

Indebtedness on policy to be paid in cash.

210. SEC. 2. That if there be any indebtedness on the policy which has been acknowledged by the assured in writing, such indebtedness shall be paid off in cash before the provisions of this act shall be applicable to the policy.

How net value of insurance shall be computed.

211. SEC. 3. That the net value of the insurance given for such single premium under this act, computed according to the American experience table of mortality, with interest at the rate of four and one-half per centum per annum, shall in no case be less than two-thirds of the entire reserve, computed according to the rule prescribed in this act; but such insurance shall not participate in the profits of the corporation.

Excess of reserve on endowment policy to be paid in cash.

212. SEC. 4. That if the reserve upon any endowment policy applied according to the provisions of this act, as a single premium of temporary insurance be more than sufficient to continue the insurance to the end of the endowment term named in the policy, and if the insured survive that term, the excess shall be paid in cash at the end of such term, on the conditions on which the original policy was issued.

When policy shall be incontestable.

213. SEC. 5. That any policy issued by any insurance company of this state shall be incontestable after two years from its date of issue, provided all due premiums have been paid, except that such policy may be adjusted for misstatement of age in the application for original policy.

Certain companies have option to make certain payments in cash.

214. SEC. 6. That on policies of prudential or industrial insurance the paid-up value of which, in accordance herewith, shall be less than fifty dollars, it shall be optional with the company issuing such policy to pay to the legal holder or holders thereof the cash equivalent; and upon such payment, the company shall be absolutely released from all further claims or demands whatsoever, under or by reason of said policy, which shall thereupon be canceled.

Act not to apply to policies on lives of children under twelve years of age.

215. SEC. 7. That the provisions of this act shall not apply to policies issued on the lives of persons under twelve years of age, until three years after such persons shall attain that age.

Repealer.

216. SEC. 8. That all acts or parts of acts inconsistent with this act be and the same are hereby repealed.

Intoxicating Liquors.

I. INNS AND TAVERNS ACT, WITH SUPPLEMENTS.

1. Licenses, by whom granted.
2. Recommendation required.
3. Amended by section 54.
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, &c.
15. No shopkeeper 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, &c., from them.
26. Not to give credit for liquors.
27. Note, &c., given for such debt, void.
28. But may recover from travelers.
29. Proceedings against offenders.
30. License forfeited for drunkenness.
31. Construction of act.
32. Rights of cities, &c., 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 innkeeper 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. License to be granted by court of common pleas in certain cities and towns.
53. Repealer.
54. Recommendation to be signed within thirty days before opening of term.
55. Amended by section 56.

- 56. Courts authorized to transfer licenses for unexpired term.
- 57. License may be granted to corporation managing picnic grounds, &c.
- 58. Application for such license, how made.
- 59. Liabilities and penalties of such corporation.

II. MALT LIQUORS ACT, WITH SUPPLEMENTS.

- 60. Court of common pleas may license sale of malt liquors.
- 61. Application for license.
- 62. Recognizance to be given before receiving license.
- 63. Before whom recognizance may be taken.
- 64. Fees.
- 65. Form of license.
- 66. License, when void.
- 67. When application to be made.
- 68. Renewal of license.
- 69. Court to assess license fee.
- 70. Duty of clerk of court.
- 71. Penalty for selling without license.
- 72. Penalty for selling on Sunday.
- 73. Where provisions of act shall not apply.
- 74. Licenses in certain towns, &c., to be granted by common pleas.

III. SUPPLEMENTS TO INNS AND TAVERNS ACT AND TO MALT LIQUORS ACT.

- 75. Clerks of common pleas to keep record of licenses.
- 76. When licenses shall be revoked.
- 77. Penalty if clerk neglect duty.
- 78. Licenses granted by court valid until first day of same term in next succeeding year.
- 79. Repealer.

IV. MISCELLANEOUS ACTS.

- 80. Penalty for giving or selling liquors at vendues.
- 81. Limitation of effect of section 80.
- 82. Time when licenses to sell liquors shall expire in cities having 100,000 inhabitants.
- 83. Amount that may be charged for license fee.
- 84. Board of excise may transfer license.
- 85. Penalty for selling without license.
- 86. Repealer.
- 87. When licenses in certain cities having 100,000 inhabitants shall expire.
- 88. License fee which may be charged.
- 89. License may be transferred.
- 90. Penalty for selling without license.
- 91. Repealer.
- 92. Excise boards created in cities of 100,000 inhabitants or over.
- 93. Board empowered to grant licenses. Record of licenses to be kept.
- 94. How board appointed.
- 95. Term of office of members of board.
- 96. Board shall meet every week. Record of meetings to be kept. Inspector of excise to be appointed.
- 97. Synopsis of act with rates of license fees to be printed, &c.
- 98. License fees to be paid to comptroller or treasurer each week.
- 99. Penalty for selling without license.
- 100. Selling or giving to minors under eighteen prohibited.
- 101. Police justice to have jurisdiction of complaints.
- 102. Unexpired licenses to be valid.
- 103. Repealer.
- 104. Excise department in cities of more than 15,000, how appointed.
- 105. Certain towns may impose license fee upon inns, &c.
- 106. Amended by section 111.
- 107. Ordinance to establish excise board, how passed.
- 108. When ordinance to go into effect.
- 109. Excise commissioners to give bond.
- 110. Repealer.
- 111. Common council may provide by ordinance for establishment of excise board.
- 112. Boards of excise may be established by ordinance in towns and cities except cities of first class.
- 113. Municipal clerk to file copy of ordinance in office of clerk of court of common pleas. Court to appoint board.
- 114. Term of office of members of board.
- 115. Members of board to take oath. Clerk of board.
- 116. Powers of board.

- 117. Licenses not to be granted by any other body.
- 118. Penalties may be prescribed by board.
- 119. Fees for licenses.
- 120. Salary of commissioners and clerks.
- 121. Ordinance establishing board may be repealed.
- 122. Repealer.
- 123. Licenses, how granted in first-class boroughs.
- 124. Ordinances regulating applications, &c.
- 125. Repealer.
- 126. City excise boards may transfer or revoke licenses.
- 127. Boards of councilmen in towns may pass ordinances concerning licenses.
- 128. How ordinance shall be passed.
- 129. How suits for violating ordinance prosecuted.
- 130. Moneys received for license fees in cities, how expended.
- 131. Fees for licenses for sale in quantities less than one quart. Penalty for selling without license.
- 132. License to sell in quantities of one quart to five gallons required.
- 133. Applications for licenses, to whom and how made.
- 134. Proceedings for obtaining order to hold municipal or township election to fix license fees.
- 135. Notice of election to be published. How held and conducted.
- 136. Form of ballots.
- 137. No license to be granted except on payment of fee fixed at election.
- 138. When elections may be held.
- 139. Fees for licenses granted by court, to whom paid.
- 140. For what offenses licenses to be forfeited. Proceedings for revocation of license.
- 141. Licenses not to be granted for stores, &c.
- 142. Druggists may sell upon prescription, &c.
- 143. Not necessary to prove particular kind of liquor sold on trials.
- 144. Persons twice convicted of keeping disorderly house disqualified from having future license.
- 145. Repealer.
- 146. Repealer.
- 147. Unconstitutionality of one section not to affect other sections.
- 148. License fee for beer bottlers in first and second-class cities.
- 149. How application for license shall be made.
- 150. Penalty for carrying on business without license.
- 151. Salaries of excise commissioners in cities of over 100,000 inhabitants.
- 152. Repealer.
- 153. Excise boards in cities authorized to transfer or revoke licenses.
- 154. License inspector. Appointment, duties and compensation of.
- 155. Repealer.
- 156. Appointment of license inspectors in first-class cities, &c.
- 157. Repealer.
- 158. License fees for licenses granted by court, how disposed of.
- 159. Regulations concerning the granting of licenses in cities of the second class. Recommendation by freeholders not required.
- 160. Repealer.
- 161. Courts of common pleas may license social clubs to sell liquors.
- 162. Application for license, how made.
- 163. Disposition of fees.
- 164. Clubs not to sell without license.
- 165. Yacht clubs may be licensed to sell liquors.
- 166. Excise licenses may be renewed in cities of fourth class without recommendation by freeholders.
- 167. Repealer.
- 168. Licenses to sell liquors in cities of third class may be transferred from person to person or place to place.
- 169. Courts of common pleas may transfer licenses.
- 170. Applicant therefor to present petition.
- 171. What petition shall contain.
- 172. Affidavit to accompany petition.
- 173. Notice of application to be filed.
- 174. Term of license transferred.
- 175. Executors or administrators of licensee may continue business.
- 176. Repealer.
- 177. Licenses, where licensee as tenant vacates premises, to be revoked unless transferred.
- 178. Owner or occupant may apply for license.

179. Former tenant's license may be revoked on vacating premises.
 180. Fee on transfer of license.
 181. Repealer.
 182. Court of common pleas may grant licenses to sell malt liquors in boroughs.
 183. Fees, how disposed of.
 184. Repealer.
 185. Repealer.
 186. Excise licenses in cities of third class may be renewed without recommendation by freeholders.
 187. Repealer.
 188. Mayor not to be member of excise board in any city.
 189. Member to be elected in mayor's place.
 190. Repealer.
 191. Publication of names, &c., of applicants in first-class cities.
 192. Amended by section 194.
 193. Repealer.
 194. Cost of publication of names, &c., to be paid by city.
 195. Transfer of licenses in second-class cities authorized.
 196. Courts of common pleas authorized to transfer licenses.
 197. Unlawful to fill butts, hogsheads, barrels, &c., with malt liquors, &c., without permission of owner.
 198. Penalty for so doing.
 199. Penalties, how disposed of.
 200. Violators guilty of misdemeanor.
 201. When search warrant may issue.
 202. Mayor to appoint excise board in second-class cities.
 203. When act shall take effect.
 204. Mayors of first-class cities may appoint excise boards.
 205. Terms of present board to end when.
 206. Vacancy shall be filled for unexpired term only.
 207. When terms of present officers and employes shall cease.
 208. Powers, duties, &c., of new boards.
 209. Repealer.

I. Inns and taverns act, with supplements.

An act concerning inns and taverns.

Approved April 17, 1846.

Rev. 281, 744.

Har. 192, 208.

R. S. 577.

Licenses, by whom granted.

Recommendation required.

Penalty for imposing on the court.

Recognizance required.

Condition.

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. (a)

3. [Amended by Sec. 54, *post*.]

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. (b)

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:

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

(a) For authorities relating to this section, see *Dufford v. Nolan*, 17 Vr. 87. *Batchelder v. Erb*, 18 Vr. 92. *Austin v. Atlantic City*, 19 Vr. 118. *Amerman v. Hill*, 23 Vr. 328.

(b) Any certifier imposing on the court by his certificate,

renders himself liable to the criminal prosecution provided for by this section, but his certificate will confer jurisdiction. *Amerman v. Hill*, 23 Vr. 328.

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 innholder 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.

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.*

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.

Confined to person and place.

10. That no license shall authorize any innholder 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.

No liquor to be sold elsewhere.

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

When application to be made.

on by the said court on the said first day, determine in open court on said application, by granting or refusing the same. (a)

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 travelers 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, &c.

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 shopkeeper 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 shopkeeper shall give or retail strong liquors, so as to encourage drunkenness, reveling or frolicking in his or her house or store, he or she shall forfeit sixteen dollars for every such offense, 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, &c.

When inn and shop may be under one roof.

What necessary for keeping an inn.

16. That every innholder 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 travelers, 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 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.

Tax to be paid for license.

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.

Clerk to keep account and pay over moneys.

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

(a) An order not made by the court on the first day of its session, or on some other day publicly fixed on by the court on said first day, is a nullity and will, upon proper application, be set aside. *Hickman v. Stoepel*, 25 Vr. 486.

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.

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 innholder 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 offense against this state, for any innholder 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 outhouse, tenement, yard or garden belonging thereto, or therein to permit any kind of gaming by lot or chance. [See Sec. 48, *post.*]

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. (a)

License may be revoked.

24. SEC. 25. That if any innholder 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 innholder or tavern-keeper shall, for every offense, 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.

25. SEC. 26. That if any innholder, 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.

Or take goods, &c. from them.

26. SEC. 27. That if any innholder 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

Not to give credit for liquor.

(a) The prescription in this section of the causes which shall be the ground for revocation, is an implied admission of the

absence of the power to revoke without legislative sanction. *Lantz v. Highstown*, 17 Vr. 107.

- 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 innholder 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.**
- Note, &c., given for such debt void.**
- 27. SEC. 28.** That if any innholder 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 pretense 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.
- But may recover from travelers.**
- 28. SEC. 29.** That nothing in this act shall be construed to debar any innholder 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 travelers not residing in the town, city, precinct or township where such inn and tavern is kept.
- Proceedings against offenders.**
- 29. SEC. 30.** That it shall be the duty of every justice of the peace, on view, complaint or information, that any innholder 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 innholder 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 impaneled by the sheriff, to inquire thereof; and if the jury find that such innholder 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 reasonable cause shown, adjourn the trial of such complaint or information to the then next sessions or term.
- Money recovered to be paid to the state.**
- 30. SEC. 31.** That if any innholder 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. (b)
- Proviso.**
- 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.
- License forfeited for drunkenness.**
- Construction of act.**

(a) This does not prevent a tavern-keeper from paying his debts in liquor, as the rent of the tavern. *Clark v. Mershon, Pen. *71.* Or any other debt. *Stuff 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.*

(b) An innkeeper is not indictable for being drunk in his own inn unless it becomes a nuisance and is so charged in the indictment. *State v. Locker, 21 Vr. 512.*

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, &c., 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 offense 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 impaneled, 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 list 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. (a)

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. (b)

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 offense 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 offense 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 offense shall have been committed; *provided, 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. (c)

May be prosecuted for penalty.

Provisos.

[Sec. 40 repealed. See CRIMES, Sec. 62.]

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

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

(a) An application to the court for license to keep an inn and tavern, after refusal, cannot be withdrawn by leave of the court without notice. And a license granted at a subsequent term, within a year after the prior application was rejected, is illegal. *Dilkes v. Pancoast*, 24 Vt. 553.

(b) What are necessary averments. *Townley ads. State*, 3 Har. 311; overruled, *Gifford's Stat. Con.*, p. 181.

(c) 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 Har. 311. The time and place must be stated. *Keyr v. Harker*, 2 Hal. 349. See, also, *Steelman v. Bolton*, Pen. *821. What is a sufficient setting out of the offense in the demand to support a judgment. *Parke v. Adams*, Pen. *675.

INTOXICATING LIQUORS.

shall form the chief ingredient, he shall, for every such offense, 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 offense 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 offense 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 innkeepers; and if any person or persons shall offend against the provisions of this section, he, she, or they shall forfeit and pay, for every offense, 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 offense 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 :

Condition.

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 outhouse, 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 innholder 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.

Fees.
Exempt from tax.

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.

Rates.

Supplement.

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 offense against this state for any innholder or tavern-keeper to keep any billiard table in his or her inn or tavern, or in any outhouse, tenement, or garden belonging thereto, be and the same is hereby repealed.

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

Provision prohibiting inn-keeper to keep billiard table repealed.

Supplement.

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 offense, together with the costs of prosecution.

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

Sale of wines or other liquors from wagons or other vehicles prohibited.

Penalty.

Supplement.

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 offenses 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.

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

Certain sections of inns and taverns act not to apply to cities whose ordinances punish unlicensed sale of liquors.

51. SEC. 2. That where the ordinances of any incorporated city of this state shall provide for the punishment of the offense 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 offense 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

When city ordinances punish keepers of disorderly houses, not lawful to indict.

INTOXICATING LIQUORS.

them, but any person so offending shall be prosecuted and punished only under and by virtue of the provisions of such ordinances. (a)

Supplement.

Approved March 13, 1879.

P. L. 1879, p. 179.

License to be granted by court of common pleas in certain cities and towns.

52. SEC. 1. That hereafter, in all incorporated cities having a population of not less than four thousand and not exceeding a population of six thousand, and in towns having a population less than one thousand, in counties of this state, such counties having a population of not less than thirty-seven thousand and not exceeding forty thousand, by the census of one thousand eight hundred and seventy-five, the license to keep inns and taverns, ale or beer saloons, shall be granted by the inferior court of common pleas of the county wherein such city and town is located, and the money received for all such licenses shall be paid over by the collector of such county to the treasurer, collector or other proper financial officer of the city and town in which such license shall be granted. (b)

Repealer.

53. SEC. 2. That this act shall take effect immediately, and that all acts or parts of acts inconsistent herewith be and the same are hereby repealed.

Amendatory act.

Approved March 1, 1886.

P. L. 1886, p. 51.

Recommendation to be signed within thirty days before opening day of term.

54. SEC. 1. That section three of said act be amended so as to read as follows :

[That no person shall be licensed to keep an inn and tavern unless the freeholders who shall recommend him or her shall sign such recommendation within thirty days next preceding the opening day of the term on which application for license shall be made, and shall also certify that such an inn and tavern is necessary and will conduce to the public good.] (c)

Supplement.

Approved April 11, 1889.

P. L. 1889, p. 265.

55. SEC. 1. [Amended by Sec. 56, *post.*]

An act to amend "A supplement to an act entitled 'An act concerning inns and taverns,' approved April seventeenth, one thousand eight hundred and forty-six," which supplement was approved April eleventh, one thousand eight hundred and eighty-nine.

Approved May 19, 1890.

P. L. 1890, p. 337.

Courts authorized to transfer licenses for unexpired term.

56. SEC. 1. That section one of the above-mentioned act be and the same is hereby amended so as to read as follows :

[That the inferior courts of common pleas in and for the several counties of this state shall be and hereby are authorized and empowered in their discretion to transfer any license granted by them under and by virtue of the act to which this is a supplement ; and in case of transfer the license so transferred shall only be good or effective for the unexpired term thereof at either the place or premises mentioned in the original license, or else at the place or premises to which the person or persons named in the original license shall remove and locate within the corporate limits of any city, town, township or borough for which the original license may have been granted ; *provided, however,* that the applicant for such transfer shall, if the transfer sought is from one person to another person,

Proviso.

(a) A statute authorizing the prosecution of the offense of keeping a disorderly house by a city court, without an indictment found by a grand jury, is illegal on constitutional grounds. Not so a statute authorizing a prosecution for the sale of ardent spirits without a license. *State v. Anderson*, 11 Vr. 224. A house in which unlawful sales of liquor are habitually made is an indictable nuisance, although there is a city ordinance prescribing penalties for such sales. *Meyer v. State*, 13 Vr. 145, affirming 12 Vr. 6. The act of March 26th, 1874 (sections 50 and 51 above), exempts from the operation of the sixtieth section of the crimes act offenses committed in such cities as, having power to pass

ordinances providing a punishment for the unlicensed sale of spirituous liquors, have passed such ordinances; but such exemption continues only so long as such ordinances remain in force and ceases upon their repeal. *State v. Zeigler*, 17 Vr. 307. (b) The supreme court has held this act to be unconstitutional, as being a special law regulating the internal affairs of towns and counties. *Zeigler v. Gaddis*, 15 Vr. 363. (c) The legislature has never decided for itself whether the granting of a license will be for the public good. It has referred that question to the finding of a tribunal other than itself. *Paul v. Gloucester County*, 21 Vr. 596.

and not from one place to another place, at the time of the making of said application present to the court a petition signed by at least twelve freeholders of the city, town, township or borough in which the original license was granted, requesting the inferior courts of common pleas to grant such transfer, and which said petition shall set forth that the person requesting such transfer is a person of good repute for honesty and temperance and is known to the freeholders requesting such transfer to have at least two spare beds more than are necessary for the family use, and that the place proposed to be licensed is well provided with house-room, stabling and provender; and if the transfer sought is from one place to another place the same kind of application in this proviso stated shall be made, with the same certificate, but it shall be presented in open court on the first day of a regular term thereof at the usual hour or time set by the court for the presentation of license applications; *and provided further*, that the applicant seeking such transfer of license shall file with the clerk of said court a notice of such proposed application at least ten days before making such application; and in case of transfer, the license so transferred shall only be good for the unexpired term thereof.]

Proviso.

Supplement.

Approved March 31, 1891.

P. L. 1891, p. 274.

57. SEC. 1. That any corporation duly incorporated under the laws of this state for the purpose of establishing and managing picnic and pleasure grounds, or for the purpose of conducting and carrying on the business of hotel-keeping or for keeping an inn and tavern or inns or taverns, may be granted a license to keep an inn or tavern by the body having authority to grant such licenses within the county, municipality or township where such inn and tavern is proposed to be kept.

License may be granted to corporation managing picnic grounds, &c.

58. SEC. 2. That the application of any such corporation for such license shall be made, so far as the same may be applicable, pursuant and conformably to the requirements of law regulating applications of individuals for license to keep an inn and tavern.

Application for such license, how made.

59. SEC. 3. That any corporation keeping or conducting an inn and tavern shall be, in all things and in all respects, subject to the same requirements of law, liabilities, duties, pains and penalties as are individuals engaged in the same business.

Liabilities and penalties of such corporation.

II. Malt liquors act, with supplements.

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

Approved April 4, 1872.

P. L. 1872, p. 81.

60. 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 drunk 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. (a)

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

61. 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

Application for license.

(a) The mere power to license lager beer saloons does not carry with it by implication the right to prohibit absolutely the sale of beer by the quart. *Rossell v. Garon*, 21 Vr. 358. A sale

of beer, ale, &c., by the quart or in larger measure, to be drunk on the premises of the vender, is not prohibited by the malt liquors act. *Fagan v. State*, 18 Vr. 175.

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.

Form of recognizance.

62. 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: The condition of the recognizance is such, that whereas the above-bounded _____ 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.

63. 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.

64. 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.

65. 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.

66. 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.

When application to be made.

67. 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.

Renewal of license.

68. 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.

Court to assess license fee.

69. 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.

Duty of clerk of court.

70. 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.

71. 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 offense, 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.

72. 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.

73. 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.

Supplement.

Approved March 29, 1876.

P. L. 1876, p. 218.

74. SEC. 1. That hereafter in all towns, boroughs and incorporated districts (not cities) of this state having a population of one thousand inhabitants, and not exceeding in population six thousand inhabitants, and governed by a board of commissioners, a part of whom are elected and a part of whom are appointed, all licenses to sell ale, strong beer, lager, porter, wine and other malt liquors, shall be granted by the inferior court of common pleas of the county; the money received for the granting of such licenses shall be paid over by the collector of the county to the treasurer, collector or other financial officer of the town, borough or incorporated district in which such licenses shall be granted.

Licenses in certain towns, &c., to be granted by common pleas.

III. Supplements to inns and taverns act and to malt liquors act.

A further supplement to the act entitled "An act concerning inns and taverns," approved April seventeenth, one thousand eight hundred and forty-six; and, also, a supplement to the act entitled "An act to regulate the sale of ale, strong beer, lager, porter, wine and other malt liquors in the state of New Jersey," approved April fourth, one thousand eight hundred and seventy-two

Approved March 14, 1879.

P. L. 1879, p. 216.

75. SEC. 1. That in addition to the duties now required to be performed by the clerks of the court of common pleas of the several counties of this state by the said acts to which this act is a supplement, the said clerks shall keep a record in the minutes of the said court of the names of all persons to whom licenses are granted by said courts to keep inns or taverns, or to sell ale, strong beer, lager, porter, wine or other malt liquors, together with the amount assessed to each person for the same, and the date when paid.

Clerks of common pleas to keep record of licenses.

(a) Selling liquor on Sunday constitutes the offense 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. Under the thirteenth section of the above act, known as the malt liquors act, a single sale of any of the liquors mentioned without license makes the seller liable to indictment as keeper of a disorderly house. The act is operative throughout the state except in townships, cities or incorporated towns

(mentioned in section 14), where laws are in force regulating the sale of such liquors, outside of inns and taverns. Authority conferred upon a town to *prohibit* the sale of intoxicating drinks does not embrace authority to *regulate* the sale. *State v. Fay*, 15 Vr. 474. A person cannot be convicted of keeping a disorderly house, under the malt liquors act, upon mere proof of a single sale; it must further appear that the liquors sold were drunk on or about the premises where sold. *Gulick v. State*, 21 Vr. 468.

When licenses shall be revoked.

76. SEC. 2. That the said clerks shall, within ten days, if the said court be then in session, and if not in session, at the next session thereof, either special or regular, report to the said court the names of all persons who shall neglect or refuse to take out their licenses and pay the fees and assessments therefor; and, thereupon, the said court shall, unless sufficient cause be shown to the contrary, revoke the said license or licenses.

Penalty if clerk neglect duty.

77. SEC. 3. That if any of the said clerks shall neglect to perform any of the duties required of them by this act, he shall forfeit for each offense the sum of twenty dollars, to be recovered in an action of debt in any court having jurisdiction of the same, by any person who shall sue therefor, in the name of the board of chosen freeholders of said county, one-half of said penalty to be paid to the person suing for the same, and the other half to the county collector of said county for the use thereof.

A further supplement to an act entitled "An act concerning inns and taverns," approved April seventeenth, one thousand eight hundred and forty-six, and also a supplement to an act entitled "An act to regulate the sale of ale, strong beer, lager, porter, wine and other malt liquors in the state of New Jersey," approved April fourth, one thousand eight hundred and seventy-two.

P. L. 1891, p. 246.

Approved March 25, 1891.

Licenses granted by court valid until the first day of the same term in next succeeding year.

78. SEC. 1. That every license heretofore or hereafter granted by the inferior court of common pleas of any county in this state shall remain valid and in full force and effect until the first day of the same term of said court in the year succeeding the granting of said license, anything in said license to the contrary notwithstanding; *provided*, that the person holding said license shall, on or before the expiration of one year from the date thereof, file with the clerk of said court his, her or their application, in proper form, for a license for the same place for another year; *provided further*, that said court shall have the same power and authority to revoke or annul said license as existed prior to the passage of this act.

Proviso.

Proviso.

Repealer.

79. SEC. 2. That all acts and parts of acts inconsistent to the provisions of this act be and the same are hereby repealed.

IV. Miscellaneous acts.

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

R. S. 608.

Passed February 11, 1797.

Penalty for giving or selling liquors at vendues.

80. SEC. 1. That 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 offense was committed, for the use of the poor thereof.

Limitation of effect of section 80.

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

An act concerning the granting of licenses to sell strong and spirituous liquors, wine, ale and beer within the limits of incorporated cities.

P. L. 1877, p. 232.

Approved March 9, 1877.

Time when licenses to sell liquors shall expire in cities having 100,000 inhabitants.

82. SEC. 1. That in each and every city in this state, whose charter or its supplements provide that all licenses for the sale of strong and spirituous liquors, wine, ale and beer within the limits of such city, shall be granted by a board of excise commissioners, consisting of resident freeholders of such city, nominated by the mayor and confirmed by the com-

mon council of such city ; all licenses hereafter granted by such board of excise commissioners for the sale of ale, beer and light wines, as hereinafter provided, shall expire on the first day of July next succeeding the granting of any such license.

83. SEC. 2. That the license fee to be hereafter charged by such board of excise commissioners for selling strong and spirituous liquors, wines, ale and beer shall be not exceeding seventy-five nor less than fifty dollars, and that the license fee for the sale of ale, beer and light wines shall not exceed twenty-five nor be less than fifteen dollars, for the term of one year from the date of any such license ; that such board of excise commissioners shall grant license for the sale of strong and spirituous liquors, wine, ale and beer, or for the sale of ale, beer and light wines for any part of a year, not less than one month next preceding the first day of July, every such license so granted to expire as provided in the first section of this act ; that the license fee to be charged and assessed by such board of excise commissioners for the sale of strong and spirituous liquors, wine, ale and beer for a less time than one year, shall be at the rate of not more than seven nor less than four dollars a month for each month of the unexpired year ; that the license fee for the sale of ale, beer and light wines for a less time than one year shall be at the rate of not more than three nor less than one and a half dollars a month for each month of the unexpired year ; and that all fees for license shall hereafter accompany any and all applications for license, such fee to be returned to the person or persons applying for license in all cases where applications for license are refused by such board of excise commissioners.

Amount that may be charged for license fee.

When issued for less than one year.

84. SEC. 3. That any such board of excise commissioners may, at their option, transfer any license by them granted to any person or persons to any other person or persons who shall apply to them for such transfer ; *provided*, that such board of excise commissioners shall be satisfied that any such person or persons are of good moral character, and upon the payment of a transfer fee of three dollars ; that any transfer of license shall be written or printed upon the face of any such license, and any such transfer shall entitle and authorize any person or persons to continue, at the same place of business, the sale of strong and spirituous liquors, wine, ale and beer, or ale, beer and light wines, as provided and mentioned in any and every of such licenses respectively.

Board of excise may transfer license.

Proviso.

85. SEC. 4. That whoever shall sell any strong or spirituous liquors, wines, ale or beer, in quantities less than five gallons at a time, at any place within such incorporated city, without having a license therefor granted by such board of excise commissioners, shall, on conviction thereof, according to the form of the statute in that behalf made and provided, forfeit and pay such sums as may be fixed by the special police justice before whom such conviction shall be had ; *provided*, the amount of such forfeiture or fine for any one violation of the provisions of this act shall not exceed the sum of fifty dollars.

Penalty for selling without license.

Proviso.

86. SEC. 5. That all acts and parts of acts inconsistent with any of the provisions of this act, concerning all incorporated cities mentioned in the first section of this act, be and the same are hereby repealed, and this act shall take effect immediately ; *provided*, that the provisions of this act shall not apply to any city having, by the last census, less than one hundred thousand inhabitants.

Repealer.

Proviso.

An act concerning the granting of licenses to sell strong and spirituous liquors, wine, ale and beer within the limits of incorporated cities.

Approved March 27, 1878.

P. L. 1878, p. 170.

87. SEC. 1. That in each and every city in this state whose charter or its supplements provide that all licenses for the sale of strong and spirituous liquors, wine, ale and beer within the limits of such city, shall be granted by a board of excise commissioners, consisting of resident freeholders of such city, nominated by the mayor and confirmed by the

When licenses in certain cities, having 100,000 inhabitants, shall expire.

common council of such city, and who shall not be from the same political party, all licenses hereafter granted by such board of excise commissioners for the sale of ale, beer and light wines, as hereinafter provided, shall expire on the first day of July next succeeding the granting of any such license.

License fee which may be charged.

88. SEC. 2. That the license fee to be hereafter charged by such board of excise commissioners for selling strong and spirituous liquors, wine, ale and beer shall be not exceeding seventy-five nor less than fifty dollars, and that the license fee for the sale of ale, beer and light wines shall not exceed twenty-five nor be less than fifteen dollars for the term of one year from the date of any such license; that such board of excise commissioners shall grant license for the sale of strong and spirituous liquors, wine, ale and beer, or for the sale of ale, beer and light wines for any part of a year not less than one month next preceding the first day of July, every such license so granted to expire as provided in the first section of this act; that the license fee to be charged and assessed by such board of excise commissioners for the sale of strong and spirituous liquors, wine, ale and beer for a less time than one year, shall be at the rate of not more than seven nor less than four dollars a month for each month of the unexpired year; that the license fee for the sale of ale, beer and light wines for a less time than one year shall be at the rate of not more than three nor less than one and a half dollars a month for each month of the unexpired year, and that all fees for license shall hereafter accompany any and all applications for license, such fee to be returned to the person or persons applying for license in all cases where applications for license are refused by such board of excise commissioners; *provided*, that such board of commissioners may, at their option, transfer any license by them granted to any person or persons who may apply to them for such transfer.

License fee for a period less than one year.

Proviso.

License may be transferred.

89. SEC. 3. That any such board of excise commissioners may, at their option, transfer any license by them granted to any person or persons to any other person or persons who shall apply to them for such transfer; *provided*, that such board of excise commissioners shall be satisfied that any such person or persons are of good moral character, and upon the payment of a transfer fee of three dollars; that any transfer of license shall be written or printed upon the face of any such license, and any such transfer shall entitle and authorize any person or persons to continue at the same place of business the sale of strong and spirituous liquors, wine, ale and beer, or ale, beer and light wines, as provided and mentioned in any and every of such licenses respectively.

Proviso.

Penalty for selling without license.

90. SEC. 4. That whosoever shall sell any strong or spirituous liquors, wines, ale or beer, in quantities less than five gallons at a time, at any place within such incorporated city, without having a license therefor, granted by such board of excise commissioners, shall, on conviction thereof, according to the form of the statute in that behalf made and provided, forfeit and pay such sums as may be fixed by the special police justice before whom such conviction shall be had; *provided*, the amount of such forfeiture or fine for any one violation of the provisions of this act shall not exceed the sum of fifty dollars.

Proviso.

Repealer.

91. SEC. 5. That all acts or parts of acts inconsistent with any of the provisions of this act, concerning all incorporated cities mentioned in the first section of this act, be and the same are hereby repealed, and this act shall take effect immediately; *provided*, that the provisions of this act shall not apply to any city having by the last census less than one hundred thousand inhabitants.

Proviso.

An act to establish boards of excise commissioners in certain cities of this state.

P. L. 1878, p. 366.

Approved April 5, 1878.

Board of excise commissioners created in cities of 100,000 inhabitants and over.

92. SEC. 1. That there shall be in and for all cities in this state of one hundred thousand inhabitants and over, a board of excise commissioners, which shall consist of three legal voters of said city, to be nominated by the mayor and confirmed by the common council or board of aldermen of said

city, whose term of office (except as to the persons first constituting said board) shall be three years, and who shall each receive for their services such annual salary, not to exceed the sum of five hundred dollars, as the said common council or board of aldermen may fix or determine.

93. SEC. 2. That all licenses for the sale of strong and spirituous liquors, wine, ale and beer within the limits of said city, shall be granted by said board of excise commissioners; and said board shall have the power to grant license to any person or persons of good moral character who shall be approved of by them, permitting him or them to sell and dispose of at any one named place within such city, strong and spirituous liquors, wines, ale and beer in quantities less than five gallons at a time, upon receiving a license fee to be fixed by said board; and there shall be hereafter a separate license granted for the sale of ale and beer, and another for the sale of spirituous liquors and wines; the license fee for selling ale and beer shall be thirty dollars, and the license fee for selling spirituous liquors and wines shall not be less than fifty dollars nor more than one hundred dollars for each license; such licenses shall only be granted on written application to the said board, signed by the applicant or applicants, specifying the place for which license is asked, and the license shall be kept displayed by being hung up by the person or persons licensed, in a conspicuous position in the room or place where his or their sales are made; any omission so to display and exhibit such certificate shall be presumptive evidence that any person or persons omitting to exhibit and display the same has and have no license; the said board of excise commissioners shall keep a complete record of the names of all persons licensed as herein provided, with a statement of the place licensed, and license fee imposed and paid in each case; which record they shall at all times permit to be seen in a convenient place at their office in said city; persons not licensed may keep, and in quantities not less than five gallons at a time, sell and dispose of strong and spirituous liquors, wines, ale and beer in said city; *provided*, that no part thereof shall be drunk or used in the building, garden or inclosure communicating with, or in any public street or place contiguous to the building in which the same is kept, disposed of or sold.

94. SEC. 3. That the mayor of said city shall nominate to the common council or board of aldermen of said city, at their first regular meeting held after the first Monday in May, eighteen hundred and seventy-eight, three legal voters of said city as members of said board for the term to expire as hereinafter mentioned; all nominations made to the common council or board of aldermen by the mayor under the provisions of this act, shall be confirmed or rejected by said common council or board of aldermen at once; and in case of the rejection of such nominees, or any of them, the mayor shall continue so to nominate one, two or three persons, as the case may be, until the nominations are confirmed and the board is complete.

95. SEC. 4. That the term of office of the three persons first constituting said board shall be determined by lot, one to remain in office until the first Tuesday after the first day of May, in the year eighteen hundred and seventy-nine, another to remain in office until one year thereafter, and the third to remain in office until the first Tuesday after the first day of May in the year one thousand eight hundred and eighty-one; and that in the month of May in the year eighteen hundred and seventy-eight, and in the month of May in each and every year thereafter, the mayor of said city shall nominate to the said common council or board of aldermen a legal voter of said city to be a member of said board for the term of three years from the first Tuesday after the first day of May of the following year; when, in case of the failure or refusal of the mayor to nominate or of the common council or board of aldermen to confirm, or for any other reason, the time for the commencement of any term of office of any member of said board as aforesaid, shall pass by without a new appointment having been made and confirmed, then the members of said board for the preceding term shall hold over, and perform all the duties of commissioners of excise until a new appointment shall be made and confirmed and such new

Board empowered to grant licenses.

License fee.

Licenses to be granted only on written application.

Commissioners shall keep a record of names of all persons licensed.

Proviso.

How board appointed.

Term of office of persons first constituting said board.

One member to be nominated annually.

Proceedings in case of refusal to nominate or of refusal to confirm

Of vacancy.

member shall qualify ; in case of a vacancy in said board, by reason of death, resignation, failure to qualify according to law or otherwise, the said mayor shall nominate to the said common council or board of aldermen some eligible person or persons to fill said vacancy or vacancies, and the person or persons nominated and confirmed to fill said vacancy or vacancies shall be members of the board for the remainder of the then unexpired term, and may hold over as above provided.

Board shall meet each and every week.

Records and minutes to be kept.

96. SEC. 5. That the said board shall meet regularly each and every week, and more frequently if necessary, for the purpose of receiving and passing upon applications for license, and for transaction of such business as may properly come before them, and shall keep, or cause to be kept, full and complete records and minutes of the doings of the said board at each meeting held by them, in a proper book or books, which said book or books shall, except when the said board are in session, be kept in the office of the city clerk of said city, and shall be open to the inspection of the mayor and common council or board of aldermen of said city, and the officers of any department of the city government, when required, and subject to such other provisions as the common council or board of aldermen may ordain ; said board may appoint one of their own number to be president of the board, and may adopt such by-laws for the government of the board as they may deem proper ; the said common council or board of aldermen shall provide such room or rooms for the use of said board as [to] the said common council or board of aldermen may seem best, and fit up the same, and furnish all the books, blanks and stationery, license certificates and other things necessary for the transaction of the business of said board ; said common council or board of aldermen shall, from time to time, appoint some suitable person to be inspector of excise, whose duty it shall be to faithfully and thoroughly inspect all places where strong and spirituous liquors, wines, ale or beer are sold within said city, and promptly report to the said board the names and places of business of all persons who are selling without the license of the board, or who may violate any of the provisions of this act, and to perform such other duties as may be required of him by said board, or by the said common council or board of aldermen, who shall have power by ordinance or by resolution to more fully define or prescribe the duties of said inspector ; the common council or board of aldermen shall fix the compensation to be paid to said inspector, and he may be removed from office by them at any time ; the city clerk of said city shall be the clerk of said board ; each person confirmed as a member of said board shall qualify within ten days thereafter (before he enters upon the duties of his office), taking and subscribing such oath or oaths as the said common council or board of aldermen may prescribe, and shall also enter into and deliver to the city clerk a bond to the mayor and common council or board of aldermen of said city in the sum of five thousand dollars with two sufficient sureties, to be approved by the board of finance and taxation of said city.

Room to be furnished the board, books, blanks, stationery, &c.

Appointment and compensation of inspector of excise.

Members to qualify.

Synopsis of act with rates of license fees to be printed, &c.

Term of license to be for one year.

License fees to be paid over to comptroller or treasurer each and every week.

97. SEC. 6. That said board shall cause to be printed in pamphlets or circulars this act, or a proper synopsis thereof, together with the rates of license fees adopted by them, which pamphlets or circulars shall be kept in their office for distribution to suitable persons and for information and inspection, and a copy shall be given to each person to whom license shall be granted ; each license shall be granted for one year only, and the full amount of the license fee shall be paid in when application is made for license in each case, and no license shall be granted by said board until the full amount of the license fee is paid to them by the person or persons applying for the same.

98. SEC. 7. That said board shall each and every week pay over to the comptroller or treasurer of said city the total amount received by them for license fees during said week, and at the same time present to the said comptroller or treasurer a complete statement and account in writing of all the licenses granted by them during said week, the persons to whom granted, and the residence of said persons and the amount of the license fees paid in each case, the time when it was paid and when the license

was granted, and whether it was for the sale of strong and spirituous liquors, or wines, or ale, or beer, and the place where the same was licensed to be sold.

99. SEC. 8. That whoever shall sell any strong or spirituous liquors, wines, ale or beer in quantities less than five gallons at a time, at any place within said city, without having a license therefor granted, as herein provided, shall forfeit and pay fifty dollars for each offense.

Penalty for selling without license.

100. SEC. 9. That no inn, tavern, hotel, victualing-house, or saloon-keeper, or any other person licensed to sell any strong or spirituous liquors or wines, within the said city, shall sell or give away any such liquors or wine to any apprentice or to any minor under the age of eighteen years, knowing or having reason to believe him to be such, under a penalty of ten dollars for each offense.

Selling or giving to minors under eighteen prohibited.

101. SEC. 10. That any police justice of said city shall have jurisdiction in the matter of all complaints for the violation of any of the provisions of this act, and shall have full power and authority to hear, adjudge and determine such complaints, and issue warrants and other processes, and impose the fines and penalties provided for in this act; and every police justice of said city shall make such return and payment of the fines and penalties and costs received by him in all matters coming before him under this act, as he is now required to make respecting fines, penalties and costs of suit paid to him under complaints for the violation of ordinances.

Police justice to have jurisdiction of complaints.

102. SEC. 11. That all licenses heretofore granted in said city and now unexpired, on which the full fees required at the time of their granting have been paid, shall be valid until the time for which they were granted shall expire; *provided*, the holders of said licenses shall keep the same displayed and exhibit them as required in section two of this act, and *provided* they shall in other respects conform to the requirements of this act; and in case they shall violate any of the provisions of said section or any other provision of this act, they shall be subject to the penalties of said violations.

Licenses unexpired to be valid.

Proviso.

103. SEC. 12. That all acts or parts of acts inconsistent with any of the provisions of this act be and the same are hereby repealed; *provided, however*, that this act shall not in any way interfere with any existing board of excise commissioners provided for by the charter of any city of this state, or by any supplement thereto.

Repealer.

Proviso.

An act to establish a license and excise department in certain cities.

Approved March 11, 1880.

P. L. 1880, p. 191.

104. SEC. 1. That it shall be lawful for any city in this state containing more than fifteen thousand inhabitants to provide, by ordinance, for a department to be called the license and excise department; the mayor shall be, *ex officio*, the head of such department; the other members of the department shall be appointed by the mayor, with the consent of the city council, and shall hold their office for such term, and shall perform such duties and be paid such compensation as shall be prescribed by the ordinance creating the department; such ordinances shall define and lay down rules and regulations for the granting of licenses in respect to all subjects in which the power of licensing is determined to be exercised by said city, and shall prescribe the penalties to be inflicted for the violation of such ordinance; *provided*, that the provisions of this act shall not apply to any city in this state in which the granting of such licenses is now vested in a board of excise or excise commissioners, nor to any city wherein the courts of common pleas now grant licenses. (a)

Excise department in cities of more than 15,000 inhabitants, how appointed.

Proviso.

(a) This act is local and special, and therefore unconstitutional. *Closson v. Trenton*, 19 Vr. 438.

An act to authorize incorporated towns having the power to license and regulate inns and taverns, restaurants and beer saloons, to impose a license fee for the purpose of revenue.

P. L. 1883, p. 100.

Approved March 13, 1883.

Certain towns may impose license fee upon inns, &c.

105. SEC. 1. That all incorporated towns which, by their charters, now have the power to license and regulate inns and taverns, restaurants and beer saloons, shall be authorized to impose a tax or license fee for all such licenses granted by them for the purpose of revenue, and that the common council or governing body of said incorporated town shall appropriate all license fees received to the incidental or contingent account of said corporation.

An act to establish an excise department in cities of this state.

P. L. 1884, p. 133.

Passed April 8, 1884.

Ordinance to establish excise board, how passed.

106. SEC. 1. [Amended and supplied by Sec. 111, *post.*]

107. SEC. 2. That no such ordinance shall be passed in any city unless two-thirds of the members of the common council or other governing body of such city shall vote therefor.

When ordinance to go into effect.

108. SEC. 3. That such ordinance or ordinances for the creation of such board of excise shall go into effect only upon its approval by the mayor of the said city, and it shall thereupon be the duty of the city clerk or other official charged with such duty to give at least three days' notice of the proposed election for such excise commissioners.

Excise commissioners to give bond.

109. SEC. 4. That said excise commissioners shall give such bond for the faithful performance of their duties as the common council or other governing board of said city shall fix by ordinance.

Repealer.

110. SEC. 5. That all acts and parts of acts, general and special, inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

Supplement.

P. L. 1886, p. 397.

Passed June 1, 1886.

111. SEC. 1. That section one of the act to which this is an amendment be and the same is hereby amended to read as follows :

Common council may provide by ordinance for the establishment of board of excise

[That in all cities of this state it shall and may be lawful for the common council or other governing board of said city to pass, enforce, alter and repeal ordinances to take effect within said city for the following purposes, to wit : to provide for the establishment of a board of excise commissioners, to consist of five members, to serve for the term of three years, no more than three of whom shall belong to the same political party, which board shall be elected on a general ticket at the charter election in such city next after the passage of such ordinance, in the same manner as other officers in said city are elected ; *provided, however,* that no voter shall vote at such election for more than three of said commissioners, and the five persons receiving the highest number of votes for such office shall be declared duly elected ; that the salary of said commissioners shall be fixed by ordinance, but shall not exceed the sum of three hundred dollars each per year, and the said salary shall be paid out of the license fees ; that such board of excise commissioners shall have the sole power within such city to make, establish, amend or repeal ordinances and by-laws to license and regulate or prohibit inns and taverns, restaurants and beer saloons, and when licensed, to revoke or transfer such license and to prohibit all traffic in or sale of intoxicating drink or drinks, to license, regulate or prohibit billiard saloons and bowling alleys, and to prescribe and enforce a penalty or penalties, either by fine or imprisonment, for the violation of such ordinances or by-laws, which said penalties shall be enforced and collected by said board of excise commissioners, in the same manner as any other penalties are enforced and collected in any such city, and that every ordinance or by-law of such board of excise commissioners shall, after its introduction

Proviso.

and before its final passage, be published, for four insertions, in two newspapers, if so many there be published and circulating in such city, and be concurred in by at least three members of such board of excise commissioners as may be present at its final passage ; and no other license for such purposes within said city, granted by any other authority, shall be lawful ; that all fees for licenses granted by said commissioners shall be paid to the city clerk, who shall, in addition to his other duties, act as the clerk of said commissioners, and by him be paid over to the city treasurer.] (a)

Supplement.

Approved February 24, 1892.

P. L. 1892, p. 29.

112. SEC. 1. That it shall and may be lawful for the common council or other governing body of any town or city of this state, except cities of the first class, incorporated under any special or other act of the legislature thereof, by ordinance passed by the affirmative vote of a majority of all members composing such common council or other governing body, to provide for the establishment within and for such town or city of a board of excise commissioners, which ordinance shall provide that from and after the passage thereof there shall be established within and for such town or city a board of excise commissioners, appointed pursuant to provisions of this supplemental act.

Boards of excise may be established by ordinance in towns and cities, except cities of first class.

113. SEC. 2. That within ten days after the passage of any such ordinance as aforesaid, a copy thereof, certified by the clerk of such town or city, shall be by said clerk deposited and filed in the office of the clerk of the court of common pleas of the county wherein such town or city is situate ; and the clerk of such court shall thereupon forthwith notify the president or presiding judge of such court of the filing of such ordinance ; said judge, so notified, shall within thirty days after the receipt of such notice, convene said court at the court-house in his county, and said court shall then and there, in writing, under their hands, appoint a board of excise commissioners within and for such town or city, which appointment shall be by said court immediately thereafter filed in the office of the clerk of said court, and the filing thereof shall be notice to the appointees of their appointment as members of such board ; said board of excise commissioners, so to be appointed, shall consist of three persons, all of whom shall be residents and legal voters within the town or city for which they may be appointed, and they shall (except as herein otherwise provided) continue in office for the term of three years, and until their successors are appointed, conformably to this supplemental act.

Municipal clerk to file copy of such ordinance in office of the clerk of the court of common pleas.

Board to be appointed by the court.

To consist of three persons.

114. SEC. 3. That upon the original appointment of any such board of excise commissioners, as aforesaid, one of the members thereof, to be designated by said court, shall serve for the term of one year, one for the term of two years and one for the term of three years, and that upon the expiration of the term of any member of any such board his successor shall in manner aforesaid be appointed by said court, for the term of three years ; any vacancy occurring in said board shall be filled in the same manner by said court, but for the unexpired time only.

Term of office of members of board.

115. SEC. 4. That within ten days next succeeding the appointment of any such board of excise commissioners, as aforesaid, the members thereof shall meet and organize by electing one of their number to be chairman of said board, and severally taking and subscribing an oath or affirmation, before any person authorized to administer the same, faithfully and impartially to discharge the duties of said appointment, which said oath or

Members of board to take oath.

(a) The sole power under this act to pass ordinances to regulate and prohibit the sale of intoxicating liquors and beer is vested in the excise board and not in the common council. *Featherstone v. Lambertville*, 21 *Vr.* 507. The record of the conviction of one found guilty of violating an ordinance of the excise board must show everything necessary to constitute a legal conviction. An excise board being a sub-department of the municipality, of limited jurisdiction, its ordinance must appear in evidence before the magistrate, and will not be noticed judicially. *Hankinson v. Trenton*, 22 *Vr.* 495. Trial by jury under this act is not necessarily a matter of right, nor is the power therein given delegated to the municipality to be by it passed over to a body of its own creation. The act is, there-

fore, not, in this respect, unconstitutional. *Riley v. Trenton*, 22 *Vr.* 498. Neither is the act unconstitutional upon the ground that its title does not express its object. *Elvey v. Trenton*, 22 *Vr.* 500. *Davis v. Cherry*, 24 *Vr.* 173. The act does not confer upon the excise board the power to pass an ordinance requiring the payment of a fee to the city clerk for each license granted, nor for the appointment of inspectors at a salary. *Id.* Where an excise board, under the above act and under a misapprehension of the law, fixed a greater sum than could legally be fixed for license to sell liquors, a person who, with knowledge of the facts, pays the sum so fixed and demanded, cannot recover back the excess, as the payment will be deemed a voluntary one. *Camden v. Green*, 25 *Vr.* 591.

- Clerk of town or city to be clerk of the board. affirmation shall be filed in the office of the town or city clerk ; the clerk of any town or city within and for which any such board of excise commissioners shall be appointed, shall in addition to his or her duties be clerk of said board of excise commissioners ; should any person or persons appointed to be a member or members of any such board fail to qualify, as herein provided, within said ten days, such failure shall cause a vacancy or vacancies to exist in said board, which shall be filled as hereinbefore provided.
- Vacancies.
- Powers of board. **116. SEC. 5.** That when any such board of excise commissioners shall be appointed and organized, as hereinbefore provided, such board shall have the sole power, within the town or city for which it is appointed, of granting licenses to inns and taverns, beer saloons, and for the sale of malt, vinous and spirituous liquors, in quantities from one quart to five gallons, and also the sole power within and for such town or city to make and establish such ordinances, not repugnant to the laws of this state, as they may deem necessary for granting the licenses and regulating the sale of the liquors aforesaid, and such ordinances to alter, amend or repeal, at pleasure ; said board of excise commissioners shall also have the power, under such regulations as they may by ordinance, conformable to the laws of this state, establish of revoking or transferring any license by them granted ; all ordinances passed by any such board of excise commissioners shall, after the passage thereof, and before the same shall become operative, be published for two insertions in at least two newspapers (if so many there be) published and circulating in the town or city within and for which said board was appointed.
- When ordinances of the board to become operative.
- Licenses not to be granted by any other body. **117. SEC. 6.** That when any such board of excise commissioners shall have been appointed and organized within and for any town or city of this state, no license for any of the purposes aforesaid, to be exercised and enjoyed within such town or city, shall be granted by any other body than such board of excise commissioners during the existence of such board ; *provided*, that any license in existence, in any such town or city, at the time of the organization, as aforesaid, of any such board of excise commissioners, shall continue and be operative for the period that the same was granted.
- Proviso.
- Penalties may be prescribed by board. **118. SEC. 7.** That said boards of excise commissioners shall have power to prescribe and enforce penalties either by fine (not exceeding fifty dollars) or imprisonment (not exceeding four days in the common jail of the county), for the violation of any of its ordinances passed as aforesaid, which said penalties shall be enforced and collected by said board of excise commissioners in the same manner as other penalties are enforced and collected in the town or city within and for which said board of excise commissioners may be appointed.
- Fees for licenses. **119. SEC. 8.** That all fees for licenses granted by any such board of excise commissioners shall be received by such board, and immediately after the receipt thereof paid over to the treasurer of the town or city for which said board was appointed, for the use of such town or city.
- Salary of commissioners and clerks. **120. SEC. 9.** That the chairman of any said board of excise commissioners shall receive an annual salary of one hundred and fifty dollars, and the other members thereof an annual salary of one hundred dollars each, and the clerks of such boards shall receive an annual salary of not more than one hundred dollars, to be fixed by said boards, all of which salaries shall be paid out of the license fees received by said boards.
- Ordinance establishing board may be repealed. **121. SEC. 10.** That any ordinance establishing any such board of excise commissioners, may be repealed by the common council or other governing body of the town or city within and for which said board of excise commissioners was established ; *provided*, that no such repealing ordinance shall be passed until the lapse of at least three years after the passage of the ordinance providing for the establishment of such board of excise commissioners.
- Proviso.
- Repealer. **122. SEC. 11.** That all acts and parts of acts inconsistent herewith, or repugnant hereto, be and the same are hereby repealed, and that this act shall take effect immediately.

INTOXICATING LIQUORS.

1809

An act granting to boroughs of the first class the right to license inns, taverns and saloons.

Approved April 18, 1884.

P. L. 1884, p. 228.

123. SEC. 1. That in all boroughs of the first class all licenses for selling of malt or spirituous liquors in less quantity than one quart, and of all inns and taverns and billiard and pool-rooms, shall be granted by the mayor and common council.

Licenses, how granted in boroughs of first class.

124. SEC. 2. That the mayor and common council of the said boroughs of the first class shall have power to pass such ordinances regulating the applications for such inns, taverns and rooms or saloons, the methods of granting or refusing the same, and shall assess such fees for the same, as they deem proper and necessary.

Ordinances regulating applications, &c.

125. SEC. 3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

Repealer.

An act to authorize the transfer of licenses granted by the excise board of any city in this state.

Approved April 1, 1887.

P. L. 1887, p. 118.

126. SEC. 1. That the excise board or board of excise commissioners of any city in this state shall be authorized and empowered, in their discretion, to transfer or revoke any license granted by them; and in case of transfer, the license so transferred shall only be good for the unexpired term thereof and at the place mentioned in the original license, and in case of a revocation of any license, any person selling or offering for sale thereunder shall be liable to all the penalties now provided by law for selling without a license; *provided, however,* that before any transfer shall be made by any excise board, there shall be paid a fee for such transfer, to be fixed by the board, of not less than five dollars.

City excise boards may transfer or revoke licenses.

Proviso.

An act to authorize the boards of councilmen of incorporated towns in this state to license, regulate and prohibit the sale of malt, spirituous, vinous and other liquors.

Approved March 23, 1888.

P. L. 1888, p. 225.

127. SEC. 1. That the board of councilmen of any incorporated town in this state shall have power to pass, alter and repeal ordinances to take effect within said town, for the following purposes:

Boards of councilmen in towns may pass ordinances concerning licenses.

I. To license, regulate and prohibit inns and taverns, and the sale of spirituous, vinous, malt or other strong or intoxicating liquors therein;

II. To fix the terms upon which licenses for such purposes shall be granted, and to make all proper rules and regulations for the collection of license fees, provided such license shall not be less than now fixed or hereafter to be fixed by any general law of this state;

III. To prescribe the penalties not exceeding a fine of fifty dollars in each case, or by imprisonment in the county jail, not exceeding ten days in each case, for any violation of any ordinance authorized by this act.

128. SEC. 2. That every such ordinance shall be presented at a regular meeting of the board of councilmen of said town, and shall receive a four-fifths vote of the whole number of members of said board, and the ayes and nays entered at large upon the clerk's book of minutes, when the same shall lie over until the next regular meeting, when, if four-fifths of said members vote in favor of the same upon the ayes and nays being called, it shall be entered in a book to be provided by the town for that purpose, and it shall be signed by the chairman and the clerk; *provided, however,* before it takes effect it shall be published for ten days in a newspaper published in the county, and circulating in said town, and the said ordinance shall be posted for a like time in twenty of the most public places in said town, and the publication and posting shall be verified by affidavit of the printer or foreman of the newspaper in which such publication shall be made, and of the person who posted such notice, and such affidavit shall be filed in the

How ordinance shall be passed.

Proviso.

INTOXICATING LIQUORS.

town clerk's office, and shall be evidence of such publication and posting in all courts and places.

How suits for violating ordinance prosecuted.

129. SEC. 3. That all suits and prosecutions for penalties for the violation of any ordinance authorized by this act, shall be sued for and recovered before the recorder or other police magistrate of such town, and if there be none, then before any justice of the peace residing therein.

An act to authorize cities to expend the money received for license fees for sale of intoxicating and brewed liquors.

P. L. 1888, p. 478.

Approved April 23, 1888.

Moneys received for license fees in cities, how expended.

130. SEC. 1. That in all cities of this state where the fees received for licenses for sale of intoxicating and brewed liquors are, by the charter of any of said cities, appropriated, designated or set apart for any particular department of said city, and the excess of said fees if not otherwise provided for by the charter of any such city, that the board of aldermen, common council or other governing body having control over the appropriation of the money raised by taxes in any such city, may, by ordinance, appropriate and expend the excess of the fees so received, over and above the amount required for such specific appropriation or appropriations, for any other department or departments, and if unappropriated, such excess shall go to the credit of the contingent account; *provided*, that nothing in this act shall affect cities whose charters direct that fees received from licenses shall be paid into the sinking fund or be applied to the reduction of the bonded debt of such city.

Proviso.

An act to regulate the sale of spirituous, vinous, malt and brewed liquors, and to repeal an act entitled "An act to regulate the sale of intoxicating and brewed liquors," passed March seventh, one thousand eight hundred and eighty-eight.

P. L. 1889, p. 77.

Approved March 20, 1889.

Fees for licenses for sale in quantities less than one quart.

131. SEC. 1. That hereafter no license to keep an inn or tavern, or to sell spirituous, vinous, malt or brewed liquors, in quantities less than one quart, to be drunk on or about the premises where sold, shall be granted by any court, excise board or other board or authority having power by law to grant license, except upon payment by the applicant or licensee of a license fee, as hereinafter mentioned, that is to say: in all townships, towns, boroughs or cities having, by the census last preceding the granting of such license, a population of not more than three thousand, a license fee of not less than one hundred dollars; in all townships, towns, boroughs or cities having, by such census, a population exceeding three thousand and not exceeding ten thousand, a license fee of not less than one hundred and fifty dollars; and in all townships, towns, boroughs or cities having, by such census, a population exceeding ten thousand, a license fee of not less than two hundred and fifty dollars; no license shall be granted for a longer period than one year, and any person selling or offering or exposing for sale any of the liquors aforesaid, in quantities less than one quart, without a license for that purpose first had and obtained, shall be guilty of the offense of keeping a disorderly house.

Penalty for selling without license.

License to sell in quantities of one quart to five gallons required.

132. SEC. 2. That from and after the expiration of sixty days next succeeding the passage of this act, no person or persons whomsoever shall sell or offer or expose for sale any of the liquors aforesaid, in any quantity from one quart to five gallons, without a license for that purpose first had and obtained as hereinafter directed; and from and after the expiration of said sixty days, any person or persons selling or offering or exposing for sale any of the liquors aforesaid, in any quantity from one quart to five gallons, without a license for that purpose first had and obtained according to the provisions of this section, or any person or persons having a license under and in pursuance of this section, who shall suffer or permit any of the said liquors sold by virtue of such license to be drunk on or about the premises where sold, shall be guilty of the offense of keeping a disorderly house.

133. SEC. 3. That applications for such license as is mentioned and referred to in the second section of this act shall be made, in each municipality, to the same body as applications for license to sell any of said liquors by less measure than one quart are or shall be required by law to be made, which applications shall be written or printed, or partly written and printed, signed by the applicant, specifying the kind or kinds of liquor or liquors to be sold, and stating the township, town, borough or city, and the building or place therein, (a) in which the sale of such liquor is to be carried on; the body to which any such application is presented may, on the presentation thereof or at some other time to which the same may be deferred, in its discretion, grant or refuse such application for license; such license, if granted, shall not be granted for a longer period than one year, nor except upon payment by the licensee of a license fee as hereinafter provided, that is to say: in all townships, towns, boroughs or cities having, by the census last preceding the granting of such license, a population of not more than three thousand, a license fee of not less than one hundred dollars; in all townships, towns, boroughs or cities having, by such census, a population exceeding three thousand and not exceeding ten thousand, a license fee of not less than one hundred and fifty dollars; and in all townships, towns, boroughs or cities having, by such census, a population exceeding ten thousand, a license fee of not less than two hundred and fifty dollars.

Applications for licenses, to whom and how made.

Term of license, and license fee.

134. SEC. 4. That upon application by a petition signed by at least one-fifth of the legal voters voting at the last previous gubernatorial election for governor, of any township, town, borough or city wherein licenses are required to be granted by the court of common pleas of the county, being made to the law judge or circuit judge in and for the county wherein said township, town, borough or city may be located, setting forth the desire of such petitioners that not less than a certain sum of money, to be named and specified in such petition, be charged and paid for licenses thereafter to be granted to sell the liquors aforesaid, or any of them, by less measure than one quart, within such township, town, borough or city, it shall be the duty of such judge to cause public notice of such application to be given by publication in each newspaper, if any, published in such township, town, borough or city, and by such other methods as such judge may deem proper and necessary, for two weeks next preceding the hearing of such application; said notice shall fix a time and place when and where such judge will consider said application; at which time and place he shall hear any person or persons who may appear before him, upon the question of such petitioners being legal voters in such township, town, borough or city, or any other matter which may be brought before him for his determination, touching said application; and if said judge shall decide that said applicants are legal voters in such township, town, borough or city, and that said application is made in good faith, and that no legal cause exists why said application should not be granted, he shall, within thirty days after the presentation of such petition, order an election to be held at the usual place or places of holding elections in such township, town, borough or city, to determine whether or not any license to sell said liquors, or any of them, by less measure than one quart, shall thereafter be granted in such township, town, borough or city, for any less sum of money than the amount named and specified in such petition; but in no case shall the sum named and specified in any such petition be less than the minimum sum named in and required to be paid for license fees by section one of this act, in the township, town, borough or city wherefrom such petition shall be presented; no such election shall be held within sixty days of any general election, and the day fixed for the holding thereof shall not be less than two months nor more than five months from the making of the order therefor. (b)

Proceedings for obtaining order to hold municipal or township election to fix license fees.

(a) This language clearly implies that there must be a building in existence at the time of the application for a license. *Warren Street Chapel v. Excise Commissioners*, 27 Vr. 413.

(b) The order for an election under this section may be re-

viewed by *certiorari*, on application of the owner or licensee of a hotel within the township. *Middleton v. Robbins*, 25 Vr. 566, reversing 24 Vr. 555.

INTOXICATING LIQUORS.

- Notice of election to be published.** **135. SEC. 5.** That notice of any election to be held under the provisions of this act shall be published at least once in each week, for three weeks next preceding such election, in all newspapers, if any, published in said township, town, borough or city where such election is to be held, and such other notice shall be given as such judge may deem necessary to order and direct; all such elections shall be held under the same regulations as now are or may be prescribed by law for holding the elections for members of the general assembly of this state, and all the penalties contained in said election laws are hereby extended to, and shall apply to the special elections to be held under this act; and it shall be the duty of the judges, inspectors and clerks of the election precincts to conduct the said election, to canvass the votes cast and declare the result thereof, and to make and sign two certificates of such result; one of said certificates shall, within five days after such election, be by some member of said election board, appointed by such board for that purpose, transmitted to and filed with the clerk of the county within which the township, town, borough or city wherein such election was held is situate; the other of said certificates shall, within said five days, be filed with the clerk of the township, town, borough or city where such election was held; the officers holding such election shall receive the same compensation as is or may be provided for the officers holding the elections for members of assembly in this state, to be paid out of the funds of the township, town, borough or city in which such special election is held.
- Election, how and by whom held.** **136. SEC. 6.** That all persons voting at elections held under this act, who are not in favor of the sum named and specified in any such petition and order as aforesaid being fixed and established as the minimum amount to be charged and paid for such licenses thereafter to be granted in said township, town, borough or city, shall have written or printed, or partly written and partly printed, on their ballots, "against \$—— license fee," designating, as the case may require, the sum named and specified in the petition and order for such election; and all persons who favor the sum named and specified in such petition and order as the minimum sum to be fixed and established for such licenses thereafter to be granted in such township, town, borough or city, shall have written or printed, or partly written and partly printed, on their ballots, "for \$—— license fee," designating, as the case may be, the sum named in such petition and order for said election.
- Form of ballots.** **137. SEC. 7.** That if a majority of the votes cast at such election are in favor of the sum voted upon, no license shall thereafter be granted within such township, town, borough or city so voting, except upon payment by the licensee of a license fee not less in amount than the sum established and fixed at such election as the minimum fee to be charged and paid for the license granted.
- No license to be granted except upon payment of fee fixed at election.** **138. SEC. 8.** That whatever may be the result of any election held under the provisions of this act, no other election for the purpose of fixing and establishing the minimum of license fees, shall be held in the same township, town, borough or city in less time than three years thereafter, and then only upon the presentation of a new petition and proceedings thereon as aforesaid.
- When elections may be held.** **139. SEC. 9.** That from and after the passage of this act all license fees (except court and clerk fees) paid for any and all licenses to sell any of the liquors aforesaid, granted by the courts of common pleas of the different counties of this state, shall be received by the clerks of said courts to and for the use of the township, town, borough or city within which the license granted is to be exercised and enjoyed; and all such fees received by any such clerk shall, within thirty days after the receipt thereof, be by such clerk transmitted to the proper township, town, borough or city, to the person or body having the legal custody of the funds thereof, to be by the governing body in such township, town, borough or city used, employed and disbursed for the uses and purposes of such township, town, borough or city. (a) [See Sec. 158, *post.*]
- Fees for licenses granted by court, to whom paid.**
- County clerks to pay over fees received.**

140. SEC. 10. That if the holder of any such license as is mentioned and referred to in the first three sections of this act, shall, contrary to law, sell, or offer for sale, barter or give, or suffer to be sold, or offer for sale, barter or give within his tavern, beer shop, liquor saloon or other premises, any spirituous, vinous, malt or brewed liquors, on the first day of the week, commonly called Sunday, or shall give or sell, or offer to be given or sold, any such liquors to any minor or apprentice contrary to law, or shall sell or furnish any of the liquors aforesaid to any person known in the neighborhood to be of confirmed intemperate habits, or who is visibly under the influence of intoxicating liquors, or shall keep a disorderly house, or shall harbor drunken persons, vagrants, idle and vicious persons, thieves, gamblers, prostitutes or other disorderly persons, or shall suffer gambling or unlawful games of chance or other unlawful acts to be done or carried on in his tavern, beer shop, liquor saloon or other premises, or shall violate any law of the state regulating the sale of intoxicating liquors, his license shall thereby become forfeited and void ; and upon complaint of any three persons, residents and legal voters of the township or municipality wherein such license is used and exercised, verified by the oaths of such complainants, being presented to the court or other body by which the license to the person complained against was granted, alleging that any such license as aforesaid has become forfeited and void, and specifying the acts complained of which shall be alleged to have worked such forfeiture, it shall be the duty of the court or other body to which such complaint may be presented, forthwith to cause to be indorsed on such complaint an order that the person complained against show cause before such court or other body granting such license, at a time and place to be specified in such order, not less than ten nor more than thirty days from the making thereof, why his license should not be declared forfeited and revoked ; said complaint and order shall be filed with the court or other body making the same, and a copy thereof served upon the person complained against, personally, or by leaving the same at his residence or his tavern, beer shop, liquor saloon or other licensed place, at least five days before the return of said order ; and all such complaints shall be heard in a summary way, the burden of proof being upon the complainants, and either party may have the attendance of and be represented and heard by counsel ; if, on such hearing, the defendant shall be found guilty of the offenses specified in said complaint, or any of them, judgment shall be rendered that the license theretofore granted such person be revoked and annulled ; and in case the defendant be found not guilty, the order to show cause shall be discharged ; in case a license be revoked, the person to whom the same was granted shall be disqualified for one year from receiving a license in this state ; the court or body making such order to show cause may require the complainants to file a stipulation for costs, and the costs of such hearing shall be paid by the defendant, if found guilty, and by the complainants if the rule or order to show cause be discharged ; costs to be ascertained and determined by the court or body before which the hearing shall take place ; the remedy provided in this section is in addition to the other penalties provided by law.

For what offenses licenses to be forfeited.

Proceedings for revocation of license.

When license to be revoked.

Costs, by whom paid.

141. SEC. 11. That no license to sell spirituous, vinous, malt or brewed liquors by less measure than one quart, shall be granted by any court, excise board or other board or authority having power to grant licenses, in any store, apartments or place in which any grocery store or other mercantile business is carried on, excepting, however, the keeping of a restaurant and the sale of tobacco and cigars by retail ; and any person engaging in the sale of any of said liquors, directly or indirectly, contrary to the provisions of this section, whether licensed or unlicensed, shall be guilty of the offense of keeping a disorderly house.

Licenses not to be granted for stores, &c.

142. SEC. 12. That it shall and may be lawful, notwithstanding anything in this act contained, for druggists and pharmacists, regularly employed in and carrying on the drug and pharmacy business, to sell said liquors, or any of them, by less measure than one quart, without a license for that purpose first had and obtained ; *provided*, that such liquors so sold be in good faith compounded or sold for medicinal uses and purposes only,

Druggists and pharmacists may sell upon prescription, &c.

INTOXICATING LIQUORS.

upon the prescription of a reputable physician, signed by such physician ; said liquors so compounded or sold not to be used or drunk on or about the premises where sold ; any druggist or pharmacist furnishing or selling, or offering or exposing for sale any of said liquors by less measure than one quart, contrary to the provisions and true intent and meaning of this section, shall be guilty of the offense of keeping a disorderly house.

Not necessary to prove particular kind of liquor sold, on examinations or trials.

143. SEC. 13. That whenever it shall appear by proof on any examination or trial for an alleged offense against the provisions of this act, that any spirituous, vinous, malt or brewed liquor has been sold, exposed for sale or supplied on any pretext whatever, where the sale of such liquors would have been unlawful, it shall not be necessary to prove the particular kind of liquors sold, exposed for sale or given away.

Persons twice convicted of keeping disorderly house disqualified from having a future license.

144. SEC. 14. That if any person shall hereafter be twice convicted of the offense of keeping a disorderly house, the court before which such conviction is had, shall, in addition to all other penalties that may be imposed, add thereto that such person so convicted be thenceforth disqualified from having or receiving a license in this state.

Repealer

145. SEC. 15. That the act entitled "An act to regulate the sale of intoxicating and brewed liquors," passed March seventh, one thousand eight hundred and eighty-eight, be and the same is hereby repealed.

Repealer.

146. SEC. 16. That all acts and parts of acts inconsistent herewith or repugnant hereto, be and the same are hereby repealed.

Supplement.

Approved May 6, 1889.

P. L. 1889, p. 360.

Unconstitutionality of one section not to affect other sections.

147. SEC. 1. That if any section or sections of the act mentioned in the title hereof, and whereto this act is supplemental, shall, for any reason, be held to be unconstitutional or invalid, it shall not affect the other provisions of said act approved March twenty-first, one thousand eight hundred and eighty-nine, or any of them.

Supplement.

Approved March 28, 1895.

P. L. 1895, p. 750.

License fee for beer bottlers in first and second-class cities.

148. SEC. 1. That hereafter in cities of the first class a license fee of not less than seventy-five dollars, and in cities of the second class a license fee of not less than fifty dollars shall be paid by every person carrying on within said cities the business of buying beer in quantities and bottling and selling the same when bottled, not to be drunk on the premises where bottled, commonly known as beer-bottling.

How application for license shall be made.

149. SEC. 2. That the applications for such license shall be made in the same manner as applications are directed to be made in section three of the said act to which this is a supplement and upon the same conditions as to the granting and refusing thereof, and the duration of said license in said section three contained.

Penalty for carrying on business without license.

150. SEC. 3. That from and after the expiration of thirty days next succeeding the passage of this act, every person carrying on the business specified in section one hereof, without a license for that purpose first had and obtained as above directed, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding fifty dollars for each offense, together with the costs of prosecution.

An act fixing the compensation of commissioners constituting city excise boards having the control of the granting of licenses for the sale of spirituous, vinous, malt and brewed liquors in cities of this state containing over one hundred thousand inhabitants.

P. L. 1889, p. 267.

Approved April 15, 1889.

Salaries of excise commissioners in cities of over 100,000 inhabitants.

151. SEC. 1. That the commissioners constituting city excise boards having the control of the granting of licenses for the sale of spirituous, vinous, malt and brewed liquors, which now or hereafter may exist in cities of this state containing over one hundred thousand inhabitants, shall

each receive and be paid, in lieu of any other compensation whatsoever which, under any general or special act, he may receive, an annual salary or compensation of one thousand dollars, said salary or compensation to be paid such commissioner monthly and in the same manner as the salaries of other officers of said cities are now paid ; *provided*, the provisions of this section shall not apply to the commissioners of any excise board in any city of this state while the bonded indebtedness of such city exceeds fifteen per centum of its ratables liable to municipal taxation in such city, nor where in any city the said commissioners have charge of or control over any other department of the city government.

Proviso.

152. SEC. 2. That all acts and parts of acts, public, general, special or local, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

An act to authorize the transfer and revocation of licenses granted by the excise board of any city in this state, and to authorize such boards to appoint a license inspector and fix the compensation of such officer.

Approved May 6, 1889.

P. L. 1889, p. 359.

153. SEC. 1. That the excise board or board of excise commissioners of any city in this state shall be authorized and empowered, in their discretion, to transfer or revoke any license granted by them, and in case of transfer, the license so transferred shall only be good or effective for the unexpired term thereof, at either the place or premises mentioned in the original license or else at the place or premises to which the person or persons named in the original license shall remove and locate within the corporate limits of such city ; and in case of revocation of any license as aforesaid, any person selling or offering for sale thereunder, shall be liable to all the penalties provided by law for selling without a license ; *provided*, that before any transfer shall be made by any excise board as aforesaid, there shall be paid a fee for such transfer, to be fixed by such excise board, of not less than five dollars.

Excise boards in cities authorized to transfer or revoke licenses.

Proviso.

154. SEC. 2. That in order to effectually prevent the violation of the provisions of this act and the unlawful sale, without license, of spirituous, vinous, malt or brewed liquors, such excise board is fully authorized and empowered to appoint one license inspector in any such city, and the person so appointed license inspector shall possess the sole power and authority and perform the duties appertaining to the inspection of licenses granted by such excise board, and such board shall be solely authorized and empowered to prescribe the duties of such license inspector, and fix and determine the annual compensation to be paid such license inspector, not exceeding one thousand dollars per annum, which annual compensation or salary so fixed and determined by such excise board, shall be paid monthly by such city to the person appointed license inspector, by such excise board as aforesaid, and any such city is hereby fully empowered and required to assess, levy, raise and pay such compensation to such license inspector appointed as aforesaid, in the same manner as the salaries of the commissioners of the excise board of any such city are assessed, levied, raised and paid.

Board empowered to appoint a license inspector.

Powers and duties of.

Compensation and how paid.

155. SEC. 3. That all acts and parts of acts, general, special, local, public or private, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

Supplement.

Approved March 28, 1895.

P. L. 1895, p. 730.

156. SEC. 1. That in order to effectually prevent the violations of the provisions of the act to which this is a supplement, and to prevent the unlawful sale, without license, of spirituous, vinous, malt or brewed liquors in cities of the first class in this state, the excise boards of such cities are respectively fully authorized and empowered to appoint not more than two

Appointment of license inspectors in first-class cities, &c.

INTOXICATING LIQUORS.

license inspectors in any such city, and the person or persons so appointed license inspector or license inspectors shall possess the sole power and authority and perform the duties pertaining to the inspection of licenses granted by such excise board, and such board shall be solely authorized and empowered to prescribe the duties of such license inspector or inspectors, and fix and determine the annual compensation to be paid such license inspector or inspectors, not exceeding one thousand dollars per annum for each of such inspectors, which annual compensation or salary, so fixed and determined by such excise board, shall be paid monthly by such city to the person or persons appointed license inspector or inspectors by such excise board as aforesaid; and such excise board is also fully authorized and empowered to employ, in addition to that provided by law, such clerical help in performing the duties of the said board as from time to time they may deem necessary, and the said city is authorized and empowered upon the recommendation of said board to pay therefor fit and proper compensation not exceeding in any one year the sum of five hundred dollars, and any such city is hereby fully empowered and required to assess, levy, raise and pay to such license inspector or inspectors, appointed as aforesaid, and for such clerical assistance secured as aforesaid, in the same manner as the salaries of the commissioners of the excise board of any such city are assessed, levied, raised and paid.

Board may employ clerical help.

City authorized to pay compensation.

Repealer.

157. SEC. 2. That all acts and parts of acts, general, special, public or private, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

An act relating to the disposition of license fees paid for any and all licenses to sell spirituous, vinous, malt and brewed liquors.

P. L. 1890, p. 276.

Passed April 28, 1890.

License fees for licenses granted by court, how disposed of.

158. SEC. 1. That from and after the passage of this act, all license fees (except court and clerks' fees) paid for any and all licenses to sell spirituous, vinous, malt and brewed liquors, granted by the courts of common pleas of the different counties of this state, shall be received by the clerks of said courts to and for the use of the city, borough, village, town, township or any incorporated district governed by a board of commissioners or trustees within any such township within which the license granted is to be exercised and enjoyed; the portion of any township incorporated as aforesaid to be considered a distinct municipality for the purpose of this act, and to be entitled to be paid the license fees received for licenses granted to be exercised and enjoyed within the limits of the incorporated district, whether the municipal powers of such incorporated district and the township of which they are a part co-exist over the same locality or not; and all such fees so received shall, within thirty days after the receipt thereof, be paid by such clerk to the body or person entitled to the legal custody of the funds of any such city, borough, village, town, township or incorporated district governed by a board of commissioners or trustees within any such township, to be by the governing body of any city, borough, village, town, township or incorporated district governed by a board of commissioners or trustees within any such township employed and disbursed for the uses of said city, borough, village, town, township or incorporated district governed by a board of commissioners or trustees; and that all acts and parts of acts inconsistent herewith be and the same are hereby repealed. [See Sec. 139, *ante*.]

County clerks to pay over fees received.

An act regulating the renewal of excise licenses in cities of the second class.

P. L. 1891, p. 12.

Passed February 10, 1891.

Preamble.

WHEREAS, It is deemed best that uniformity should exist in the cities of the same class as to the manner of granting renewals of licenses therein for the keeping of inns and taverns, saloons or victualing-houses; therefore,

159. SEC. 1. That hereafter in all cities of the second class in this state (whether such licenses are now granted by a board of excise, or by commissioners of excise, or by the governing board of such city or its city council), that after a license has once been granted in any such city to keep an inn and tavern, or a license to sell ale, beer and wine, or a license to keep a victualing-house with privilege of retailing spirituous liquors within such city, to any person or persons at any place in such license designated according to the terms of the charter of such city or cities as they now exist, it shall not be requisite in order to give such board of excise, or commissioners of excise, or city council, or other governing body jurisdiction to grant renewals of such licenses that a new application recommended by freeholders shall be first signed and presented to such board; but that the filing with the board or body authorized to grant and renew licenses in any such city of a petition for renewal, signed by the applicant, accompanied by a new bond of the same tenor as accompanied the first application, shall confer full power upon such board to renew such licenses for the term of one year; *provided, always,* that the freeholders who may have recommended the former application shall not be eligible as signers for any new application for the term of one year from the granting of such renewal; *and provided, further,* that this act shall in no wise affect applications for new inns and taverns, or saloons or victualing-houses in such cities. (a)

Regulations concerning the granting of licenses in cities of second class. Recommendation by freeholders not required.

Proviso.

Proviso.

160. SEC. 2. That all acts and parts of acts, general, special, local or private, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act relating to social clubs.

Approved March 20, 1891.

P. L. 1891, p. 203.

161. SEC. 1. That any social club duly incorporated under any law of this state which, at the date of the application hereinafter provided for, owns or occupies a club-house used by it for its own purposes exclusively, and which for six months previous to said application has had continuously an actual adult membership of at least fifty members and no minor members, may be authorized to sell to its members, and to no others, spirituous, vinous, malt or brewed liquors upon obtaining annually a permit therefor from the inferior court of common pleas of the county wherein said club is located, and upon payment of an annual fee, to be fixed by said court, of not less than two hundred and fifty dollars, to be disposed as hereinafter provided.

Courts of common pleas may license social clubs to sell liquors.

162. SEC. 2. That such permit shall not be granted to any club which does not possess the characteristics described in the first section of this act, nor to any club possessing such characteristics, except upon its written application setting forth the date of its incorporation, the number of its members for the previous six months, and that all said members are adults, its rules relating to the admission of members, the amount of its initiation fee and annual dues, the location of its club-house and, if owned by it, the date and cost of purchase, and, if leased, the duration of its lease and the rental reserved, the number of rooms contained in its club-house, and that all said rooms are in actual use and occupation for its own purposes exclusively, and also that said club was formed for social and recreative purposes only and not with a view of evading the laws of the state regulating the sale of liquors; all the statements contained therein shall be attested under the common seal of the said club and verified by the affidavits of its president or other head officer and its secretary or treasurer, and its articles of incorporation shall also be presented to the court with said application; if the court to which such application is made shall have doubts as to the truth of the allegations contained therein, or as to the good faith of said organization, or the honesty of the purpose for which it was formed, it shall require further proof with respect thereto, fixing a day and giving the applicant notice when the same will be heard, and after such hearing, it shall

Application for license, how made.

Court may require proof, &c.

(a) Query—Is this act constitutional? *Williams v. Bayonne*, 26 Vr. 80.

reject said application unless it shall be satisfied that such club was formed in good faith for social and recreative purposes only, and not for the purpose of evading any statute of the state relating to the sale of liquors.

Disposition of fees.

163. SEC. 3. That the fees herein provided for shall be received by the clerk of the court granting the said permit to and for the use of the township, town, borough or city wherein said club is located, and within ten days after the receipt thereof, shall be by said clerk transmitted to the person or body having the legal custody of the funds of said township, town, borough or city, to be by the governing body thereof employed and disbursed in the same manner in which fees from licenses for the sale of spirituous, vinous, malt or brewed liquors are applied in the township, town, borough or city in which said club is located; and said club shall in addition to the said fees, pay to the clerk of said court the court and clerk's fees on granting said permit, and shall not be required to pay any other fee for a permit or license to sell said liquors than is herein provided.

Court and clerk's fees.

Clubs not to sell without license.

Penalty.

164. SEC. 4. That no social club in this state shall sell or dispose of spirituous, vinous, malt or brewed liquors unless it shall have first obtained a permit therefor granted in accordance with the terms of this act; and if any such club shall violate this provision, or, having secured such permit, shall sell or give spirituous, vinous, malt or brewed liquors to a minor or an apprentice, or shall sell any such liquors to a person who is not a member thereof, or shall sell any such liquors to one of its members in quantities greater than a quart at a time to be used off the premises, it shall forfeit and pay fifty dollars for each offense, to be sued for and recovered, in an action of debt, in the name of the township, town, borough or city wherein said club is located and for its benefit, and all such complaints shall be cognizable by any court, magistrate, special police justice or other officer having authority to try and determine complaints for violations of the law regulating the sale of spirituous, vinous, malt or brewed liquors in the township, town, borough or city in which said club is established.

Yacht clubs may be licensed to sell liquors.

165. SEC. 5. That any yacht club duly incorporated under any law of this state, which has owned or occupied a club-house at least six months prior to the date of the application, hereinafter provided for, which said club-house is used by it for its own purposes exclusively, and which for six months previous to said application has had continuously an actual adult membership of at least fifty members, and no minor members, may be authorized to sell to its members, and to no others, spirituous, vinous, malt or brewed liquors, upon obtaining annually a permit therefor from the inferior court of common pleas of the county wherein said club is located, upon the payment of such annual fee as said court may direct, and such permit so granted shall entitle such yacht club to all the privileges herein granted in any part of this state, provided that such permit shall only be granted by said court after such club shall have fulfilled all the requirements of section two of this act, and the moneys so paid shall be disposed of as is required by section three of this act.

An act regulating the renewal of excise licenses in cities of the fourth class.

P. L. 1891, p. 311.

Approved April 2, 1891.

Preamble.

WHEREAS, It is deemed best that uniformity should exist in the cities of the same class as to the manner of granting renewals of licenses therein for the keeping of inns and taverns, saloons or victualing-houses; therefore,

Excise licenses in cities of the fourth class may be renewed without a recommendation by free-holders.

166. SEC. 1. That hereafter in all cities of the fourth class in this state (whether such licenses are now granted by a board of excise or by commissioners of excise or by the governing board of such city or its city councils), that after a license has once been granted in any such city to keep an inn and tavern, or a license to sell ale, beer and wine, or a license to keep a victualing-house with privilege of retailing spirituous liquors, within such city, to any persons or persons at any place in such license designated according to the terms of the charter of such city or cities as they now exist, it shall not be requisite in order to give such board of

excise, or commissioners of excise, or city council, or other governing body jurisdiction to grant renewals of such licenses that a new application recommended by freeholders shall be first signed and presented to such board ; but that the filing with the board or body authorized to grant and renew licenses in any such city of a petition for renewal, signed by the applicant, accompanied by a new bond of the same tenor as accompanied the first application, shall confer full power upon such board to renew such licenses for the term of one year ; *provided, always*, that the freeholders who may have recommended the former application shall not be eligible as signers for any new application for the term of one year from the granting of such renewal ; *and provided, further*, that this act shall in no wise affect applications for new inns and taverns, or saloons or victualing-houses, in such cities.

And by filing a petition and bond.

Proviso.

Proviso.

167. SEC. 2. That all acts or parts of acts, general, special, local or private, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to enable the governing bodies of cities of the third class and of all boroughs, towns and villages in the state having power to license and regulate the sale of beer, ale and intoxicating liquors, and to license and regulate billiard saloons and ball-alleys therein, to authorize the transfer of such licenses from person to person and from place to place within the corporate limits of such municipal corporation.

Approved April 14, 1891.

P. L. 1891, p. 366.

168. SEC. 1. That the mayor, recorder, aldermen and common councilmen or other governing body of cities of the third class and of all towns, boroughs and villages in this state having power to license, regulate and control the sale of beer, ale and other intoxicating liquors and to license, regulate and control billiard saloons and ball-alleys within the corporate limits of such municipal corporations, shall have the power by ordinance to authorize, regulate and control the transfer of any and all such licenses granted, authorized or issued by them from person to person or from place to place within the limits of such municipal corporation ; *provided*, that in case of transfer, the license so transferred shall only be good or effective for the unexpired term thereof.

Licenses to sell liquors in cities of the third class may be transferred from person to person and place to place.

Proviso.

An act to authorize the courts of common pleas to transfer licenses, and to authorize the executor or administrator of a licensee to continue the business under the same license.

Approved April 14, 1891.

P. L. 1891, p. 367.

169. SEC. 1. That the inferior courts of common pleas in and for the several counties of this state shall be and hereby are authorized and empowered, in their discretion, to transfer any license granted by them to any person or persons to keep an inn or tavern, and any license granted by them to any person to sell ale, strong beer, lager beer, porter, wine or other malt liquors ; and in case of transfer, the license so transferred shall only be good or effective for the unexpired term thereof.

Courts of common pleas authorized to transfer licenses.

170. SEC. 2. That the applicant for such transfer shall, if the transfer sought is from one person to another person, at the time of said application, present to the court a petition signed by at least twelve freeholders of the city, town, township or borough in which the original license was granted, requesting the court to grant such transfer, which petition shall set forth that the person to whom such transfer is requested is a person of good repute for honesty and temperance.

Applicant therefor to present petition.

171. SEC. 3. That if said license is to keep an inn or tavern, the petition shall further set forth that the person to whom such license is sought to be transferred is known to the freeholders requesting the transfer to have at least two spare beds more than are necessary for his family use, and that the place licensed is well provided with house-room, stabling and provender.

What petition shall contain.

Affidavit to accompany petition.

172. SEC. 4. That if said application is for the transfer of a license to sell ale, strong beer, lager beer, porter, wine or other malt liquors, said petition shall be followed by an affidavit of the person to whom such transfer is to be made that the persons recommending him are freeholders in the city, town, township or borough wherein he proposes to sell, and that he will keep a quiet and orderly house according to the requirements of the law.

Notice of application to be filed.

173. SEC. 5. That notice of such proposed application shall be filed with the clerk of said court at least ten days before presenting the same.

Term of license transferred.

174. SEC. 6. That the license so transferred shall be good for the unexpired term thereof and no longer.

Executors or administrators of licensee may continue business under same license.

175. SEC. 7. That in case of the death of any person licensed by the said court to keep an inn or tavern, or to sell ale, strong beer, lager beer, porter, wine or other malt liquors, his executor or administrator shall be and hereby is authorized to continue the business of the decedent under the same license for the unexpired term thereof, and may transfer the same in the manner hereinbefore provided, to the same extent as the decedent could have done.

Repealer.

176. SEC. 8. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

An act to provide for the revoking and annulling of licenses of inns, and taverns, and saloons, as to the place licensed, where the licensee is a tenant and shall remove from and vacate the licensed premises before the expiration of such license and shall refuse to consent to a transfer of such license by the court or other licensing body which granted the same, and fixing the fees for transferring such license should the same be transferred.

P. L. 1891, p. 405.

Approved April 14, 1891.

Licenses, where licensee as tenant vacates licensed premises before expiration of license, to be revoked and annulled, unless a transfer is requested.

177. SEC. 1. That if any person, being a tenant, to whom any license to keep an inn and tavern or saloon in this state shall be granted, shall remove from and vacate the building and premises named in and for which such license shall be granted, before the expiration of the time for which such license shall be granted, by reason of the expiration of his tenancy or from other causes, his said license shall immediately become null and void as to said licensed premises, unless he shall immediately consent in writing, directed to the court or other body which granted said license requesting said court or licensing body to transfer such license for the remainder of the unexpired term thereof to the incoming tenant of such premises or to such person or persons as the said court or licensing body may deem a fit and proper person for that purpose at the request of the owner of such premises, upon the payment to him of a portion of the costs and expenses of obtaining such license, proportionate to the time for which said license has yet to run, to be fixed and determined by the said court or licensing body which shall transfer such license; all costs and expenses of obtaining such transfer to be paid by the person to whom such transfer of license is granted; *provided, however,* that nothing herein contained shall prevent any court or other licensing body of this state from transferring any license from one building to another, or from one person to another under and by virtue of the laws of this state.

Proviso.

178. SEC. 2. That whenever any tenant to whom a license to keep an inn and tavern in this state shall be granted shall remove from and vacate the premises for which such license shall be granted before the expiration of such license without first having procured the transfer of such license to another place by the court or other licensing body which granted the same, or without consenting in writing to the transfer of such license to another person by said court or licensing body as provided in the first section of this act, it shall be lawful for the owner, occupant or person having the management and control of said premises to apply for a license for an inn and tavern or saloon for said premises to the court or licensing body of the county or municipality in which said premises are situate, in the same

Owner or occupant may apply for a license.

manner and at the time provided by law for applying for licenses for inns and taverns or saloons in such county or municipality, notwithstanding the license granted by said court or licensing body for said premises has not expired.

179. SEC. 3. That whenever the owner, occupant or person having the control and management of any premises in this state for which a license for an inn and tavern or saloon shall be granted, shall prove by affidavit to the court or other body authorized by law to grant licenses for inns, taverns and saloons in the county or municipality where such premises are situate, that the former tenant of said premises to whom a license had been granted as aforesaid has vacated and removed from such premises and has not procured such license to be transferred to another place by the court or body which granted the same and refuses to consent to the transfer of such license by the court or body which granted the same for the unexpired term thereof as provided in the first section of this act, it shall be lawful for said court or licensing body to revoke and annul such license as to said premises and in their discretion and upon proper application made according to law to grant a new license for said premises to another person, provided that two days' notice in writing of such intended proof and application to said court or licensing body has been served upon the former tenant or his legal representatives if residing within the county where such license was granted.

Former tenant's license may be revoked on vacating premises.

180. SEC. 4. That the person to whom a transfer of license is granted as provided in this act shall pay for such transfer of license the same court and clerk fees and in the same manner as applicants obtaining original licenses for inns, taverns and saloons shall pay, and in addition thereto shall pay to the court or other licensing body for fixing and determining the amount to be paid by him for such transfer the same fees as are now fixed by law for the courts of common pleas of the different counties of this state for hearing and determining appeal cases in said court.

Fee on transfer of license.

181. SEC. 5. That all acts and parts of acts inconsistent herewith, be and the same are hereby repealed, and this act take effect immediately.

Repealer.

An act concerning licenses to keep inns and taverns and to sell ale, strong beer, lager beer, porter, wine, and other malt liquors in the boroughs of this state.

Approved February 8, 1892.

P. L. 1892, p. 16.

182. SEC. 1. That hereafter in addition to the power or authority to grant licenses to keep inns and taverns or to sell ale, strong beer, lager beer, porter, wine and other malt liquors, that is or may be vested in the governing body of the boroughs of this state, or any of them, the power to grant such licenses within and for such boroughs, shall also be vested in the inferior courts of common pleas of the county within which such borough or boroughs is or are situate, such power to be exercised by said courts in accordance with the act of the legislature of this state entitled "An act concerning inns and taverns," approved April seventeenth, 1846, and the act entitled "An act to regulate the sale of ale, strong beer, lager, porter, wine and other malt liquors in the state of New Jersey," approved April fourth, A. D. 1872, and the several supplements to said acts respectively.

License to sell malt liquors in boroughs shall exist in the inferior court of common pleas.

183. SEC. 2. That from and after the passage of this act all license fees paid for licenses granted within said boroughs by said courts (except court and clerk fees) shall be received by the clerks of said courts to and for the use of the borough within which the license granted is to be exercised and enjoyed, and all such fees received by any such clerk shall within thirty days after the receipt thereof be by such clerk transmitted to the proper borough to the person or body having the legal custody of the funds thereof, to be by the governing body of such borough used, employed and disbursed for the uses and purposes of such borough.

Fees to be paid to clerks of said courts.

And transmitted to the borough.

184. SEC. 3. That the act entitled "An act concerning licenses in boroughs of the second class," approved March ninth, 1891 [P. L. 1891, p. 118], be and the same is hereby repealed, provided, that any license

Repeals act of March 9th, 1891.

INTOXICATING LIQUORS.

now existing, granted by any of said courts, in any of the boroughs of this state, under and by virtue of said act approved March ninth, 1891, shall continue in force and be operative, for the period the same was granted notwithstanding the repeal of said last-mentioned act.

Repealer.

185. SEC. 4. That all other acts, and parts of acts, inconsistent herewith, be and the same are hereby repealed and that this act shall take effect immediately.

An act regulating the renewal of excise licenses in cities of the third class.

P. L. 1892, p. 57.

Approved March 7, 1892.

Preamble.

WHEREAS, It is deemed best that conformity should exist in the cities of the same class as to the manner of granting renewals of licenses therein for the keeping of inns and taverns, saloons or victualing-houses; therefore,

Excise licenses in cities of third class may be renewed without recommendation by freeholders.

186. SEC. 1. That hereafter in all cities of the third class in this state (whether such licenses are now granted by a board of excise or by commissioners of excise or by the governing board of such city or its city councils), that after a license has once been granted in any such city to keep an inn and tavern, or a license to sell ale, beer and wine, or a license to keep a victualing-house, with privilege of retailing spirituous liquors, within such city, to any person or persons at any place in such license designated according to the terms of the charter of such city or cities as they now exist, it shall not be requisite in order to give such board of excise, or commissioners of excise, or city council, or other governing body jurisdiction to grant renewals of such license that a new application recommended by freeholders shall be first signed and presented to such board; but that the filing with the board or body authorized to grant and renew licenses in any such city or a petition for a renewal, signed by the applicant, accompanied by a new bond of the same tenor as accompanied the first application, shall confer full power upon such board to renew such licenses for the term of one year; *provided, always*, that the freeholders who may have recommended the former application shall not be eligible as signers for any new application for the term of one year from the granting of such renewal; *and provided further*, that this act shall in no wise affect applications for new inns and taverns, or saloons or victualing-houses, in such cities.

Proviso.

Proviso.

Repealer.

187. SEC. 2. That all acts or parts of acts, general, special, local or private, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

An act to remove from any board of excise in this state any mayor of any city therein who is now a member thereof and to provide for the appointment of a suitable person to take the place of said mayor so removed

P. L. 1892, p. 60.

Approved March 8, 1892.

Mayor not to be member of excise board in any city.

188. SEC. 1. That from and after the passage of this act in any city in this state having a board of excise, of which said board the mayor of said city is a member, either by virtue of the charter of said city or by any act, either general or special, the said mayor's term of office as such member of said board of excise shall immediately cease and terminate.

Member to be elected in mayor's place.

189. SEC. 2. That the said council, board of aldermen, or other governing body of any city whose mayor by the terms of this act is disqualified as a member of the board of excise of said city, shall immediately proceed by ballot to select a suitable person to fill the vacancy in said board caused by the removal of said mayor therefrom; the term of office of said successor shall be for the same term as is now fixed by the law in said city for the other members of the board of excise therein.

Term of office.

Repealer.

190. SEC. 3. That all acts and parts of acts, whether general or special, inconsistent with the terms of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

An act relating to cities of the first class in this state and requiring the publication of the names of applicants for licenses to sell spirituous, vinous, malt or brewed liquors.

Approved March 17, 1892.

P. L. 1892, p. 134.

191. SEC. 1. That it shall hereafter be the duty of the municipal authority in any city of the first class in this state having the power to grant licenses to sell spirituous, vinous, malt or brewed liquors, to cause to be published in one daily newspaper published in any such city, to be designated annually by such board during the month of April, the names, residence and place of business contained in all applications or petitions made to such municipal authority for the granting of any such license as aforesaid; and such publication shall be made for at least five days in such daily paper as aforesaid prior to the granting or refusal to grant by such municipal authority of any such license as aforesaid, and no application or petition for such license shall be considered by any such municipal authority, until the publication required by this act shall have been made and due proof thereof produced and filed by the applicant for license with the municipal authority to whom the application or petition is made. (a)

Publication of names, &c., of applicants in first-class cities.

Time of publication.

192. SEC. 2. [Amended by Sec. 194, *post.*]

193. SEC. 3. That all acts and parts of acts, general, local or specific, inconsistent with the provisions of this act, are hereby repealed, and that this act shall take effect immediately.

Repealer.

Amendatory act.

Approved February 14, 1895.

P. L. 1895, p. 80.

194. SEC. 1. That section two of the act to which this is an amendatory act shall be amended to read as follows:

[That the cost of publication and proof required by the first section of this act shall be paid by the said municipality to said newspapers in the same manner as the other bills of said municipality are paid, and the amounts thus paid for publication shall be deducted from the whole amount of license fees received by said city before such license fees shall be carried to any special fund or funds to which the same may be appropriated; *provided*, that the costs of the insertion of the publication required as aforesaid in any such daily newspaper, including the cost of proof of such publication, shall not exceed the sum of ten cents per applicant for each of said insertions.]

Cost of publication of names, &c., to be paid by city.

Proviso.

An act regulating the transfer of licenses for the sale of spirituous and malt liquors in cities of the second class.

Approved March 28, 1892.

P. L. 1892, p. 302.

195. SEC. 1. That it shall and may be lawful for the board now charged with the duty of granting licenses for the sale of spirituous and malt liquors within such cities, to permit a transfer of such license from the person holding such license to another person or from one locality to another locality in said cities, upon the payment of a transfer fee to be fixed by such board at not less than ten dollars in each case.

Transfer of licenses in second class cities authorized.

(a) The courts will presume that the notice is to be given in the ordinary language of the state and in a newspaper pub-

lished in the same tongue. It cannot be published in the German language. *Publishing Co. v. Jersey City*, 25 Vr. 437.

INTOXICATING LIQUORS.

An act to authorize the inferior courts of common pleas of the various counties of this state to transfer any license granted by them to sell spirituous, vinous, malt and brewed liquors, in quantities from one quart to five gallons, not to be drunk on or about the premises where sold.

P. L. 1893, p. 262.

Courts of common pleas authorized to transfer licenses, good only for unexpired term thereof.

Approved March 14, 1893.

196. SEC. 1. That the inferior courts of common pleas of the various counties of this state are hereby authorized and empowered in their discretion to transfer any license granted by them to sell spirituous, vinous, malt and brewed liquors, in quantities from one quart to five gallons not to be drunk on or about the premises where sold, to any person or persons or to any place within such county, and in case of transfer the license so transferred shall only be good or effective for the unexpired term thereof, at either the place or premises mentioned in the original license or else at the place or premises to which the same shall be transferred within said county, and in case of revocation of any license aforesaid any person selling or offering for sale thereunder shall be liable to all the penalties provided by law for selling without a license; *provided*, that before any transfer shall be made by any of said courts as aforesaid, there shall be paid a fee for such transfer by said court of not less than three dollars and fifty cents.

Proviso.

An act for the better protection of manufacturers of malt liquors, using and owning butts, hogsheads, barrels, casks, kegs or other packages in the sale and delivery of the same.

P. L. 1893, p. 365.

Unlawful to fill butts, hogsheads, barrels, &c., with malt liquors, &c., without permission of owner.

Approved March 16, 1893.

197. SEC. 1. That it shall be unlawful for any person or persons hereafter, other than the lawful owner or owners, to fill with malt liquor or liquors or other substance, for any purpose whatever, or to use, traffic in, purchase, sell, dispose of, detain, convert, mutilate or destroy; or to willfully or unreasonably refuse to return or deliver to such owner, upon demand being made for the same, any butt, hogshead, barrel, half-barrel, cask, half-cask, quarter-cask or keg or other packages which may be branded or stamped with the name of such lawful owner, or from which such brand or stamp has been removed, cut off, defaced or obliterated; or to remove, cut off, deface or obliterate the name stamped thereon; or to brand or stamp other brands or stamps on the same without the written permission of the original or lawful owner or owners thereof, unless there shall have been a sale in express terms of any such package, exclusive of the malt liquor contained therein, to such person or persons by the original or lawful owner or owners thereof.

Penalty for so doing.

198. SEC. 2. That any person or persons who shall violate any of the provisions of section one of this act shall be liable to the penalty of fifty dollars, to be recovered in an action of debt with costs in any court of this state having cognizance thereof; said action to be brought by the owners of such packages, and execution against the goods and chattels and the person of the defendant shall issue for the penalty and costs so recovered.

Penalties, how disposed of.

199. SEC. 3. That one-half of all the penalties recovered under this act shall be for the use of the poor of the city, borough, town, township wherein such violation shall have been committed, and the other half shall be for the use of the owner in whose name the complaint is made; and the officer collecting the same shall immediately upon receipt thereof pay over the same, as aforesaid, to the officer of such city, borough, town or township, who is by law charged with the care of the poor, and to the said owner.

Violators guilty of misdemeanor.

Penalty.

200. SEC. 4. That any person who shall violate any of the provisions of section one of this act shall also be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding six months, or both, at the discretion of the court.

INTOXICATING LIQUORS.

1825

201. SEC. 5. That on probable cause shown on oath or affirmation of the owner of any such butts, hogsheads, barrels, casks or other packages upon which said owner's name is branded or stamped, or of his agent thereunto specially authorized, that any person has in his possession any such packages in violation of the provisions of section one of this act, or with intent to violate the same, a search warrant shall issue to discover and obtain the said packages; and said search warrant shall be issued and served or executed by any of the several officers now authorized under the laws of this state to issue, serve or execute search warrants, and the same proceedings shall be had thereon as is now required by law in cases where search warrants are issued.

When search warrant shall issue.

By whom search warrant served.

An act fixing the terms of members of the board of excise and prescribing the method of their appointment and removal in certain cities of the second class.

Passed May 25, 1894.

P. L. 1894, p. 520.

202. SEC. 1. That in all cities of the second class wherein members of the board of excise are now appointed by the common council, city council, board of aldermen or other governing body of said city, it shall hereafter be lawful for the mayor of any such city to appoint the members of the board of excise in and for such city, such board to consist of three persons, no more than two of whom shall be members of the same political party, and they shall hold office for the term of three years from and after the day when the fiscal year of said city begins; subject, however, to be sooner removed by the mayor; *provided, however,* that the members of the first board of excise to be appointed under this act shall be appointed for the terms of one, two and three years respectively, and thereafter each appointment shall be for the term of three years, except to fill a vacancy, and in such case the appointment shall be for the unexpired term only.

Mayor to appoint excise board in second-class cities.

Proviso

203. SEC. 2. That the terms of office of the persons now holding said office of member of the board of excise in such cities shall expire on the first day of July, one thousand eight hundred and ninety-four; and all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect on the first day of July, one thousand eight hundred and ninety-four, but shall not go into force in any city until adopted by the votes of at least a majority of all the members of the common council, city council, board of aldermen or other governing body of such city.

When act shall take effect.

An act in relation to boards of excise commissioners in certain cities of this state.

Passed May 25, 1894.

P. L. 1894, p. 531.

204. SEC. 1. That it shall and may be lawful for the mayor of any city of the first class in this state at any time after the passage of this act, in his discretion, to appoint a board of excise commissioners therein, to consist of four legal voters of said city, two of which said commissioners shall be selected and appointed from the political party which at the last preceding election for mayor in said city cast the largest number of votes for mayor, and two from the political party at said election casting the next largest number of votes for mayor, the commissioners so appointed shall serve for the term of two years, and until their successors shall be appointed; they shall receive such salary or compensation as is now provided for by law for members of the board of excise commissioners in such cities.

Mayors of first-class cities may appoint excise boards.

Terms and salaries of.

205. SEC. 2. That members of the board of excise commissioners in such cities appointed prior to the passage of this act shall continue in office until the appointment and qualification of their successors, whereupon their respective offices shall become vacant notwithstanding they may have been appointed for a longer term, and such commissioners shall receive and be paid a salary and compensation for services rendered up to said

Terms of present board to end when.

date that part of the annual salary or compensation proportioned to the actual term served by them as such commissioners.

Vacancy shall be filled for unexpired term only.

206. SEC. 3. That any vacancy which may happen in the office of member of excise commissioners in such city shall be filled by the mayor of said city for the unexpired term only, and that the member so appointed to fill such vacancy shall be selected from the same party as the member for whose expiring term he is appointed.

When terms of present officers and employes shall cease.

207. SEC. 4. That the terms of office of all officers and employes appointed by the board of excise commissioners in any such city shall cease on the first day of June, one thousand eight hundred and ninety-four, notwithstanding such officers or employes may have been appointed for a longer term, and that such officers and employes shall receive and be paid as salary and compensation for services rendered up to said date that part of the salary or compensation proportioned to the actual time served by them in said office or employment.

Powers, duties, &c., of new boards.

208. SEC. 5. That the commissioners appointed under the provisions of this act shall perform all the duties, possess all the powers, and be subject to all the liabilities now or hereafter conferred or imposed on the members of boards of excise commissioners in such cities by the laws of this state.

Repealer.

209. SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Itinerant Venders.

1. Construction of words "wearing apparel."
2. Construction of words "itinerant venders."
3. Act not to apply to certain sales.
4. Preamble.
5. Penalty for selling without license.
6. Penalty for advertising.
7. Itinerant vender required to take out state and local licenses.
8. Shall deposit \$500 with state treasurer and pay license fee.
9. Applications for license to be sworn to, &c.
10. State license to be exhibited to municipal clerk. Local license fee to be paid.
11. Shall not advertise certain sales except under certain conditions.
12. Licenses good for one year. Deposit held by state treasurer. Proceedings to recover fines and penalties.
13. Penalties for violating act.
14. Penalty for false statement in application for license, &c.
15. Repealer.

An act to prevent and punish fraud in sales of wearing apparel at public or private sales by itinerant venders and to regulate all such sales.

Passed May 24, 1894.

P. L. 1894, p. 498.

Construction of words "wearing apparel."

1. That the words "wearing apparel," for the purposes of this act, shall be construed to mean and include all kinds of clothing, underwear, hats and shoes.

Construction of words "itinerant venders."

2. That the words "itinerant venders," for the purposes of this act, shall be construed to mean and include all persons, both principals and agents, who engage in a temporary or transient business in this state, either in one locality or traveling from place to place, selling wearing apparel as specified in section one of this act.

Act shall not apply to certain sales.

3. That this act shall not apply to sales made to dealers by commercial travelers or selling agents, in the usual course of business, nor to bona fide sales of goods, wares and merchandise by sample for future delivery, or to hawkers on the street, or to peddlers from vehicles or baskets or packs carried on back, or to sheriffs, constables or other public officers selling goods, wares and merchandise according to law.

Preamble.

4. That whereas, certain evil-disposed and irresponsible persons have been in the habit of engaging in business in this state as itinerant venders of wearing apparel, and by fraudulent and deceitful practices in advertising and conducting their business have greatly defrauded and damaged the people of the state; now therefore,