as opposed to an easier to handle and transport 12-bottle, or 24-bottle, case of beer. The packaging of micro-brewed beer in smaller volumes is obviously inconvenient, and

reduces the likelihood of consumers purchasing Ontario micro-brewed beer in large quantities by volume. This paired with The Beer Store's internal marketing campaigns that promote their own brands means that many of Ontario's microbrewers are constrained from selling larger quantities of their products. Furthermore, the other retail site where microbrewers sell their products, the LCBO, is another location that prevents the sale of beer in large quantities. The majority of LCBO locations limit the quantities of all beer sales in their stores to individual cans and 6 packs, without distinguishing between large or small producers. As it happens, for Ontario microbrewers, many do not have the opportunity to sell their beer in quantities greater than 6-bottle cases.

That said, what we find in Ontario, with respect to the policies enacted by the current government, is that while the Ontario Liberal Party is open to the idea of changes to the province's retailing system, it continues to rely on a reluctant and hesitant approach. As stated in The Beer Store's position paper, released February 2014, each time the provincial government considered changes to alcohol retailing, said changes were not enacted since the loss of government revenue as a result of alcohol sales would be too high for the province of Ontario to afford as it was argued through a comparison of British Columbia and Alberta's privatized alcohol systems (The Beer Store, 2014). Another reason why the government has failed to make these changes falls within the realm of moral regulation. It has been argued by proponents of the province's current retailing system that this is the only system capable of upholding high standards of social responsibility towards the sale of alcohol.

In the discourses taking place among the different government agencies and advocacy associations there is a concern towards the sale of alcohol towards minors, those individuals in Ontario under the age of 19. They argue if alcohol retailing be expanded to include the

province's convenience stores that the sale of alcohol to minors would increase drastically. Organizations such as Mothers Against Drunk Driving (MADD) "believe making alcohol available through convenience stores would increase alcohol abuse, sales to minors and impaired driving" (Leonard, 2014). The union for The Beer Store employees, the United Food and Commercial Workers (UFCW), has become mobilized around the issue concerning deregulation of the province's alcohol retailing system, primarily around the issue of beer sales in convenience stores. In 2014, they launched a website, Ontario Beer Facts (www.ontariobeerfacts.ca), "that is full of facts that debunk the myths being advanced by convenience stores who want to deregulate alcohol sales in Ontario" (UFCW, 2014).

At issue with the UFCW is the Ontario Convenience Stores Association (OCSA), which has been lobbying the Ontario provincial government and municipalities to create legislation allowing the sale of beer and wine in Ontario convenience stores. On the UFCW website, the union claims, "the Ontario Convenience Store Association has stepped up its efforts to apply pressure to sell beer and alcohol in corner stores and gas stations. In their efforts, they have spread misinformation on issues such as pricing, consumer choice and socially responsible retailing" (Ibid.). The UFCW makes five central claims on its website, should alcohol be permitted for sale in convenience stores, (a) beer prices will increase; (b) product selection will decrease and fewer microbrewery selection; (c) government will lose tax revenues that could go towards public services; (d) increased sale of alcohol to minors and higher police enforcement costs; and, (e) the loss of the bottle return system would have a detrimental impact on the environment (Ontario Beer Facts, 2014). A primary argument made by The Beer Store is that its stores are more socially responsible for the retailing of alcohol, because its stores ensure that people under the influence of alcohol are turned away

and not sold alcohol, and that The Beer Store has a better record on age-checking its customers, ensuring that minors are not able to purchase alcohol.

In response to the claims made by the UFCW, OCSA has been involved in promoting its perspectives on modernization of alcohol retailing in Ontario. On its website, FreeOurBeer.ca, OCSA has dismissed a number of the UFCW's claims. OCSA argues that "Ontario's chain convenience stores have decades of experience selling alcohol elsewhere in Canada" (FreeOurBeer.ca, 2014a) and that they are prepared to sell alcohol to Ontario consumers. This is a sentiment expressed by Mac's Convenience Stores chains, which has decades of experience in alcohol retailing through its parent corporation, Alimentation Couche-Tard, that "already sells beer in its 665 corporate stores in Quebec and at its 3,000 outlets in the United States and 1,400 locations in Europe" (Marotte, 2013).

In terms of social responsibility, OCSA commissioned an independent study conducted by Statopex Field Marketing which randomly tested retailers, using two sets of secret shoppers, minors aged 15-18, and young adults aged 19-24, to see how well retailers used identification checks at points-of-sale and the failure rates of these age checks. In this study, Statopex investigated how well the LCBO, The Beer Store, and Ontario convenience stores tested shoppers for their ages.

The results of the study showed that when tested with underage secret shoppers, Ontario convenience stores tested at an 87.3 per cent pass rate, where secret shoppers were asked to present ID for age restricted products such as tobacco and lottery tickets. At The Beer Store, 80.7 per cent of secret-underage shoppers successfully purchased age-restricted products, and the LCBO scored 74.6 per cent. The study involved 105 LCBO locations, 98 Beer Stores, and 93 convenience stores (FreeOurBeer.ca, 2011).

We did this study to measure how well we're doing our job of keeping age-restricted products away from minors compared to the government-run LCBO and the foreign-owned Beer Store. The results surprised us. Government officials have for years put the LCBO or the foreign-owned Beer Store up as the model for keeping age-restricted products from minors, but the facts paint a different picture (FreeOurBeer.ca, 2011).

What is clear from the results of this study is that convenience store employees have challenged more minors to produce identification to determine their age when attempting to purchasing age restricted products. This is likely a consequence of higher levels of enforcement by convenience stores towards these products, as well as higher penalties that are imposed upon the employees and owners when a minor is found to have purchased these items without having their age challenged by the employee. Obviously, it is problematic for The Beer Store and the LCBO to claim that their stores ensure greater levels of social responsibility when they claim they have lower 'fail rates' towards minors purchasing age-restricted products when the evidence suggests otherwise. In spite of these reports, both The Beer Store and the LCBO have not issued counter-claims towards the Statopex study.

The question remains however, will modernization of the province's alcohol retailing system be a sign of progress or a detriment to Ontario's microbrewers? From the microbrewers perspective, there exists disagreement among the different owners towards these initiatives. While some are in favour of changes to the provincial retailing system, others are against the idea. Older and more established microbrewers have adjusted to the provincial retailing system, and are concerned that allowing for the sale of their products across the province in numerous convenience stores, owned by multiple chains and independent retailers will create logistical problems within their distribution networks. They are concerned that they will not be able to update their distribution systems to meet with new demands for their products. New microbrewers are more sympathetic towards modernization

of Ontario's alcohol retailing. They see entry into new retailing markets as an opportunity to establish their products.

From a strategic perspective, it is understandable why an established microbrewer has been able to benefit from the province's current retailing regime. They have already negotiated their products, found a market for their product, and have been successful in establishing a clientele base. It appears that for some microbrewers, once they are established, they encounter difficulties meeting product demands with their current facilities. Some are unable to produce enough beer as a result of limited production capacity. With greater capital investment, they could increase their existing facilities to produce a greater volume of beer. However, it appears that 'mature' microbrewers, those that have been in operation for many years, are satisfied meeting current consumer demand for their product. These mature microbrewers appear to be less motivated to drastically change brewery operations through expansion projects. There is certainly an element of risk associated with expansion projects, as growth may require a microbrewer to renovate his brewery space, the purchase of additional, and often-times, costly brewing equipment, and in other cases, being required to relocate his brewery facilities. Although it would be beneficial for microbrewers to increase their production capacity and have the capability to distribute over larger networks, the risks inherent with expansion have deterred some mature microbrewers from expanding.

However, what these older microbrewers fail to identify is that not every brewery that opens becomes an overnight success story. The failure rate for microbrewers in Ontario is high. Not every microbrewery has been successful and many microbrewers have closed during the short tenure of Ontario microbreweries. There are advantages to newer breweries

having access to an increased retailing network as it will expose microbrewers' products to new customers with a much higher frequency.

The concern remains for Ontario microbrewers, that if the government were to modernize its retailing system, that the competition for shelf space within convenience stores would be high and many smaller breweries would be unable to achieve highly visible and high-quantity shelf spaces for their products. The larger brewers would be able to purchase ideal shelf spaces within these stores, and offer store owners incentives for carrying their products, such as purchasing store upgrades such as larger or improved coolers, store renovations, in-store promotions, and other marketing campaigns that smaller breweries, with limited capital resources, would be unable to provide. While The Beer Store monopoly over beer may come to an end, it may open a new era of increased competition within new retail locations that will undermine Ontario microbreweries.

With this in mind, there was an interesting piece of Ontario legislation that was produced in 2007, by Kim Craitor, MPP for Niagara Falls, which attempted to give Ontario microbreweries a significant retail advantage. Craitor's private member's bill, *Bill 199: An act to amend the Liquor Control Act to permit the sale of VQA wine and Ontario microbrewery beer at convenience stores*, was intended to support many of the wineries and growers in Craitor's riding, Niagara Falls (Ontario Legislative Assembly, 2007). Many of the wineries and growers had contacted Craitor and told him about their interest in selling more of their grapes and wines and they felt that if they could have access to the convenience store markets, that they would be able to increase sales. During the consultation phase of designing this Bill, it was stressed that the only wines that would be allowed for sale in the convenience stores would be Vintners Quality Alliance (VQA) Ontario wines. Craitor met with Queen's

Park staff to ensure that the appropriate guidelines and processes were being followed, and then he approached convenience store owners with his idea. All the way through the process, everybody involved was very supportive of the legislation. As more and more people became aware of the proposed legislation to modernize wine sales in Ontario, the microbrewers of Ontario became aware of Craitor's legislation and expressed their interest in seeing the legislation passed. At the time, in 2007, the McGuinty government had just passed strict legislation towards the sale of cigarettes and the convenience store owners were looking for new types of products in their stores that would increase sales. On 25 July 2007, the Toronto City Council moved an endorsement motion of Craitor's Bill 199 (Toronto City Council, 2007), and recommended that the city endorse this provincial legislation in light of the province's recent ban on cigarette advertising and the 'power-wall', or, behind the cash-register cigarette display cabinets, that the allotment of limited Ontario microbrewery and VQA Ontario wine sales in convenience stores would allow these stores' owners to recover some of the loss of revenue.

While industry, retail, and municipal government members were supportive of the legislation, Craitor soon encountered public discontent towards his proposed legislation. After the Bill's first reading in Queen's Park, Craitor began publicizing his proposed legislation and attended Goldhawk, a Rogers local television call-in show based in Toronto. During the show, Craitor explained his legislation and then began taking phone calls from members of the public. The public reaction was negative. Many of the callers were angry and upset in response to the proposals found within Craitor's legislation. In the days following the call-in show, the media portrayal of Craitor was very inaccurate. He was accused of being an alcoholic, of encouraging others to become alcoholics, and that the legislation was

designed to simply promote beer and wine consumption. Craitor attests that he is not a drinker and that the purpose for the legislation was to promote Ontario's products and to help convenience stores. As a result of all the negative attention his Bill had drawn, he lost support from within his own Liberal party caucus, as well as from the other two parties in the Ontario legislature and Bill 199 was defeated (Craitor, personal communication, 2012, October 24).

3.3 Moral regulation continues to prevent microbrewery emergence

Since prohibition, in almost every circumstance that a politician, individual, or otherwise has suggested amendments to the province's laws regarding alcohol, there have been organizations within the province that responded by suggesting said person is an 'alcoholic'; that such changes will significantly increase the frequency of alcoholism; that young people, specifically minors, who require protection from social ills, will fall victim to alcohol abuse; that incident rates of drinking-under-the-influence will rise; and any other number of arguments that depict strong decline of social harmony in the province. This is clearly inaccurate from a logical perspective, and yet, within a moral regulatory framework, in which the association between alcohol use and abuse is frequently met, one would expect an increased frequency of which these incidents would occur.

The employees of The Beer Store, as members of the UFCW, have capitalized on this moral regulatory framework and use it as the basis for their continued role within Ontarian society. They argue that their corporation is more adept at providing a social responsibility agenda than convenience stores. Because of the antiquated alcohol distribution system in

Ontario, the arguments forwarded by The Beer Store and its constituent interest groups (ex. OntarioBeerFacts.ca), resonate to a certain extent with Ontario citizens. While some residents would prefer to have more convenience in purchasing alcohol products, such as in convenience and grocery stores, there are others who fear that they would be ‘tempted’ to make these purchases if they were more readily available.

In terms of the disciplinary framework established in the post-prohibition era by the LCBO, from a Foucauldian perspective, it is clear that many of the public sentiments towards alcohol remain influenced by this framework. There are two possible explanations for this situation. On one hand, it can be perceived that it appears that while society has endured morphogenesis on some fronts, with respect to the emergence of Ontario microbreweries, there remain other elements associated with this emergence that have remained within a state of morphostasis. On the other hand, it appears that there are two distinct groups that have emerged and have been applying pressure for structural elaboration: (1) the consumers of alcohol products, who wish to have greater convenience in their purchasing abilities; and (2) the employees of The Beer Store, who, under the current regime, have become a powerful lobbying force for their continued existence, who negotiate said existence through the force of organized labour, as well as through historic structural elaborations that they reproduce through public discourse.

Deciding upon which situation is the most accurate, in terms of explaining and understanding the social situation, Archer expresses this particular conflict in her identification of the double morphogenesis. This is the expression of the divergent perspectives simultaneously.

Although separable because phased across different sequential tracts of time, there are intertwined in the ‘double morphogenesis’, where agency undergoes transformation, acquiring new emergent powers in the very process of seeking to reproduce and transform

structures. For in such structural and cultural struggles, consciousness is raised as collectivities are transformed from primary agents into promotive interest groups; social selves are re-constituted as actors personify roles in particular ways to further their self-defined ends; and corporate agency is re-defined as institutional interests promote re-organization and re-articulation of goals in the course of strategic action for their promotion or defence (Archer, 1995: 190-191).

The phenomenon of the double morphogenesis assists us in understanding how and why the province's alcohol retailing system operates today and how and why this system has elaborated itself.

The approaches used by Foucault have also been found to assist with our understanding of the current retailing regime in Ontario. Mariana Valverde, provides analyses on alcohol in Ontario that are found in her book *Diseases of the Will: Alcohol and the Dilemmas of Freedom*. Valverde's method of explaining the regulation of alcohol comes from a governmentality approach with the social organization and construction of laws towards alcohol organized primarily by state actors and organizations involved in constructing responsible citizens best suited for fulfilling the governments' policies. Valverde identifies a Foucauldian conceptualization of governmentality as taking a dominant role towards alcohol regulation. She says, "The byzantine systems of liquor control devised after the repeal of Prohibition in both Canada and the United States... constitute a wonderful site upon which to study the ways in which moral regulation, fiscal policy, and administrative law were mixed and managed with very little public input" (Valverde, 1998: 9).

Valverde demonstrates the ways in which notions of governmentality played a role socially constructing the social world concerning the public and private consumption of alcohol. Valverde, using an historical epistemology, adopts this approach by tracing the history of her subject and looks at its developments over time to explain its existence and its effects in the present (Valverde, 2000: 71).

In analyzing the governance of alcohol, Valverde finds that the “governance of alcohol does not on the whole support the thesis that our societies are moving away from a disciplinary model of governance” (Valverde, 1998: 144). By tracing out the legal development of alcohol regulation in the province of Ontario, Valverde finds that in Ontario, owners of alcohol serving establishments were very personally disciplined by the Liquor Control Board of Ontario (Valverde, 1998: 150), and that the governance of liquor was a system where government policies indirectly affected the individual drinkers. The onus of responsibility of disciplining individual drinkers was placed in the hands of the establishment owners (Valverde, 1998: 151), to whom the government ‘subcontracted’ these requirements through their tight regulatory apparatuses. She explains:

Initially posed in Foucaultian (*sic*) terms: how does the governance of populations through alcohol connect with the governance of individuals and their relation of self to self in alcoholism recovery? But in doing the research on the more impersonal projects for governing alcohol, I eventually realized that the available Foucaultian (*sic*) concepts – biopower, health maximization, discipline, security – were not sufficient. The liquor control systems... have rarely concerned themselves with either disciplining drinkers individually or maximizing the nation’s health. Concerns about orderliness, public morals, and the non-corrupt running of the liquor business have predominated, rather than the rationalities documented by Foucaultian (*sic*) sociologists of health, medicine, sexuality, and crime. Most crucially, liquor control and licensing systems have not had as their direct and main targets either individuals or populations. The gaze of inspectors and liquor-board authorities has been trained upon the establishment, a particular space defined economically as well as physically. It is significant that the Liquor Control Board of Ontario has, since its inception, demanded a monthly “conduct report” not from drinkers but from each licensed establishment. Although disciplinary techniques familiar to other realms – for example, regular visits by inspectors – are deployed, the fact that it is the space designated by the legal/physical term ‘establishment’ that is being disciplined raises a number of issues regarding our understanding of the meaning and significance of the term ‘discipline’. The analysis of liquor licensing and liquor control... challenges, among other things, the prevalent assumption that governance in modern times has evolved from sovereignty to discipline to risk management (Valverde, 1998: 11-12).

Valverde identifies several areas that make visible the construction of the drinker as a governmental project. Yet, this project is surrounded with complexity as social forces, such as those sentiments arising from organizations such as the Dominion Alliance and the Women’s Christian Temperance Union sought to put an end to the consumption of alcohol,

of whom influenced the government to prohibit alcohol. After the ban, the government took the position of engaging in a project of attempting to define the drinker through a system that indirectly affected the drinker, where the government's disciplining regime was subcontracted to the drinking establishments. This analysis provides insight into the current activities of The Beer Store and the LCBO, who continue to hold the right to claim their right over maintaining the role of social responsibility in the present; which is where we see liberalization of the activities of the alcohol serving establishments but with increased awareness upon the role of social responsibility played by the alcohol retailers.

Valverde's theoretical approach allows us to understand how alcohol laws and regulations that exist today came about. As one Canadian legal expert, Mark Hicken, has pointed out, "You can't understand any North American liquor laws unless you trace them back to Prohibition" (Mayer, 2011). The genealogy and the social constructivist nature of alcohol regulation in Ontario, in Canada, and in other parts of the world, is the central theme of Valverde's analysis in her work on the liquor of government and the government of liquor, as well as in her other works. Her approach allows us to develop a better understanding of the present, which is a sentiment consistent from Mark Hicken's perspective whose work as a lawyer involves working with, understanding, and interpreting these laws.

In general, analyzing the social and moral regulation in the Canadian context is important for us. For my project on the emergence of microbreweries in Ontario, it is vital that I discuss the role of social and moral regulation because of the way in which the laws have been influenced by these moral regulations, and as time passes we witness reductions in these moral regulations that allow for the emergence of microbreweries in the alcohol industry. And yet, although there are fewer restrictions on the industry today, social and

moral regulations continue to influence the industry. Advocacy organizations, politicians, members of the media, and associations representing the wine and micro-brewery industry continue to influence the government. Just as the temperance movement of the 1800s-1900s brought about Francis Stephens Spence and the Dominion Alliance, the Women's Christian Temperance Union (Hallowell, 1972: 9) and the 'teetotallers' (Coutts, 2010: 51), - who believed in total temperance from alcohol – who were able to effectively persuade governments across Canada to invoke prohibition, MADD, the Premier of Ontario, the Finance Minister and other politicians, members of the media, the Wine Council of Ontario, the Winery and Grower Alliance of Ontario, members of the Ontario Craft Brewers Association, and the Ontario Convenience Stores Association have used their influence to block legislation such as *Bill 199 (2007) - An Act to amend the Liquor Control Act to permit the sale of VQA wine and Ontario microbrewery beer at convenience stores*, and continue to advocate against such legislation. These groups have argued, that if these laws such as those articulated in Bill 199 were passed, it would cause an increase in drunk-driving and over-drinking, that alcohol would be more freely available to teenagers (Lapensée, 2007; Williscraft, 2007); that local wineries and micro-brewers would not be able to compete with larger brands and therefore would see a reduction in sales; and that the current retail system established by the LCBO works and does not require revision (Fraser, 2012).

Despite organizations that seek to reduce access to alcohol, others have promoted it. Among the first of these includes the Canadian Brewers and Maltsters' Association, formed in 1879, which sought to lobby the government, albeit unsuccessfully, to repeal an act allowing municipalities the right to enforce municipal prohibitions against the retail sale of alcohol. More recent initiatives include the Freeourbeer.ca campaign, whose organizers have

collected over 112,500 signatures for their petition to broaden Ontario's current alcohol retailing system to include convenience stores (FreeOurBeer.ca, 2012), and politicians such as Tim Hudak and other members of the Conservative caucus in Ontario, as well as Toronto City Councillors such as Michael Walker who have presented motions in Toronto City Council to endorse motions to allow the sale of VQA wine and Ontario micro-brewed beer in convenience stores (East York Mirror, 2007). As stated earlier, the governmentality approach used by Valverde in explaining interactions between social agents and the social institutions allows us to understand the way in which social and moral regulation affects the laws, customs, and practices of Ontarians and influences how our industries operate, and the everyday activities of individuals.

Chapter Four:
Perspectives on Ontario micro-brewing

Work is the curse of the drinking classes.

— Oscar Wilde

Research for this section was conducted by interviewing eight microbrewers in Ontario. Questions during each interview were organized in five different categories: (1) Tell me about your organization; (2) Tell me about the sector in which you work; (3) How would you describe the philosophy or the culture of your organization?; (4) Tell me about the region; and, (5) Tell me about your work. The purpose of these questions was to gather information concerning the identity of the microbrewery.

There were several types of microbreweries that participated in this study. First, there is the traditional microbrewery, which is a location that manufactures beer. The microbrewery may be located in a busy urban area, or located in a rural area. The beer is produced within the brewery, and is bottled and shipped out to retailers. They also are permitted to sell beer for home consumption through an on-site retail store. They may purchase a liquor license and serve alcohol for on-site consumption.

Second, contract microbrewers are usually smaller microbreweries that do not have facilities to produce their own beer. Consequently they rent out brewing space at an existing brewery and contract out their production. Depending on the type of agreements made, the contract brewer may be responsible for on-site brewing and bottling of the products, or there may be agreements in place where the brewery takes on some of the production responsibilities. Because of licensing regulations, contract microbrewers are not permitted to operate an on-site retail store.

The final type of microbrewery that participated in this study is the brew-pub. Brew-pubs are restaurants that also contain on-site microbreweries. Brew-pubs typically produce smaller volumes of beer than traditional microbreweries and contract microbrewers. As a business model, brew-pubs involve less risk in opening because of the smaller amount of

capital investment required in setting up the brewing facilitates and because their revenue is diversified with additional income through food sales. Brew-pubs are also authorized to sell their beer for off-site consumption through an on-site retail store. Licensing of brew-pubs occurs through the restaurant owner applying for a Liquor Sale License, which allows them to sell alcohol in their restaurant, but in order for their own micro-brewed beer to be sold they must apply for an additional brew-pub endorsement on their sales license. Brew-pubs that wish to sell their beer in additional restaurants, the LCBO, or TBS must apply for a Full Manufacturing License, in which case, they would officially be considered as a traditional microbrewery.

4.1 Professional life stories of Ontario microbrewers

Part of the interviewing process was learning about the professional life stories of the participants in the study. What was found among the majority of the microbrewers in Ontario is that many have had professional careers outside of the brewery industry prior to becoming a microbrewer. John Romano of Better Bitters and Nickel Brook Brewery started his career as an aerospace engineer with experience working for several large aerospace companies before entering the microbrewery industry. Better Bitters, the company where Romano started in the beer industry, is a store that assists and supplies customers with home-brewing products. Later, after his home-brewing store developed and expanded, Romano decided to enter the microbrewery sector and established Nickel Brook Brewery, which is located next door to the original Better Bitters store. Romano continues to operate both businesses, and sells both products for home-brewers, as well as his own micro-brewed beer.

Over the years, while the Better Bitters store has remained relatively unchanged, Nickel Brook Brewery has undergone changes in terms of the style, appearance, and vision for his microbrewery. Romano's microbrewery has recently gone through a re-branding process that highlights aspects of his previous career which capitalizes on his background in science as a former aerospace engineer. The approach is both artisanal and scientific. While the company is named after Romano's two children, Nicholas and Brooke, he slightly modified the name Nicholas to Nickel, and has since embraced the scientific origin of the word Nickel as an element. Nickel Brook beer bottles and packaging now prominently feature images of the Standard Model of the atom, with the letter NB in the nucleus, and buds of hops in place of orbiting electrons. Romano uses an image of a frog on his logo to represent his artisanal approach to beer production, as well as representing the word Brook, as frogs tend to live in brooks.

Old Credit Brewing Company is operated by Aldo Lista, who was a professional photographer before becoming a microbrewer. He was also a property owner who owned a building that was leased to Connors Brewery that operated from 1986-1988. Later in 1993, a second brewery opened in the original Connors building named Angel Brewing Co. which closed one year later (Sneath, 2001). Lista, unable to sell the property, decided in 1994 to open his own brewery. After witnessing the failures of the previous two microbreweries in his property, Lista decided that in order to be successful as a microbrewer that he would need to produce a high-quality product that could distinguish itself from the competition. He attracted a highly skilled brewmaster from Germany, Orrin Besco, who possessed knowledge of a sub-zero brewing process that is rare in Europe and virtually unheard of in North America to create a unique style of ice beer.

Snowman Brewery is managed by two young entrepreneurs who come from two separate careers who were interested in home-brewing and decided that they would like to start their own microbrewery business. Hirsch Goodman, company co-founder began his career as an aerospace engineer before entering microbrewing, Kevin Snow, the company's other founder, had a career in business before opening Snowman Brewery. There are several interesting features of this microbrewery to note. The company's two co-founders maximize on their unique skill-sets through the division of labour. While Snow has experience working in business, he is responsible for the sales, events, and marketing aspects of the business, whereas Goodman handles the operations side of the business. Their brewery specializes in manufacturing gluten-free beer, and is one of the few microbreweries in Ontario that produce this type of beer. Also, the name of their company is a result of the merger of the co-founders last names, Snow and Goodman, which together form Snowman Brewing Company.

Stack Brewery, is owned by Shawn Mailloux, a high school teacher in Sudbury who became inspired to open a microbrewery after reading a story about the success of Steam Whistle Brewery in Toronto and felt that Northern Ontario should have its own microbrewery. Northern Ontario had its own brewery for many years, Northern Breweries, which has since closed in the past decade. Mailloux understands the importance of having a local business and as such markets his company using names with a close connection to the community. Stack Brewery is named after the Super Stack, a local landmark that connects his brewery with mining, the largest industry in the Sudbury area. He also chooses names for his beers with connections to the area such as Valley Girl, named after the vallée, the agricultural region north of Sudbury, which encompasses communities such as Val-Caron, Hanmer, Azilda, and Chelmsford. Saturday Night, a beer whose name comes from a popular folk song

titled *Sudbury Saturday Night*, sung by Canadian folk legend, Stompin' Tom Connors. Lastly, Black Rock, a beer named after the solid aggregate found throughout the Sudbury region which has become discoloured as a result of a century's worth of intensive pollution caused by the city's mining industry.

The Granite Brewery is operated by Ron Keefe, who became interested in opening a microbrewery after watching the success of his brother, who opened a microbrewery in Halifax, and thought that he would find a successful market for micro-brewed beer in Toronto, Ontario. Keefe holds a Masters of Business Administration degree, and had previous experience working in a business career in production and marketing. He had previously worked for companies such as American Standard and Xerox. He was brought into the microbrewery industry after one of his brother's partners in his brew-pub passed away and he moved to Halifax to support his brother's business.

Olde Stone Brewing Company was founded by Scott and Nollie Wood who also own the Ashburnham Ale House, both located in Peterborough. Scott Wood started out in the construction industry which evolved into participating primarily in the hospitality industry as he began designing and building restaurants. In Peterborough, the Woods operate a number of restaurants which specialize in a different area of the hospitality industry, including, but not limited to the Olde Stone Brewing Company, which functions as a brew-pub, and the Ashburnham Ale House which operates as a craft-beer pub. The Olde Stone Brewery took its inspiration from the Granite Brewery and follows this brew-pub as a business model. It is named after the historic Hutchison House in Peterborough, which is one of the oldest limestone houses in Peterborough and the site of a former pre-prohibition era brewery in the city. The Ashburnham Ale House, which is a craft-beer pub, is unique from all other

breweries which participated in this study. While the Ashburnham Ale House is not a proper brew-pub, in that it does not produce its own beer on-site, this restaurant as a commercial entity owns 51 per cent of the Olde Stone Brewing Company which allows the Woods to sell the beer produced at Olde Stone in both locations without acquiring a full manufacturing license.

Another company, that chose not to be named in this study, was previously managed by its brewmaster who experienced difficulty with managing the business operations of his microbrewery. As a result of these difficulties, but wishing to continue producing his style of micro-brewed beer, he offered his microbrewery for sale and was purchased by a company that operates two other businesses, also in the alcoholic beverage industry. The microbrewery is now managed by a group of business developers with experience outside of Ontario.

4.2 Microbreweries as tools of neolocalism

Microbreweries have been successful when they establish a connection between their local community, the brewery, and their product. This finding is consistent with the research on the emergence of microbreweries outside of Ontario and with the present study. Wes Flack introduced the concept of neolocalism in his 1997 paper titled *American Microbreweries and Neolocalism: "Ale-ing" for a Sense of Place*. In this paper, he argued that the growth of microbreweries has been accelerated by people's attempt to reconnect with their local communities. The appeal towards micro-brewed beer is explained as "... a rejection of national, or even regional, culture in favor of something more local" (Flack,

1997). This sentiment is reiterated by Schnell & Reese (2003) whose research demonstrates that

The beers brewed by the microbrewers have more distinctive flavors (*sic*) than the lagers brewed by Budweiser, Coors, or Miller. Instead, they are a diverse array of ales that can be found nowhere else, creating a truly local experience. At the same time, they offer a reprieve from the rising sea of giant national chains that have taken over retailing in every realm and crushed local businesses. Many brewpubs have also catered to our craving for uniqueness by providing one-of-a-kind social settings, commonly decorated with local historical photos, maps, and other artifacts of a place's personality (Schnell & Reese, 2003: 46).

In this sense, the emergence of microbreweries is part of a greater social movement which can be categorized as part of an 'experiential phenomenon'. The research on neolocalism discusses issues facing the dilution of communities as a result of mass-commercialization within the spaces in which people live. With respect to the rejection of culture that Flack discusses, Schnell & Reese take this observation further in their study when they observe that

in recent years, parts of the general public have become disillusioned with the homogenous sea of Wal-Marts and McDonalds that have rendered one American town virtually indistinguishable from another. In response, they have actively attempted to create new senses of place, new connections with the places they live, and new locally-based economies. One category of businesses that has been an important player in this neolocal movement is the microbrewery (Schnell & Reese, 2003: 46-47).

The experiential phenomena, which I discuss, are the interactions that people desire within their communities. As large corporations have expanded across North America and essentially every country internationally, they have brought with them standardized models of experiences in which their spaces provide. The experience offered to a consumer in a McDonald's location is expected to be consistent across all franchises, regardless of its physical geographical position. In this respect, whether I attend a McDonald's in Canada, in the United States, or even in Japan or South Korea, as a consumer I know that I can expect to receive a similar, if not identical experience regardless of geographic location.

Across the different microbreweries that participated in this study, many have adopted the 'local-history' approach to connecting their product within their communities.

There are a number of different strategies used by these entrepreneurs. Stack Brewery, located in Sudbury, has embraced its local heritage through its products. When Mailloux first introduced his products, he used names for each of his varieties of beer with names closely connected with the community. In addition to this, he encouraged members of the community to participate in the localizing process by inviting them to send in their personal stories about the community and used these stories on his product labels. Mailloux continues to encourage consumers in Sudbury to participate in the construction of local identity and his brewery's role within the community through social media photo contests that show his consumers enjoying Stack beer.

John Romano, of Nickel Brook Brewery, produces creative beers with distinctive flavours, labels, and names. Some of his beers make connections to his company's identity in Ontario, with the Ontario Pale Ale, which is a product with 100 per cent ingredients from Ontario. Another beer that identifies itself as a distinctive Canadian product is the Naughty Neighbour, a style of American Pale Ale which features a woman wearing clothing resembling Uncle Sam on the cover. This is a uniquely Canadian product which playfully addresses stereotypes between Canadian and American citizens. Romano's brewery also produces a Maple Porter product which uses Canadian maple syrup as one of its ingredients.

Outside of manufacturing Canadian products, Nickel Brook is also actively involved in the community where this brewery is located. In 2007, Romano was named citizen of the year, recognizing his numerous contributions to the city. Romano is involved in organizing fundraising events for local charities such as the Ronald McDonald House and the hospital, the latter of which has named a room after his brewery. He continues to participate in the community and has raised money for the purchase of medical equipment in the hospital.

Both the Olde Stone Brewery and the Ashburnham Ale House are locations that have a rich tradition firmly rooted in Peterborough history. The name of the Olde Stone Brewery comes from the town's first brewery which operated in the late 1800s. While the name of this former brewery is not well known today, it came to be known as the Olde Stone Brewery after the building's distinctive exterior appearance where the brewery was housed within. Doug Warren, the brewmaster of Olde Stone, says of his brew-pub, "What we're doing is not a radical idea, rather it is a revival of traditional practices... the idea of this brew-pub is to establish a link to Peterborough's history." As a brew-pub, this microbrewery has designated a specific social space that it uses to create an experience for its consumers.

We are trying to create a real pub [here], in the sense that it's not widely understood in Canada. A place that's close at hand. We want to create a location where people come 2 – 3 times a week and see it as an extension of their home. A place to socialize and a drop-in. The fact that we make our own beer is what we count on to attract our customers.

Warren says that his customers want local products and local ingredients in those products. Both the brewery and restaurant focus on bringing local ingredients to the table. In explaining his focus on using local ingredients in his beer, Warren explains that "I think it's the right thing to do, to use local ingredients. So, we have to demonstrate our commitment to local farmers. As a philosophy, I try to support local business as much as I can." The Ashburnham Ale House, is located on the other side of Peterborough, across the Otonabee River which runs through the middle of the city. In the early days of Peterborough's history, there were two villages located along the river, with Peterborough on the west bank, and Ashburnham located on the east. Ashburnham has since been amalgamated into Peterborough. The Ashburnham Ale House, also owned and operated by Scott and Nollie Wood, uses building and construction materials from across the Peterborough region to create a sense and connection with the local community. Throughout the restaurant, the walls

are decorated with historical images of development of Ashburnham, and have images of local politicians and businessmen who helped develop the city. In addition, the restaurant is located within the former house of an infamous Peterborough resident, which has inspired the restaurant's logo. The logo of the restaurant features Daniel 'Dan' Macdonald, a Scottish immigrant who gained fame as 'Peterborough's Strongest Man' for lifting large and heavy objects, including multiple barrels of ale, bells, anchors, and animals like pigs. The logo is an image of 'Strong Man Dan' lifting a pig over his head. This image of a pig for a location where drinking takes place that makes strong associations with local history is interesting considering that speak-easy's, the illegal drinking establishments during the prohibition era, were also known as 'Blind Pigs'.

What microbreweries and brew-pubs typically provide, are experiences that are not as homogenized as those taking place within the confines of our increasingly standardized consumer-centered society. Franchised corporations produce what can be seen as essentially sterile, family-friendly environments. They are designed so as not to be offensive in any way towards the public. This allows a franchised company to expand into virtually any market with minimal changes necessary to its business model. Microbreweries on the other hand have not fallen subject to this homogenization of experiences. One of the considerations as to why this is the case concerns the alcohol contained within the beer in which microbreweries sell, which is not generally regarded as a family-friendly product, therefore inconsistent with the standard model adopted by many franchised corporations. The fact that they sell a product that cannot readily be translated into a family-friendly experience has shielded them from this franchising process. Consequently, microbreweries are free to express themselves

in ways which franchise locations are unable, or have not yet discovered a method to exploit this type of experience.

This is not to say that franchises have not yet explored the microbrewery brew-pub experience. In fact, there are two businesses that are currently expanding across Ontario. *The 3 Brewers* is a brew-pub franchise based in France that first expanded in Canada through Quebec, and now has Ontario locations in Toronto and Ottawa. Each location of The 3 Brewers is a celebration of micro-brewing, where the entire brewing process is displayed for the public behind glass windows in the entranceway of the brew-pub. The second business is *Bier Markt*, operated by Prime Restaurants Inc., a corporation originally based in Sudbury (Prime Restaurants, 2014), which serves a variety of international beers. While this restaurant does not operate its own microbrewery, the restaurant uses a variety of strategies to present the beer it serves to its customers. The entranceway prominently displays all of its beers in a large cooler with windows, and taps from beer kegs are visible which allows the customer to see the beer being distributed from kegs to pint glasses. In terms of the unique, distinctive, and local experience that microbreweries provide, Bier Markt can be regarded as an extension of this experience and a franchise attempting to capitalize upon this experience. It would not be surprising if Bier Markt restaurants began brew-pub operations within its locations. Currently, this franchise operates across the Greater Toronto Area and is currently expanding in Ottawa and Montreal. Despite these franchised corporations that attempt to participate in the microbrewery, or brew-pub experience, just like many other franchised restaurants, there exists a level of consistency among each location within the chain; the menus, the beers, and the interior design remain consistent across the brand. Consequently,

they are unable to create the type of authentic and genuinely unique experience that attracts customers to microbrewery brew-pubs.

Whether or not it is intentional, that microbrewery and brew-pub locations typically adopt a ‘local history’ approach or appearance is beside the point, they have more liberty to express themselves in whatever way they want, and the fact that they are able to provide these types of experiences to their consumers is what makes the neolocal expression so powerful. Neolocalism is an expression of distinctiveness, authenticity, and uniqueness in the sense that the experiences provided are not available in other places, they are tied geographically, and therefore not available to other people. Whether these locations take advantage of their local history, neolocalism is an experiential phenomenon, and while a majority of microbreweries have a tendency to gravitate towards local history as part of their strategy to provide those unique experiences, it is not a requirement.

While the research conducted by Flack, and Schnell & Reese have focused primarily on the local history approach to neolocalism, their combined research does not fully explain the emergence of microbreweries. There are some microbreweries that have used local history as part of their marketing strategy, only to find that it has been unsuccessful. In these cases, breweries have re-branded themselves and have adopted a different marketing strategy which has allowed them to generate more interest and greater revenues for their microbreweries. Within Ontario, the most obvious example is the Robert Simpson Brewing Company. It opened in 2005 and is owned by Peter Chiodo. Located in Barrie, this brewery adopted the name of the city’s first mayor who was also known to be a brewmaster. The microbrewery produced beer with connections to the local identity such as Confederation Ale, and Sugarbush Lager, and stories that explain the connection between these beer names

and Barrie history are available. However, after several years of brewing, Chiodo found the business model he had adopted was not interesting for himself, or for the consumer. “You go into a bar, and see a name like Robert Simpson, it's a little too much like John Sleeman, or John Labatt,” says Chiodo (Rubin, 2009).

In 2009, Chiodo decided to change his marketing strategy and renamed his brewery the Flying Monkeys Craft Brewery. Historical images of Barrie were replaced with psychedelic artwork, and the names and styles of beer were radically changed. Chiodo now offers beers with names such as Antigravity Light Ale, Hoptical Illusion Almost Pale Ale, Smashbomb Atomic IPA, and Netherworld Cascadian Dark Ale. They also offer seasonal beers such as Sweet Badass Chaos Theory, Smashjezbelponeybomb, Over the F'in Rainbow Pineapple, and Ding Dong the Witch is Dead Blueberry|Watermelon. As opposed to offering products with a connection to the local community, Flying Monkeys opts for an almost fantasy identity, adopting radical names for their products associated with science-fiction and The Wizard of Oz.

What is apparent to me, as a result of this study, is that while the connection to the local history is an integral part of the microbrewery, it is not the only requirement necessary for its success. Providing distinctive, unique, interesting, and authentic products appears to be the factor that attracts consumers. Whether producers market their products as local or non-local is beside the point, consumers are interested in those experiences which are unique. Schnell & Reese discuss this idea in their work, although, for them, their analysis focused primarily on those microbrewers which used images and names on their products and labels that made connections between their beer and the history, animals, landmarks, and events that are tied to those communities. While the connection to the local is obvious from this

perspective, neolocalism does not require such observable images and labels to establish the connection. This is a sentiment even repeated by Schnell & Reese,

At a time when the cultural and commercial landscape is becoming increasingly homogenized by national and multinational corporations, many people are actively proclaiming the difference and distinctiveness of their locales, and building a renewed sense of loyalty to those places. Microbreweries are one of the tools they employ to this end (Schnell & Reese, 2003: 65).

In this sense, as long as microbreweries continue to provide unique experiences to their consumers, that distinguish themselves from other types of experiences that are becoming more and more homogenized within our communities, microbreweries, as tools of neolocalism, will continue to be successful.

4.3 Challenges facing Ontario microbrewers

Despite the emergence of Ontario microbreweries, there remain challenges which prevent these microbrewers from developing further. There are a number of factors which play a role in preventing the further expansion of microbreweries, and they can be traced through government restrictions, small-business models, difficulty acquiring capital to finance business development, and issues related to the province's alcohol retailing regime.

The one microbrewer who chose not to be named in this study discussed at length his challenges and his frustration with the amount of government regulation constraining his ability to produce beer.

The legislation is ridiculous. It is such a convoluted system. There are many uncommitted people who work in the LCBO. They have a whole bunch of government workers that work 8 to 5 and they don't care. Then there is The Beer Store, and they are owned by the three biggest beer companies in the country, and they make sure to put their brands out more.

This microbrewer is located in a semi-rural area in Ontario, and he told me that he has had a lot of difficulty with selling his product because there is not an LCBO or Beer Store in the region where his brewery is located. As a result, he has found difficulty connecting his product and his brand with his local region.

It is hard to build a brand in an isolated community... it's a hard place to connect with. The region talks about supporting us, but there's not much going on there. It's a region of wealthy horse farmers and wealthy urbanites. [Our city] doesn't have its own beer or liquor store and [the closest city to us] won't even carry our beer. In the LCBO, once you have your product approved, it's up to the manager to decide whether or not to carry it. The manager won't carry our product.

Despite these challenges, this microbrewer still believes that the craft beer industry will continue to evolve. He says that the rapid expansion of microbreweries in the United States will also be experienced in Canada, and while microbreweries are currently controlling 5 per cent of the market share of beer sales, they will slowly make their way up to 7, 8, and 9 per cent of the market.

Ron Keefe, of the Granite Brewery of Toronto identifies his greatest challenges with respect to bureaucratic red tape, paperwork, and the Alcohol and Gaming Commission of Ontario's (AGCO) difficult licensing processes. Although, in retrospect, conditions for microbrewers have improved considerably since 1991, the year he opened his microbrewery. Since then, a number of regulations have changed that have made the process of selling micro-brewed beer in a restaurant much easier. The Granite Brewery now operates with a number of AGCO licenses which allows him to manufacture beer, serve that beer within his restaurant, sell his beer through a retail store, and with a full manufacturer's license, he also sells his beer to other restaurants in the Toronto area. The challenges that a brew-pub faces are quite different from those of a traditional microbrewery. As a brew-pub operator, Keefe has a number of additional front-of-house and back-of-house restaurant operations to

manage, in addition to managing and operating his microbrewery. Because of these additional responsibilities, his brewery does not focus on selling its beer through the regular LCBO and The Beer Store channels, although recently, it has released one style of beer to the LCBO.

Keefe says to succeed in the brew-pub business, an inspiring entrepreneur must remain focused and throw away his dreams of becoming wealthy. Hard work is important to stay in the industry. While traditional microbreweries feel the flow of seasonal trends, where beer sales increase during the summer months and taper off during the off-season, Keefe says as a brew-pub owner he has additional events that keep his business busy year round. The number of functions, parties, and weddings during the summer, and in the months leading to the end of the year with the number of Christmas parties that are hosted present challenges that are not experienced by other microbrewers. Consequently, in maintaining his balance between work and life, Keefe employs his children in his brew-pub. His daughter has taken responsibility over the microbrewery as the brewmaster, while his son is employed in marketing operations for the brew-pub. While his other son has been seeking a career in the film industry, he returns occasionally to work part-time. Now that his wife has retired from her career, Keefe suspects that “she may start hanging around” at the restaurant more frequently.

Snowman Brewery, operated by Hirsch Goodman and Kevin Snow from an office in Richmond Hill, is a contact-microbrewery that has begun producing its own beer although their company has been faced with the challenge of not yet being able to place their product within the LCBO or The Beer Store. Goodman and Snow have been producing their unique style of micro-brewed beer that is a gluten-free product. To create a gluten-free beer,

Goodman and Snow cannot use grains that contain gluten, such as barley and wheat. In its place, they have adopted a brewing technique that uses millet. One of the challenges with this process is that traditional brewing equipment is not compatible with their product, and consequently, Goodman and Snow have purchased specialized gluten-free brewing equipment that is stored on-site at the location of their contract-microbrewer, Black Oak Brewing Co. in Oakville.

The way in which Goodman and Snow promote their beer is within a niche market. Gluten-free products are marketed towards people who suffer from coeliac disease, which is an autoimmune disorder of the small intestine that causes serious difficulties in digesting enzymes in gluten proteins and is responsible for inflammation when ingested. Consequently, those people who suffer from coeliac disease are unable to digest those foods or drinks containing gluten. Beer typically uses gluten containing grains, and consequently, those people who are coeliac are unable to drink beer. Goodman's mother suffers from coeliac disease and was his inspiration in designing a gluten-free craft beer. Because of the technique discovered by Goodman and Snow, they have found a lot of interest from the public in producing a gluten-free beer. They market their products at craft beer festivals where they introduce their products to members of the public. So far, they have received positive responses to their beer, as well as recognition in coming in first place in both the strong ale and the brown ales categories at the All About Ales awards (blogTO, 2011).

While Goodman and Snow have been developing Snowman Brewery for several years, they have not yet been able to bring their product to market. The constraints posed by the province's retailing industry have prevented this microbrewery from emerging. Although they have been successful in developing a product, they have experienced difficulty in

acquiring the capital necessary to expand their idea and bring it to life. Snowman Brewery is planning to have their product on sale by early 2015.

Nickel Brook Brewery owner John Romano, in speaking about the difficulties he has encountered in the microbrewery industry, says that there have been many challenges over the years, but now there are more opportunities than ever.

The downfalls of the microbrewery industry is that we are always fighting the big guys. When you buy domestic [beers], so much of that money goes into branding. Each domestic beer has \$10 per case going into the brewing, the rest goes towards marketing. But what's happening now is that craft is in demand. Eight years ago, people had no idea what craft beer was, they thought what we did was illegal and no one wanted it, now everyone wants it. The microbrewery sector is sexy now.

Noticing the growth within his industry, Romano says that there are many new breweries that are in the planning stages. As a result, there are many small breweries that are flooding the microbrewery market. In order for a brewery to be successful, it needs to be producing at least 20,000 hectolitres of beer annually. He warns that opening a microbrewery requires spending a substantial amount of money to establish a successful business. Romano also says that he was fortunate in receiving a \$50,000 research and development grant that allowed him to develop and test beer recipes.

Similar to Snowman Brewery, Romano's Nickel Brook Brewery produces a gluten-free beer. He introduced this product at a time when there was a high demand and a growth trend for gluten-free products. Because of the timing of his gluten-free product when it came to market, Romano generated a significant amount of capital at the time. This allowed him to begin exploring more interesting and creative micro-brewed beer products. Additionally, he has since been involved in re-branding his company, developing a different approach to marketing his products, inspired by the success of his friend, Peter Chiodo at the Flying Monkeys Brewery.

As an established microbrewer, the challenges now faced by Aldo Lista, of Old Credit Brewing Co., are somewhat different from those difficulties experienced by newer microbrewers. As it was mentioned previously in this chapter, the story of how Lista became a microbrewer is interesting, in that, he owned a building containing micro-brewing equipment and could not retain a lease holder to take advantage of this property. He decided to open a microbrewery of his own, and to create a highly unique product that has not been seen in Ontario before or since. The ‘ice-aged-beer’ that he produces is a specialized consumer product that is not produced by other microbreweries in Ontario. His product is different from other ice-beers, which were introduced in the 1990s by companies such as Molson and Labatt that were looking at creating a new product that would attract consumers. Their process was one in which

the beer is lowered to freezing temperatures after fermentation is complete. As the beer cools ice crystals form, which the brewer then scoops out of the mixture. Since alcohol freezes at a lower temperature than water, the alcohol remains in liquid form, and stays in the beer as the water crystals are removed. After the beer returns to normal temperatures, it has a greater concentration of alcohol without the accompanying maltiness that one normally finds in higher alcohol beers (Melia, 2007: 22-23).

Instead of freezing the beer and allowing the water to separate, in an effort to raise the alcoholic content of the beverage, Lista’s process is one which ages the beer at sub-zero temperatures for three months. This very slow maturation process creates a smooth, light tasting beer. The alcoholic content of the beer is not affected by this process, and Old Credit beer is within the normal range of 5 per cent alcohol by volume.

For Lista, the long maturation process of his beer means that with the available space and brewing equipment, he is not able to produce in the high quantities that microbreweries of comparable size are able to manufacture. Whereas other breweries may mature their beers for three weeks, Lista’s process takes four times longer to produce his beer. Lista has always

maintained that his motivation for producing his beer in this style is because he wants to produce the highest quality beer.

Ice beer is the most expensive beer to produce, and the longest beer to make. To give you an example, a regular beer takes three weeks and our beer takes three months on ice. So, we are committed to do quality beer and not quantity. That's why this brewery has never had a salesperson, and I don't think we are going to have one in the future. The product sells itself...Everything that we do is manual, it is done with the heart, and the hands, and with passion. And that's how you produce a quality beer (OCB, 2014).

For Lista and the Old Credit Brewery, the idea of expansion of his microbrewery is not something that he is considering. The fact that he has been able to sell his beer and establish a profitable business without the assistance of a salesperson speaks volumes with respect to the quality of his beer. Lista has no plans for expansion of either his brewing facilities or his distribution network. He is satisfied with being a small producer, and feels that he would compromise the quality of his product if he were to expand. He currently sells his beer through his on-site retail store, local restaurants, and through the LCBO. He does not sell to The Beer Store however, because he has been prevented by the high cost of listing prices.

Speaking about growth and expansion of his brewery, Lista says that growth must be gradual. He fears that rapid expansion would cause issues across all areas of production, from fermentation, maturation, bottling, and distribution. This would compromise the quality of his product. Obviously, if Lista were able to produce higher volumes of beer, he would sell more of his product and generate greater revenue for his business to expand. But, as his business is essentially a family-run microbrewery, expansion would require restructuring of his business management. In addition, to produce higher brewing volumes would require relocation of his brewery to larger location, or extensive renovations of existing brewing space. Age is also a factor for Lista and his wife Noreen, who continue to run the brewery on

a day-to-day basis. Both are now in their eighties and are less likely to undertake major business remodelling plans than a microbrewer in his or her thirties or forties.

For such an exceptional product as Old Credit Brewery's ice-aged-beer, it is unfortunate that it cannot be produced in greater volumes. Expansion of this microbrewery would increase its availability in stores to allow it to be enjoyed by more people. However, the challenges of small business ownership, the constraints posed by the provinces retailing system which disenabled Lista's beer from entering The Beer Store, and the complexities of producing his style of ice-aged-beer have prevented this microbrewery from producing greater volumes and expanding into a larger business.

4.4 Discussion

The stories of Ontario microbrewers are interesting to analyze within the perspective of the theoretical framework developed herein. Examining the emergence of microbreweries in Ontario, taking into consideration the historical constraints and the gradual removal of barriers that eventually led to the expression of microbrewers and their products has been found to be consistent with Archer's morphogenetic approach.

Many people become involved in this industry as a result of a passion for microbrewing. They already possessed skill sets in which they discovered that they were successful as individuals and were not turned away by the prospect of the number of difficulties they would encounter as a microbrewer in almost every case that was studied with the exception of one microbrewery. In this case, the microbrewery choosing not to be named in this study, was established by a microbrewer who had started as a home-brewer. He

discovered that he was successful as a brewer and started a microbrewery. Over time, he was able to establish an effective microbrewery, but did not possess the skill sets in business, or have the entrepreneurial sense that would allow his microbrewery to expand in a significant way. Over time, his microbrewery was purchased by another company, also involved in the alcoholic beverage industry, and his microbrewery is now managed by business professionals who are currently developing marketing strategies to allow his microbrewery to expand. Regardless, for the remainder of microbrewers who participated in this study, the microbreweries that have been the most successful have been those established by people who have a strong business and entrepreneurial sense that has allowed their microbreweries to develop, emerge, and generate revenue.

In terms of reflexivity, there was a sentiment that was expressed by almost every participant. When they were asked, “what advice would you give to someone starting out in this industry?” many responded with the same response, “if you want to make a small fortune, you start with a big fortune.” What this expression tells us is that the microbrewer is relating to the high cost of starting a microbrewery. Establishing a microbrewery requires a large initial capital investment and the immediate return on investment is relatively small. In addition, there are a number of difficulties that are encountered, and yet, despite this, these microbrewers find ways to navigate around and through these constraints.

All things considered, the microbrewery industry is projected towards continued growth. All market analysis shows that the microbrewery industry is the fastest growing segment of the alcohol industry. Sales of craft beer continue to rise each year. Since 2006-2007, Ontario Craft Brewers members’ sales have increased by 400 per cent. Combined growth for Ontario Craft Brewers Association and non-OCB producers has increased by 29.4

per cent from 2010-2011 to 2011-2012 in net dollar growth. In terms of sales, the industry experienced 45 per cent sales growth (LCBO Annual Report, 2011-2012).

One of the areas where changes are expected to occur in the near future concern the province's alcohol retailing system. The monopoly that The Beer Store holds over beer sales in Ontario is expected to change. The issue has become increasingly mobilized in public channels. The Beer Store and its union have been financing public announcements and television advertisements that discuss the role The Beer Store plays with respect to maintaining the socially responsible sale of beer in Ontario. These advertisements have made assumptions and claims about small business owners that they will not be responsible with respect to the sale of alcohol. The advertisements even imply that if sales of beer and other alcohols were permitted within non-Beer Store retailers that these stores would conduct irresponsible retailing practices (Visser and Kaszor, 2014). This debate is occurring at the time of writing of this thesis, but already there has been public backlash against The Beer Store's activities. Consumers from across Canada have been expressing their views and perspectives in the Twittersphere, which have been earning the attention of journalists of online national newspapers.

Dear @ONBeerFacts, I recall drinking a lot of beer as a teenager that I somehow acquired from your Beer Store. Your system isn't foolproof. [Twitter post]. (@henderstu, 2014).

I always loved visiting The Beer Store (@mybeerstore) in high school. It was the only place that served us minors. [Twitter post]. (@kent_w, 2014).

A word of advice from Alberta to Ontario: Not driving half an hour to buy a 12-pack from a corporatist-government monopoly is awesome. [Twitter post]. (@Dfildebrandt, 2014).

Where to sell beer in Ontario? How about where every single other civilized jurisdiction does? Beer Store people think it's 1935. Hello-o-o! [Twitter post]. (@shurmanator, 2014).

The Beer Store: "Ontario adults are too irresponsible, venal, or corrupt to be trusted with private alcohol sales." #onpoli #cdnpoli [Twitter post]. (@Steve_Lafleur, 2014).

The concerns and sentiments expressed in these and other Tweets demonstrate “a public backlash of painful proportions” (Osorio, 2014). Members of the public are dissatisfied with the province’s retailing system and as more and more people become aware of certain issues relating to The Beer Store, primarily that it is a foreign-owned corporation, it is expected that they will express greater discontent towards this retailing cartel. In the responses posted on Twitter demonstrate, The Beer Store’s efforts towards maintaining social responsibility of beer sales is being undermined. It is likely that the more The Beer Store makes public assertions that they are the most responsible choice for ensuring that alcohol stays out of the hands of minors, that members of the public will recall their own personal experiences where they purchased beer from one of their retailing locations as a minor. Consequently, it is unlikely that the public will be moved by The Beer Store’s arguments.

As this particular retailing issue develops, it will be interesting to watch how the course of events will proceed. There will be repercussions for, obviously retailers in Ontario, but for microbrewers as well. The UFCW Local 12R24, the union representing the province’s 6,000 Beer Store employees are concerned that they will lose employment should the province’s retailing regime be changed. They are also concerned that new positions of employment within convenience stores will offer lower wages than what The Beer Store is currently providing. A policy to ease Beer Store employees into new employment will facilitate the transition from the current retailing regime to a more open market approach. As well, facilitating this transition will reduce tensions between the government and organized labour, reducing the likelihood of labour disruptions.

The consequences for microbrewers, should changes to retailing occur, would also affect the manner in which they conduct business. Although there are concerns over the ways

in which micro-brewed beer is listed, placed, marketed, and promoted with The Beer Store, should beer sales be permitted in convenience stores, microbreweries will face a new set of challenges in this respect. There will be greater competition for shelf space, and the larger breweries will likely negotiate sales deals and promotions within specific chains of convenience stores. The result of this is that microbreweries may face higher difficulties generating business. Microbreweries will be required to establish more aggressive sales teams to ensure that their products are being placed within stores effectively. Some microbreweries will not have experience in sales, and will find these changes to retailing to be a daunting transition. Significant changes to microbrewers' distribution networks will also be required, as they will no longer be able to rely on The Beer Store's warehousing and delivery vehicles. A possible avenue for facilitating this transition would be through the Ontario Craft Brewers Association, which is already an established organization, receives government grants, and is already associated with many of the province's microbrewers.

This brings to light another issue within Ontario's microbrewery industry. Not every microbrewer has become a member of the OCB. There are membership fees associated with membership, and some microbrewers feel that membership does not provide enough benefits to offset the price of admission. Obviously, if the OCB were to establish a network of warehouses around the province and facilitate the delivery of a micro-brewed beer to convenience stores, then more microbreweries would purchase memberships.

Conclusion

To clink glasses of a freshly made, seasonal beer, preferably in a pub or garden, with friends and perhaps new acquaintances, is a ritual that makes every participant feel good. We may not rationalize this at the time, but it gives us a sense of place in our common community and our time in the tides of life on earth. This is a way to value beer and treat it with respect.

— Michael Jackson, *Beer Magazine*

The research addressed in this thesis sought to explore the factors contributing to the emergence of Ontario microbrewers. To answer this question, I have focused on the historical and sociological conditions related to alcohol policy in Ontario. Margaret Archer's critical realist approach to sociology served to provide the basis for analysis of this emergence through the morphogenetic approach. Foucault's perspectives on discipline and surveillance have also proved useful for understanding the actions of the government and the LCBO in the post-prohibition era. While the government created policies, legislation and regulations which prevented the emergence of microbreweries, as well as creating repressive systems and institutions which reinforced these policies, legislation and regulations, we experience the gradual release of these rules over time, and, as the systems slowly transformed through the morphogenesis, we experience the emergence of Ontario microbreweries in 1984.

Since the emergence of microbreweries in Ontario, this sector of the alcohol industry has shown rapid expansion with all future forecasts showing signs for continued growth. We have explained this expansion by identifying microbreweries as tools of neolocalism that provide experiences to those who interact with them that are unique, distinctive and authentic. Furthermore, it has been shown that the repressive government regulations towards the alcohol industry were responsible for creating the conditions where small breweries across the country were unable to compete with the larger brands. The demise of smaller breweries across the country resulted in the rise of two major breweries, Molson and Labatt, which dominated the beer industry for the majority of the 20th century. This homogenous environment within the brewery industry has also been seen as a factor for the emergence of Ontario microbreweries, because, unlike the large brewery conglomerates which produce

beers which do not take advantage of the full range of styles and flavours that beer has the capacity to provide, this area has been shown as a domain where microbreweries are particularly successful in catering towards.

There are a number of practical contributions that this study has provided. I have examined the microbrewery industry in novel ways which have not been explored by other areas of academia. While microbreweries in Ontario are a fairly recent industry, research in this domain has not focused on the socio-historical origins of microbreweries. Other studies have researched the reasons why consumers choose micro-brewed beer over other brands, as in Veitch's study titled *Distinctive Drinking: Beer consumption and cultural capital* (2011). In this study, connections between the consumers of micro-brewed beer and their possession of cultural capital were examined. This work examined microbreweries through the theoretical perspectives of Pierre Bourdieu and his theory of distinction (Bourdieu, 1984). Another study related to the emergence of microbreweries was conducted by Melia, who authored *The New Brew: The Reaction of America's Big Breweries to the Microbrew Revolution of the 1980s and 90s* (2007), which examined the responses of the big breweries towards the expansion of the microbrewery industry in the United States. Although this study examined responses to the emergence of microbreweries, it was not from the perspective of the microbrewers themselves.

Other research in this area has focused on connections to the local history that microbreweries often adopt as parts of their marketing strategies, as in the work of Flack (1997), and Schnell & Reese (2003). What distinguishes this research from other research in this field is that the perspectives of the microbrewers in Ontario have been closely examined. This research has produced novel insights towards the microbrewery industry that has not

been observed by others. As opposed to looking at the reasons why consumers choose microbrewed beer, I have looked at some of the reasons why microbrewers produce the beer that they create. As opposed to looking at the big breweries, this research focused almost exclusively on the perspectives of the microbrewers. Additionally, this research has uncovered findings inconsistent with Flack, Schnell and Reese, with respect to their conclusions towards neolocalism and have discovered that the microbreweries need not be concerned necessarily with local history approaches, but rather creating unique, distinct, authentic and exciting products. Furthermore, current government regulations have also been examined in this study and their direct influence upon Ontario microbreweries. A series of observations on these regulations, how these regulations affect microbrewers, and policy recommendations have been made in the previous chapter.

Although not a holistic investigation of the Ontario microbrewery industry, this study has approached the examination of Ontario microbreweries not at the time of their inception, but rather from an historical perspective, beginning around the time of prohibition in Canada. This approach has been used to determine how interactions between structure and agency have influenced this emergence. Although this long term approach was used to explain this phenomenon, there are limitations in terms of its scope. This study focused on the perspectives of only eight of the province's microbrewers. A larger and more detailed study with a larger sample size of microbrewers would yield more reliable data and perspectives on the emergence of Ontario microbrewers.

The developments currently underway with respect to the province's retailing system and the possibility of convenience stores obtaining the right to sell beer in their stores will

present a new set of challenges for the province's microbrewers. This is an area of future research that will yield important and significant observations for the future of this industry.

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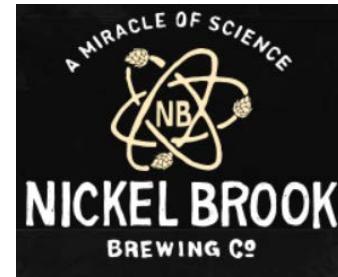
Appendix I

Overview of microbrewery participants

There is an ancient Celtic axiom that says ‘Good people drink good beer.’ Which is true, then as now. Just look around you in any public barroom and you will quickly see: Bad people drink bad beer. Think about it.

— Hunter S. Thompson

Table 2: Overview of microbrewery participants

Name of microbrewer	Year opened	Types of beer	Observations	Location	Manufacturer type	Logo
Anonymous	2002	3			Microbrewer	
Ashburnham Ale House	2013	2	Co-owned with Olde Stone Brewery	Peterborough, ON	Brew-pub	 ASHBURNHAM ALE HOUSE <small>CRAFT BEER CAFE</small>
The Granite Brewery Ontario Inc.	1991	9-10	One of the first brewpubs in Ontario	Toronto, ON	Microbrewer / brew-pub	
Better Bitters (Nickel Brook Brewery)	2005	7-11	Started as a home-brewing business that allowed on-site home-brewing which evolved into a microbrewery	Burlington, ON	Microbrewer	

Name of microbrewer	Year opened	Types of beer	Observations	Location	Manufacturer type	Logo
Old Credit Brewing Co. Ltd.	1994	3	Family run micro-brewery specializing in ice-aged-beer	Port Credit, ON	Microbrewer	
Olde Stone Brewery	1996	6	First microbrewery in Peterborough Brewmaster was a member of CAMRA	Peterborough, ON	Brew-pub	
Snowman Brewing Co. Ltd.	2012	2-4	Specializes in gluten-free beer	Richmond Hill, ON	Contract microbrewer	
Stack Brewing Corp.	2013	8	Only microbrewery in Sudbury, with strong local identity	Sudbury, ON	Microbrewer	

Source: <http://www.fin.gov.on.ca/en/lists/bwt/beer.html>; <http://oldestone.ca/>; <http://www.ontariocraftbrewers.com/BrandList.php>

Appendix II

Liquor Control Act (Ontario) 1927

One of the fascinating things about drink, is the following: Drink is very, very, dangerous when people drink for escape, when people drink for their private problems... but when alcohol is part of a culture, when it is drunk in community with other people, when it is something which is put in perspective because it is a societal thing, and all sort of societal pressures are brought to bear on your behaviour when you are drinking, then, alcohol is not a problem.
Alcohol generally, is not a problem.

— Margaret Visser, *CBC Radio Archives*

4. SALE OF INTOXICATING LIQUORS.

CHAPTER 257.

The Liquor Control Act (Ontario).

1. In this Act,—

Interpretation.

- (a) "Beer" shall mean any liquor obtained by the "Beer." alcoholic fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water and containing more than two and one-half per centum by volume at sixty degrees Fahrenheit of absolute alcohol, and "light beer" shall mean any beverage containing one per centum but not more than two and one-half per centum by volume at sixty degrees Fahrenheit of absolute alcohol;
- (b) "License" shall mean a license granted to sell beer or "License." liquor to the Board as provided by this Act;
- (c) "Board" shall mean Liquor Control Board of "Board." Ontario;
- (d) "Dentist" shall mean a member of the Royal College of Dental Surgeons of Ontario registered under "Dentist." *The Dentistry Act* holding a valid and unrevoked Rev. Stat. c. 198. certificate of license to practise dentistry under the said Act;
- (e) "Druggist" shall mean a pharmaceutical chemist "Druggist." registered and entitled to practise under *The Pharmacy Act*; Rev. Stat. c. 199.
- (f) "Government store" shall mean store established by "Government Store." the Board under this Act for the sale of liquor;
- (g) "Interdicted person" shall mean a person to whom "Interdicted person." the sale of liquor is prohibited by order under this Act;
- (h) "Justice" shall mean police magistrate and where "Justice." no police magistrate is available shall include two or more justices of the peace or any person having the power or authority of two or more justices;

"Liquor."

(i) "Liquor" shall mean and include any alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption which are intoxicating, and any liquor which contains more than two and one-half per centum by volume at sixty degrees Fahrenheit of absolute alcohol shall conclusively be deemed to be intoxicating; the term "Liquor" shall include beer but shall not include light beer;

"Minister."

(j) "Minister" shall mean the member of the Executive Council to whom for the time being is assigned the supervision of the administration of this Act;

"Native Wine."

(k) "Native wine" shall mean native wine manufactured from grapes or cherries grown in Ontario;

"Package."

(l) "Package" shall mean any container, bottle, vessel or other receptacle used for holding liquor;

"Permit."

(m) "Permit," except in section 70 of this Act, shall mean permit for the purchase of liquor or beer issued by the Board and in section 70 shall mean permit for the sale of light beer;

"Physician."
Rev. Stat.
c. 196.

(n) "Physician" shall mean a legally qualified medical practitioner registered under *The Medical Act*;

"Prescription."

(o) "Prescription" shall mean memorandum in the form prescribed by the regulations, signed by a physician, and given by him to a patient for the purpose of obtaining liquor pursuant to this Act for use for medicinal purposes only;

"Public place."

(p) "Public place" shall mean and include any place, building or convenience to which the public has, or is permitted to have, access and any highway, street, lane, park or place of public resort or amusement;

"Residence."

(q) "Residence" shall mean and include any building or part of a building or tent where a person resides but shall not include any part of a building which part is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof, nor any place from which there is access to a club or hotel except through a street or lane or other open and unobstructed means of access;

- (r) "Regulations" shall mean regulations made by the Board and approved by the Lieutenant-Governor in Council under this Act;
 - (s) "Sale" and "sell" shall include exchange, barter and traffic and shall also include the selling or supplying or distribution, by any means whatsoever, of liquor or of any liquid known or described as beer or light beer by any partnership, or by any society, association or club, whether incorporated or unincorporated, and whether heretofore or hereafter formed or incorporated, to any partnership, society, association or club or to any member thereof;
 - (t) "Veterinary" shall mean a person authorized to practise veterinary science in Ontario under *The Veterinary Science Practice Act*;
 - (u) "Wine" shall mean and include any alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples, etc., or other agricultural products containing sugar, including honey, milk, etc.
- "Veterinary."
Rev. Stat.
c. 208.
- "Wine."
1927, c. 70, s. 2.

2. It is hereby expressly declared that the division of this Act into parts is for convenience only.

Division
of Act.

PART I.

ADMINISTRATION OF THIS ACT, CREATION OF BOARD AND ITS POWERS AND FUNCTIONS.

3. There shall be a Board known as "The Liquor Control Board of Ontario" consisting of one, two or three members as may be determined from time to time by the Lieutenant-Governor in Council, with the powers and duties herein specified, and the administration of this Act, including the general control, management and supervision of all Government liquor stores shall be vested in the Board.

Establishment
of Control
Board.

4. The Lieutenant-Governor in Council may designate one of the members of the Board to be chairman thereof who shall be known as the "Chief Commissioner" and he may designate any member or an officer of the Board to be Deputy Chief Commissioner and in case of a vacancy in the office, or of sickness or inability to act of the Chief Commissioner, the Deputy Chief Commissioner shall have and may exercise and perform all the powers, duties and functions of the Chief Commissioner.

Chief
Commissioner.

Appointment
and salaries
of the Board.

5. The Lieutenant-Governor in Council shall,—

(a) appoint the member or members of the Board;

(b) specify what member or members shall constitute a quorum of the Board;

Salaries.

(c) fix the salaries of the members of the Board. 1927, c. 70, s. 6.

Principal
office.

6. The principal office of the Board shall be at the seat of Government at Toronto. 1927, c. 70, s. 7.

Chief com-
missioner's
duties and
powers.

7. The Chief Commissioner shall have charge of the officers, inspectors, clerks and servants of the Board who shall be responsible to him in the first instance. 1927, c. 70, s. 8.

Authentica-
tion of
regulations.

8. No regulation of the Board shall be valid or binding unless it is assented to by the Chief Commissioner or in his absence by such member or official of the Board as the Lieutenant-Governor in Council may designate. 1927, c. 70, s. 9.

Power and
duties of
Board.

9. It shall be the duty of the Board and it shall have power,—

(a) to buy, import and have in its possession for sale, and to sell liquor in the manner set forth in this Act;

(b) to control the possession, sale, transportation and delivery of liquor in accordance with the provisions of this Act;

(c) to determine the municipalities within which Government liquor stores shall be established, throughout the Province, and the situation of the stores in any municipality;

(d) to make provision for the maintenance of warehouses for beer or liquor and to control the keeping in and delivery of or from any such warehouses;

(e) to grant, refuse or cancel permits for the purchase of liquor;

(f) to lease any land or building required for the purposes of this Act;

(g) to purchase or lease or acquire the use by any manner whatsoever of any plant or equipment which may be considered necessary or useful in carrying into effect the object and purposes of this Act;

(h) to engage the services of experts and persons engaged in the practice of any profession where it is deemed expedient;

Expert
advice.

- (i) to appoint officials to issue and grant permits under this Act; Appointment of officials to issue permits.
- (j) to determine the nature, form and capacity of all packages to be used for containing liquor to be kept or sold under this Act;
- (k) to appoint one or more vendors of sacramental wines in any municipality and to regulate or restrict the keeping for sale, sale and delivery of such wine; Vendors of sacramental wines.
- (l) without in any way limiting or being limited by the foregoing clauses generally to do all such things as may be deemed necessary or advisable by the Board for the purpose of carrying into effect the provisions of this Act or the regulations. 1927, c. 70, s. 10.

10.—(1) The Board with the approval of the Lieutenant-Governor in Council may make such regulations not inconsistent with this Act as the Board may deem necessary for carrying out the provisions of this Act and for the efficient administration thereof, and such regulations shall be published in the *Ontario Gazette*, and upon being so published shall have the same force and effect as if enacted in this Act and any such regulations may be repealed, altered or amended from time to time by the Board subject to like approval and the publication of such alteration, repeal or amendment in the manner aforesaid.

(2) Without limiting the generality of the provisions contained in subsection 1 it is declared that the powers of the Board to make regulations in the manner set out in the said subsection shall extend to and include the following:

- (a) Regulating the equipment and management of Government stores and warehouses in which liquor may be kept or sold; Regulating equipment.
- (b) Prescribing the duties of the officers, inspectors, clerks and servants of the Board and regulating their conduct while in the discharge of their duties; Duties of employees.
- (c) Governing the purchase of liquor and the furnishing of liquor to Government stores established under this Act; Purchase of liquor.
- (d) Determining the classes, varieties and brands of liquor to be kept for sale at Government stores; Varieties of liquor.
- (e) Prescribing, subject to this Act, the days and hours at which Government liquor stores or any of them shall be kept open for that purpose; Hours for sale.

Price list.

- (f) Providing for the issue and distribution of price lists showing the price to be paid for each class, variety or brand of liquor kept for sale under this Act;

Books of account and records of sales.

- (g) Prescribing the books of account to be kept by the Board showing the expenditure of the Board in the administration of the Act and in the purchase, sale and delivery of liquor thereunder and the receipts of the Board from the sale of liquor in any Government store or from the issue of permits for the purchase of liquor;

Official seal.

- (h) Prescribing an official seal and official labels and determining the manner in which such seal or label shall be attached to every package of liquor sold or sealed under this Act, including the prescribing of different official seals or different official labels for the different classes, varieties and brands of liquor;

Forms, conditions of licenses, etc.

- (i) Prescribing forms to be used for the purposes of this Act or of the regulations made thereunder, and the terms and conditions in permits and licenses issued and granted under this Act;

Duplicate permits.

- (j) Prescribing the nature of the proof to be furnished and the conditions to be observed in the issuing of duplicate permits in lieu of those lost or destroyed;

Kinds and quantities.

- (k) Prescribing the kinds and quantities of liquor which may be purchased under permits of any class, including the quantity which may be purchased at any one time or within any specified period of time; and the alcoholic content of any such liquor;

Records of purchases by holders of permits.

- (l) Prescribing the forms of records of purchases of liquor by the holders of permits, and the reports to be made thereon to the Board, and providing for inspection of the records to be kept;

Notices.

- (m) Prescribing the manner of giving and serving notices required by this Act or the regulations made thereunder;

Duties of officials authorized to issue permits.

- (n) Prescribing the duties of officials authorized to issue permits under this Act;

Fees.

- (o) Prescribing the fees payable in respect of permits and licenses issued under this Act for which no fees are prescribed in this Act, and prescribing the fees for anything done or permitted to be done under the regulations made thereunder;

Books, etc.

- (p) Prescribing, subject to the provisions of this Act, the books, records and returns to be kept by the holder of any license for the sale of liquor under this Act;

- (q) Supervising the distribution of supplies and the manner in which liquor may be kept and stored; Distribution and storage.
- (r) Supervising the hours and days upon which, and the manner, methods and means by which vendors and brewers shall deliver liquor under this Act and the hours and days during which, and the manner, methods and means by which liquor, under this Act, may be lawfully conveyed and carried; Delivery and conveyance of liquor.
- (s) Governing the conduct, management and equipment of any premises upon which liquor may be sold or consumed under this Act; Conduct of premises.
- (t) Generally for the better carrying out of the provisions of this Act. 1927, c. 70, s. 11. In general.

11. Wherever it is provided in this Act that any act, matter or thing may be done or permitted or authorized by the regulations, or may be done in accordance with the regulations, or as provided by the regulations, the Board, subject to the restrictions set out in subsection 1 of section 10 shall have the power to make regulations respecting such act, matter or thing. 1927, c. 70, s. 11A. General.

12. The Board may with the approval of the Lieutenant-Governor in Council,— Powers of board.

- (a) purchase any land or building and equip any building required for the purposes of this Act and where deemed necessary purchase or acquire the whole or any portion of the output or product of any manufacturer, distiller, brewery, plant or appliance in which liquor is manufactured or produced. Purchase of property and output.
- (b) appoint such officers, inspectors, vendors, servants and agents as the Board may deem necessary in the administration of this Act and by regulation prescribe the terms of their employment, fix their salaries or remuneration and define their respective duties and powers. 1927, c. 70, s. 12. Appointment of officers and staff.

OWNERSHIP OF PROPERTY ACQUIRED BY THE BOARD, FINANCING AND ACCOUNTING BY THE BOARD AND APPLICATION OF PROFITS.

13. All property, whether real or personal, all moneys acquired, administered, possessed or received by the Board and all profits earned in the administration of this Act, shall be the property of the Crown in right of the Province of Ontario, and all expenses, debts and liabilities incurred by the Board in connection with the administration of this Act shall be paid by the Board from the moneys received by the Board under such administration. 1927, c. 70, s. 13. Payment of expenses.

Reports to
Lieutenant-
Governor in
Council by
Board.

14.—(1) The Board shall from time to time make reports to the Lieutenant-Governor in Council covering such matters in connection with the administration of this Act as he may require, and shall annually make to the Lieutenant-Governor in Council, through the Minister, a report for the twelve months ending on the 31st day of October in the year in which the report is made, which shall contain,—

- (a) a statement of the nature and amount of the business transacted by each vendor under this Act during the year;
- (b) a statement of its assets and liabilities including a profit and loss account, and such other accounts and matters as may be necessary to show the results of operations of the Board for the year;
- (c) general information and remarks as to the working of the law within the Province;
- (d) any other information requested by the Minister.

Report to be
presented to
Legislature.

(2) Every annual report made under this section shall be forthwith laid before the Legislature if the Legislature is then in session, and if not then in session shall be laid before the Legislature within fifteen days after the opening of the session following the close of the fiscal year.

Audit of
books of
Board.

(3) The books and records of the Board shall at all times be subject to examination and audit by the Provincial Auditor and to such other person as the Lieutenant-Governor in Council may authorize in that behalf. 1927, c. 70, s. 14.

Transfer of
property
from present
Board.

1916, c. 50.

15.—(1) The Lieutenant-Governor in Council may make all arrangements necessary or requisite to enable the Board to acquire, take over and possess for the purposes of this Act all or any part of the liquor, property or assets held, possessed, purchased or agreed to be purchased or acquired by the Board of License Commissioners under or in pursuance of *The Ontario Temperance Act* or amendments thereto and to transfer such liquor, property or assets or any part thereof to the Board for the purposes of this Act on terms and conditions of payment and accounting therefor as the Lieutenant-Governor in Council deems advisable.

Provincial
Treasurer
to provide
necessary
funds.

(2) The Provincial Treasurer may set aside out of the Consolidated Revenue Fund of the Province, such sums as he shall deem necessary and requisite for the purchase of liquor by the Board, and for other necessary purposes in the administration of this Act. 1927, c. 70, s. 15.

Payment of
salaries, ex-
penses of
stores, etc.

16. The Board shall make all payments necessary for its administration of this Act, including the payment of the salaries of the members of the Board and its staff and all

expenditures incurred in establishing and maintaining Government stores and in its administration of this Act. 1927, c. 70, s. 16.

17.—(1) All moneys received from the sale of liquor at Government stores or from license fees, or otherwise arising in the administration of this Act other than from permit fees, shall be paid to the Board. Payment of
sale and
license
moneys to
Board.

(2) All moneys received in fees for permits for the purchase of liquor shall be paid to the Provincial Treasurer to be accounted for as part of the general revenue of the Province and shall not be included in any statement of profit and loss of the Board. 1927, c. 70, s. 17. Permit fees
to go into
Treasury.

18. All accounts payable by the Board shall be audited by such person as may be designated by the Board and may be audited by the Provincial Auditor; and all cheques for payment of accounts shall be signed by the Chief Controller or by such other officer as may be designated by the Board for that purpose. 1927, c. 70, s. 18. Accounts
payable by
Board.

19. The accounts of the Board shall be made up to the 31st day of October in each year, and at such other times as may be determined by the Lieutenant-Governor in Council, and in every case the Board shall prepare a balance sheet and statement of profit and loss and submit the same to the Provincial Auditor for his certification. 1927, c. 70, s. 19. Fiscal
year.
Balance
sheet, etc.

20. The accounts of the Board shall be audited annually by the Provincial Auditor or by such other person, firm or corporation as the Lieutenant-Governor in Council may appoint, and the report of such auditor containing such particulars as the Lieutenant-Governor in Council may require shall be made to the Lieutenant-Governor in Council on or before the 1st day of January next following the close of the fiscal year for which the report is made. 1927, c. 70, s. 20. Annual audit.

21. From the profits received under this Act as certified by the auditor there shall be taken such sums as may be determined by the Lieutenant-Governor in Council for the creation of a reserve fund to meet any loss that may be incurred by the Government in connection with the administration of this Act. 1927, c. 70, s. 21. Reserve
fund, etc.

22. The receipts of the Board from all sources shall be checked and audited at least once in every calendar month by the Provincial Auditor or an officer of his Department designated by him for that purpose. 1927, c. 70, s. 22. Audit of
receipts.

**Net profits
to be paid
into Consoli-
dated
Revenue.**

23. The net profits of the Board shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Lieutenant-Governor in Council may direct. 1927, c. 70, s. 23.

**Administration
of oaths.**

24. Every vendor and every official authorized by the Board to issue permits under this Act may administer any oath and take and receive any evidence or declaration required under this Act or the regulations. 1927, c. 70, s. 24.

**Actions
against
members of
Board, etc.**

25.—(1) Except with the consent of the Minister no action or proceeding shall be taken against any member or members or against any official or vendor of the Board for anything done or omitted to be done in or arising out of the performance of his or their duties under this Act.

**Order of
Board not
subject to
review.**

(2) Every action, order or decision of the Board as to any matter or thing in respect of which any power, authority or discretion is conferred on the Board under this Act shall be final and shall not be questioned, reviewed or restrained by injunction, prohibition or mandamus or other process or proceeding in any court or be removed by *certiorari* or otherwise in any court. 1927, c. 70, s. 25.

**Board may
be sued and
sue in name
of office.**

26. The Board may with the consent of the Attorney-General be sued and may institute or defend proceedings in any court of law or otherwise in the name of "The Liquor Control Board of Ontario" as fully and effectually to all intents and purposes as though such Board were incorporated under such name or title and no such proceedings shall be taken against or in the names of the members of the Board, and no such proceedings shall abate by reason of any change in the membership of the Board by death, resignation or otherwise, but such proceedings may be continued as though such changes had not been made. 1927, c. 70, s. 26.

**Orders for
purchase of
liquor.**

27.—(1) Every order for the purchase of liquor shall be authorized by the Chief Commissioner or Deputy Chief Commissioner and no order shall be valid or binding unless so authorized.

**Filing
duplicate.**

(2) A duplicate of every such order shall be kept on file in the office of the Board.

**Cancelling
orders.**

(3) All cancellations of such orders made by the Board shall be executed in the same manner and a duplicate thereof kept as aforesaid. 1927, c. 70, s. 27.

**Security for
observance
of Act.**

28. Subject to the regulations the Board may require the holder of any license for the sale of liquor to give such security and to comply with such other provisions as the Board may deem necessary or desirable in order to secure the due observance of the provisions of this Act. 1927, c. 70, s. 28.

29. Notwithstanding anything in this Act contained the Board shall not be compellable to issue any permit or license under this Act and may refuse any such permit or license in its discretion and shall not be obliged to give any reason or explanation for such refusal. 1927, c. 70, s. 29.

Board not
compellable
to issue per-
mits, etc.

PART II.

ESTABLISHMENT OF GOVERNMENT STORES AND SALES UNDER PERMITS.

30. Stores to be known as Government stores may be established by the Board at such places in the Province as are considered advisable for the sale of liquor in accordance with the provisions of this Act and the regulations made thereunder, and the Board may from time to time fix the prices at which the various classes, varieties and brands of liquor shall be sold and such prices shall be the same at all such Government stores. 1927, c. 70, s. 30.

31. The sale of liquor at each Government store shall be conducted by a person appointed under this Act to be known as a "vendor" who shall, under the directions of the Board, be responsible for the carrying out of this Act and the regulations made thereunder, so far as they relate to the conduct of such store and the sale of liquor thereat. 1927, c. 70, s. 31.

32.—(1) A vendor may sell to any person who is the holder of a subsisting permit, such liquor as that person is entitled to purchase under such permit in conformity with the provisions of this Act and the regulations made thereunder.

Sale and
delivery of
liquor to
holder of per-
mit and
license.

(2) Except as provided by the regulations no liquor sold under this section shall be delivered until,—

Conditions
upon which
sale may be
made.

- (a) the purchaser has given a written order to the vendor, dated and signed by such purchaser and stating the number of his permit, and the kind and quantity of the liquor ordered; and
- (b) the purchaser has produced his permit for inspection and endorsement by the vendor; and
- (c) the purchaser has paid for the liquor in cash; and
- (d) the vendor has endorsed or caused to be endorsed on the permit the kind and quantity of the liquor sold and the date of the sale. 1927, c. 70, s. 32.

33. No liquor shall be sold to any purchaser except in a package sealed with the official seal as prescribed by this Act and such package shall not be opened on the premises of a Government store. 1927, c. 70, s. 33.

Sealing of
package, etc.

Consumption
in Govern-
ment store.

34. No officer, clerk or servant of the Board employed in a Government store shall allow any liquor to be consumed on the premises of a Government store nor shall any person consume any liquor on such premises. 1927, c. 70, s. 34.

Days and
hours for sale.

35. No sale or delivery of liquor shall be made on or from the premises of any Government store nor shall any store be kept open for the sale of liquor,—

- (a) on any holiday;
- (b) on any day on which polling takes place at any Dominion or provincial election held in the electoral district in which the store is situated;
- (c) on any day on which polling takes place at any municipal election held in the municipality in which the store is situated or upon any question submitted to the electors of the municipality under any Act of Ontario;
- (d) during such other periods and on such other days as the Board may direct. 1927, c. 70, s. 35.

Delivery of
liquor to and
from Govern-
ment store.

36. It shall be lawful to carry or convey liquor to any Government store and to and from any warehouse or depot established by the Board for the purpose of this Act, and when permitted so to do by this Act and the regulations made thereunder and in accordance herewith, it shall be lawful for any common carrier, or other person, to carry or convey liquor sold by a vendor from a Government store, or beer, when lawfully sold by the Board or a vendor, from the premises wherein such beer was manufactured, or from premises where the beer may be lawfully kept and sold, to any place to which the same may be lawfully delivered under this Act and the regulations made thereunder, provided that no such common carrier or any other person shall open, or break, or allow to be opened or broken, any package or vessel containing liquor, or drink, or use, or allow to be drunk or used, any liquor therefrom while being so carried or conveyed. 1927, c. 70, s. 36.

Classes of
permits.

37.—(1) The Board may issue two classes of permits under this Act for the purchase of liquor,—

- (a) Individual permits;
- (b) Special permits.

Application
and issue
of permits.

(2) Upon application in the prescribed form being made to the Board or to any official authorized by the Board to issue permits accompanied by payment of the prescribed fee, and upon the Board or such official being satisfied that the appli-

cant is entitled to a permit for the purchase of liquor under this Act the Board or such official may issue to the applicant a permit of the class applied for, as follows,—

- (a) An “individual permit” in the prescribed form may be granted to an individual of the full age of twenty-one years, who has resided in the Province for the period of at least one month immediately preceding the date of his making the application, and who is not disqualified under this Act, entitling the applicant to purchase liquor in accordance with the terms and provisions of the permit, and the provisions of this Act, and the regulations made thereunder; Individual permit for resident.
- (b) An “individual permit” in the prescribed form may be granted to an individual of the full age of twenty-one years, who is temporarily resident or sojourning in the Province and who is not disqualified under this Act, entitling the applicant during a period not exceeding one month to purchase liquor in accordance with the terms and provisions of the permit, and the provisions of this Act and the regulations made thereunder; Individual permit for non-resident.
- (c) A “special permit” in the prescribed form may be granted to a druggist, physician, dentist or veterinarian, or to a person engaged within the Province in mechanical or manufacturing business, or in scientific pursuits, requiring liquor for use therein, entitling the applicant to purchase liquor for the purpose named in such “special permit” and in accordance with the terms and provisions of such “special permit” and in accordance with the provisions of this Act, and the regulations made thereunder; Special permit for physicians, etc.
- (d) A “special permit” in the prescribed form may be granted to a priest, minister of the gospel, or any other minister of any religious faith authorized to solemnize marriage in Ontario, entitling the applicant to purchase wine for sacramental purposes in accordance with the terms and provisions of such “special permit”; Special permit for ministers.
- (e) A “special permit” in the prescribed form may be granted when authorized by the regulations, entitling the applicant to purchase liquor for the purpose named in the permit and in accordance with the terms and provisions of such permit, and of this Act and the regulations made thereunder. Special permits under regulations.

- (3) No one, who has been convicted of keeping, frequenting or being an inmate of a disorderly house, shall be entitled to a Prohibition as to disorderly houses.

permit until after the expiration of, at least, one year from the date of such conviction.

Discretion as to permits.

(4) Notwithstanding any other provisions of this Act, the Board may refuse or direct any official authorized to issue permits to refuse to issue a permit to any person and no official so directed shall issue any such permit. 1927, c. 70, s. 37.

Expiry of permits.

38. Unless sooner cancelled, every permit shall expire at midnight on the 31st day of October of the year in respect to which the permit is issued, except in the case of,—

- (a) special permits issued under clause (e) of subsection 2 of section 37, which shall expire in accordance with the terms contained therein;
- (b) a permit which, according to its terms, sooner expires. 1927, c. 70, s. 38.

Issue of permit.

39. Every permit shall be issued in the name of the applicant therefor and no permit shall be transferable nor shall the holder of any permit allow any other person to use the permit. 1927, c. 70, s. 39.

Restrictions as to number.

40. No permit shall be delivered to the applicant, until he has, in the presence of some person duly authorized by the Board, or in the presence of the official to whom the application is made, written his signature thereon in the manner prescribed by the regulations for the purpose of his future identification as the holder thereof, and the signature has been attested by a member of the Board, or other official authorized to issue the same. 1927, c. 70, s. 40.

Restrictions as to issue.

41. No person who is the holder of an unexpired individual permit under this Act, shall make application for, or be entitled to hold any other individual permit whether of the same or another class; provided, however, that the holder of a subsisting and unexpired individual permit may, without any claim to, or for rebate, return such permit to the Board or official authorized to issue permits and then be entitled to make application for a permit under this Act, and any person whose permit has been lost or destroyed may apply to the Board or other official by whom the permit was issued, and upon proof of the loss or destruction of the permit and subject to the conditions contained in the regulations may obtain a duplicate permit in lieu of the permit so lost or destroyed for which duplicate permit a fee of fifty cents shall be paid. 1927, c. 70, s. 41.

Place where liquor may be kept by holder of permit.

42.—(1) Liquor purchased by any person pursuant to a permit held by him may be kept, had, given and consumed, only in the residence in which he resides, except as otherwise provided by this Act, and the regulations made thereunder.

(2) If the occupant of a residence or of any part thereof is convicted of keeping a disorderly house or of an offence against any of the provisions of this Act committed in or in respect of such residence or in respect of any liquor kept therein or removed therefrom, the same shall cease to be a residence within the meaning of this Act for a period of one year after the date of such conviction, and shall for such period be deemed to be a public place for the purposes of this Act; provided that the Board may, when satisfied of a *bona fide* change of ownership or occupation of such premises, or when it is desirable to do so, declare such premises to be a residence and may grant a certificate to such effect to the owner or occupant of such premises and such premises shall from the date of the granting of such certificate signed by the Chief Commissioner or Deputy Chief Commissioner of the Board, be a residence and cease to be a public place within the meaning of this Act. 1927, c. 70, s. 42.

43.—(1) Notwithstanding anything in this Act contained, the Board may for any cause which it deems sufficient with or without any hearing cancel or suspend any permit granted for the purchase of liquor under this Act.

(2) The justice before whom any holder of a permit issued under this Act is convicted of a violation of any provision of this Act, or of the regulations made thereunder, may suspend the permit for a period not exceeding one month, and thereupon the justice shall forthwith notify the holder and the Board of the suspension of the permit.

(3) Upon receipt of notice of the suspension of his permit the holder of the permit shall forthwith deliver up the permit to the Board, and if the holder of a permit which has been suspended, fails or neglects to deliver the same to the Board, in accordance with the regulations made hereunder, the Board may forthwith cancel the same.

(4) Where the permit has been suspended the Board may return the permit to the holder at the expiration or determination of the period of suspension.

(5) Where the permit has been cancelled the Board shall notify all vendors and such other persons as may be provided by the regulations made under this Act, of the cancellation of the permit, and no permit shall be issued to the person whose permit is cancelled under this Act within the period of one year from the date of such cancellation; provided, however, that the Board may direct the issue of a permit within said period of one year, if the person whose permit has been so cancelled has not been convicted of any offence under this Act.

(6) Where a permit is produced at a Government store by a person who is not entitled under the provisions of this Act or of the regulations to hold such permit or produce the

Use of permit of other person or of a suspended or cancelled permit.

Cancellation of permits by Board.

Suspension of permit cancelled by justice.

Delivery up of permit on suspension.

Return of permit on termination of suspension.

Notifying vendors, etc., of cancellation.

same at the store, or where any permit is suspended or cancelled, or a permit, a duplicate of which has been issued, is produced at a Government store, the vendor shall retain such permit in his custody and shall forthwith notify the Board of the fact of its retention, and the Board, unless such permit has been cancelled, may forthwith cancel the same; provided nevertheless that the proper holder of any lost subsisting permit which may be improperly produced as aforesaid may, upon satisfactory proof to the Board that he was not privy to such improper use, obtain a return of such permit. 1927, c. 70, s. 43.

Person to whom permit shall not be issued.

44. No permit shall be issued under this Act to any person to whom the sale of intoxicants is prohibited under the provision of any Act of the Dominion of Canada. 1927, c. 70, s. 44.

Brewers' licenses.

45.—(1) The Board may with the approval of the Minister, and subject to the provisions of this Act, and to the regulations made thereunder grant a license to any brewer duly authorized by the Dominion of Canada authorizing such brewer or any lawfully appointed agent of such brewer,—

- (a) to keep for sale and sell beer to the Board;
- (b) to deliver beer on the order of the Board, or of a vendor to any person who is a holder of a subsisting permit to purchase beer under this Act; but
- (c) no brewer or brewer's agent shall keep for sale, sell or deliver beer except as provided in this Act and the regulations made thereunder.

Returns.

(2) Every brewer shall make to the Board in every month a return in the form which the Board shall provide showing the gross amount of the sales of beer made by such brewer and his agents; provided that the Board may at any time by notice in writing to a brewer or brewer's agent require such a return of sales by a brewer or any brewer's agent, as the case may be, for any period mentioned in such notice, and such return shall be made by such brewer or brewer's agent within three days of the receipt by such brewer or brewer's agent of such notice. 1927, c. 70, s. 45.

Penalty.

46. Any brewer who fails to make such returns to the Board within twenty days following the expiration of any calendar month for which it should be made shall be guilty of an offence under this Act, and shall be liable to a fine of \$20 per day for each day it is delayed, counting from the expiration of such twenty days. 1927, c. 70, s. 46.

Default in forwarding.

47. Any brewer or brewer's agent who makes default in forwarding a return required by the proviso of section 45, within the time required by a notice given pursuant to the

said proviso shall be guilty of an offence under this Act and shall be liable to a fine of \$20 per day for each day during which such default continues. 1927, c. 70, s. 47.

48.—(1) The Board may also examine the books of any brewer or brewer's agent, making or required to make any such return, or may otherwise verify the accuracy of any such return. Examination of books.

(2) Any brewer or brewer's agent who refuses to allow such examination or who fails to make returns in accordance with the regulations of the Board shall be guilty of an offence and liable to a fine of \$100 for each offence. 1927, c. 70, s. 48.

49. No brewery shall be constructed and equipped so as to facilitate any breach of this Act or the regulations made thereunder. 1927, c. 70, s. 49.

50. Every brewer shall from time to time as he may be required by the Board, furnish samples of his beer to be sold within the Province and the Board shall be entitled and is hereby authorized to require of any brewer samples of any beer then being sold within the Province, or in stock by the brewer, or which may be in the course of manufacture for sale within the Province and the said brewer shall forthwith furnish the same to the Board, and every brewer failing to do so as herein required by the Board shall be guilty of an offence and liable to a penalty not exceeding \$100. 1927, c. 70, s. 50.

51. The Board may, with the approval of the Minister, and subject to the provisions of this Act and to the regulations made thereunder grant a license to a distiller authorizing such distiller to keep for sale and sell liquor to the Board or as the Board may direct. License to distiller to sell to Board.

(a) The Board may with the approval of the Lieutenant-Governor in Council make regulations, providing for the returns to be made to the Board by a distiller and governing the manner in which liquor may be sold, kept for sale or delivered by such distiller.

(b) No distiller shall keep for sale, sell or deliver liquor except as provided by this Act and the regulations made thereunder. 1927, c. 70, s. 51.

52. The license so granted to a brewer or brewer's agent or to a distiller, unless sooner determined, shall expire at midnight on the 31st day of October in the year in respect to which the license is granted. 1927, c. 70, s. 52.

53. The Board may for any cause which it deems sufficient with or without any hearing cancel or suspend any license granted to a brewer or brewer's agent or to a distiller, in the Cancellation of brewer's or distiller's license.

manner prescribed by the regulations, and all right of the brewer or brewer's agent or distiller to sell or deliver liquor or beer thereunder shall be suspended or determined as the case may be. 1927, c. 70, s. 53.

LIQUOR KEPT AND SOLD UNDER SPECIAL PERMITS.

Possession
of alcohol by
druggists.

54. Any druggist may have in his possession alcohol purchased by him from a vendor under a special permit pursuant to this Act such alcohol to be used solely in connection with the business of the druggist in compounding medicines or as a solvent or preservant. 1927, c. 70, s. 54.

Sale and
keeping for
sale by
druggist.

55. Except as authorized or permitted by this Act or by the regulations made thereunder and in accordance therewith, nothing in this Act, or in any Act, shall be construed as authorizing or permitting any druggist to have or keep for sale or by himself or his clerk, servant or agent, to sell any liquor. 1927, c. 70, s. 55.

Physicians.

56.—(1) Any physician who is lawfully and regularly engaged in the practice of his profession in the Province of Ontario and who deems liquor necessary for the health of a patient of his whom he has seen or visited professionally may give to such patient a prescription therefor in the prescribed form, signed by the physician and addressed to a vendor, or the physician may administer the liquor to the patient for which purpose the physician shall administer only such liquor as was purchased by him under special permit pursuant to this Act, and he may give to any such patient a prescription for liquor not exceeding six ounces, and supply or sell subject to the regulations, the said liquor to his patient, and may charge for the liquor so administered or sold, but no prescription shall be given nor shall liquor be administered or sold by a physician except to a *bona fide* patient in cases of actual need, and when in the judgment of the physician the use of liquor as medicine in the quantity prescribed, administered or sold is necessary.

Giving
prescriptions
or administer-
ing liquor
illegally.

(2) Every physician who gives any prescription or administers or sells any liquor in evasion or violation of this Act, or who gives to or writes for any person a prescription for or including 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 to be used 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 against this Act. 1927, c. 70, s. 56.

Sale of liquor
by vendors on
prescription.

57. A vendor may upon the prescription of a physician sell and supply for strictly medicinal purposes,—

(a) Beer in quantities not exceeding one dozen bottles, containing not more than three half-pints each or a quantity equivalent thereto at any one time;

- (b) Wines and distilled liquor not exceeding one quart at any one time;
- (c) Alcohol for rubbing or other necessary purposes not exceeding one pint at any one time;
- (d) Every prescription issued under the authority of section 56 shall contain a certificate that the quantity of liquor therein mentioned is the minimum quantity necessary for the patient for whom it is ordered;
- (e) Any violation of this section shall be an offence against this Act;
- (f) No more than one sale and one delivery shall be made on any one prescription. 1927, c. 70, s. 57.

58. Any dentist who deems it necessary that any patient ^{Dentists.} being then under treatment by him should be supplied with liquor as a stimulant or restorative may administer to the patient the liquor so needed, and for that purpose the dentist shall administer liquor purchased by him under special permit pursuant to this Act, and may charge for the liquor so administered, but no liquor shall be administered by a dentist except to a *bona fide* patient in case of actual need, and every dentist who administers liquor in evasion or violation of this Act, shall be guilty of an offence against this Act. 1927, c. 70, s. 58.

59. Any veterinary who deems it necessary may in the course of his practice administer or cause to be administered ^{Veterinary Surgeons.} liquor to any dumb animal, and for that purpose the veterinary shall administer or cause to be administered liquor purchased by him under special permit pursuant to this Act, and may charge for the liquor so administered or caused to be administered, but no veterinary shall himself consume nor shall be give to or permit any person to consume as a beverage any liquor so purchased, and every veterinary who evades or violates or suffers or permits any evasion of this section shall be guilty of an offence against this Act. 1927, c. 70, s. 59.

60. Any person in charge of an institution regularly conducted as a hospital or sanitarium for the care of persons in ill-health, or as a home devoted exclusively to the care of aged people, may, if he holds a special permit, under this Act, for that purpose, administer liquor purchased by him under his special permit to any patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for the emergency medicinal purposes, and may charge for the liquor so administered but no liquor shall be administered by any person under this section except to *bona fide* patients or inmates of the institution of which he is in charge and in cases of actual need, and every person in charge

of an institution or employed therein, who administers liquor in evasion or violation of this Act, shall be guilty of an offence against this Act. 1927, c. 70, s. 60.

APPLICATION OF ACT.

*Dominion
licenses.*

61.—(1) Nothing in this Act shall prevent any brewer, distiller or other person duly licensed under the provisions of any statute of the Dominion of Canada for the manufacture of liquor, from having or keeping liquor in a place and in the manner authorized by or under any such statute.

*Sales to
Board.*

(2) Nothing in this Act shall prevent,—

- (a) the sale of liquor by any person to the Board;
- (b) the purchase, importation and sale of liquor by the Board for the purposes of and in accordance with this Act. 1927, c. 70, s. 61.

*Patent or
proprietary
medicines.*

62. Except as otherwise expressly provided nothing in this Act shall prevent the sale by a druggist or a merchant, or company dealing in drugs and medicines, or a merchant or company dealing in patent or proprietary medicines, of any such medicine in the original and unbroken package, if such medicine contains sufficient medication to prevent the same being used as an alcoholic beverage. 1927, c. 70, s. 62.

*Certain tinc-
tures, medi-
cines, per-
fumes, etc.*

63.—(1) Except as otherwise expressly provided nothing in this Act shall prevent the sale

- (a) by a druggist or by the manufacturer of
 - (i) any tincture, fluid extract, essence or medicated spirit containing alcohol prepared according to a formula of the British Pharmacopœia or other recognized standard work on pharmacy, or
 - (ii) medicine or other similar officinal or pharmaceutical compound or preparation, or
 - (iii) a perfume, or
 - (iv) for purely medicinal purposes, any mixture so prepared containing alcohol and other drugs or medicine; nor

- (b) by a merchant who deals in drugs and medicines, of such compounds, mixtures and preparations as are in this section hereinbefore mentioned and are so made or put up by a druggist or manufacturer,

by reason only that the same contain alcohol, but this shall only apply to any such compound, mixture and preparation as contains sufficient medication to prevent its use as an alcoholic beverage.

(2) If in any prosecution for selling any of the products mentioned in this section, the justice hearing the complaint is of opinion that an unreasonable quantity of any such product, having regard to the purposes for which the same was legitimately manufactured, was sold or otherwise disposed of to any person either at one time or at intervals and proof is also given that such product was used for beverage purposes, the person selling or otherwise disposing of the same may be convicted of an offence under subsection 1 of section 72 of this Act. 1927, c. 70, s. 63.

64.—(1) Notwithstanding anything contained in section 63 of this Act, no essence, tincture, compound or preparation commonly known or described as a flavouring extract or essence containing alcohol shall be sold except in bottles containing not more than two and one-half ounces, and a record of the sale shall be kept by the manufacturer, merchant, druggist, or other person who sells the same, in a book provided for that purpose, which shall show the name and address of each person to whom any such article is sold, the date of sale and the quantity sold, and this record shall be open to the inspection of any inspector or any officer authorized by the Board to make such inspection and a true copy thereof under oath shall be supplied to the Board forthwith on demand by the proprietor of the business upon whose premises any such sale was made. Provided, however, that nothing in this section contained shall prevent the sale of any such essence, tincture or flavouring extract in a larger quantity than two and one-half ounces to a druggist, or a manufacturer of confectionery or other similar commodity or to a person in any trade or business in which any such article is commonly used for legitimate purposes or to any public institution or to a wholesale dealer for re-sale to any of the persons mentioned in this proviso, but all such sales shall be recorded in a book as above mentioned by the person selling the same and in all other respects the provisions of this subsection shall apply thereto.

(a) This subsection shall not apply to any preparation containing less than one per centum by volume at 60 degrees Fahrenheit of absolute alcohol.

(2) No pedlar or transient trader in Ontario shall sell or dispose of any tincture, essence or extract mentioned in the preceding subsection.

(3) Unless upon the order of a physician, no druggist shall sell or dispose of any tincture, essence or extract of ginger except to a person having a permanent place of residence in the city, town, village or district in which such sale takes place and then only upon the affidavit made by the person requiring the same in the form hereto, stating that it is not required for beverage purposes. Upon receiving

Sale of
essences,
tinctures and
flavouring
extracts.

Proviso.

Pedlars and
transient
traders not
to sell.

Extract of
ginger.

such affidavit and being satisfied that such tincture, essence or extract is required for legitimate purposes, the druggist may supply a quantity not exceeding two ounces and all the provisions of subsection 1 hereof shall apply to any such sale.

**Exception
as to ginger
products.**

(4) The provisions of the next preceding subsection shall not affect the sale or purchase of any such tincture, essence or extract of ginger by or between wholesale dealers, druggists, manufacturers of confectionery, persons carrying on any trade or business where the same is required for legitimate purposes or where it is needed in a public institution.

**Not to be
sold by other
than drug-
gists.**

(5) Except as in this section provided no person other than a druggist shall sell or dispose of any tincture, essence or extract of ginger.

Penalty.

(6) Any violation of this section shall be an offence against this Act and the person committing the offence shall upon conviction incur the penalties provided by subsection 1 of section 104 hereof. 1927, c. 70, s. 64.

**Colourable
sales.**

65.—(1) Where the justice before whom a complaint is heard finds that any patent or proprietary medicine mentioned or referred to in section 62 or any other medicine, preparation or mixture mentioned or referred to in section 63 does not contain sufficient medication to prevent the same being used as an alcoholic beverage, the offender shall incur the penalties imposed as in the case of sale of liquor contrary to subsection 1 of section 72 of this Act.

**Charging
the offence.**

(2) It shall not be necessary in the information, summons, warrant, distress warrant, commitment or other process or proceeding, except the finding or judgment, to set out that such patent or other medicine, preparation or mixture does not contain sufficient medication to prevent the same being used as an alcoholic beverage, but it shall be sufficient if the complaint and all other necessary statements of the offence allege or refer to the sale of liquor in contravention of this Act.

**Analysis
of patent or
proprietary
medicines.**

(3) The Department of Health, on complaint being made to the said Department that any patent or proprietary medicine or other medicine, preparation or mixture is believed not to contain sufficient medication to prevent its use as an alcoholic beverage, may cause an analysis of such patent or proprietary medicine or other medicine, preparation or mixture to be made by some competent person and if it be proved to the satisfaction of the said Department that such patent or proprietary medicine or other medicine, preparation or mixture contains more than one per centum by volume at 60 degrees Fahrenheit of absolute alcohol and that the medication found therein is not sufficient to prevent its use as an alcoholic beverage, the said department shall certify accordingly, and such certificate signed or purporting to be signed by the Minister or Deputy Minister of Health shall be con-

clusive evidence of such insufficiency of medication in all subsequent proceedings until the manufacturer of such patent or proprietary medicine or other medicine, preparation or mixture demonstrates to the satisfaction of the said Department that sufficient medication to prevent its use as an alcoholic beverage is contained in such patent or proprietary medicine or other medicine, preparation or mixture, and the said Department so certifies.

(4) If the said Department should find and certify by certificate signed or purported to be signed as provided by the next preceding subsection that the said patent or proprietary medicine or other medicine, preparation or mixture contains any medication which owing to the alcoholic properties of such patent or proprietary medicine or other medicine, preparation or mixture would be liable to be taken in quantities injurious to health, the sale of such patent or proprietary medicine or other medicine, preparation or mixture, after a copy of such certificate has been consecutively published twice in the *Ontario Gazette*, shall be an offence against this Act and any person on conviction therefor shall incur the penalties provided by subsection 1 of section 104 of this Act, unless the same has been so sold upon the written order of a medical practitioner.

(5) On any enquiry under this section any interested party may be heard either personally or by counsel or solicitor by the Department before any certificate is issued. 1927, c. 70, s. 65.

66.—(1) A druggist or other person who keeps patent or proprietary medicines for sale shall, upon request made by the inspector or other person authorized by the Board, permit such inspector or other person to take away a sample sufficient for the purpose of analysis of any patent or proprietary medicine kept by him for sale.

(2) Any person who refuses to comply with such a request shall incur a penalty of not less than \$10 nor more than \$40. 1927, c. 70, s. 66.

67.—(1) Every brewer shall on all beer or light beer manufactured and bottled by him for sale or consumption within the Province of Ontario, place a crown cork stopper or other stopper showing thereon by embossing on the outside thereof or by lithographing on the outside and inside thereof the name of the brewer and such other information as to the contents or otherwise as the Board may from time to time require and shall also cause the same information to be branded in or labelled on all casks, barrels, kegs or other vessels containing such beer or light beer so manufactured as the Board may determine.

Sale after report of department against preparation analysis.

Right to be heard by department.

Analysis of patent medicines kept by druggists.

Brewers' marks to show alcoholic content.

Penalty.

(2) Any brewer violating the provisions of this section shall be guilty of an offence and shall for such offence incur a penalty of \$2,000. 1927, c. 70, s. 67.

PART III.

CANADA TEMPERANCE ACT AND LOCAL OPTION.

Stores not to be established where C.T.A. in force.

68. Nothing contained in this Act shall be construed as interfering with the operation of *The Canada Temperance Act* applicable to any part of Ontario, and no Government store shall be established in a municipality in which *The Canada Temperance Act* has been brought into force and is still in force. 1927, c. 70, s. 68.

LOCAL OPTION.

Local option by-laws.

69.—(1) Except as provided by the regulations, no store shall be established by the Board for the sale of liquor in any municipality or portion of a municipality in which at the time of the coming into force of *The Ontario Temperance Act*, a by-law passed under *The Liquor License Act* or under any other Act, was in force prohibiting the sale of liquor by retail unless and until a vote has been taken to establish Government stores in the manner hereinafter provided.

Submission of question.

(2) The council of any municipality in which such by-law was in force may submit to a vote of the persons qualified to be entered on the voters' list and to vote at elections to the Assembly in the municipality, one of the three following questions:

(a) "Are you in favour of the establishment of Government stores for the sale of liquor under *The Liquor Control Act*?"

or

(b) "Are you in favour of the establishment of Government stores for the sale of beer and wine, under *The Liquor Control Act*?"

or

(c) "Are you in favour of the establishment of Government stores for the sale of beer under *The Liquor Control Act*?"

When submission compulsory.

and if a petition in writing signed by at least twenty-five per centum of the total number of persons appearing by the last revised list of the municipality to be resident in the municipality and qualified to vote at elections to the Assembly requesting the council to submit any one of the said questions

is filed with the clerk of the municipality and with the Board, on or before November 1st of the year in which the vote is taken, it shall be the duty of the council to submit such question and no other, to a vote of the electors and if three-fifths of the electors voting upon the said question vote in the affirmative thereon, it shall be lawful to establish Government stores in the municipality for the sale of liquor; or for the sale of beer and wine or for the sale of beer only, as the case may be, until another vote is taken as hereinafter provided.

- (i) Not more than one of such questions shall be submitted to the electors of any municipality at one time; and
- (ii) Where petitions are presented praying for the submission of different questions, the question to be submitted shall be that asked for in the first petition filed.

(3) Where a Government store or stores has or have been established in any city, town, village or township, the council may as provided in subsection 2 and subject to the same provisions and on petition as in the case provided for by the said subsection, shall submit to the electors in the same manner, whichever of the following questions may be applicable in the existing circumstances.

(a) "Are you in favour of the continuance of Government stores for the sale of liquor, under *The Liquor Control Act?*"

or

(b) "Are you in favour of the continuance of Government stores for the sale of beer and wine, under *The Liquor Control Act?*"

or

(c) "Are you in favour of the continuance of Government stores for the sale of beer, under *The Liquor Control Act?*"

and if three-fifths of the electors voting thereon vote in the negative, from and after the first day of May in the next following year any Government store established in the municipality shall be closed and it shall be unlawful thereafter until another vote is taken as hereinafter provided to sell liquor in such municipality.

(4) At least two weeks before the taking of a vote upon any question under this section, the electors interested in obtaining an affirmative answer and negative answer respectively to the question may notify the returning officer in writing, signed by at least twenty-five electors, that they have appointed a manager for their side of the question and the manager may

Appointment
of managers
for vote.

appoint agents at the polling places and generally shall have all the powers and perform all the duties and be subject to the like provisions as far as practicable as a candidate at an election to the Assembly, and in case more than one person is named as manager the first person named on either side shall be manager.

Date of
polling.

Rev. Stat.
c. 233.

Who may
vote.

Application
of general
law.
Rev. Stat.
cc. 8, 7.

Returning
Officer.

Return to
Clerk of the
Crown in
Chancery.

(5) The day fixed for taking the vote on any question shall be the day upon which, under *The Municipal Act* or any by-law passed under that Act, a poll would be held at the annual election of members of the council of the municipality, unless the Board fix some other day, and notify the clerk of the municipality to that effect, on or before November 1st of the year in which the vote is taken.

(6) The persons qualified to vote upon such question shall be such persons as are named upon the polling list and would be qualified in other respects to vote at an election to the Assembly held on the day fixed for taking the poll upon the question.

(7) Except as otherwise provided by this Act, the provisions of *The Election Act* and *The Voters' Lists Act* respecting,—

- (a) the preparation and revision of the lists;
- (b) the time and manner of holding the poll;
- (c) the holding of advance polls;
- (d) the forms to be used and the oaths to be administered;
- (e) the powers and duties of returning officers, deputy returning officers and poll clerks;

and all the provisions relating to corrupt practices, illegal acts, offences and penalties and their prosecutions shall apply to the taking of a vote on the question submitted under this section.

(8) The returning officer upon the taking of a vote upon such a question shall be the clerk of the municipality, or in case of his inability to act, or of a vacancy in the office, some person to be appointed by by-law of the municipal council.

(9) The returning officer shall make his return to the Clerk of the Crown in Chancery showing the number of votes polled for the affirmative and negative on the question submitted, and upon the receipt of such return, the Clerk of the Crown in Chancery shall make his return to the Lieutenant-Governor in Council and give notice thereof in the *Ontario Gazette* showing the total number of votes polled in the municipality for the affirmative and negative upon the question.

(10) The Clerk of the Crown in Chancery and the Chief Election Officer, subject to the approval of the Lieutenant-Governor in Council, shall give such directions and make such regulations and prepare such forms as may appear to them to be necessary in carrying out the provisions of this section and for the guidance of returning officers and other officers and persons employed in the taking of the vote, and may modify or alter any of the provisions of *The Election Act* and *The Voters' Lists Act* when compliance therewith appears to be inconvenient, impracticable or unnecessary and may make due provision for circumstances which may arise and which are not provided for or contemplated by this section. Directions
as to taking
vote.

Rev. Stat.
cc. 8, 7.

(11) The forms to be used at the taking of the vote shall Forms. be the same as nearly as may be as the forms used at an election to the Assembly, but such forms may be modified and altered to comply with the provisions of this section or with any direction or regulation given or made thereunder.

(12) The fees and expenses to be allowed to returning officers and other officers and servants for services performed under this section, and the expenses incurred in carrying out the provisions of this section shall be fixed by the Lieutenant-Governor in Council and shall be taxed and allowed by the chairman of the election board and be paid by the treasurer of the municipality to the persons entitled thereto. Fees and
expenses.

(13) Instead of proceeding as provided in *The Voters' Lists Act* with respect to the revision of the lists at an election to the Assembly, the chairman of the election board may fix a time and place for hearing complaints as to the insertion or omission of any names on the voters' lists and generally may take all the proceedings which may be taken by the Board in case of an election to the Assembly. Revision
of lists.

Rev. Stat.
c. 7.

(14) The chairman shall be entitled to a fee of \$10 for every Chairman's
fees. day upon which a sitting is actually held and his actual and necessary travelling expenses.

(15) The clerk of the municipality shall perform the duties Clerk of
revision. imposed upon the clerk of the revising officer by Part III of *The Voters' Lists Act*.

(16) The polling lists for use at the taking of a vote on Polling
lists. any such question shall not be printed, nor shall it be necessary to prepare more copies than are required to provide one copy of the list for each polling place, one copy for the returning officer and two copies for persons representing those supporting the affirmative and negative respectively.

(17) After a vote has been taken under the preceding Submission
of questions
from time
to time. provisions of this section the council may subject to the said provisions and upon the like petition, shall from time to time, submit any of the said questions which may be applicable to

the circumstances, but no such question shall be so submitted until after the expiration of three years from the date of the last polling in the municipality under this section.

Form of
ballot.

(18) The form of ballot to be used in taking a vote under this section shall be one of the following according to the circumstances:

1	YES	No
Voting on question to establish Government stores for the sale of liquor.	Are you in favour of the establishment of Government stores for the sale of Liquor under <i>The Liquor Control Act?</i>	
2	YES	No
Voting on question to establish Government stores for the sale of beer and wine.	Are you in favour of the establishment of Government stores for the sale of Beer and Wine under <i>The Liquor Control Act?</i>	
3	YES	No
Voting on question to establish Government stores for the sale of beer only.	Are you in favour of the establishment of Government stores for the sale of Beer under <i>The Liquor Control Act?</i>	
4	YES	No
Voting on question to continue Government stores for the sale of liquor.	Are you in favour of the continuance of Government stores for the sale of Liquor under <i>The Liquor Control Act?</i>	
5	YES	No
Voting on question to continue Government stores for the sale of beer and wine.	Are you in favour of the continuance of Government stores for the sale of Beer and Wine under <i>The Liquor Control Act?</i>	
6	YES	No
Voting on question to continue Government stores for the sale of beer only.	Are you in favour of the continuance of Government stores for the sale of Beer under <i>The Liquor Control Act?</i>	

PART IV.

SALE OF LIGHT BEER.

70.—(1) The Board may with the approval of the Minister and subject to the regulations hereinafter provided,—

- (a) grant a permit to any person authorizing such person to keep for sale and sell light beer by himself or by his clerk, servant or agent in the premises designated in such permit, and if the person to whom such permit is granted sells or keeps for sale any liquor in contravention of this Act or of the regulations made thereunder in the premises designated in such permit by himself or by his clerk, servant or agent acting within the scope of his employment, he shall be personally liable to incur the penalties provided for by subsection 1 of section 103 and for a second or subsequent offence by himself or by his clerk, servant or agent be personally liable to incur the penalties provided for second offences by the said section;
- (b) grant to any clerk, servant or agent of such person a permit to sell light beer upon the premises in respect of which a permit has been granted under clause *a* of this section, the permit to be known as an employee's permit.

(2) The premises designated in any permit shall be open to inspection at all times by any inspector or other officer whose duty it is to enforce or assist in the enforcement of the provisions of this Part.

(3) The fee for a permit granted under subsection 1 shall not exceed \$20.

(4) The Board may with or without a hearing for any cause which they deem sufficient cancel any such permit at any time.

(5) Except as expressly provided by this section and by the regulations passed thereunder no light beer shall be sold or kept for sale.

(6) The Board may with the approval of the Lieutenant-Governor in Council make regulations not inconsistent with the provisions of this Act,

- (a) restricting or regulating the granting of permits under this section and providing for the fees to be charged therefor and for the manner of cancellation of such permits.

- (b) restricting or regulating generally the keeping for sale or selling of light beer and without limiting the generality of the foregoing, the time or times the persons to whom and the premises in which light beer may be sold or kept for sale;
- (c) approving of any forms deemed necessary for the proper enforcement of the provisions of this section;
- (d) generally for the better carrying out of the provisions of this section. 1927, c. 70, s. 70.

Allowing disorderly persons on premises for which permit granted.

71.—(1) Every person who, having a permit under section 70, allows drunkenness or any violent, quarrelsome, riotous or disorderly conduct to take place upon the premises designated in the permit, or sells or delivers light beer to any drunken person or permits and suffers any drunken person to consume any light beer on such premises, or permits and suffers persons of notoriously bad character to assemble or meet on such premises or suffers any gambling or any unlawful game to be carried on on such premises shall be guilty of an offence against the provisions of this Act and shall be liable to the penalties mentioned in section 104.

Right of permit holder to require withdrawal of person.

(2) Any person having a permit under section 70 may if he has reasonable grounds to suspect from the conduct of any person who has come upon the premises mentioned in his permit, although not of notoriously bad character, that such person is present for some improper purpose, may request him or her to leave immediately such premises, and unless the request is forthwith complied with such person may be forcibly removed. 1927, c. 70, s. 71.

PART V.

PROHIBITIONS, INTERDICTION, PENALTIES AND PROCEDURE IN PROSECUTIONS AND ON APPEAL.

Prohibitions.

Selling, etc., liquor otherwise than under Act.

72.—(1) Except as provided by this Act, no person shall within the province, 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 offer to sell liquor 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 liquor.

Possession.

(2) No person shall, except with the permission of the Board, obtained within three months from the date upon which this Act comes into force, have or keep any liquor, other

than native wine, within the Province which has not been purchased from a Government vendor or from a physician as provided by section 56.

(3) Subsection 2 shall not apply to the Board; nor to the keeping or having of any proprietary or patent medicines or of any extracts, essences, tinctures or preparations where such having and keeping is authorized by this Act.

(4) Nothing in this section shall apply to the possession by a sheriff or his bailiff of liquor seized under execution or other judicial or extra-judicial process nor to sales under executions or other judicial or extra-judicial process to the Board. 1927, c. 70, s. 72.

73. No brewer, distiller or manufacturer of liquor shall, within the Province, by himself, his clerk, servant or agent, give to any person any liquor, except as may be permitted by and in accordance with the regulations made under this Act. 1927, c. 70, s. 73.

74. No vendor, and no person acting as the clerk or servant of or, in any capacity for any vendor, shall sell liquor in any other place or at any other time or otherwise than as authorized by this Act and the regulations. 1927, c. 70, s. 74.

75. No holder of a license under this Act, or any other person, shall for any purpose whatsoever mix or permit or cause to be mixed with any liquor kept for sale, sold or supplied by him as a beverage, any drug or any form of methylic alcohol or any crude, unrectified or impure form of ethylic alcohol or any other deleterious substance or liquid. 1927, c. 70, s. 75.

76.—(1) No member or employee of the Board shall be directly or indirectly interested or engaged in any other business or undertaking dealing in liquor, whether as owner, part owner, partner, member of syndicate, shareholder, agent or employee and whether for his own benefit or in a fiduciary capacity for some other person.

(2) No member or employee of the Board or any employee of the Government shall solicit or receive directly or indirectly any commission, remuneration or gift whatsoever from any person or corporation having sold, selling or offering liquor for sale to the Government or Board in pursuance of this Act.

(3) No person selling or offering for sale, to, or purchasing liquor from, the Government or the Board, shall either directly or indirectly offer to pay any commission, profit or remuneration, or make any gift to any member or employee of the Board or to any employee of the Government, or to anyone on behalf of such member or employee. 1927, c. 70, s. 76.

Taking liquor unlawfully disposed of.

77. Except as provided in this Act, no person shall, within the Province, by himself, his clerk, servant, or agent attempt to purchase, or directly or indirectly or upon any pretence or upon any device, purchase or in consideration of the sale or transfer of any property, or for any other consideration, or at the time of the transfer of any property, take or accept from any other person any liquor. 1927, c. 70, s. 77.

Consumption of liquor prohibited.

78. No person, within the Province of Ontario, shall consume any liquor on any premises where liquor is kept for sale. 1927, c. 70, s. 78.

Liquor which may be consumed.

79. Except in the case of native wine or wine used for sacramental purposes, or in any religious ceremony, no person shall consume liquor within the Province, unless the same has been acquired under the authority of a permit or prescription issued under this Act, or is had or kept with the permission of the Board, and unless the package in which the liquor is contained and from which it is taken for consumption has, while containing that liquor, been sealed with the official seal prescribed under this Act, and the regulations made thereunder. 1927, c. 70, s. 79.

Liquor to be sealed.

80.—(1) Except in the case of,—

- (a) liquor imported by the Government, or by the Board; or
- (b) native wines kept for sale and sold as provided by section 94; or
- (c) sacramental wines purchased as provided by the regulations; or
- (d) liquor had or kept under the provisions of section 61,

Necessity for official seal.

no liquor shall be kept or had by any person within the Province unless the package, not including a decanter or other receptacle containing the liquor for immediate consumption, in which the liquor is contained has, while containing that liquor, been sealed with the official seal prescribed under this Act.

Seizure of liquor without warrant.

(2) Any provincial police inspector, constable or other officer who finds liquor which in his opinion is had or kept by any person in violation of the provisions of this Act may, without laying any information or obtaining any warrant, forthwith seize and remove the same and the packages in which the liquor is kept, and upon conviction of the person for a violation of any provision of this section the liquor and all packages containing the same shall in addition to any other penalty prescribed by this Act, *ipso facto* be forfeited to His Majesty, in the right of the Province. 1927, c. 70, s. 80.

81.—(1) Except as expressly provided by this Act or regulations made thereunder, no person shall consume liquor in any place other than a residence.

(2) No person shall be in an intoxicated condition in a public place. 1927, c. 70, s. 81.

82. No vendor or employee of a vendor shall sell or supply liquor or permit liquor to be sold or supplied to any person under or apparently under the influence of liquor. 1927, c. 70, s. 82.

83. Liquor shall not be given, sold or otherwise supplied to any person under the age of twenty-one years, but this shall not apply to the supplying of liquor to a person under the age of twenty-one years for medicinal purposes only by the parent or guardian of such person or to the administering of liquor to such person by a physician or as provided by this Act. 1927, c. 70, s. 83.

84. Except in the case of liquor administered by a physician or dentist or sold upon a prescription in accordance with the provisions of this Act, no person shall procure or supply or assist directly or indirectly in procuring or supplying liquor for or to any person whose permit is suspended or has been cancelled. 1927, c. 70, s. 84.

85. Except in the case of liquor supplied to an interdicted person upon the prescription of a physician, or administered to him by a physician or dentist pursuant to this Act, no person shall procure for or sell, or give, to any interdicted person, any liquor, nor directly or indirectly assist in procuring or supplying any liquor to any interdicted person. 1927, c. 70, s. 85.

86. No permit shall be issued to any interdicted person, and every interdicted person who makes application for a permit, or who enters or is found upon the premises of any Government store shall be guilty of an offence against this Act. 1927, c. 70, s. 86.

87. No person whose permit to purchase liquor has been cancelled shall, within a period of twelve months, after the date of such cancellation, make application for another permit under this Act. 1927, c. 70, s. 87.

88.—(1) No person shall purchase or attempt to purchase liquor under a permit which is suspended, or which has been cancelled, or of which he is not the holder.

(2) No person shall apply in any name except his own for the issue to him of a permit authorizing the purchase of liquor or beer. 1927, c. 70, s. 88.

Permitting
drunkenness.

89.—(1) No person shall,—

- (a) permit drunkenness to take place in any house or on any premises of which he is the owner, tenant or occupant; or
- (b) permit or suffer any person apparently under the influence of liquor to consume any liquor in any house or on any premises of which the first-named person is owner, tenant or occupant; or
- (c) give any liquor to any person apparently under the influence of liquor. 1927, c. 70, s. 89.

Having
liquor with-
out permit.

90.—(1) Except as authorized by this Act, no person, not holding a permit under this Act entitling him so to do, shall have any liquor in his possession within the Province.

Possession
of liquor not
acquired
under permit.

(2) A holder of an individual permit may have in his possession and consume in his residence, only the liquor acquired by him under his individual permit or had or acquired by him otherwise under the provisions of this Act or regulations. 1927, c. 70, s. 90.

Hotels.

91. Except as provided by the regulations and except in the case of liquor kept and consumed pursuant to a special permit granted under the provisions of section 37 of this Act, no person

- (a) shall keep or consume liquor in any part of a hotel other than a private guest room;
- (b) shall keep or have any liquor in any room in a hotel unless he is a *bona fide* guest of the hotel and is duly registered in the office of the hotel as an occupant of that room and has baggage and personal effects belonging to him in the hotel. 1927, c. 70, s. 91.

Canvassing
for orders.

92.—(1) Except as permitted by this Act or regulations made thereunder, no person within the Province shall,—

- (a) canvass for, receive, take or solicit orders for the purchase or sale of any liquor or act as agent or intermediary for the sale or purchase of any liquor, or hold himself out as such agent or intermediary;
- (b) exhibit or display, or permit to be exhibited or displayed any sign or poster containing the words "bar," "bar-room," "saloon," "tavern," "spirits," or "liquors" or words of like import;
- (c) exhibit or display, or permit to be exhibited or displayed any advertisement or notice of or concerning liquor by an electric or illuminated sign, con-

Signs.

Special
signs.

trivance or device, or on any hoarding, sign-board, billboard or other place in public view or by any of the means aforesaid, advertise any liquor.

(2) This section shall not apply to any advertisement respecting beer or wine on a brewery or premises where beer or wine may be lawfully stored or kept under this Act, provided that such last mentioned advertisement has first been permitted in writing by the Board and then subject to the directions of the Board. Exception as to beer and wine.

(3) No person shall within the Province unless authorized by the Board, exhibit, publish or display, or permit to be exhibited, published or displayed any other advertisement, or form of advertisement, or any other announcement, publication or price list of or concerning liquor or where or from whom the same may be had, obtained or purchased. Advertising.

(4) This section shall not apply to,—

Exception.

(a) the Board nor to any act of the Board, nor to any Government store; nor

(b) the receipt or transmission of a telegram or letter by any telegraph agent or operator or post office employee in the ordinary course of his employment as such agent, operator or employee. 1927, c. 70, s. 92.

93. Every person manufacturing or brewing beer shall put upon all bottles containing beer so manufactured or brewed for sale within the Province a distinctive label showing the nature of the contents, the name of the person by whom the beer is manufactured or brewed, and the place where the beer was brewed; and shall show clearly on all barrels or other receptacles containing beer so manufactured or brewed, whether bottled or otherwise, the nature of the contents, the name of the person by whom the beer is manufactured or brewed, and the place where the beer was brewed. For the purposes of this section, the contents of bottles, barrels, and other receptacles containing beer shall be shown by the use of the word "beer," "ale," "stout," or "porter" on the outside of all bottles, barrels and other receptacles. 1927, c. 70, s. 93. Labels, etc., for beer or liquor.

94.—(1) Notwithstanding anything in this Act contained but subject to any regulations or restrictions which the Board may impose, manufacturers of native wines from grapes or cherries grown and produced in Ontario may sell, keep, or offer for sale and deliver the same in such quantities as may be permitted by the Board for consumption in a private residence. Sale of native wine.

Sales prohibited.

(2) A manufacturer of native wines shall not sell such wines otherwise than as permitted by this section or allow any wine so sold, or any part thereof, to be drunk upon the premises of such manufacturer. 1927, c. 70, s. 94.

Order of interdiction.

95.—(1) Where it is made to appear to the satisfaction of a judge of the county or district court that any person, resident or sojourning within the Province, by excessive drinking of liquor, misspends, wastes, or lessens his estate, or injures his health, or interrupts the peace and happiness of his family, the judge may make an order of interdiction directing the cancellation of any permit held by that person, and prohibiting the sale of liquor to him until further ordered; and the judge shall cause the order to be forthwith filed with the Board.

Disregard of order.

(2) Every interdicted person keeping or having in his possession or under his control any liquor shall be guilty of an offence against this Act, and, on summary conviction thereof, the justice making the conviction may in and by the conviction declare the liquor and all packages in which the same is contained to be forfeited to His Majesty in the right of the Province. 1927, c. 70, s. 95.

Delivering up of liquor on interdiction.

96. Provided that on the making of an order for interdiction the interdicted person may forthwith deliver to the Board all liquor then in his possession or under his control to be kept for him by the Board until the order of interdiction is revoked or set aside, or to be purchased by the Board at a price to be fixed by it. 1927, c. 70, s. 96.

Cancellation of permit.

97. Upon receipt of the order of interdiction, the Board shall cancel any permit held by the interdicted person, and shall notify the interdicted person and all vendors, and such other persons as may be provided by the regulations, of the cancellation of the permit, and of the order of interdiction so made and filed prohibiting the sale of liquor to the interdicted person. 1927, c. 70, s. 97.

Revocation of order.

98.—(1) Upon an application to the judge by any person in respect of whom an order of interdiction has been made under this Act, and upon it being made to appear to the satisfaction of the judge that the circumstances of the case did not warrant the making of the order of interdiction, or upon proof that the interdicted person has refrained from drunkenness for at least twelve months immediately preceding the application, the judge may by order set aside the order of interdiction filed with the Board, and the interdicted person may be restored to all his rights under this Act, and the Board shall accordingly forthwith notify all vendors and such other persons as may be provided by the regulations.

(2) The applicant shall, at least ten clear days before the application, give notice thereof to the Board, in writing served upon the Board, and to such other persons as the judge may direct. 1927, c. 70, s. 98.

PENALTIES AND PROCEDURE.

99. Every person who violates any provision of this Act or the regulations made thereunder shall be guilty of an offence against this Act, whether or otherwise so declared or not. 1927, c. 70, s. 99.

100. Every brewer, distiller or manufacturer who is convicted of keeping for sale or selling liquors by himself, or by his clerk, servant, agent or employee contrary to the provisions of this Act, or of the regulations made thereunder shall incur a penalty of \$5,000. 1927, c. 70, s. 100.

101.—(1) Every person who violates any provision of section 74 shall for a first offence be imprisoned for not more than six months, and for a second or subsequent offence be imprisoned for not more than twelve months.

(2) Every person who violates any provisions of section 76 hereof shall be imprisoned for not more than twelve months. 1927, c. 70, s. 101.

102. Every person who knowingly violates any provision of sections 83 and 85 shall for the first offence be imprisoned for not less than one month, nor more than three months, and for a second or subsequent offence, be imprisoned for not less than four months, nor more than twelve months. 1927, c. 70, s. 102.

103.—(1) Every person who violates any of the provisions of subsection 1 of section 72 of this Act shall for a first offence be imprisoned for not less than two months or more than six months, and for a second or subsequent offence be imprisoned for six months.

(2) Every person who violates any of the provisions of section 75 of this Act shall for a first offence be imprisoned for not less than six months nor more than one year, and for a second or subsequent offence shall be imprisoned for not less than one year.

(3) Every one who violates any of the provisions of sections 34, 35, 42, 56, 58, 59, 60, subsection 2 of section 72 or sections 84, 90, 91 or 92 shall be liable for a first offence to a fine of not less than \$100 nor more than \$1,000 and in default of immediate payment shall be imprisoned for a period of one month, and for a second or subsequent offence to imprisonment for one month.

Corpora-
tions.

(4) If the offender convicted of an offence referred to in this section is a corporation, it shall be liable to a penalty of not less than \$1,000 nor more than \$3,000. 1927, c. 70, s. 103.

General
penalty.

104.—(1) Every person guilty of an offence against this Act for which no penalty has been specifically provided shall be liable, for a first offence to a penalty of not less than \$10, nor more than \$100 and in default of immediate payment, to imprisonment for not more than thirty days; for a second offence to imprisonment for not less than one month nor more than two months, or to a penalty of not less than \$200 nor more than \$500 and, in default of immediate payment, to imprisonment for not less than two months nor more than four months; and for a third or subsequent offence to imprisonment for not less than three months nor more than six months, without the option of a fine.

Corpora-
tions.

(2) If the offender convicted of an offence referred to in this section is a corporation, it shall for a first offence be liable to a penalty of not less than \$1,000 nor more than \$2,000 and for a second or subsequent offence to a penalty of not less than \$2,000 nor more than \$3,000. 1927, c. 70, s. 104.

Recovery of
penalties
from corpor-
ation by
distress.

105.—(1) 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, or justice, by his or their conviction or order, after adjudging payment of such penalty, compensation or sum of money with 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.

Enforcing
judgment
against cor-
poration.

(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, or justice, or by the officer in whose custody the same is by law required to be kept, may be filed in the proper county or district 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.

Cancella-
tion of
license of
corporation.

(3) In the case of the conviction of or an order against a corporation which by the law of Ontario is required to obtain a license to carry on its business in Ontario and has obtained such license, if the penalty, compensation or sum of money be not paid according to the terms of the conviction or order, the Lieutenant-Governor in Council may, in case of such default in payment of penalty, compensation or sum of money as aforesaid, cancel and revoke the license so issued to such corporation.

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

(5) Notwithstanding anything in this Act where a pecuniary penalty is imposed, the justice may in his discretion order that in default of payment of the penalty distress shall issue for the recovery thereof or he may if he sees fit order that in default of immediate payment of the penalty the offender shall be committed to gaol for such period as may be allowed by law. 1927, c. 70, s. 105.

Power to
issue distress
on non-
payment of
penalty.

106. Where an offence against this Act is committed by a corporation, the officer or agent of the corporation in charge of the premises in which the offence is committed shall *prima facie* be deemed to be a party to the offence so committed, and shall be personally liable to the penalties prescribed for the offence as a principal offender; but nothing in this section shall relieve the corporation or the person who actually committed the offence from liability therefor. 1927, c. 70, s. 106.

Offence by
corporation.

107. Upon proof of the fact that an offence against this Act has been committed by any person in the employ of the occupant of any house, shop, room, or other premises in which the offence is committed, or by any person who is suffered by the occupant to be or remain in or upon such house, shop, room or premises, or to act in any way for the occupant, the occupant shall *prima facie* be deemed to be a party to the offence so committed, and shall be liable to the penalties prescribed for the offence as a principal offender, notwithstanding the fact that the offence was committed by a person who is not proved to have committed it under or by the direction of the occupant; but nothing in this section shall relieve the person actually committing the offence from liability therefor. 1927, c. 70, s. 107.

Liability of
occupant.

108.—(1) Upon information on oath by any provincial police inspector, constable or other officer, that he suspects or believes that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any building or premises, it shall be lawful for any justice, or any justice of the peace, by warrant under his hand, to authorize and empower the inspector or constable, or any other person named therein, to enter and search the building or premises and every part thereof at any time and for that purpose to break open any door, lock, or fastening of the building or premises or any part thereof, or any closet, cupboard, box, or other receptacle therein which might contain liquor.

Search with
warrant.

Reasons for suspicion need not be set out.

Search without warrant.

Obstruction.

Arrest without warrant.

Search of vehicles without warrant.

Penalty.

(2) It shall not be necessary for the inspector, constable or other officer to set out in the information any reason or grounds for his suspicion or belief.

(3) Any provincial police inspector, other officer or constable who is authorized in writing for the purpose by the Minister, if he believes that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any building or premises may without warrant enter and search the building or premises, and every part thereof and for that purpose may break open any door, lock, or fastening of the building or premises or any part thereto, or any closet, cupboard, box or other receptacle therein which might contain liquor, and such authority shall be a general one and shall be effective until revoked.

(4) Every person being in the building or premises or having charge thereof who refuses or fails to admit any inspector or constable demanding to enter in pursuance of this section in the execution of his duty, or who obstructs or attempts to obstruct the entry of such inspector or constable, or any such search by him, shall be guilty of an offence against this Act. 1927, c. 70, s. 108.

109. Any police officer or constable may arrest without warrant any person whom he finds committing an offence against this Act. 1927, c. 70, s. 109.

110. Any provincial police inspector, or constable or other officer, if he believes that liquor is unlawfully kept or had, or kept or had for unlawful purposes, and is contained in any vehicle, motor-car, automobile, vessel, boat, canoe, or conveyance of any description, or is unlawfully kept or had, or kept or had for unlawful purposes, on the lands or person of any person, shall have power without warrant to search for such liquor wherever he may suspect it to be, and if need be, by force, and may search the person himself, and may seize and remove any liquor found and the packages in which the same is kept. 1927, c. 70, s. 110.

111. Where the provincial police inspector, constable, or other officer, in making or attempting to make any search under or in pursuance of the authority conferred by section 108 or 110 of this Act, finds in any building or place any liquor which in his opinion is unlawfully kept or had, or kept or had for unlawful purposes, contrary to any of the provisions of this Act, he may forthwith seize and remove the same and the packages in which the same is kept, and may seize and remove any book, paper or thing found in the building or place which in his opinion will afford evidence as to the commission of any offence against this Act; and upon the conviction of the occupant of such building or place or any other person for

keeping the liquor contrary to any of the provisions of this Act in such building or place, the justice making the conviction shall in and by the conviction declare the liquor and packages or any part thereof to be forfeited to His Majesty, in the right of the Province. 1927, c. 70, s. 111.

112. Where the provincial police inspector, constable, or other officers, in making or attempting to make any search under or in pursuance of the authority conferred by section 110 finds in any vehicle, motor-car, automobile, vessel, boat, canoe, or conveyance of any description, liquor which in his opinion is unlawfully kept or had, or kept or had for unlawful purposes contrary to any of the provisions of this Act, he may forthwith seize the liquor and the packages in which the same is contained, and the vehicle, motor-car, automobile, vessel, boat, canoe, or conveyance in which the said liquor is so found; and upon the conviction of the occupant or person in charge of the vehicle, motor-car, automobile, vessel, boat, canoe, or conveyance or of any other person, for having or keeping the said liquor contrary to any of the provisions of this Act in such vehicle, motor-car, automobile, vessel, boat, canoe, or conveyance, the justice making the conviction may in and by the conviction declare the liquor or any part thereof so seized and the packages in which the same is contained to be forfeited to His Majesty; and the justice may in and by the conviction further declare the vehicle, motor-car, automobile, vessel, boat, canoe or conveyance so seized to be forfeited to His Majesty, in the right of the Province. 1927, c. 70, s. 112.

113.—(1) Where liquor is found by any provincial police inspector, constable or other officer on any premises or in any place under such circumstances and in such quantities as to satisfy the inspector, constable, or officer, that such liquor is being had or kept contrary to any of the provisions of this Act, it shall be lawful for the inspector, constable, or officer to forthwith seize and remove by force, if necessary, any liquor so found, and the packages in which the liquor was had or kept.

(2) Where liquor has been seized by an inspector, constable or officer under any of the provisions of this Act, under such circumstances that the inspector or constable is satisfied that such liquor was had or kept contrary to any of the provisions of this Act, he shall, under the provisions of this section, retain the same and the packages in which the same was had or kept.

(3) If within thirty days from the date of its seizure no person, by notice in writing filed with the Board, claims to be the owner of the liquor, the liquor and all packages containing the same shall *ipso facto* be forfeited to His Majesty in the right of the Province, and shall forthwith be delivered to the Board.

Seizure,
and forfei-
ture of
liquor and
vehicles, etc.

Seizure and
forfeiture of
liquor unlaw-
fully kept.

Possession of
seized goods.

Forfeiture
where not
claimed.

**Proof of
claim.**

(4) If within the said time any claimant appears, it shall be incumbent upon him within that time, and after three days' notice in writing filed with the Board stating the time and place fixed for the hearing, to prove his claim and his right under the provisions of this Act to the possession of such liquor and packages to the satisfaction of any justice, and on failure within that time to prove and establish his claim and right the liquor and packages shall *ipso facto* be forfeited to His Majesty, in the right of the Province. 1927, c. 70, s. 113.

**Delivery of
forfeited
liquor to
Board.**

114.—(1) In every case in which a justice makes any order for the forfeiture of liquor under any of the provisions of this Act, and in every case in which any claimant to liquor under the provisions of section 113 hereof, fails to establish his claim and right thereto, the liquor in question and the packages in which the liquor is kept shall forthwith be delivered to the Board.

**Purchase of
forfeited
liquor by
board.**

(2) The Board shall thereupon determine the market value of all forfeited liquor which is found to be suitable for sale in the Government stores, and the Board shall pay the amount so determined to the Treasurer of Ontario, after deducting therefrom the expenses necessarily incurred by the Board for transporting the forfeited liquor to the Government warehouses, and the liquor suitable for sale shall be taken into stock by the Board and sold under the provisions of this Act.

**Destruction
of forfeited
liquor unfit
for use.**

(3) All forfeited liquor which is found to be unsuitable for sale in Government stores shall be destroyed under competent supervision as may from time to time be directed by the Board.

**Report on
seizure.**

(4) In every case in which liquor is seized by a provincial police inspector, constable or other officer it shall be his duty to forthwith make or cause to be made to the Board a report in writing, of the particulars of such seizure. 1927, c. 70, s. 114.

**Duties of
officers and
Crown
Attorneys
on receiving
information
of infringement
of this
Act.**

115. Where any information is given to any provincial police inspector, constable or other officer, that there is cause to suspect that some person is contravening any of the provisions of this Act, it shall be his duty to make diligent enquiry into the truth of such information, and to enter complaint of such contravention before the proper court, without communicating the name of the person giving such information; and it shall be the duty of the Crown Attorney within the county in which the offence is committed to attend to the prosecution of all cases submitted to him by an inspector or constable or by an officer appointed under this Act by the Board or by any officer appointed by the council of a municipality under section 121 and the council appointing such officer shall be responsible for the payment of the proper fees of the Crown Attorney when so employed by such officer. 1927, c. 70, s. 115.

116.—(1) For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this Act, any inspector or officer appointed by the Board in writing for the purpose or any provincial inspector, constable or other officer, may inspect the freight and express books and records, and all way-bills, bills of lading, receipts, and documents in the possession of any railway company, express company, or other common carrier doing business within Ontario, containing any information or record relating to any goods shipped or carried or consigned or received for shipment or carriage within Ontario.

(2) Every railway company, express company, or common carrier, and every officer or employee of any such company or common carrier, who neglects or refuses to produce and submit for inspection any book, record, or document referred to in the next preceding section when requested to do so by the Board or by such inspector or officer, provincial inspector or constable shall be guilty of an offence against this Act. 1927, c. 70, s. 116.

117. In describing the offence respecting the sale or keeping for sale or other disposal of liquor, or the having, keeping, giving, purchasing 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, or consumption of liquor simply, without stating the name or kind of such liquor or the price thereof, or 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, purchased 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. 1927, c. 70, s. 117.

118. Notwithstanding anything in this Act, at any time before judgment the justice may amend or alter any information and may substitute for the offence charged therein any other offence against the provisions of this Act; but, if it appears that the defendant has been materially misled by such amendment, the justice shall thereupon adjourn the hearing of the case to some future day, unless the defendant waives such adjournment. 1927, c. 70, s. 118.

119. The penalties in money imposed under this Act or any portion of them that may be recovered except as provided in the next section shall be paid to the convicting justice in the case, and shall by him be paid to the district inspector of provincial police, whose duty it is to enforce the provisions

Duties of officers.

Carriers not producing records.

Description of offence.

Powers as to amendment.

Payment over and application of penalty.

of this Act in any county or district in which the offence was committed, to be paid or remitted to the Board in accordance with its regulations. 1927, c. 70, s. 119.

Penalties payable to municipalities.

120. Where an officer appointed under section 121 is the prosecutor or complainant, the penalty in money or such part thereof as the Board may by regulation determine, shall be paid to the treasurer of the local municipality, wherein the offence was committed. 1927, c. 70, s. 120.

Appointment of officers by councils to enforce provisions of this Act.

121. The council of any municipality may by by-law appoint an officer or officers whose duty it shall be to enforce the provisions of this Act within the municipality, and such council may by by-law provide for the payment of such officer or officers, and for payment of any expenses incurred in such enforcement out of the general funds of the municipality, and every officer so appointed shall have within the municipality for which he is appointed all the powers conferred on a provincial constable under this Act, and all the provisions of this Act, applicable to any such constable shall apply to any officer appointed under this section and acting within the municipality for which he is appointed in the same manner and to the same extent as if such municipal officer were expressly mentioned in such provisions, but nothing in this section contained shall be construed to authorize the payment to such officer of any part of the fines recovered under this Act. 1927, c. 70, s. 121.

Officers appointed by councils.

Information.

122. All informations or complaints for the prosecution of any offence against any of the provisions of this Act, shall be laid or made in writing, within three months after the commission of the offence or after the cause of action arose, and not afterwards, before any justice of the peace for the county in which the offence is alleged to have been committed, and may be made without any oath or affirmation to the truth thereof, and the same may be according to form provided in the regulations or to the like effect. 1927, c. 70, s. 122.

When to be laid.

Form.

All prosecutions may be before justice.

123. All prosecutions under this Act, whether for the recovery of a penalty or otherwise, shall take place before a police magistrate having jurisdiction or before two or more justices of the peace where no such police magistrate is available. 1927, c. 70, s. 123.

Recovery of penalties.

Rev. Stat. c. 121.

124. Except, so far as otherwise provided by this Act, the penalties imposed by or under the authority of this Act, shall be recoverable under *The Summary Convictions Act* and the provisions of the said Act shall apply to every prosecution hereunder. Provided, however, that no justice shall have power to suspend the imposition of any such penalties. 1927, c. 70, s. 124.

125. The description of any offence under this Act, in the words of this Act, or in any words of like effect, shall be sufficient in law; and any exception, exemption, provision, excuse, or qualification, whether it occurs by way of proviso or in 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 is 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. 1927, c. 70, s. 125.

126. In any prosecution under this Act for the sale or keeping for sale or other disposal of liquor, or the having, keeping, giving, purchasing, or consuming of liquor, it shall not be necessary that any witness should depose to the precise description or quantity of the liquor sold, disposed of, kept, had, given, purchased, or consumed, or the precise consideration (if any) received therefor, or to the fact of the sale or other disposal having taken place with his participation or to his own personal or certain knowledge; but the justice trying the case, so soon as it appears to him that the circumstances in evidence sufficiently establish the offence complained of, shall put the defendant on his defence, and, in default of his rebuttal of such evidence to the satisfaction of the justice, convict him accordingly. 1927, c. 70, s. 126.

127. In proving the sale, disposal, gift or purchase, gratuitous or otherwise, or consumption of liquor, it shall not be necessary in any prosecution to show that any money actually passed or 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 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 or purchased by the person consuming, or being about to consume, or carrying away the same, as against the occupant of the said premises. 1927, c. 70, s. 127.

128. In any prosecution under this Act, or the regulations made thereunder, production by a police officer, policeman, constable, provincial police inspector or peace officer, of a certificate or report signed or purporting to be signed by a Dominion or provincial analyst as to the analysis or ingredients of any liquor or other fluid or any preparation, compound or substance, such certificate or report shall be conclusive evidence of the facts stated in such certificate or report and of the authority of the person giving or making the same without any proof of appointment or signature. 1927, c. 70, s. 128.

Inference as
to intoxicat-
ing liquor.

129. The justice trying a case, shall, in the absence of proof to the contrary, be at liberty to infer that the liquor in question is intoxicating from the fact that a witness describes it as intoxicating, or by a name which is commonly applied to an intoxicating liquor. 1927, c. 70, s. 129.

Inference
from circum-
stances.

130. Upon the hearing of any charge of selling or purchasing liquor, or of unlawfully having or keeping liquor, contrary to any of the provisions of this Act, the justice trying the case shall have the right to draw inferences of fact 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, canoe, conveyance, or place occupied or controlled by him, and from the frequency with which the liquor is received thereat or therein or is removed therefrom, and from the circumstances under which it is kept or dealt with. 1927, c. 70, s. 130.

Onus on
proof of
possession.

131. If, on the prosecution of any person charged with committing an offence against this Act, 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. 1927, c. 70, s. 131.

Burden of
proof.

132.—(1) The burden of proving the right to have or keep or sell or give or purchase or consume liquor shall be on the person accused of improperly or unlawfully having or keeping or selling or giving or purchasing or consuming such liquor.

Onus on
physicians.

(2) The burden of proving that any prescription or administration of liquor is *bona fide* and for medical purposes only shall be upon the person who prescribes or administers such liquor, or causes such liquor to be administered, and a justice trying a case shall have the right to draw inferences of fact from the frequency with which similar prescriptions are given and from the amount of liquor prescribed or administered, and from the circumstances under which it is prescribed or administered. 1927, c. 70, s. 132.

Procedure
where con-
viction
charged.

133.—(1) 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:

(a) The justice shall in the first instance inquire concerning such subsequent offence only, and if the accused is found guilty thereof he shall then 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 justice shall then inquire concerning such previous conviction or convictions;

- (b) Such previous convictions may be proved *prima facie* Previous convictions. by the production of a certificate purporting to be under the hand of a convicting justice or the Minister or the clerk of the court to whose office the conviction has been returned, without proof of signature or official character;
- (c) 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 convictions being set aside, quashed, or otherwise rendered void, a justice 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; Procedure where previous conviction avoided.
- (d) In case any person who has been convicted of a violation of any provision of this Act is afterwards convicted of a violation of any other provision of this Act, such later conviction shall be deemed a conviction for a second offence within the meaning of this Act, and shall be dealt with and punished accordingly, although the two convictions may have been under different sections. Conviction under different sections.

(2) Charges of several offences against this Act committed by the same person may be included in one and the same information, if the information and the summons or warrant issued thereon contain specifically the time and place of each offence. Including several charges in one information.

(3) One conviction for several offences, and providing a separate penalty or punishment for each, may be made under this Act, although such offences may have been committed on the same day, but the increased penalty or punishment herein before imposed shall only be incurred or awarded in the case of offences committed on different days and after information laid for a first offence. 1927, c. 70, s. 133. One conviction for several offences.

Service on corporations.

134. 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 the corporation by delivering the same to any officer, attorney or agent of the corporation within the Province, or by leaving it at any place within the Province, where it carries on any business. Provided that service in any other way shall be deemed sufficient if the court or justice 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, is of the opinion that the service has been such as to bring the summons, warrant, order, writ, or other proceeding to the notice of the corporation. 1927, c. 70, s. 134.

Presumption as to incorporation.

135. In any prosecution, action or proceeding under this Act in which it is alleged that a corporation is or has been guilty of an offence against this Act, the fact of the incorporation of that corporation shall be presumed without it being proved by the prosecutor, unless satisfactory proof is produced to the contrary. 1927, c. 70, s. 135.

Informality not to invalidate.

136.—(1) No order or warrant based upon a conviction and no search warrant, shall upon any application, by way of *certiorari* or motion to quash or *habeas corpus* be held insufficient or invalid for any irregularity, informality or insufficiency therein or by reason of any defect of form or substance.

Amendment.

(2) The court or judge hearing any such application may amend the order, warrant, or search warrant as justice may require. 1927, c. 70, s. 136.

Notice of motion to quash conviction.

137. No motion to quash a conviction, order, or warrant, made under this Act shall be heard by the court or judge unless the notice of such motion has been served within thirty days from the date of the conviction or order. 1927, c. 70, s. 137.

Appeal to county or district judge.

138.—(1) Any person convicted under this Act may, subject to the provisions hereinafter mentioned, appeal from the conviction to the judge of the county or district court of the county or district in which the conviction is made sitting in chambers without a jury if notice of such appeal is given to the prosecutor or complainant and to the convicting justice within twenty days of such conviction.

Notice to set forth grounds and give address for service.

(a) Such notice shall set forth the grounds on which the appeal is made and shall have endorsed thereon the address at which the appellant may be served with

any notice or process in connection with any proceeding under this section or under section 139 of this Act.

(2) There shall be delivered to the convicting justice, with such notice of appeal, an affidavit of the person convicted complying with the requirements set out in subsection 15 hereof. *Affidavit to be delivered with notice of appeal.*

(3) The term "judge" as used in this Act shall mean judge or acting judge of the county or district court of a county or district, and shall include a junior judge acting at the request or in the case of the illness or absence of the judge. *Judge, meaning of.*

(4) In case the appellant has paid the fine and costs imposed upon him by the convicting justice, he may, subject to the conditions set out in subsections 1 and 2 hereof and the deposit of \$50 with the justice to answer the respondent's costs, appeal against such conviction to the judge having jurisdiction in the matter who shall hear and determine such appeal as provided in subsections 11 and 12. *Appeal after payment of fine and costs.*

(a) The deposit of \$50 referred to in this subsection shall be made at the time of the delivery of the notice of appeal or within five days thereafter, or in default of such deposit, his appeal shall be dismissed. *When deposit for costs of appeal to be made.*

(5) Subject to the next following subsection, the person convicted, if he is in custody, shall either remain in custody until the hearing of such appeal before the judge, or he may, notwithstanding any order of imprisonment either in the first instance, or in default of the payment of a fine, enter into a recognizance with two sufficient sureties in such sum or sums as the justice with the approval of the Crown Attorney may fix, conditioned personally to appear before the judge and to try such appeal and abide by his judgment thereupon, and also to pay any penalty in money and costs which the judge may order. *Recognizance.*

(6) Where the appellant desires to deposit a sum of money instead of providing sureties, he may do so on entering into a recognizance on his own behalf, and depositing an amount approved by the convicting justice and the Crown Attorney, not being less than a surety would be required to become responsible for, and any money so deposited shall be available for the payment of any fine and costs which the judge may think fit to impose. *Money deposit in lieu of recognizance.*

(7) In any case in which security is provided, whether in money or otherwise, the same shall not be withdrawn until the time has elapsed for entering an appeal, and in case of a further appeal, the security shall remain until the final disposition of the case. *When security may be withdrawn or cancelled.*

Recogni- zance.

(8)—(a) Upon the recognizance being entered into the justice shall liberate such person if in custody.

Transmission of papers to county court clerk.

(b) The justice shall immediately after such liberation or if the appellant remains in custody shall immediately after service of the notice of appeal upon the magistrate deliver or transmit by registered post to the clerk of the county or district court, to be delivered after filing to the judge appealed to the depositions and all other papers in the case, including notice of appeal and affidavit of the appellant with a certificate signed by the justice in the form hereinafter mentioned, and such certificate shall be deemed to be a part of the record.

Form.

(9) The said certificate shall be in the following form:

CERTIFICATE OF JUSTICE.

Certificate
of justice
with return.

A notice having been served upon me, the undersigned of the intention of the defendant to appeal against my decision in the case set out in the information mentioned below, I herewith in pursuance of the Statute, return the following papers therein:

- the Statute, return the following papers therein:

 1. Notice of appeal and affidavit (*if any*).
 2. Information.
 3. Summons or warrant issued thereon.
 4. The evidence.
 5. The conviction or order (*as the case may be*).
 6. Other papers (*if any*), naming them.

6. Other papers (*if any*), naming them.
And I hereby certify to the judge of the county (or district) of _____
that I have above truly set forth all the papers and documents
in my custody or power relating to the matter set forth
in the said notice of appeal,

Dated this _____ day of _____, 192 ____.

Justice

in and for the.....

Fee of clerk
of court.

(10) The appellant shall pay to the clerk of the county or district court for his attendance and services in connection with such appeal the sum of \$2, and the same shall be taxed as costs in the cause.

**Summons to
be issued by
judge.**

(11) Within fifteen days from the service of the notice of appeal the judge shall on the application of any appellant grant a summons calling upon all parties to attend before him at his chambers on the day and hour named therein when the hearing of the appeal will be proceeded with.

Appeal to be
on evidence
before
justice.

(12) The appeal shall be heard and determined upon the evidence and proceedings had and taken before the justice to be called the record, and the judge may, upon such hearing, make such order as he may think fit affirming, reversing or amending the conviction appealed from, and the conviction so made shall have the same effect and be enforced in the same way as if made by the justice whose conviction is appealed from.

(a) The order or judgment of the judge shall not take effect until fifteen days from the date thereof, provided, however, that if the release of a person from custody has been ordered the judge may, with the approval of the Crown Attorney, grant bail to the prisoner in such sum and with such surety or sureties as the judge, with the approval of the Crown Attorney may deem sufficient and may take the recognizance of the accused accordingly conditioned to abide by the decision of the Appellate Division to which an appeal may be taken as provided by section 139 of this Act.

(13) The practice and procedure upon such appeals and all proceedings thereon, shall, except as hereinbefore provided, be governed by *The Summary Convictions Act* so far as the same is not inconsistent with this Act. Application of Rev. Stat. c. 121.

(14) Any informant or complainant dissatisfied with an order of dismissal made by a justice under this Act may, with the consent of the Attorney-General, procure within fifteen days of the date of the order of dismissal, appeal to the judge of the county or district court in the county or district in which the order complained of was made, and the proceedings shall be the same as nearly as may be as in the case of an appeal by a person convicted under this Act, and the judge shall have and may exercise the same powers as in the case of an appeal against a conviction, and may make such order as he may think fit and the deposit of security in such case shall be dispensed with. Appeal from order of dismissal.

(15) No appeal shall lie from a conviction for any violation or contravention of any of the provisions of this Act unless the party appealing shall, with his notice of appeal, deliver to the justice who tried the case, 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 conviction, 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 or consent, which affidavit shall be transmitted with the conviction and other papers to the judge to whom the appeal is made, provided that where the appeal is only as against the penalty imposed by the justice the affidavit required by this section shall not be necessary. Affidavit of bona fides.

(a) If the party appealing be a corporation, the affidavit referred to in this section may be made by the president, secretary or any other officer or employee of the corporation having knowledge of the facts.

(16) Except as provided by this section, no appeal shall be taken against any conviction or order made by a justice under any of the provisions of this Act. 1927, c. 70, s. 138. Other appeals not allowed.

Appeal to divisional court.

139.—(1) At any time within fifteen days from the date of the judgment or order of any judge of a county or district court arising out of or under section 138 of this Act, the Attorney-General may direct an appeal to a divisional court of the Appellate Division of the Supreme Court of Ontario upon any question touching the validity or invalidity of any Act of this Legislature or of any part thereof, or from the judgment or order of a judge of the county or district court in any other case arising out of or under the said section in which the Attorney-General of Ontario certifies that he is of opinion that the matters in dispute are of sufficient importance to justify an appeal.

Notice of appeal.

(2) Such appeal shall be had upon notice thereof to be given to the opposite party of the intention to appeal setting forth the grounds of such appeal.

Service.

(a) Service of the notice of appeal upon the solicitor for the opposite party or upon a grown-up person at the last known place of residence or business of the opposite party or the sending of such notice by registered mail, to the last known address of such party shall be deemed good and sufficient service.

Certifying proceedings to court.

(3) The clerk of the county or district court shall certify the judgment, conviction, orders and all other proceedings to the proper officer of the Supreme Court at Toronto for use upon appeal.

Hearing and determination of appeal.

(4) The Divisional Court shall thereupon hear and determine the appeal and shall make such order for carrying into effect the judgment of the court as the court shall think fit. 1927, c. 70, s. 139.

Licensing hotels.

140.—(1) From and after the date on which this Act comes into force the Board may license one or more hotels in every municipality for the accommodation of the travelling public and other guests, and every such license shall be deemed to be a license to the person and for the premises therein described.

Regulations.

(2) The Board may by regulation define the conditions, accommodation and qualifications requisite for obtaining such license and regulate the hotels so licensed.

Standard Hotels.

(3) The hotels so licensed shall be known as Standard Hotels.

License fee.

(4) The annual fee to be paid for such license shall be \$1.

Privileges of licensee.

(5) The keeper of a standard hotel shall be entitled to sell non-intoxicating drinks and beverages other than light beer, cigars, cigarettes and tobacco, and to conduct an ice cream or general restaurant or cafe without further or other license.

(6) No restaurant license or other license to sell the articles or commodities or any of them mentioned in subsection 5 hereof, shall without the consent of the Board be issued by any municipality or under its authority in respect of any premises which form part of a building in which an unlicensed hotel, inn or house of public entertainment is carried on, whether or not there are any internal means of communication between the respective premises.

(7) The keeper of any hotel, inn or house of public entertainment not so licensed as aforesaid shall not sell or traffic in any of the articles mentioned in subsection 5, any such keeper who violates this subsection shall be guilty of an offence under this Act.

(8) The Board may cancel any such license at any time for such reason as to the Board may seem sufficient.

(9) The council of any municipality may by by-law grant any such standard hotel total or partial exemption from municipal taxation, except school and local improvement taxes. 1927, c. 70, s. 140.

141. The purpose and intent of this Act, are to prohibit transactions in liquor, which take place wholly within the Province of Ontario, except under Government control as specifically provided by this Act, and every section and provision of this Act, dealing with the importation, sale and disposition of liquor within the Province through the instrumentality of a board and otherwise provide the means by which such government control shall be made effective and nothing in this Act shall be construed as forbidding, affecting or regulating any transaction which is not subject to the legislative authority of the Province. 1927, c. 70, s. 141.

142. Notwithstanding anything in this Act contained, the Board may provide for extending the duration of any permit or license issued under *The Ontario Temperance Act*, and shall have power to deal with any unfinished business or matter under the said Act as fully and effectually as could the Board of License Commissioners for Ontario, prior to the day named by the Lieutenant-Governor in his proclamation as herein provided. 1927, c. 70, s. 142.

143.—(1) 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

Control of
restaurant
licenses.

Penalty for
sale of
articles in
unlicensed
premises.

Power to
grant tax
exemption.

General
intent.
Saving as to
legislative
authority of
the
Province.

Unfinished
or out-
standing
business of
present
Board.

Fatal acci-
dents caused
by use of
liquor.

Rev. Stat.
c. 183.

wrong, and subject to the provisions of subsection 2, such action may be brought under *The Fatal Accidents Act*, and the amount which may be recovered as damages shall not be less than \$100.

Limitation
of actions.

(2) Any such action shall be brought within six months from the date of the death of such intoxicated person and not afterwards. 1927, c. 70, s. 143.

Proclama-
tion forbid-
ding posses-
sion of
liquor.

144. In any case of emergency the Lieutenant-Governor in Council may issue a proclamation forbidding any person to have liquor in his possession within the area mentioned in such proclamation, unless such person has been authorized in writing by the Board and given special permission thereby to have liquor within that area, and the proclamation may also authorize, within such area the seizure without other warrant or authority and detention for such time as may be authorized of any liquor not had or kept with the permission of the Board within such area. The proclamation may remain in force for such period as may be therein determined. 1927, c. 70, s. 144.

Appendix III

Liquor Control Act (Ontario) 1990

Fill with mingled cream and amber,
I will drain that glass again.
Such hilarious visions clamber
Through the chambers of my brain.
Quantist thoughts – queerest fancies,
Come to life and fade away:
What care I how time advances?
I am drinking ale today.

— Edgar Allan Poe

Liquor Control Act

R.S.O. 1990, CHAPTER L.18

Consolidation Period: From June 20, 2012 to the e-Laws currency date.

Last amendment: 2012, c. 8, Sched. 31.

Definitions

1. In this Act,

“beer”, “liquor”, “spirits”, “wine” and “Ontario wine” have the same meaning as in the *Liquor Licence Act*; (“bière”, “boisson alcoolique”, “spiritueux”, “vin”, “vin de l’Ontario”)

“Board” means the Liquor Control Board of Ontario continued under section 2; (“Régie”)

“government store” means a store established or authorized under this Act by the Board for the sale of spirits, beer or wine; (“magasin du gouvernement”)

“manufacturer” means a person who produces liquor for sale; (“fabricant”)

“Minister” means the minister responsible for the administration of this Act. (“ministre”)

R.S.O. 1990, c. L.18, s. 1; 1996, c. 26, s. 2 (1); 2006, c. 33, Sched. Q, s. 1.

Board continued

2. (1) The Liquor Control Board of Ontario is continued under the name Liquor Control Board of Ontario in English and Régie des alcools de l’Ontario in French and shall consist of not more than 11 members appointed by the Lieutenant Governor in Council who shall form its board of directors. R.S.O. 1990, c. L.18, s. 2 (1); 1994, c. 9, s. 1 (1); 2006, c. 33, Sched. Q, s. 2.

Terms of office

(2) The members of the Board shall be appointed to hold office for a term not exceeding five years and may be reappointed for further succeeding terms not exceeding five years each. R.S.O. 1990, c. L.18, s. 2 (2).

Chair and Vice-Chair

(3) The Lieutenant Governor in Council shall designate one of the members to be Chair of the Board and may designate one of the members to be Vice-Chair of the Board. R.S.O. 1990, c. L.18, s. 2 (3).

Acting Chair

(4) In case of the absence or illness of the Chair or there being a vacancy in the Office of the Chair, the Vice-Chair or, if none, such member as the Board designates for such purpose shall act as and have all the duties and powers of the Chair. R.S.O. 1990, c. L.18, s. 2 (4); 1994, c. 9, s. 1 (2).

Remuneration of members

(5) The members of the Board shall be paid such remuneration as is fixed by the Lieutenant Governor in Council. R.S.O. 1990, c. L.18, s. 2 (5).

Seat in Assembly not vacated

(6) Despite anything in the *Legislative Assembly Act*, the appointment of the Chair or of any other member of the Board, if a member of the Assembly, shall not be avoided by reason

of the payment to him or her or the acceptance by him or her of any salary or other remuneration under this Act, nor shall he or she thereby vacate or forfeit his or her seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. R.S.O. 1990, c. L.18, s. 2 (6).

Power and purposes of Board

- 3.** (1) The purposes of the Board are, and it has power,
 - (a) to buy, import and have in its possession for sale, and to sell, liquor and other products containing alcohol and non-alcoholic beverages;
 - (b) to control the sale, transportation and delivery of liquor;
 - (c) to make provision for the maintenance of warehouses for liquor and to control the keeping in and delivery from any such warehouses;
 - (d) to establish government stores for the sale of liquor to the public;
 - (e) to authorize manufacturers of beer and spirits and wineries that manufacture Ontario wine to sell their beer, spirits or Ontario wine in stores owned and operated by the manufacturer or the winery and to authorize Brewers Retail Inc. to operate stores for the sale of beer to the public;
 - (f) to control and supervise the marketing methods and procedures of manufacturers and of wineries that manufacture Ontario wine including the operation of government stores by persons authorized under clause (e);
 - (g) subject to the *Liquor Licence Act*, to determine the municipalities within which government stores shall be established or authorized and the location of such stores in such municipalities;

- (h) to determine the classes, varieties and brands of liquor to be kept for sale at government stores and maintain standards therefor;
- (i) to fix the prices at which the various classes, varieties and brands of liquor are to be sold and, except in the case of liquor sold through an outlet designated by the Minister of National Revenue under the *Excise Act* (Canada) as a duty free sales outlet, such prices shall be the same at all government stores;
- (j) to determine the nature, form and capacity of all packages to be used for containing liquor to be kept or sold and to administer or participate in such waste management programs for packaging as the Minister may direct;
- (k) to appoint one or more vendors of sacramental wines in any municipality and to control the keeping for sale, sale and delivery of sacramental wines;
- (l) to lease or, subject to the approval of the Lieutenant Governor in Council, to purchase such land and buildings and erect such buildings as are necessary for the purposes of the Board;
 - (l.1) to sell, lease or otherwise dispose of land and buildings;
- (m) to require manufacturers of liquor and wineries that manufacture Ontario wine to furnish such samples of their products to the Board as the Board may require;
- (m.1) to establish fees, subject to the approval of the Minister, and provide for refunds under this Act and the regulations made under it;
- (n) to do all things necessary for the management and operation of the Board in the conduct of its business;

(o) to do all things necessary or incidental to the attainment of any of the purposes set out in clauses (a) to (n). R.S.O. 1990, c. L.18, s. 3; 1994, c. 9, s. 2 (1); 1996, c. 26, s. 2 (2); 2006, c. 33, Sched. Q, s. 3; 2011, c. 9, Sched. 23, s. 1; 2012, c. 8, Sched. 31, s. 1.

Additional powers of Board

- (2) The Board has the power to establish conditions with respect to,
- (a) subject to any regulation, authorizations for government stores under clause (1) (e);
 - (b) appointments of vendors of sacramental wines under clause (1) (k);
 - (c) authorizations granted by the Board with respect to the importation of liquor on the Board's behalf;
 - (d) subject to any regulation, authorizations granted by the Board with respect to the transportation and delivery of liquor;
 - (e) subject to any regulation, authorizations granted by the Board with respect to the maintenance of warehouses for liquor and the keeping in and delivery from any such warehouses; and
 - (f) any other authorizations or appointments granted or made by the Board. 1994, c. 9, s. 2 (2).

Power of Board to borrow

- (3) The Board has the power to borrow money on its credit, subject to the approval in writing of the Minister and the Minister of Finance. 2008, c. 7, Sched. L, s. 1 (1).

Terms and conditions

(4) An approval under subsection (3) may be subject to such terms and conditions as the Minister and the Minister of Finance consider advisable. 2008, c. 7, Sched. L, s. 1 (1).

Borrowing, capital expenditures

(5) Despite subsection 5 (1), if the Board proposes to undertake a major capital expenditure, it shall borrow the necessary funds in accordance with this section. 2008, c. 7, Sched. L, s. 1 (2).

Major capital expenditure

(6) An expenditure is a major capital expenditure for the purposes of this section in either of the following circumstances:

1. If it satisfies the prescribed criteria.
2. If the Minister notifies the Board in writing that the expenditure is a major capital expenditure for the purposes of this Act. 2008, c. 7, Sched. L, s. 1 (2).

Agreement with federal government

3.1 The Board may enter into an agreement with the Government of Canada, as represented by the Minister of National Revenue, in relation to liquor referred to in that agreement that is brought into Ontario from any place outside Canada,

- (a) appointing officers, as defined in subsection 2(1) of the *Customs Act* (Canada), employed at customs offices located in Ontario, as agents of the Board for the purposes of,

- (i) accepting, on behalf of the Board, liquor brought into Ontario,
 - (ii) collecting, on behalf of the Board, the mark-up set by the Board from time to time in relation to that liquor,
 - (iii) selling and releasing, on behalf of the Board, to the person bringing the liquor into Ontario, on the payment of the mark-up, the liquor in relation to which the mark-up is paid, and
 - (iv) detaining the liquor on behalf of the Board and releasing it to the Board where the mark-up is not paid by the person bringing the liquor into Ontario;
- (b) authorizing, in such circumstances and on such conditions as may be specified in the agreement, the payment, on behalf of the Board, to a person who has paid the mark-up, of a refund of any or all of the mark-up collected in accordance with subclause (a) (ii) and the agreement;
- (c) requiring, in such manner and at such time or times as may be specified in the agreement, the remittance to the Board of the mark-up collected in accordance with subclause (a) (ii) and the agreement;
- (d) respecting forms to be used in relation to liquor brought into Ontario; and
- (e) respecting any other matter in relation to liquor brought into Ontario. 1992, c. 28, s. 2.

Waste management programs

3.2 (1) The Minister may direct the Board to administer or participate in waste management programs for packaging on such terms as the Minister may specify, and to perform such functions respecting a waste management program as the Minister may require. 2011, c. 9, Sched. 23, s. 2.

Same

(2) If the Minister directs the Board to participate in a waste management program for packaging that is administered in whole or in part by another person, the Minister may, in the direction, require the Board to make payments to that person for services provided and costs incurred by the person in connection with the program. 2011, c. 9, Sched. 23, s. 2.

Duties of Chair, members

4. (1) The Chair shall preside at all meetings of the Board or, in his or her absence or if the office of Chair is vacant, the Vice-Chair has all the powers and shall perform all the duties of the Chair. 2006, c. 33, Sched. Q, s. 4.

Same

(2) The Chair and the other members of the Board shall devote such time as is necessary for the due performance of their duties as members of the Board. 2006, c. 33, Sched. Q, s. 4.

Chief executive officer

4.0.1 (1) Subject to the approval of the Minister, the Board shall appoint a person to be the chief executive officer of the Board to be responsible for its operation and for the performance of such other functions as are assigned by the Board. 2006, c. 33, Sched. Q, s. 4.

Attend meetings

(2) The chief executive officer may attend and participate at any meeting of the Board but shall not have a vote with respect to any matter to be decided at the meeting. 2006, c. 33, Sched. Q, s. 4.

Exception

(3) Despite subsection (2), the Board may exclude the chief executive officer from attending any meeting if a matter to be discussed at the meeting involves the position, performance or functions and duties of the chief executive officer. 2006, c. 33, Sched. Q, s. 4.

Staff

4.0.2 (1) The Board may appoint such officers, inspectors and employees and retain such assistance as is considered necessary and may, subject to the approval of the Lieutenant Governor in Council, establish job categories, salary ranges and conditions of employment. 2006, c. 33, Sched. Q, s. 4.

Approval by Minister

(2) Despite subsection (1), job categories, salary ranges and conditions of employment of officers, inspectors and employees appointed by the Board who are not members of a bargaining unit, as defined in the *Labour Relations Act, 1995*, must be approved by the Minister and not by the Lieutenant Governor in Council. 2006, c. 33, Sched. Q, s. 4.

Pension plan

(3) The Board shall be deemed to have been designated by the Lieutenant Governor in Council under the *Public Service Pension Act* as a board whose permanent and full time probationary staff are required to be members of the Public Service Pension Plan. 2006, c. 33, Sched. Q, s. 4.

Status of Board

4.0.3 (1) The Board is a corporation to which the *Corporations Act* does not apply. 2006, c. 33, Sched. Q, s. 4.

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, subsection (1) is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”. See: 2011, c. 9, Sched. 23, ss. 3, 6 (2).

Crown agent

(2) The Board is for all purposes an agent of Her Majesty and its powers may be exercised only as an agent of Her Majesty. 2006, c. 33, Sched. Q, s. 4.

Delegation

4.0.4 (1) The Board may delegate its powers under this Act, as it considers appropriate, to a committee of the Board, to its chief executive officer or to any other person. 2006, c. 33, Sched. Q, s. 4.

Further delegation

(2) The powers delegated to the chief executive officer or other person may be further delegated to an officer, employee or agent of the Board upon such terms as may be specified by the Board. 2006, c. 33, Sched. Q, s. 4.

Restriction

(3) Despite subsection (1), the Board may not delegate the power to,

- (a) appoint or remove the chief executive officer or the internal auditor of the Board;
- (b) make, amend or repeal a by-law of the Board; or
- (c) approve the business plan, financial statements or annual report of the Board. 2006, c. 33, Sched. Q, s. 4.

Protection from personal liability

4.0.5 (1) No action or other proceeding may be instituted against any member of the Board or any officer or employee of the Board for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty under this Act. 2006, c. 33, Sched. Q, s. 4.

Board liability

(2) Subsection (1) does not relieve the Board of any liability to which it would otherwise be subject in respect of a tort committed by a person referred to in subsection (1). 2006, c. 33, Sched. Q, s. 4.

Inspectors

4.1 (1) The Chair of the Board may designate any person as an inspector to carry out inspections for the purpose of determining whether there is compliance with this Act, the *Liquor Licence Act*, the *Wine Content Act* and the regulations under those Acts. 1994, c. 9, s. 3.

Proof of designation

(2) An inspector who exercises powers under this Act shall, on request, produce his or her certificate of designation. 1994, c. 9, s. 3.

Entry without warrant

4.2 (1) An inspector may enter any premises described in subsection (2) for the purposes of ensuring compliance with this Act, the *Liquor Licence Act*, the *Wine Content Act* or any regulation under those Acts. 1994, c. 9, s. 3.

Premises

(2) An inspector may only enter premises,

- (a) at which liquor is sold, served, manufactured, kept or stored; or
- (b) at which books or records relating to the sale, service, manufacture or storage of liquor are kept or are required to be kept. 1994, c. 9, s. 3.

Powers of inspector

(3) An inspector who enters premises under subsection (1) may,

- (a) inquire into negotiations, transactions, loans or borrowings of a licensee or permit holder under the *Liquor Licence Act*, a manufacturer, a person who imports liquor, a person authorized to operate a government store or any other person who is granted an authorization or is the subject of an appointment referred to in subsection 3 (2);
- (b) inquire into assets owned, held in trust, acquired or disposed of by a licensee or permit holder under the *Liquor Licence Act*, a manufacturer, a person who imports liquor, a person authorized to operate a government store or any other person who is granted an authorization or is the subject of an appointment referred to in subsection 3 (2);
- (c) request the production for inspection or audit of books, records, documents or other things that are relevant to the inspection;
- (d) remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (e) remove things relevant to the inspection that cannot be copied and may be evidence of the commission of an offence;
- (f) remove materials or substances for examination or test purposes if the licensee, permit holder, manufacturer, importer or other occupant of the premises is given notice of the removal; and
- (g) conduct such tests as are reasonably necessary for the inspection. 1994, c. 9, s. 3.

Time for exercising powers

- (4) An inspector shall exercise the powers under this section only during normal business hours for the place the inspector has entered. 1994, c. 9, s. 3.

Entry with warrant

- 4.3** (1) A justice of the peace may issue a warrant authorizing an inspector named in the warrant to exercise any of the powers mentioned in subsection 4.2 (1) or clause 4.2 (3) (d), (e), (f) or (g) with respect to a place named in the warrant if the justice of the peace is satisfied on information under oath that,
- (a) the inspector has been denied entry to the place or has been obstructed in exercising any other of those powers with respect to the place; or
 - (b) there are reasonable grounds to believe that the inspector will be denied entry to the place or obstructed in exercising any other of those powers with respect to the place.

1994, c. 9, s. 3.

Same, search and seizure

- (2) A justice of the peace may issue a warrant authorizing an inspector named in the warrant to enter premises named in the warrant and to search for and seize any document or thing relevant to the inspection and identified in the warrant if the justice of the peace is satisfied on information under oath that there are reasonable grounds to believe that the document or thing will afford evidence relevant to a contravention of this Act, the *Liquor Licence Act*, the *Wine Content Act* or of any regulation under those Acts. 1994, c. 9, s. 3.

Same, search of dwelling

- (3) A justice of the peace may issue a warrant authorizing an inspector named in the warrant to enter and search a place used as a dwelling and identified in the warrant if the justice of the peace is satisfied on information under oath that,

- (a) it is necessary to enter and search the dwelling for the purpose of carrying out an inspection; or
- (b) a document or thing is in the dwelling and there are reasonable and probable grounds to believe the document or thing is relevant to an inspection under this Act. 1994, c. 9, s. 3.

Time of execution

- (4) Unless otherwise ordered, a warrant issued under this section shall be executed only,
 - (a) during the normal business hours of the place named in the warrant, in the case of a place of business;
 - (b) in any other case, between the hours of 6 a.m. and 9 p.m. 1994, c. 9, s. 3.

Expiry of warrant

- (5) A warrant expires no later than thirty days after the day on which it is made. 1994, c. 9, s. 3.

Renewal of warrant

- (6) A warrant may be renewed upon application for renewal made before or after expiry. 1994, c. 9, s. 3.

Grounds for renewal

- (7) A warrant may be renewed for any of the grounds mentioned in subsections (1) to (3). 1994, c. 9, s. 3.

Use of force

(8) An inspector named in a warrant may call upon police officers as necessary and use such force as is necessary to execute the warrant. 1994, c. 9, s. 3.

Return of things removed

4.4 (1) An inspector under section 4.2 or 4.3 who removes documents, material or other things in order to copy shall make the copy with reasonable dispatch and shall promptly return the things taken. 1994, c. 9, s. 3.

Admissibility of copies

(2) Copies of or extracts from documents or things removed by an inspector and certified by the inspector as being true copies of or extracts from the original are admissible in evidence to the same extent, and have the same evidentiary value, as the documents or things of which they are copies or extracts. 1994, c. 9, s. 3.

Removal of things as evidence

(3) If an inspector removes things referred to in clause 4.2 (3) (e), the inspector shall bring the things before a justice of the peace and section 159 of the *Provincial Offences Act* applies. 1994, c. 9, s. 3.

Receipt upon removal

(4) An inspector shall issue a receipt for any document or thing removed during an inspection under section 4.2 or 4.3. 1994, c. 9, s. 3.

Written request

(5) A request for production referred to in clause 4.2 (3) (c) shall be in writing and shall include a statement of the nature of the things required. 1994, c. 9, s. 3.

Experts

(6) An inspector under section 4.2 or 4.3 is entitled to call upon such experts as are necessary to assist in carrying out the inspection. 1994, c. 9, s. 3.

Obstruction

4.5 (1) No person shall obstruct an inspector who is carrying out his or her duties under this Act. 1994, c. 9, s. 3.

Duty to answer inquiries

(2) A licensee or permit holder under the *Liquor Licence Act*, a manufacturer, a person who imports liquor, a person authorized to operate a government store, or any other person who is granted an authorization or is the subject of an appointment referred to in subsection 3 (2) shall answer any inquiries made by the inspector that are relevant to the inspection. 1994, c. 9, s. 3.

Form of answer

(3) An answer given by a person mentioned in subsection (2) may be given orally or in writing and, if the inspector so requires, by statutory declaration. 1994, c. 9, s. 3.

Attendance required

(4) An inspector may require a person mentioned in subsection (2) to attend at the premises that are the object of the inspection for the purpose of answering inquiries and the person shall do so. 1994, c. 9, s. 3.

Payment of costs from revenues

5. (1) All expenses incurred and expenditures made by the Board in the conduct of its affairs shall be paid out of the revenues of the Board. R.S.O. 1990, c. L.18, s. 5 (1).

Payments into Consolidated Revenue Fund

(2) The net profits of the Board shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Lieutenant Governor in Council may direct. R.S.O. 1990, c. L.18, s. 5 (2).

Financial statements

(3) The accounts of the Board shall be made up to the 31st day of March in each year, and at such other times as is determined by the Lieutenant Governor in Council, and in every case the Board shall prepare a balance sheet and statement of profit and loss. R.S.O. 1990, c. L.18, s. 5 (3).

Reports to Minister of Finance

(4) The Board shall submit to the Minister of Finance, at such times as he or she may require, reports setting out the net profit and net profit forecasts of the Board and such reports shall contain such information as he or she may require. 2011, c. 9, Sched. 23, s. 4.

Audit

6. The accounts and financial transactions of the Board shall be audited annually by the Auditor General. R.S.O. 1990, c. L.18, s. 6; 2004, c. 17, s. 32.

Annual reports

7. (1) The Board shall make a report annually to the Minister upon the affairs of the Board, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next session. R.S.O. 1990, c. L.18, s. 7 (1).

Other reports

(2) The Board shall make such further reports to the Minister and provide him or her with such information as the Minister may from time to time require. R.S.O. 1990, c. L.18, s. 7 (2).

Regulations

8. (1) The Lieutenant Governor in Council may make regulations,

- (a) governing the purchase, distribution and sale of liquor;

- (b) governing the keeping, storage or transportation of liquor;
 - (c) governing the operations of government stores or classes of government stores;
 - (d) governing the product and pricing of liquor sold in government stores or classes of government stores;
 - (e) governing the issuance of authorizations for government stores by the Board;
 - (f) prescribing the conditions that apply to authorizations for government stores or to authorizations for classes of government stores;
 - (g) prescribing standards for liquor manufactured, purchased, distributed or sold in Ontario;
 - (h) prescribing criteria for the purposes of paragraph 1 of subsection 3 (6);
 - (i) requiring manufacturers, wineries that manufacture Ontario wine, persons operating government stores and persons importing liquor to furnish the Board with such returns and information respecting the manufacture, purchase, distribution or sale of liquor as is prescribed;
 - (j) governing the purchase of liquor under a permit issued under the *Liquor Licence Act*;
 - (k) exempting any person, product or class of person or product from any provision of this Act or the regulations. 1994, c. 9, s. 4; 1996, c. 26, s. 2 (3); 2008, c. 7, Sched. L, s. 2; 2011, c. 9, Sched. 23, s. 5 (1, 2).
- (2) REPEALED: 2011, c. 9, Sched. 23, s. 5 (3).

Same

- (3) Any provision of a regulation may be subject to such conditions, qualifications or requirements as are specified in the regulation. 1994, c. 9, s. 4.

Appendix IV

Bill 199: An Act to amend the Liquor Control Act to permit the sale of VQA wine and Ontario microbrewery beer at convenience stores

Doug McKenzie: Twenty-four, yeah, twenty-four Elsinore beers.

Attendant: Twenty-four Elsinore! That will be \$14.70.

Doug: I believe there will be no charge on this two-four of beer, thank you.

Attendant: Excuse me?

Doug: Ok, uh, we found this mouse in a bottle of Elsinore beer that we bought at your beer store, eh? And we heard that when that happens you get your beer free.

Bob McKenzie: It's in the Canadian Criminal Code, eh. Like there's legal precedence set in cases in law, eh?

Doug: So, like give us our free beer.

Attendant: You want free beer? Go to the brewery. Now get out of here before I put the two of you in a bottle.

— Bob and Doug McKenzie, *Strange Brew*



2ND SESSION, 38TH LEGISLATURE, ONTARIO
56 ELIZABETH II, 2007

2^e SESSION, 38^e LÉGISLATURE, ONTARIO
56 ELIZABETH II, 2007

Bill 199

**An Act to amend the
Liquor Control Act
to permit the sale of VQA wine
and Ontario microbrewery beer
at convenience stores**

Projet de loi 199

**Loi modifiant la Loi sur les alcools
afin de permettre la vente
de vin de la VQA et de bière
de microbrasserie ontarienne
dans les dépanneurs**

Mr. Craitor

M. Craitor

Private Member's Bill

Projet de loi de député

1st Reading April 3, 2007
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 3 avril 2007
2^e lecture
3^e lecture
Sanction royale

EXPLANATORY NOTE

The Bill amends the *Liquor Control Act* to permit the sale of VQA wine and Ontario microbrewery beer at convenience stores.

NOTE EXPLICATIVE

Le projet de loi modifie la *Loi sur les alcools* afin de permettre la vente de vin de la VQA et de bière de microbrasserie ontarienne dans les dépanneurs.

**An Act to amend the
Liquor Control Act
to permit the sale of VQA wine
and Ontario microbrewery beer
at convenience stores**

Note: This Act amends the *Liquor Control Act*. For the legislative history of the Act, see Public Statutes – Detailed Legislative History on www.e-Laws.gov.on.ca.

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Liquor Control Act* is amended by adding the following definitions:

“convenience store” means a convenience store that is not less than 74 square metres and not more than 326 square metres; (“dépanneur”)

“microbrewery beer” means beer brewed by an independent brewer that annually produces less than 250,000 hectolitres of beer; (“bière de microbrasseries”)

“Vintners Quality Alliance wine (VQA wine)” has the same meaning as in the *Vintners Quality Alliance Act, 1999*. (“vin de la Vintners Quality Alliance (Vin de la VQA)”).

2. (1) Subsection 3 (1) of the Act is amended by adding the following clause:

- (e.1) to authorize the sale of VQA wine and Ontario microbrewery beer in convenience stores and regulate convenience stores that are authorized to sell VQA wine and Ontario microbrewery beer and the sale of those products in convenience stores;

(2) Clause 3 (1) (f) of the Act is repealed and the following substituted:

- (f) to control and supervise the marketing methods and procedures of manufacturers and of wineries that manufacture Ontario wine including the operation of government stores by persons authorized under clause (e) and the operation of convenience stores by persons authorized under clause (e.1);

(3) Subsection 3 (2) of the Act is amended by adding the following clause:

- (a.1) subject to any regulation, authorizations for convenience stores that sell VQA wine and Ontario microbrewery beer under clause (1) (e.1);

**Loi modifiant la Loi sur les alcools
afin de permettre la vente
de vin de la VQA et de bière
de microbrasserie ontarienne
dans les dépanneurs**

Remarque : La présente loi modifie la *Loi sur les alcools*, dont l'historique législatif figure à l'Historique législatif détaillé des lois d'intérêt public dans www.lois-en-ligne.gouv.on.ca.

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1. L'article 1 de la *Loi sur les alcools* est modifiée par adjonction des définitions suivantes :

«bière de microbrasseries» Bière brassée par un brasseur indépendant qui produit moins de 250 000 hectolitres de bière par année. («microbrewery beer»)

«dépanneur» Dépanneur d'une superficie d'au moins 74 mètres carrés et d'au plus 326 mètres carrés. («convenience store»)

«vin de la Vintners Quality Alliance (Vin de la VQA)» S'entend au sens de la *Loi de 1999 sur la société appelée Vintners Quality Alliance*. («Vintners Quality Alliance wine (VQA wine)»)

2. (1) Le paragraphe 3 (1) de la Loi est modifié par adjonction de l'alinéa suivant :

- e.1) autoriser la vente de vin de la VQA et de bière de microbrasserie ontarienne dans les dépanneurs et réglementer les dépanneurs qui sont autorisés à vendre ce vin et cette bière de même que la vente de ces produits dans les dépanneurs;

(2) L'alinéa 3 (1) f) de la Loi est abrogé et remplacé par ce qui suit :

- f) surveiller les méthodes et les procédés de commercialisation qu'utilisent les fabricants et les vineries qui fabriquent des vins de l'Ontario, y compris l'exploitation des magasins du gouvernement par les personnes autorisées en vertu de l'alinéa e) et l'exploitation des dépanneurs par les personnes autorisées en vertu de l'alinéa e.1);

(3) Le paragraphe 3 (2) de la Loi est modifié par adjonction de l'alinéa suivant :

- a.1) sous réserve des règlements, les autorisations relatives aux dépanneurs qui vendent du vin de la VQA et de la bière de microbrasserie ontarienne en vertu de l'alinéa (1) e.1);

3. The Act is amended by adding the following section:

Smart Serve program

4.6 (1) The Board shall work with Smart Serve Ontario to ensure that a training program for people who work at convenience stores that are authorized to sell VQA wine and Ontario microbrewery beer under clause 3 (1) (e.1) is developed.

Same

(2) The training program shall address the sale of beer and wine at convenience stores and may also address the sale of tobacco and tobacco products at convenience stores.

Program required

(3) Once the training program is developed, all persons who work at a convenience store that is authorized to sell VQA wine and Ontario microbrewery beer under clause 3 (1) (e.1) shall be required to enroll in the program according to a schedule developed by the Board.

Definition

(4) In this section,

“Smart Serve Ontario” means the division of the Hospitality Industry Training Organization of Ontario that is recognized by the Alcohol and Gaming Commission of Ontario as the official delivery organization of the Smart Serve Responsible Alcohol Beverage Service Training Program in the Province of Ontario.

4. (1) Subsection 8 (1) of the Act is amended by adding the following clause:

(c.1) governing the operation of convenience stores that are authorized to sell VQA wine and Ontario microbrewery beer under clause 3 (1) (e.1);

(2) Clause 8 (1) (d) of the Act is amended by striking out “government stores or classes of government stores” and substituting “government stores or classes of government stores and authorized convenience stores or classes of authorized convenience stores”.

(3) Clauses 8 (1) (e) and (f) of the Act are repealed and the following substituted:

(e) governing the issuance of authorizations for government stores and convenience stores by the Liquor Control Board;

(f) prescribing the conditions that apply to authorizations for government stores and convenience stores or to authorizations for classes of government stores or classes of convenience stores;

(4) Clause 8 (1) (i) of the Act is amended by striking out “persons operating government stores” and substituting “persons operating government stores or authorized convenience stores”.

3. La Loi est modifiée par adjonction de l'article suivant :

Programme Smart Serve

4.6 (1) La Régie travaille de concert avec Smart Serve Ontario à l’élaboration d’un programme de formation à l’intention des gens qui travaillent dans les dépanneurs que l’alinéa 3 (1) e.1) autorise à vendre du vin de la VQA et de la bière de microbrasserie ontarienne.

Idem

(2) Le programme de formation traite de la vente de bière et de vin dans les dépanneurs et peut également traiter de la vente de tabac et de produits du tabac dans ceux-ci.

Programme obligatoire

(3) Une fois élaboré le programme de formation, toutes les personnes qui travaillent dans un dépanneur que l’alinéa 3 (1) e.1) autorise à vendre du vin de la VQA et de la bière de microbrasserie ontarienne sont tenues de s’inscrire au programme selon un calendrier qu’élabore la Régie.

Définition

(4) La définition qui suit s’applique au présent article.

“Smart Serve Ontario” Division de l’Hospitality Industry Training Organization of Ontario, qui est accréditée par la Commission des alcools et des jeux de l’Ontario à titre d’organisme responsable de la réalisation du programme de formation intitulé Smart Serve Responsible Alcohol Beverage Service Training Program dans la province de l’Ontario.

4. (1) Le paragraphe 8 (1) de la Loi est modifié par adjonction de l’alinéa suivant :

c.1) régir l’exploitation de dépanneurs que l’alinéa 3 (1) e.1) autorise à vendre du vin de la VQA et de la bière de microbrasserie ontarienne;

(2) L’alinéa 8 (1) d) de la Loi est modifié par insertion de «et par les dépanneurs autorisés ou les catégories de dépanneurs autorisés» à la fin de l’alinéa.

(3) Les alinéas 8 (1) e) et f) de la Loi sont abrogés et remplacés par ce qui suit :

e) régir la délivrance des autorisations relatives aux magasins du gouvernement et aux dépanneurs par la Régie des alcools;

f) prescrire les conditions qui s’appliquent aux autorisations relatives aux magasins du gouvernement et aux dépanneurs ou aux catégories de magasins du gouvernement ou de dépanneurs;

(4) L’alinéa 8 (1) i) de la Loi est modifié par insertion de «ou des dépanneurs autorisés» après «magasins du gouvernement».

Commencement

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Sale of VQA Wine and Ontario Microbrewery Beer at Convenience Stores Act, 2007*.

Entrée en vigueur

5. La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Titre abrégé

6. Le titre abrégé de la présente loi est *Loi de 2007 sur la vente de vin de la VQA et de bière de microbrasserie ontarienne dans les dépanneurs*.