

## Inns and Taverns.

1. Licenses, by whom granted.
2. Recommendation required.
3. Necessity for inn to be certified.
4. Penalty for imposing on court.
5. Recognizance required. Condition.
6. Taken by judge and filed.
7. Fees.
8. Form of license.
9. Confined to person and place.
10. No liquor to be sold elsewhere.
11. When application to be made.
12. To continue one year, but may be renewed.
13. No more inns to be licensed than are necessary.
14. No license to be granted to sheriff, etc.
15. No shop keeper to be licensed.
16. What necessary for keeping an inn.
17. Tax to be paid for license.
18. Clerk to keep account and pay over moneys.
19. County collector to make annual statement.
20. Accountability of clerks.
21. Sign to be erected.
22. Gaming not allowed.
23. License may be revoked.
24. Not to sell to servants or apprentices.
25. Or take goods, etc., from them.
26. Not to give credit for liquors.
27. Note, etc., given for such debt, void.
28. But may recover from travellers.
29. Proceedings against offenders.
30. License forfeited for drunkenness.
31. Construction of act.
32. Rights of cities, etc., not affected by this act.
33. Persons not licensed not to erect sign.
34. Lists to be laid before grand jury.
35. If license denied, to be final for one year.
36. How liquor sold to be described in indictments.
37. May be prosecuted for penalty.
38. Penalty for permitting sale of liquor in court house or jail.
39. What shall be evidence of knowledge.
40. Court house or jail not to be kept as house of entertainment.
41. Inhabitants witnesses.
42. Freeholder to recommend but one.
43. Temperance inns.
44. License.
45. Recognizance. Condition.
46. Fees.
47. Rates.
48. Provision prohibiting inn keeper to keep billiard table, repealed.
49. Sale of wines or other liquors from wagons or other vehicles prohibited.
50. Certain sections of inn and tavern act not to apply to cities whose ordinances punish unlicensed sales of liquors.
51. Where city ordinances punish keepers of disorderly houses, not lawful to indict.
52. Court of common pleas to license sale of ale and malt liquors.
53. Application for license.
54. Recognizance to be given before receiving license.
55. Before whom recognizance may be taken.
56. Fees.
57. Form of license.
58. License, when void.
59. When application for, to be made.
60. Renewal of license.
61. Court to assess sum for license.
62. Duty of the clerk.
63. Penalty for selling without license.
64. Penalty for selling on Sunday.
65. When provisions of act not to apply.
66. Penalty for giving or selling spirituous liquors at vendues.
67. Not to affect vendues held by civil officers.
68. Hotel, inn and boarding house keepers to have lien on all baggage and property of boarders, etc.
69. Baggage, etc., may be sold for payment.
70. Proprietors of hotel, etc., not responsible if money and jewels not deposited in safe.
71. Notice of sale may be in newspaper in county.
72. Livery stable keepers shall have lien on horses, carriages, etc., for amount of bill.
73. Property may be sold at public auction. Notice of sale.

Rev. 281, 744.

Har. 192, 208.

R. S. 577.

Licenses, by whom granted.

Recommendation required.

### An act concerning inns and taverns.

Approved April 17, 1846.

1. That any three or more of the judges of the inferior courts of common pleas in and for the several counties of this state, shall be, and they are hereby authorized to grant licenses to persons to keep inns and taverns, and to utter and sell victuals, and vinous, spirituous, and other strong liquors, for the accommodation of men, and provender for horses, within their respective counties, in the manner prescribed by this act, and not otherwise.

2. That no person shall be licensed to keep an inn and tavern, but such as shall be recommended by at least twelve reputable freeholders of the city or township where the said inn and tavern is proposed to be kept, who shall certify that the person so recommended by them, is of good repute for honesty and temperance, and is known to the persons recommending, to have at least two spare beds more than are necessary for the family's use, and is well provided with house room, stabling and provender; and it shall be the duty of the presiding judge, at the time of application made, and before a license is granted, to call upon the judges present, to make known any facts or objections within their individual

knowledge, if any there be, why such application should not be granted; and thereupon the court may, in their discretion, grant the license prayed for by the applicant.

3. That no person shall be licensed to keep an inn or tavern, unless the freeholders who shall recommend him or her, shall also certify that such an inn or tavern is necessary, and will conduce to the public good. Necessity for inn certified.

4. That if any person, who shall sign a recommendation as aforesaid, shall therein have imposed on the court, either by signing to an undeserved character, or by describing a situation not true, or in any other manner, then every person, so offending, shall be deemed guilty of a misdemeanor, and on conviction, shall be fined in the sum of ten dollars, to be paid to the overseers of the poor, where the said inn and tavern was proposed to be kept, and applied to the use of the poor of the township or precinct. Penalty for imposing on the court.

5. That every person, before he or she shall receive a license to keep an inn and tavern, shall become bound by recognizance to the state, in the sum of one hundred dollars, as principal, with two sufficient sureties, being freeholders in the county, in the sum of fifty dollars each, to be taken before the court that shall grant the said license, with condition following, to wit: Recognizance required.

The condition of this recognizance is such, that whereas the above bounden A. B. is licensed by the court, to keep an inn and tavern, in the house where dwelleth, in the township or precinct of , in the county of , for the space of one year next ensuing; if, therefore, the said A. B., during the continuance of the said license, shall not keep a disorderly inn or tavern, nor game himself or herself, nor suffer any person to game in his or her house, for money, or the value of money, nor violate the laws made concerning inns and taverns, but shall, during the said term, in all things respecting him or her as an inn-holder and tavern-keeper, use and maintain good order and rule, and find and provide good, wholesome and sufficient lodging, diet and entertainment for man, and stabling and provender for horse, and observe the directions of the law relating to inns and taverns, then this recognizance to be void, or else to remain in full force and virtue. Condition.

And if the applicant for a license to keep an inn and tavern, shall be prevented by sickness, infirmity, or other reasonable cause, to be judged of and allowed by the said court, from attending in person, then the said court may grant the license, on three sureties as aforesaid, entering into such recognizance, in sixty dollars each; all recognizances taken by virtue of this section, shall be and remain with the clerk of the court, before whom the same shall be taken. If applicant sick, three sureties sufficient.

6. That the recognizance required by the fifth section of this act, may be taken by any judge of the said court of common pleas, out of court, and being signed by such judge, and filed by the clerk, shall have the same force and effect as if the same had been taken in open court. Taken by judge, and filed.

7. That it shall be lawful for the said court to demand and receive, for every such license granted and recognizance taken, the sum of one dollar; and for the clerk of the court to demand and receive, for entering, drawing and filing such recognizance, and drawing the license, and annexing thereto the seal of the court, and making entry in the minutes of such license being granted, the sum of one dollar. Fees.

8. That every license to keep an inn and tavern, shall be signed by the clerk of the court which granted the same, and shall have the seal of the said court thereto affixed by the said clerk; which license shall be in the words, or to the effect following: Form of license.

county, to wit:

At an inferior court of common pleas, in and for the said county, held at in the same, the day of , in the year of our Lord one thousand

The said court doth hereby allow and license A. B. of the township of in the county aforesaid, to keep an inn and tavern, in the house wherein dwells, for one whole year from the day above said, and no longer; so that the said A. B. shall use and exercise this license, during the said term, according to the tenor and true meaning of the laws in such

case made and provided. Given under my hand and the seal of the said court, the day and year first above written.

C. D., Clerk.

- Confined to person and place. 9. That no license shall entitle any person to keep an inn and tavern in any other place than that in which it was first kept, by virtue of such license; and such license, with regard to all other places and persons, shall be void.
- No liquor to be sold elsewhere. 10. That no license shall authorize any inn-holder or tavern-keeper, or any person by his or her authority or permission, to sell, or to keep and expose for sale, any rum, gin, brandy, whiskey, cider-spirits, or other ardent spirits, wine, or any other liquid, of which distilled spirits or wine shall form a component part, in any bar, stand, or other place out of the inn or tavern house for which license shall have been granted according to law; and any person offending against the provisions of this section shall be considered as keeping a disorderly house, and forfeit his or her license and recognizance, and shall be liable to all the penalties imposed by law for selling without license.
- When application to be made. 11. That from and after the passage of this act, all and every person applying to any court authorized by law to grant license to keep an inn and tavern, shall make his or her application to the court for said purpose, on the first day of the session of said court, and the said court shall, on the first day of said session, or on some other day thereof, publicly fixed on by the said court on the said first day, determine in open court on said application, by granting or refusing the same.
- To continue one year, but may be renewed. 12. That every license to keep an inn and tavern, shall be made to continue for one year, and no longer; but may be renewed yearly by the said courts, upon the like recommendation, penalties, assessments, and fees, and in the same manner in every respect, as when such license was originally granted; *and further*, if any person, who, at the expiration of his or her license shall neglect or refuse to renew the same in manner aforesaid, shall, notwithstanding, sell and retail vinous, spirituous or strong liquors, then such person shall be subject to the like penalties as for selling without license.
- No more inns to be licensed than necessary. 13. That it shall be the duty of, and it is hereby expressly enjoined upon, the said courts, to license no more inns and taverns, in their respective counties, than shall be necessary to accommodate and entertain travellers and strangers, to serve the public occasions of the said counties, and for the convenience of men's meeting together to transact business; and to prevent as much as possible, inns and taverns to be kept for the encouragement of gaming, tippling, drunkenness, and other vices.
- No license granted to sheriff, etc. 14. That the said courts shall not grant a license to keep an inn and tavern to any sheriff, under sheriff, or jail keeper.
- No shopkeeper licensed. 15. That the said court shall not grant a license to any shop keeper to keep an inn and tavern; neither shall any inn and tavern and shop for selling goods, wares, and merchandise, be kept in one house; and if any shop keeper shall give or retail strong liquors, so as to encourage drunkenness, revelling or frolicking in his or her house or store, he or she shall forfeit sixteen dollars for every such offence, to be recovered with costs, by action of debt, by any person who will prosecute for the same, in any court of record having cognizance of that sum; *provided however*, that nothing in this section shall be so construed as to prevent the keeping of an inn and tavern and shop for selling goods, wares, and merchandise under the same roof, in any city, borough or town corporate in this state, where the house is so constructed that the shop and tavern (though under the same roof) shall be entirely distinct, without any communication existing between them, and where the tavern and shop shall be kept by different persons, neither of whom have an interest in, or connection with, the business of the other.
- Penalty on shopkeepers, etc. 16. That every inn holder and tavern keeper, shall have and keep in his or her house, at least two good feather beds for guests, with good and sufficient bedclothes for the same, and provide and keep good, wholesome and sufficient diet for travellers, and stabling and provender of hay and grain for four horses more than his or her own stock, upon pain of forfeiting for every neglect or default of having any of the articles in this clause
- When inn and shop may be under one roof.
- What necessary for keeping an inn.

mentioned, the sum of three dollars, to be recovered by action of debt, with costs, in any court of record having cognizance thereof, by any person or persons who shall prosecute for the same.

17. That every person, to whom the court shall see cause to grant a license to keep an inn and tavern, shall, before the delivery of the said license to him or her, pay to the clerk of the said court such sum as the said court shall assess thereon; and the said court shall take into consideration the situation and circumstances of the place where the inn and tavern is intended to be kept, as affording more or less profit to the applicant, and agreeably thereto shall ascertain the sum to be paid for every license, not being less than ten nor more than seventy dollars; and no license shall be delivered to any person, unless the money so assessed for the same, shall have been paid to the clerk of the court.

Tax to be paid for license.

18. That it shall be the duty of every clerk of the said courts, to make and enter upon the minutes of the said courts a true account of the moneys which he shall, from time to time, receive upon licenses granted for inns and taverns, and to pay the same moneys, within two weeks after the receipt thereof, to the collector of the county, to and for the use of the said county, accompanied with a copy of the account thereof from the minutes, signed by at least three of the judges present, a duplicate of which account, signed as aforesaid, the said clerk shall also transmit to the clerk of the board of chosen freeholders of the said county.

Clerk to keep account and pay over moneys.

19. That it shall be the duty of every county collector, to lay yearly and every year before the board of chosen freeholders of such county, at their annual meeting, an accurate state and account of the moneys which he shall have received from the clerk aforesaid, upon licenses for inns and taverns, together with the settlement he shall have made with the said clerk for such moneys.

County collector to make annual statement

20. That the said clerks shall at all times be accountable to the board of chosen freeholders, for the moneys which they shall receive for licenses as aforesaid, to and for the use of the said counties respectively.

Accountability of clerks.

[Sec. 21 repealed].

21. SEC. 22. That every inn holder and tavern keeper shall, within twenty days after obtaining his or her license, put up or fix a sign on or adjacent to the front of his or her house, with his or her name thereon, and keep such sign up, during the time he or she shall keep an inn and tavern, under the penalty of one dollar for every month's neglect thereof, to be recovered by action of debt, with costs, in any court of record having cognizance thereof, by any person or persons who shall prosecute for the same.

Sign to be erected.

Penalty for neglect.

22. SEC. 23. That it shall be deemed an offence against this state, for any inn holder or tavern keeper to permit or suffer any cock fighting, or playing with cards or dice, or to keep any billiard table, or other gaming table, in his or her inn or tavern, or in any out house, tenement, yard or garden belonging thereto, or therein to permit any kind of gaming by lot or chance. (See Sec. 48).

Gaming not allowed.

23. SEC. 24. That it shall be the duty of the said courts, within their respective counties, to revoke or annul any license by them granted to any person to keep an inn and tavern, in case such person shall offend against any section or part of this act, or shall not observe the directions thereof, or shall not do all and every the matters and things therein prescribed and enjoined to be done; and if such person, after a copy of the rule or order of the said court revoking or annulling his or her license, shall have been served on him or her, shall, notwithstanding, continue to sell or retail any vinous, spirituous or strong liquors, then such person shall be liable to the like penalties as for selling without license.

License may be revoked.

24. SEC. 25. That if any inn holder or tavern keeper shall sell any vinous, spirituous or strong liquors, to any apprentice or servant, knowing or having reason to suspect or believe him or her to be such, without the consent of his or her master or mistress, such inn holder or tavern keeper shall, for every offence, forfeit the sum of four dollars, to be recovered by action of debt, with costs, by the master or mistress of such apprentice or servant, in any court of record having cognizance thereof.

Not to sell to servants or apprentices.

- Or take goods, etc., from them. 25. SEC. 26. That if any inn holder, tavern keeper or other person or persons shall take or receive, directly or indirectly, from any apprentice or servant, any clothing or other goods, chattels, wares or merchandise, in payment for any vinous, spirituous or strong liquors, or in pawn or pledge to secure such payment, then he, she or they, so offending, shall forfeit and pay unto the master or mistress of such apprentice or servant, treble the value of all such clothing or other goods, chattels, wares or merchandise, which he, she or they shall have so taken or received as aforesaid, to be recovered by such master or mistress, his or her executors or administrators, by action of debt or on the case, with costs, in any court having cognizance of the same.
- Not to give credit for liquor. 26. SEC. 27. That if any inn holder and tavern keeper shall trust or give credit to any person or persons, for vinous, spirituous or strong liquors, he, she or they, so trusting or giving credit to any person or persons as aforesaid, shall lose the debt, and be forever disabled from suing for or recovering the same, or any part thereof; and if any inn holder and tavern keeper shall sue for any such debt, the person or persons sued shall and may plead this act in bar; and if the plaintiff in such suit shall become non-suit, or a verdict or judgment shall be given for the defendant, then such plaintiff shall pay double costs.(a)
- Plea in bar. 27. SEC. 28. That if any inn holder and tavern keeper shall take or get from any person or persons, trusted as aforesaid, any note, bill, bond or other security, for any vinous, spirituous or strong liquors, sold and drank in or at his or her house, under pretence that it is for victuals or any other thing, whereby to evade this act, then every such note, bill, bond, or other security, shall be void; and the defendant or defendants may plead this act in bar to any action or suit to be brought thereon.
- Note, etc., given for such debt void. 28. SEC. 29. That nothing in this act shall be construed to debar any inn holder and tavern keeper from taking, receiving or recovering any sum or sums of money which shall become due and owing to him or her, from persons who may be lodgers in his or her house, or from travellers not residing in the town, city, precinct or township where such inn and tavern is kept.
- But may recover from travelers. 29. SEC. 30. That it shall be the duty of every justice of the peace, on view, complaint or information, that any inn holder and tavern keeper hath committed any act or thing, or hath neglected, omitted or refused to observe or do any act or thing, whereby in the judgment of such justice the recognizance aforesaid may be forfeited, or the condition thereof broken, to require, by summons under his hand and seal, such inn holder and tavern keeper to appear at the next court of general quarter sessions of the peace, then and there to answer to the matter of such complaint or information; and also to bind the complainant or any other person, in recognizance to appear and give evidence; and it shall be the duty of the said court to direct the jury, which shall there attend for the trial of traverses, or some other jury of good and lawful men, to be then and there empannelled by the sheriff, to inquire thereof; and if the jury find that such inn holder and tavern keeper hath done, or hath neglected, omitted or refused to observe or do any act or thing whereby the said recognizance is broken, such act being specified in such complaint or information, the said court shall adjudge him or her guilty, which verdict and adjudication shall be final; and thereupon the said recognizance shall be forfeited, judgment final, with costs, shall be given against the recognizers, as in case of debt, and execution shall issue thereon accordingly; and further, that the sheriff shall pay the money, which he shall have received by virtue of such execution, into the treasury of this state, at the time and in the manner prescribed by law in regard to penalties on forfeited recognizances and fines and amercements, and shall be entitled to the fees and subject to the penalties and actions thereby prescribed; provided, that the said court, at the request of the attorney general, or attorney prosecuting the pleas in his absence, or of the party complained of, or either of his or her sureties, may, on
- Proceedings against offenders. view, complaint or information, that any inn holder and tavern keeper hath committed any act or thing, or hath neglected, omitted or refused to observe or do any act or thing, whereby in the judgment of such justice the recognizance aforesaid may be forfeited, or the condition thereof broken, to require, by summons under his hand and seal, such inn holder and tavern keeper to appear at the next court of general quarter sessions of the peace, then and there to answer to the matter of such complaint or information; and also to bind the complainant or any other person, in recognizance to appear and give evidence; and it shall be the duty of the said court to direct the jury, which shall there attend for the trial of traverses, or some other jury of good and lawful men, to be then and there empannelled by the sheriff, to inquire thereof; and if the jury find that such inn holder and tavern keeper hath done, or hath neglected, omitted or refused to observe or do any act or thing whereby the said recognizance is broken, such act being specified in such complaint or information, the said court shall adjudge him or her guilty, which verdict and adjudication shall be final; and thereupon the said recognizance shall be forfeited, judgment final, with costs, shall be given against the recognizers, as in case of debt, and execution shall issue thereon accordingly; and further, that the sheriff shall pay the money, which he shall have received by virtue of such execution, into the treasury of this state, at the time and in the manner prescribed by law in regard to penalties on forfeited recognizances and fines and amercements, and shall be entitled to the fees and subject to the penalties and actions thereby prescribed; provided, that the said court, at the request of the attorney general, or attorney prosecuting the pleas in his absence, or of the party complained of, or either of his or her sureties, may, on
- Money recovered to be paid to the state. view, complaint or information, that any inn holder and tavern keeper hath committed any act or thing, or hath neglected, omitted or refused to observe or do any act or thing, whereby in the judgment of such justice the recognizance aforesaid may be forfeited, or the condition thereof broken, to require, by summons under his hand and seal, such inn holder and tavern keeper to appear at the next court of general quarter sessions of the peace, then and there to answer to the matter of such complaint or information; and also to bind the complainant or any other person, in recognizance to appear and give evidence; and it shall be the duty of the said court to direct the jury, which shall there attend for the trial of traverses, or some other jury of good and lawful men, to be then and there empannelled by the sheriff, to inquire thereof; and if the jury find that such inn holder and tavern keeper hath done, or hath neglected, omitted or refused to observe or do any act or thing whereby the said recognizance is broken, such act being specified in such complaint or information, the said court shall adjudge him or her guilty, which verdict and adjudication shall be final; and thereupon the said recognizance shall be forfeited, judgment final, with costs, shall be given against the recognizers, as in case of debt, and execution shall issue thereon accordingly; and further, that the sheriff shall pay the money, which he shall have received by virtue of such execution, into the treasury of this state, at the time and in the manner prescribed by law in regard to penalties on forfeited recognizances and fines and amercements, and shall be entitled to the fees and subject to the penalties and actions thereby prescribed; provided, that the said court, at the request of the attorney general, or attorney prosecuting the pleas in his absence, or of the party complained of, or either of his or her sureties, may, on
- Proviso. view, complaint or information, that any inn holder and tavern keeper hath committed any act or thing, or hath neglected, omitted or refused to observe or do any act or thing, whereby in the judgment of such justice the recognizance aforesaid may be forfeited, or the condition thereof broken, to require, by summons under his hand and seal, such inn holder and tavern keeper to appear at the next court of general quarter sessions of the peace, then and there to answer to the matter of such complaint or information; and also to bind the complainant or any other person, in recognizance to appear and give evidence; and it shall be the duty of the said court to direct the jury, which shall there attend for the trial of traverses, or some other jury of good and lawful men, to be then and there empannelled by the sheriff, to inquire thereof; and if the jury find that such inn holder and tavern keeper hath done, or hath neglected, omitted or refused to observe or do any act or thing whereby the said recognizance is broken, such act being specified in such complaint or information, the said court shall adjudge him or her guilty, which verdict and adjudication shall be final; and thereupon the said recognizance shall be forfeited, judgment final, with costs, shall be given against the recognizers, as in case of debt, and execution shall issue thereon accordingly; and further, that the sheriff shall pay the money, which he shall have received by virtue of such execution, into the treasury of this state, at the time and in the manner prescribed by law in regard to penalties on forfeited recognizances and fines and amercements, and shall be entitled to the fees and subject to the penalties and actions thereby prescribed; provided, that the said court, at the request of the attorney general, or attorney prosecuting the pleas in his absence, or of the party complained of, or either of his or her sureties, may, on

(a) This does not prevent a tavern keeper from paying his debts in liquor, as the rent of the tavern, *Clark v. Mer-shon*, Pen. \*71; or any other debt. *Shuff v. Stillwell*, 6 Hal. 282. Pleading the act merely by its date is sufficient in a

justice's court, *Brinly v. Wurts*, Pen. \*432. Whether an account is for tavern debts, is a question for the jury and not for the justice, *Hepburn v. Gaston*, Pen. \*623.

reasonable cause shown, adjourn the trial of such complaint or information to the then next sessions or term.

30. SEC. 31. That if any inn holder and tavern keeper shall be convicted of being drunk in his own inn and tavern, besides the penalty consequent on the crime of drunkenness, his license shall immediately thereupon become void. License forfeited for drunkenness.

31. SEC. 32. That this act shall not be construed to prevent any innholder and tavern-keeper, who, before the passing thereof, was licensed according to law, from acting as such during the term for which his or her license shall have been granted; subject, nevertheless, to the like conditions, duties, pains and penalties, as if this act had not been made. Construction of act.

32. SEC. 33. That nothing in this act contained shall be taken, deemed or construed to alter, change, or in any manner affect the rights, powers, privileges and immunities given and granted by law to any city or town corporate in this state, relative to the licensing of inns and taverns within their respective cities or towns corporate, such cities or towns corporate, nevertheless, conforming to the directions and being subject to the limitations, restrictions and provisions herein contained and given to the inferior courts of common pleas, in the several counties of the state, except that the recommendation for a license in such cities or towns corporate, shall be signed by at least ten reputable freeholders residing therein. Rights of cities, etc., not affected by this act.

33. SEC. 34. That it shall not be lawful for any person, not having a license to keep an inn and tavern, to put or keep up, on or near his or her dwelling house, any sign or other device usually employed to denote the keeping an inn or tavern; and every person so offending, shall forfeit and pay five dollars for every month that the same shall be so kept up, to be recovered by action of debt, with costs, by any person who shall sue for the same, before any justice of the peace in the county where the offence shall be committed. Persons not licensed not to erect sign.  
Penalty.

34. SEC. 35. That it shall be, and it is hereby made the duty of the clerks of the courts of general quarter sessions of the peace, in the several counties of this state, at least once in every year, or oftener, if thereunto required by the grand jury, duly empannelled, for any county, to make out a list of the names of all the persons within the said county who shall have a license to keep an inn and tavern, and to lay the said lists before the grand jury of said county, on the first day of their meeting. Lists to be laid before grand jury.

35. SEC. 36. That whenever any of the inferior courts of common pleas, in and for any of the counties in this state, shall reject and refuse to grant the application of any person or persons for license to keep an inn and tavern, under the provisions of this act, it shall not be lawful for such person or persons whose application to keep such inn and tavern shall have been rejected by the court aforesaid, to apply again for said license, at any time within one year thereafter. If license denied to be final for one year.

[SEC. 37 repealed. See *CRIMES Sec. 60*].

36. SEC. 38. That in all indictments hereafter found upon this act, it shall be sufficient to describe the liquor sold as ardent spirits, without specifying particularly the kind or description thereof. How described in indictment.

37. SEC. 39. That if any person or persons shall, without a license for that purpose first had and obtained according to law, sell by retail any rum, brandy, wine or spirits, of any kind, or any other liquid of which distilled spirits shall form a component part, (except such as are compounded and intended to be used for medicine) under the quantity of one quart, he or she so offending, shall forfeit and pay for every such offence ten dollars, to be recovered by action of debt, with costs, in any court of record having cognizance thereof, by any person who may prosecute for the same, in the name of the overseer or overseers of the poor of the township in which such offence may take place, one half for the benefit of the person so prosecuting, and the residue for the use of the poor of such townships; *provided*, that such prosecution shall be commenced within six calendar months after said offence shall have been committed; *provided* May be prosecuted for penalty.  
Provisoos.

(a) What are necessary averments, *Townley ads. State, 3 Harr. 311*: overruled, *Gifford's, Stat. Con. p. 181*.

also, that nothing in this act contained shall be so construed as to prevent or impair any prosecution or proceeding by indictment under this act.<sup>(a)</sup>

[SEC. 40 repealed. See CRIMES § 62].

Penalty for permitting sale of liquor in court house or jail.

38. SEC. 41. That if any sheriff shall knowingly permit any under sheriff, jailer, or other person to sell in the court house or jail of the county of which he is sheriff, any wine, gin, whiskey, cider spirits, brandy or other ardent spirits, or any composition of which any of the said liquors shall form the chief ingredient, he shall, for every such offence, forfeit and pay the sum of fifty dollars, one-half to the use of the person prosecuting for the same, and the other half to the use of the county in which the said offence was committed, to be recovered by action of debt, in any court of competent jurisdiction, with costs of suit.

What shall be evidence of knowledge.

39. SEC. 42. That when any suit shall be commenced against any sheriff for violation of the forty-first section of this act, if it shall appear upon the trial that the said offence was committed during the sitting of any of the courts in the court house, such fact shall be deemed and taken as conclusive evidence of the knowledge of the said sheriff in that behalf.

Court house or jail not to be kept as house of entertainment.

40. SEC. 43. That it shall not be lawful for any under sheriff, jailer, or other person or persons who may occupy the court house or jail of any of the counties in this state, to keep the same as a house of public entertainment, and sell, or permit to be sold therein, food or provisions of any kind, after the manner of licensed inn keepers; and if any person or persons shall offend against the provision of this section, he, she, or they shall forfeit and pay, for every offence, the sum of twenty-five dollars, to be recovered by any person prosecuting for the same, one-half to the use of the person so prosecuting, and the other half to the use of the county in which the said offence was committed, to be recovered by action of debt, in any court of competent jurisdiction, with costs of suit.

Inhabitants witnesses.

41. SEC. 44. That in any suit which may be brought under this act, the inhabitants of the county in which said suit may be brought, shall be deemed and taken as competent witnesses.

Freeholder to recommend but one.

42. SEC. 45. That the freeholders required to recommend to the courts suitable persons for license to keep inns and taverns, shall be such as shall not have recommended any other application for a license under the second section of this act, in the same township, city or borough for the same year.

Temperance inns.

43. SEC. 46. That it shall and may be lawful for the inferior courts of common pleas of the several counties in this state, to grant licenses to keep temperance inns and taverns in said counties, on applications of similar form, and accompanied by like recommendations as are required by this act, excepting that applications for such temperance licenses shall distinctly state the intention of the applicant to keep a temperance house.

License.

44. SEC. 47. That the license to be issued on such application, shall be in the following form:

county, to wit:

At the inferior court of common pleas, in and for the said county, held at \_\_\_\_\_ in the same, the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand \_\_\_\_\_. The said court do hereby allow and license A. B. of the township of \_\_\_\_\_ in the county aforesaid, to keep a temperance inn and tavern, in the house wherein \_\_\_\_\_ dwells, for one whole year from the day above said, and no longer; so that the said A. B. shall use and exercise this license, during the said term, according to the tenor and true meaning of the laws in such case made and provided. Given under my hand and the seal of the said court, the day and year first above written.

C. D., Clerk.

Recognizance.

45. SEC. 48. That every person, before he or she shall receive a license to keep a temperance inn and tavern, shall become bound by recognizance to the state, in the sum of one hundred dollars, as principal, with two sufficient sureties, being freeholders in the county, in the sum of fifty dollars each, to be taken before the court that shall grant the said license, with condition following, to wit:

<sup>(a)</sup> Whether this repeals former section, *Perine v. Van Note*, 1 South. \*146. *Buckallew v. Ackerman*, 3 Hal. 48. It must be alleged that the liquor sold was not compounded and intended to be used as medicine, *Townley ads. State*, 3

*Harr*. 311. The time and place must be stated, *Kerr v. Harker*, 2 Hal. 319. See also *Steelman v. Bolton*, Pen. \*321. What is a sufficient setting out of the offence in the demand to support a judgment, *Parke v. Adams*, Pen. \*675.

The condition of this recognizance is such, that whereas the above bounden A. B. is licensed by the court, to keep a temperance inn and tavern, in the house where dwelleth, in the township or precinct of in the county of , for the space of one year next ensuing; if, therefore, the said A. B. during the continuance of the said license, shall not keep a disorderly inn or tavern, nor game himself or herself, nor suffer any person to game in his or her house, for money or the value of money, nor keep, offer, sell or otherwise dispose of in his or her house, nor in any out-house, yard or garden connected therewith, any vinous, fermented, spirituous or strong or intoxicating liquors, nor violate the laws made concerning inns and taverns, but shall, during the said term, in all things respecting him or her as an inn-holder and tavern-keeper, use and maintain good order and rule, and find and provide good, wholesome and sufficient lodging, diet and entertainment for man, and stabling and provender for horse, and observe the directions of the law relating to inns and taverns, then this recognizance to be void, or else to remain in full force and virtue.

46. SEC. 49. That the applicant for such license to keep a temperance inn and tavern, shall pay to the court and clerk the same fees for said license, recognizance and rates, as are provided for in the seventh and twenty-first sections of this act, but shall be wholly exempt from the tax imposed and provided for in the seventeenth section of said act.

47. SEC. 50. That the said courts of common pleas shall exercise the like discretion in granting such license, and in prescribing rates for the regulation of prices under the same, as is provided for in this act.

**Supplement.**

Approved April 17, 1868. P. L. 1868, p. 1162.

48. SEC. 1. That so much of the twenty-third section of the act entitled "An act concerning inns and taverns," approved April seventeenth, eighteen hundred and forty-six, as makes it an offence against this state for any inn-holder or tavern-keeper to keep any billiard table in his or her inn or tavern, or in any out-house, tenement, or garden belonging thereto, be and the same is hereby repealed.

**Supplement.**

Approved March 16, 1869. P. L. 1869, p. 409.

49. SEC. 1. That it shall be unlawful for any person or persons to sell or expose for sale any spirituous, vinous, fermented or other intoxicating liquors, in any quantity whatever, in or from any wagon, carriage, sleigh or other ambulatory conveyance whatever; and any person offending against the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding twenty dollars for each offence, together with the costs of prosecution.

**Supplement.**

Approved March 26, 1874. P. L. 1874, p. 93.

50. SEC. 1. That none of the provisions of the thirty-seventh section of the act entitled "An act concerning inns and taverns," approved April seventeenth, eighteen hundred and forty-six, or of the act entitled "A supplement to an act concerning inns and taverns," approved March third, eighteen hundred and forty-seven, which supplement was approved March eighth, eighteen hundred and forty-eight, or of the act entitled "A further supplement to an act entitled 'An act concerning inns and taverns,'" approved February twentieth, eighteen hundred and forty-nine, shall hereafter apply to offences committed in any of the incorporated cities of this state, the ordinances of which provide for the punishment of the unlicensed sale of spirituous liquors, and for the punishment of the sale of spirituous, malt, vinous, fermented or intoxicating liquors on Sunday.

51. SEC. 2. That where the ordinances of any incorporated city of this state shall provide for the punishment of the offence of keeping a disorderly house, it shall not hereafter be lawful to prosecute by indictment any person accused of keeping a disorderly house in such city, where the alleged offence consists only of the continuous or frequent violation of the

provisions of the acts mentioned in the first section of this act, or any of them, but any person so offending shall be prosecuted and punished only under and by virtue of the provisions of such ordinances.

**An act to regulate the sale of ale, strong beer, lager, porter, wine and other malt liquors in the state of New Jersey.**

P. L. 1872, p. 81.

Approved April 4, 1872.

Court of common pleas to license sale of ale and malt liquors.

52. SEC. 1. That it shall not be lawful to sell ale, strong beer, lager beer, porter, wine or other malt liquors (except where the same is compounded and sold as a medicine), in quantities less than a quart, if the same is drank on or about the premises where sold, in the state of New Jersey, without a license first had and obtained for that purpose from the judges of the court of common pleas of the county, or from the other authorities now having power by law to grant license.

Application for license.

53. SEC. 2. That a written application for the license shall be made and signed by the applicant, stating the kind or kinds of malt liquor he proposes to sell, and the place or township where he proposes to locate his place of business, which application shall also be signed by ten freeholders of the township, who have not signed another petition or application, where he proposes to locate his saloon or shop, who shall recommend said applicant as a sober and honest man, after which shall follow an affidavit of applicant that said persons recommending him are freeholders of said township, and that he will keep a quiet and orderly house, according to the requirements of the law.

Recognizance shall be given before receiving license.

54. SEC. 3. That every person, before he or she shall receive such license, shall become bound by recognizance to the state in the sum of one hundred dollars as principal, with two sufficient sureties, being freeholders in the county, in the sum of fifty dollars each, with condition following, to wit:

Form of recognizance.

the condition of the recognizance is such, that whereas the above bounden is licensed by the court to sell malt liquors in the house at \_\_\_\_\_, in the township of \_\_\_\_\_, in the county of \_\_\_\_\_, for the space of one year next ensuing; if, therefore, the said \_\_\_\_\_, during the continuance of his license shall not keep a disorderly house, nor violate the provisions of this or other laws against encouraging and harboring drunken persons, vagrants, idle and vicious persons, thieves, gamblers, prostitutes and other disorderly persons, but shall, in all things respecting him or her, use and maintain good order and rule, and observe the directions of the law, then this recognizance to be void, or else to remain in full force and virtue.

Before whom recognizance may be taken.

55. SEC. 4. That this recognizance may be taken before any judge of common pleas, out of court, master in chancery or supreme court commissioner, and being signed by said applicant, sureties, and acknowledged before said officer and filed by the clerk of said court of common pleas, shall have the same force and effect as if the same had been taken in open court.

Fees.

56. SEC. 5. That the officers taking such recognizance shall be entitled to the sum of fifty cents, the court for inspecting paper and granting license the sum of one dollar, and the clerk of the court for drawing and filing such recognizance, drawing license and affixing thereto the seal of the court and making entry in the minutes of such license, shall demand and receive the sum of two dollars.

Form of license.

57. SEC. 6. That every license to sell malt liquor shall be signed by the clerk of the court granting the same, and shall have the seal of said court affixed thereto by said clerk; which license shall be in the words and to the effect following, viz: " \_\_\_\_\_ county, to wit: at an inferior court of common pleas, in and for said county, held at \_\_\_\_\_, in the same, the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand \_\_\_\_\_, the said court doth hereby allow and license \_\_\_\_\_, of the township of \_\_\_\_\_, to sell malt liquors in the place he now keeps for one whole year from day aforesaid, and no longer, so that said \_\_\_\_\_ shall use and exercise this license during the said term, according to the just and true meaning of the laws in such cases made and provided. Given under my hand and the seal of said court the day and year first above written. \_\_\_\_\_, Clerk."

License, when void.

58. SEC. 7. That no license shall entitle a person to keep and sell malt liquors in any other place than that in which it was first kept by-virtue

of such license, and such license, with regard to other places and persons, shall be void.

59. SEC. 8. That application for license under this act shall be made on the first day of the session of such court, and the said court shall, on that day, or on some other day publicly fixed by said court on said first day, determine in open court on said application, by granting or refusing the same.

When application for to be made.

60. SEC. 9. That every such license shall be made to continue for one year, and no longer, but may be renewed yearly by said court, upon like recommendation, penalties, assessments and fees as when such license was first granted.

Renewal of license.

61. SEC. 10. That every person licensed under this act shall, before license is delivered to him, pay the clerk of the court such sum as the court shall assess, which shall not be less than ten, and not more than fifty dollars, and no license shall be delivered to any person unless the money so assessed for the same, and all fees, shall have been paid to the clerk.

Court to assess sum for license.

62. SEC. 11. That it shall be the duty of the clerk to enter in the minutes of said court a statement of all persons licensed, and place of location, together with sums assessed for said licenses, and date of receiving the same, and within one month after receipt of such moneys, shall pay them over to the county collector, for the use of the county.

Duty of the clerk.

63. SEC. 12. That if any person or persons shall, without a license for that purpose first had and obtained according to this act, sell, or cause, or knowingly permit to be sold, directly or indirectly, any ale, strong beer, porter, lager beer, wine or other malt liquors (except such as are compounded and sold as a medicine), under the quantity of one quart, if the same is drank in, on or about the premises where sold, then he or she so offending shall forfeit and pay, for every such offence, the sum of fifty dollars, to be recovered by action of debt, with cost, by any person who shall sue for the same, in any court of record having cognizance of that sum, one-half to the prosecutor, and the other half to the inhabitants of the county.

Penalty for selling without license.

64. SEC. 13. That in addition to the penalties imposed in section twelve of this act, if any person or persons shall sell any of the liquors aforesaid, without license first had and obtained according to this act, or shall sell on Sunday, (a) then such person or persons shall be held as a keeper or keepers of disorderly houses, and shall be liable to indictment as keepers of disorderly houses, and upon conviction shall be subject to like pains and penalties as are now imposed by law on keepers of gambling houses, houses of prostitution, and other common nuisances.

Penalty for selling on Sunday.

65. SEC. 14. That the provisions of this act shall not apply to any township, city or incorporated town in which laws are in force regulating the sale of any of the liquors mentioned in this act.

Where provisions of this act shall not apply.

**An act to prevent the use of spirituous liquors at vendues.**

Passed February 11, 1797.

R. S. 608.

66. SEC. 1. If any person, who shall make any vendue in this state, shall give or sell, or suffer to be given or sold, in order to be drunk at the time and place of such vendue, any vinous, spirituous, or other strong liquors, such person, so offending, shall forfeit twenty dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same, in any court of record having cognizance of that sum, one-half to the prosecutor, and the other half to the overseers of the poor of the township or precinct, where the offence was committed, for the use of the poor thereof.

Penalty for giving or selling spirituous liquors at vendues.

67. SEC. 2. *Provided*, this act shall not extend to any vendue made or held at any inn or tavern by any civil officer.

Proviso.

**An act for the better protection of hotel, inn, and boarding-house keepers.**

Approved April 6, 1865.

P. L. 1865, p. 902. Hotel, inn and boarding house keepers to have a lien on all baggage and property of boarders, etc.

68. SEC. 1. All hotel, inn, and boarding-house keepers shall have a lien on all baggage and property belonging to boarders and lodgers at said hotel, inn, or boarding-house, for the amount of their bill or bills due to

(d) Selling liquor on Sunday constitutes the offence of a disorderly house, *State v. Williams*, 1 Vr. 102. But keeping liquor in its usual place in the bar without any actual attempt or offer to sell is no violation of the act, *Houtsch v. Jersey City*, 5 Dutch. 316.

the proprietor thereof for the hire of rooms or board in said hotel, inn, or boarding-house, and shall have the right, without the process of law, to retain the same until the said amount of indebtedness is discharged, and all parties engaging rooms or board in said hotel, inn, or boarding-house may be summarily ejected by the proprietor thereof from said premises, upon the aforesaid proprietor giving to said parties so indebted a written notice of three days of the amount of said indebtedness, and their demand for the same, unless said parties shall have entered into an agreement with said hotel, inn, or boarding-house keepers for the mode and manner of payment for room or board other than those announced by notice in said hotel, inn, or boarding-house.

Baggage and property may be sold for payment of bills.

69. SEC. 2. All baggage and property so held by said hotel, inn, and boarding-house keeper shall, after the expiration of six months from the date of such detention, be sold at public auction, upon a notice published for three days in a public newspaper published in the city or town where said hotel, inn, or boarding-house shall be kept, and the proceeds thereof shall be applied to the payment of such lien and the expenses of such sale, and the balance, if any remaining, shall be paid over to the owner of such property or his representatives; and if said balance is not claimed by such owners within thirty days, then the said balance to be paid over to the overseer of the poor-house of said city or town for the support of the poor. (See *Sec. 73*).

Proprietors of hotel, etc., not responsible if money and jewels not deposited in safe.

70. SEC. 3. Whenever the proprietor or proprietors of any hotel, inn, or boarding house shall provide a safe in the office of such hotel, inn, or boarding house, or other convenient place, for the safe keeping of any money, jewels, or ornaments belonging to the guests or boarders thereof, by posting a notice stating the fact that such safe is provided, in which such money, jewels, or ornaments may be deposited, in the room or rooms occupied by such guest or boarder, in a conspicuous manner, and if such guest or boarder shall neglect to deposit such money, jewels, or ornaments in such safe, the proprietor or proprietors of such hotel, inn, or boarding-house shall not be liable for any loss of such money, jewels, or ornaments, sustained by such guest or boarder, by theft or otherwise.

#### Supplement.

P. L. 1867, p. 973.

Approved April 11, 1867.

Notice of sale may be published in newspaper in county.

71. SEC. 1. In cases where no newspapers shall be published in any city, town, or township where any hotel, inn, or boarding house shall be kept, the sale provided for in the second section of the act to which this is a supplement may be made upon a notice published for three days in a public newspaper published in the county where such hotel, inn, or boarding house shall be kept, and circulating in the neighborhood thereof. (SEC. 2 repealed by act of March 17, 1870).

#### An act for the better protection of livery stable, boarding and exchange stable keepers.

P. L. 1872, p. 23.

Approved March 5, 1872.

Livery stable keepers shall have lien on horses, carriages, etc., for amount of bill due.

72. SEC. 1. That all livery stable, boarding, and exchange stable keepers, shall have a lien on all horses and other animals left with them in livery, for board, or sale, or exchange; and, also, upon all carriages, wagons, sleighs, and harness left with them for storage, sale, or exchange, for the amount of the bill due to the proprietor of any such stable for the board and keep of any such horse or other animal, and, also, for such storage; and shall have the right, without the process of law, to retain the same, until the amount of such said indebtedness is discharged.

Property may be sold at public auction.

73. SEC. 2. That all property so held by any such livery stable, boarding, and exchange stable keeper shall, after the expiration of thirty days from the date of such detention, be sold at public auction; upon a notice of said sale being first published for the space of two weeks in some newspaper circulating in the city or township in which said livery or boarding and exchange stable is situate; and also, after five days' notice of said sale, set up in five of the most public places in said city or township, and the proceeds of said sale shall be applied to the payment of such lien, and the expenses

Notice of sale.

of such sale; and the balance, if any remaining, shall be paid over to the owner of such property, or his representatives; and if the said balance is not claimed by such owner within sixty days after such sale, then the said balance to be paid over to the overseer of the poor of said city or township, for the support of the poor.

## Insolvent Debtors.

### I. APPLICATION FOR RELIEF.

1. Debtors in actual confinement may apply for discharge.
2. Defendant discharged on giving bond, etc.
3. Application to court.
4. Officer's return.
5. Officer's fees.

### II. PETITION TO COURT AND THE HEARING THEREON.

6. Petition for discharge.
7. Time for hearing and notice.
8. Proceeding at the hearing.
9. Examination of debtor.
10. Further examination.
11. Assignee appointed and assignment made.
12. When new assignee appointed.
13. Proceedings if creditors dissatisfied.
14. Proceedings when debtors remanded.
15. If fraud proved, debtor remanded.
16. Seducer not entitled to immediate discharge.
17. Discharge after term of imprisonment.

### III. THE ESTATE AND POWER OF THE ASSIGNEE.

18. Estate vested in assignee.
19. What conveyances void.
20. Power of assignee to sell.
21. General meeting of creditors.
22. Oath of assignee.
23. Proceedings to discover effects of debtor.
24. May examine wife of debtor.
25. When suit in equity authorized.
26. Proceedings when debtor has become bail.
27. Debts not due allowed.
28. The debtors discharge.
29. Penalty for fraudulent conduct.
30. Fees.

### IV. PRISON LIMITS.

31. Common pleas to assign prison bounds.
32. What a forfeiture of bond.
33. Debtor refused discharge may give bond for limits.
34. Common pleas may discharge person imprisoned at discretion of court.
35. Proceedings in case common pleas fail or refuse to discharge insolvent debtor.

**An act for the relief of persons imprisoned on civil process.** R. S. 323, 325.

Revision—Approved March 27, 1874.

P. L. 1853, p. 21.  
 " 1855, p. 566.  
 " 1858, p. 103.

### I. Application for relief.

1. That any person who now is, or hereafter shall be, in actual confinement, (a) for debt or damages, in any of the jails of this state, and is willing to deliver up to his creditor or creditors all his estate, both real and personal, towards the payment of his creditor or creditors, is hereby authorized to present a petition, in the manner hereinafter appointed for the benefits of this act.

Debtors in actual confinement may apply for discharge.

R. S. 325, § 1.

2. Any person or persons who may be arrested or held in custody by any sheriff, constable or other officer in any civil action upon mesne process or process of execution, or upon an attachment for not performing an award, or who may be surrendered in discharge of his or their bail, shall be discharged from arrest or custody by such officer; (b) provided, such person or persons shall make out and deliver to the officer making the arrest, or in whose custody such person or persons may be, a true and perfect inventory, under oath or affirmation, of all his or their goods and chattels, rights, credits, lands, tenements, hereditaments and real estate, (c) and shall give bond to the plaintiff at whose suit he or they are arrested, with sufficient security, being a freeholder or freeholders and resident in the county, in double the sum for which he or they are arrested or taken in execution, with a condition that he or they will appear before the next court of common pleas to be holden in the county wherein such arrest is made, and petition said court for the benefit of the insolvent laws of this state; and that the said defendant will in all things

Defendant discharged on giving bond, etc.

R. S. 323, § 2.

Inventory.

(a) One who has been arrested on a *ca. res.*, and permitted by the sheriff to go at large, is not in "actual confinement," *In re Brush*, 1 Hal. 404. The debtor must be under arrest or held in custody, *Bond v. Cox*, 1 Vr. 381.

(b) If the party is surrendered in discharge of his bail, the surrender must be a legal one, *Hulshizer v. Kocker. Spen.* 390. If he has surrendered himself to the sheriff before the return day of the writ, in discharge of his bail bond, he is regarded as in the custody of the sheriff, *Dalbey v. Lowen-*

*stein*, 5 Vr. 465. He could not formerly apply after confinement in jail on execution, *Eayre v. Earl*, 3 Hal. 359.

(c) The common pleas have no authority to discharge a defendant on a summary application, *Stryker v. Rea*, 6 Hal. 319. Giving a bond without the inventory is not sufficient, *Davis v. Hendrickson*, 3 Gr. 481. The inventory need not be dated or sworn to at the time of his discharge; one made upon a former discharge will answer, *Race v. DeHart*, 4 Zab. 37.