

HANDY-BOOK

FOR

LICENSED VICTUALLERS, BREWERS, WINE
RETAILERS, BEER AND REFRESHMENT HOUSE
KEEPERS, AND POST MASTERS,

INCLUDING THE

PUBLIC HOUSE CLOSING ACT, 1864,

WITH INSTRUCTIONS FOR BEGINNERS

AND

An Appendix of Useful forms.

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SOLICITOR.

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P R E F A C E.

THE chief aim of this little work is to give a popular analysis of the laws which regulate and relate to the trade of that large section of the community known under the technical designation of *Licensed Victuallers*.

With that view it is written in an easy style, and without the unnecessary introduction of legal terms.

It is not meant to set aside, as it could not, the necessity of the services of an intelligent attorney as occasion may require, whether to advise the inn-keeper in the event of any action with a former guest or with his landlord; or of any alleged breach of the conditions of his licence; or of any dispute whatever, particularly if an action be feared. All that is meant is to make plain the laws that direct the mode of obtaining and transferring licences, and that specially affect the licensed victualler in the conduct of his business, and to furnish him with

such information as may serve to keep him out of any troubles into which, without the possession of that knowledge, he might find himself involved. We no more believe in the doctrine of every man being competent to act as his own lawyer than we believe that every man is qualified to act as his own physician. But we do believe that it is the duty of every one to acquire a fair knowledge of the municipal laws that concern himself in the exercise of his own particular trade, as we believe that it is his duty to acquire a fair knowledge of physiology and the natural laws of health. And we must take care always to remember the legal maxim that ignorance of a law is no excuse for a breach of it.

Having carefully analysed the maze of Acts embracing the laws in question to render their meaning intelligible to all, the author invites *his students*, the licensed victuallers, to follow him attentively through the manual, and so make themselves acquainted with those Acts, and with the summary of the reports of such decisions on law questions bearing on the subject as he may deem it to be essential to point out.

A lecturer usually begins his course with a synopsis of what the lecture may be expected to

contain, and we purpose to adopt the rule here in the way of prefatory digest of the matters to be discussed in the work.

We shall start by introducing a beginner in the trade to the various kinds of licensed houses, and from which he may select, giving him some practical hints to guide him as to capital and otherwise. We shall then direct him as to the proper kind of licence he will require. The licence being got, the several circumstances under which it may be transferred, and the mode in which the transfer may be effected, will be explained. Its import will also be investigated as a matter of precaution ; including the question of the penalties to which an offender subjects himself for a breach of the conditions, or of the provisions of the Act of Parliament under which it was granted. This will necessarily lead to an inquiry as to the remedy open to defendants in the event of erroneous judgment by the judge, whether in the finding of fact, or in maliciously going beyond the powers conferred upon him in the exercise of his duty. The liability of the innkeeper in respect of the goods of his guests, and how limited, will then be considered, and his right to retain the same articles in security of unpaid bills. The Public-

House Closing Act, 1864, will afterwards be examined. A chapter for brewers will then be given, and another for spirit dealers. These, and the consideration of all kindred subjects specially falling within the scope of the work, and of matters common to all householders as well as to licensed victuallers, such as the question of leases and their covenants, and of servants, and a chapter of general observations and illustrations will complete the work, some useful forms being appended.

HANDY BOOK

FOR

LICENSED VICTUALLERS,

ETC.

CHAPTER I.

INTRODUCTION.

INNS have long existed in England. They were known long before the introduction to the country of those liquids with which the "traveller" usually now refreshes himself, before the introduction of either tea or coffee, and before the principle of extracting the "spirit" by distillation from grain and other articles of commerce was known.

Inns were first established for the purpose of affording *rest* and *refreshment* to the *wayfarer*; and it would appear that to him only was admission given to the house.

The keeper was bound to accommodate the "wayfarer," as the keeper of the present day is bound to accommodate the *traveller*; and he had conferred upon him certain privileges in return for the obligations under which he lay, and was bound to fulfil, towards his *guest*.

Necessity compelled the introduction of inns to rural districts, enterprise carried them into towns.

And from the use of pure limpid water, rising to mead, to beer, home-brewed and imported, and to wine or fermented liquors, and cordials, we have now malt liquors, and distilled or spirituous liquors, and latterly tea and coffee.

All spirits distilled in Great Britain or Ireland are deemed to be *British spirits*. They are known to the Excise by different names, as they shall be flavoured or compounded. Flavoured, and they are called *British brandy*. The compounds are numerous, and are known, technically, as *British compounds*, popularly, as *gin*, and otherwise. Juniper-berries, carraway seeds, aniseeds, and other seeds are decocted, and, mixed with plain spirits, make such compounds. Sugar, the juice of fruits, and essential oils, are also mixed with spirits, British and foreign, giving such liquids as *cherry brandy*. British spirits again, of the strength of 43 per cent. over proof, as tested by a certain hydrometer, are called *spirits of wine*.

British wine is a liquor made by fermentation from fruit and sugar, or from fruit or sugar mixed with other material; and *cider* and *perry* are the type. Then we have cordials of every name and flavour, the makers calling to their aid such articles as ginger, cinnamon, peppermint, bitter-almonds, and peach stones, the flavouring article generally giving the distinctive name to the individual liqueur.

Malt liquors, beer, porter, and ale, are well known, whether pale *India* ale, or *bitter*, from Burton-on-Trent; or ale *old* or *sweet*; or *four-*

penny or *six*; or beer *black* or *spruce*, or *common*; or *porter* or *stout*; or *Cowper*, a compound christened after the party who first introduced it.

Before entering upon our *analysis*, it may not be out of place here to introduce a brief description of the various houses of public entertainment to be met with in this country, discriminating those of the licensed victualler from those falling under another category, or the excise houses.

Treating of those only that require certain authority to carry on business, the coffee-house does not fall within our scope. But that house is restricted from doing business after ten o'clock at night. If it does so after that hour it is deemed to be a *refreshment house*, which requires a licence, and which may continue open till one o'clock morning. A house purely a refreshment house, does not deal in spirituous or malt liquors. But it may take out, and generally does take out, a wine licence without losing its distinctive name. And a wine licence only is often taken out by confectioners, who are then known also as wine retailers.

In addition to the refreshment-house licence and wine licence, the keeper may take out a licence for the sale of malt liquors; or a party may take out a beer licence by itself, or a cider and perry licence by itself. A mere beer-house keeper is limited in his hours of doing business to 12, 11, or 10 o'clock, as the house shall be situated in London or Westminster, or elsewhere, the time receding with the less importance of the place.

These houses require no other authority to do business than a licence from the Excise; but they cannot sell spirituous liquors.

Spirituous liquors can only be sold for consumption on the premises by the licensed victuallers, properly so called, and who require the authority of Her Majesty's Justices of the Peace, or, if in London, of the Court of Aldermen, besides an excise licence, before they can open house. The houses of the licensed victuallers are again divided into two classes—the public-house or tavern, and the inn proper or hotel. The distinction is, that while the keeper of the former restricts himself to the sale of refreshments alone, and for man, the latter provides sleeping accommodation also, in short, provides, according to an old country sign-board, "refreshment and beds for both man and horse."

But there are combinations; and we find the refreshment-house keeper also supplying beds, and subject to the same liabilities for the loss of goods of guests, and having the same remedy for the security of payment of his bills which the innkeeper has, and to which he is subject.

Again, to the business of retailer of exciseable liquors is often added that of the music hall, or the tea-garden, or the dancing-saloon, or the discussion-forum; and facilities are generally given for the games of billiards, bowls, the noble one of chess, and others.

Some retailers of beer also brew. A publican who brews, to distinguish him from a brewing beer-

retailer, is called by the Excise a *Brewing Victualler*, while the latter is honoured by having the Royal name conferred upon him of *Brewer 1st William IV.*

We may further add here, specially for the use of those who may desire to enter the trade, that their first step is to go to an agent whose chief business it is to find a successor for an old house, or a beginner for a new one. Agents' names will generally be found under some advertisement in the *Morning Advertiser*—a paper devoted mainly to the interests of the trade of the licensed victualler. The capital required necessarily depends upon circumstances—the nature and extent of the business, and the duration of the lease of the house. But facilities are generally afforded to a beginner of limited capital that cannot be well got in any other trade, and as to which the agent he employs will be able to instruct him. We will give the beginner various cautions throughout the book for his better guidance in the trade, and he will particularly attend to our instructions with regard to leases and fixtures, and the state of repair of the premises which he is to enter; and if he means to keep an inn, to the chapter on the liabilities of innkeepers for the goods of their *guests*, and to the definition of that term.

We shall now proceed to our duty proper, to give a summary of the laws regulating and relating to the different kinds of licensed houses above described, together with the other matters indicated in the Preface, and as specified in the Table of Contents.

CHAPTER II.

THE LICENCE.

THERE are two kinds of licences—an Excise and a Justices'. For certain limited kinds of businesses the Excise licence only is required. Other businesses require the Justices' licence besides, and which must be got first.

1. *Justices' Licences.*

The granting of Justices' licences in England is regulated by the 9 Geo. IV. cap. 61 (15 July, 1828), entitled "An Act to regulate the granting of Licences to Keepers of Inns, Alehouses, and Victualling-houses in England," hereinafter called *the General Licensing Act*. It extends to persons "keeping or being about to keep inns, alehouses, and victualling-houses, to sell exciseable liquors by retail to be consumed on the premises." Exciseable liquors are by the Act deemed to *include* "any ale, beer, or other fermented malt liquor, sweets, cider, perry, wine, or other spirituous liquor, which now is, or hereafter may be charged with duty either by Customs or Excise."

Music-house licences are also granted by the Justices without any charge; and occasional licences to retail exciseable liquors at fairs and races are granted by the Excise, with the consent of one Justice.

2. *Excise Licences.*

Notwithstanding the General Licensing Act, a licence for the retail of beer, ale, porter, cider, and perry alone, to be consumed on the premises; or a licence for the retail thereof to be consumed off the premises; or a licence for the retail of cider and perry only to be consumed either off or on the premises, may be obtained from the Excise, without the authority of the Justices. A house so licensed is hereinafter called a *beerhouse*. With the licence to sell *on*, the party can *also sell off* the premises. One of the conditions of the licence is, that he must print his name in full in black or white, upon a white or black ground, in letters at least three inches in length upon a board to be placed over the door, publicly visible and legible, with the words "Licensed to sell beer and cider by retail," and the additional words "not to be drunk on the premises," or "to be drunk on the premises," as the case may be. If he fails to put up and keep up the sign-board he subjects himself to a penalty of 10*l.* He is also liable in the same penalty if he does not signify upon it whether or not his liquors are to be consumed on the premises. A beerhouse-keeper may also take out a wine licence, under the *Wine Licences and Refreshment-Houses Act*.

Under that Act, being 23 Vic. c. 27 (14 June, 1860), entitled "An Act for granting to Her Majesty certain Duties on Wine Licences and Refreshment-Houses, and for regulating the licensing

of Refreshment Houses and the granting of Wine Licences," wine licences are granted and refreshment-houses licensed also by the Excise, without the authority of the Justices. By *refreshment-house* is meant any house, room, shop, or building, kept open for public refreshment at any time between ten o'clock P.M. and five o'clock A.M., not being licensed for the sale of beer, cider, wine, or spirits respectively; and the keeper of such house must take out a licence. A house for the sale of refreshments, but not kept open at any time between these hours, generally called a coffee-house, does not fall within the meaning of the Act.

A refreshment-house keeper, being a confectioner or an eating-house keeper, may also take out a wine licence. And any keeper of a shop for the sale of goods other than foreign wine, or who shall have taken out a licence as a dealer in wine, is entitled to a wine licence for sale by retail, not to be consumed on the premises. The sale must be made in reputed quart or pint bottles only.

But when the value of the premises is under 10*l.* a year, or 20*l.* if the population of the place shall exceed 10,000, a retail wine licence for sale to be consumed on the premises cannot be granted.

Tobacco, and billiard-room, and packet-boat licences are also granted by the Excise, as well as licences to theatres established by Royal Letters Patent, or any theatre, or other place of public entertainment, duly licensed by the Lord Chamberlain or Justices of the Peace.

Having thus indicated what kind of licences are required, and by whom granted, we shall next explain

HOW THEY ARE OBTAINED.

1. *Justices to Innkeepers.*

In and for London, the licence is granted by the Court of Aldermen sitting as a bench of magistrates. Elsewhere, by the Justices at a meeting called *the General Annual Licensing Meeting*.

In Middlesex and Surrey that meeting is held within the first ten days of March, and before the end of the month if adjourned. Elsewhere, on a day in autumn, between 20th August and 14th September, and before the end of September if adjourned, the adjourned day in each case not being sooner than six days.

The Justices, in Petty Session assembled, at least twenty-one days before, appoint the day, hour, and place for the autumn meeting, of which meeting notice must be given on the church or chapel door, or on some other conspicuous place within the parish or district, if there be no church or chapel. That must be done within five days after the Petty Session; and within the same time, a like notice must be given to each party holding a licence, or who has given notice of his intention to apply for one. Notices of adjournment must be given in the same manner.

At the autumn meeting, or at the adjournment

thereof, licences are granted to such applicants as a majority of the bench shall deem fit and proper.

And qualified Justices of adjoining counties may act where only one qualified Justice of the district shall be present.

Any one intending to apply for a licence for a house not previously licensed must affix a notice on the door thereof, and on the door of the church or chapel of the parish or place, or on some other public and conspicuous place within the parish or place if there be no church or chapel, on three Sundays between 1st January and last day of February as regards Middlesex and Surrey, and between 1st of June and last day of July as regards other counties; and at some time between ten o'clock forenoon and four o'clock P.M. He must also serve a copy of the notice upon an overseer of the poor, and upon a constable, or other peace-officer of the parish or place within which the house is situated, and that during the month of February as regards Middlesex and Surrey, and the month of July as regards other counties. The notices may be written in a fair and legible hand, or printed, and signed by the applicant or his authorized agent. The form prescribed by the General Licensing Act is given in the Appendix.

If the applicant be hindered by sickness or infirmity, or by any other reasonable cause, from attending the licensing meeting in person, upon proof thereof, the licence may be granted and delivered to any party present authorized to receive it. A medical certificate is received as sufficient proof.

2. *Excise Licences.*

The applicant for a beerhouse licence only produces to the Commissioners of Excise in London, or to the supervisor and officers of excise of the survey elsewhere, an overseer's certificate of his residence, occupation and rental; and also a certificate of character from six householders of the parish, rated for the poor at not less than 6*l.* each, if he mean to sell *on* the premises. If he do not mean so to sell, the overseer's certificate only is required. Neither is the certificate of character required as to any house situated within the cities of London or Westminster, or within any parish within the bills of mortality, or within any city or town corporate, or within one mile from the place used at the last election of a member of Parliament as the polling-place, provided the population of such place by the last census shall not exceed 5000. The commissioners or the officer then provides the applicant with a form of application, which he will fill up with his name and address and that of his proposed surety; and in the course of ten days the applicant will be informed whether or not the licence will be granted.

The surety given is by bond conditioned for the payment of any penalty not exceeding the sum of 20*l.* which may be incurred for any offence against the Acts under which the licence shall be granted. One beerhouse-keeper cannot become surety for another. Nor can one be surety who is not a householder assessed for and paying poor-rates.

New applications must be made, certificates produced, and bonds entered into, annually before 11th October.

A party certifying to what is false, or making use of any certificate knowing it to be false or forged, is subject to a penalty, on conviction before two magistrates, of 20*l.*; and every licence obtained by means of a false or forged certificate, knowingly used, becomes void and null, and the party cannot again at any time obtain a licence to sell beer.

A party having obtained a justices' licence goes to the officer of excise of the survey and makes entry of his premises. The officer will then give him a certificate of entry, the production of which along with the justices' licence to the collector of inland revenue entitles him to the excise licence, if the annual rent or value of the premises is not less than 50*l.* If less, and the premises are not rated for house duty, a certificate of the annual value and rent of the premises by the owner and occupier must also be produced. A form of certificate is given in the appendix. But the licence may be withheld if the house be considered of greater value, and till inquiry be made.

Every place used in the way of the party's business must be entered with the proper officer of excise. For having liquors in unentered premises, the penalty is forfeiture of the liquors found therein, *besides* "the penalties imposed by the statutes in that behalf for making use of any unentered room or place." To sell, too, at a place not entered is deemed to be

selling without a licence, except on occasional licences. And officers of excise may enter and search premises at any time. They can also demand production of any licence for inspection, refusal subjecting the party to a penalty of 20*l.*

Twenty-one days' notice of a desire to renew the licence is required; and if the officers do not call to ascertain whether a renewal is wanted, which they generally do, the notice should be given.

3. *Occasional, Billiard, and Packet-boat Licences.*

A licensed retailer of beer, spirits, and wines may obtain licences for the sale thereof at fairs or races. The licence is granted by the excise with the consent of one justice, and extends to three days, and from sunrise to one hour after sunset each day. If, therefore, a fair or race be continued for more than three consecutive days, a new licence must be obtained for each additional period of three days or part of three days, if the party desires to continue his traffic at the fair or race. The duty is 2*s.* 6*d.* a day. He may also obtain a licence to sell on the occasion of any public dinner or ball, the hours being specified at the time by the consenting justice. Occasional licences may also be granted under the Public-house closing Act, 1864, by the authority mentioned in the Act, and reference is made to Chapter XIV. Any innkeeper may keep a billiard-table. But a mere beerhouse-keeper must take out an excise licence. And if he does, the fact

must be publicly indicated by putting up a notice inscribed "Licensed for Billiards," under a penalty of 10*l.* The game cannot be played at any time when the premises must be kept shut against the public for the sale of liquors, and a beerhouse-keeper subjects himself to heavy penalties and to indictment as for keeping a common gaming-house, if he allows the game without having a licence.

The Excise grant licences for the sale of exciseable liquors and tobacco on board packet-boats to the master or commander, or party nominated by the owners. The licences may be transferred to other masters or commanders of the same vessel, or to any vessel substituted for the same vessel, by endorsement. The traffic in exciseable liquors cannot be carried on within any licensed packet moored within the metropolitan district during the hours and times forbidden to licensed dealers, on shore, under a penalty not exceeding 5*l.*, recoverable before any magistrate of the metropolitan police courts, or if the offence shall have been committed beyond the limits of any metropolitan police court, then before any two justices of the peace having jurisdiction therein. But the offender may be imprisoned for a calendar month, instead of being fined; and for the same period if he fails to pay any fine imposed. The licence duty is 1*l.* 1*s.*

New licences being thus got, we shall now consider the matter as regards their transfer.

CHAPTER III.

TRANSFER OF LICENCES.

AT the general annual licensing meeting, at least four and not more than eight special meetings are fixed to be held during the year ensuing, at periods as near as may be equi-distant, for the purpose of transferring licences to persons intending to keep inns heretofore kept by other persons about to remove from such inns.

Notice of these special meetings must also be given in the way in which notice of the annual general meeting is appointed to be given.

And a notice of application to transfer a licence must also be served upon an overseer of the poor, and upon a constable, or other peace officer, of the parish or place within which the house is situated, five days at least prior to the special meeting. The notices may be written or printed, and signed in the manner directed in the preceding chapter in the case of notices by an applicant for a new house. The form prescribed by the Act is given in the Appendix.

And the transfer may be granted in the absence of the applicant in the circumstances, and upon the proof, mentioned in the preceding chapter in the case of the absence of an applicant for a new licence.

By the *General Licensing Act*, in case of any of

the following contingencies—and in such cases only :—

1. The death of the innkeeper ;
2. His incapacity to keep an inn by reason of sickness or other infirmity ;
3. His bankruptcy ;
4. His taking the benefit of the Act for the relief of insolvents ;
5. His, or his heirs', executors' or administrators', or assigns' removal from, or yielding up possession of, the licensed premises ;
6. The wilful omission or neglect of the occupier of any such premises about to quit the same, to apply for a renewal of licence at the annual licensing meeting, or adjournment thereof ;

the Justices may, at the special meeting, grant licence (1) to the heirs, executors, or administrators of the deceased ; or (2) to the assigns of such persons becoming incapacitated from business ; or (3) to the assigns or assignees of such bankrupt or insolvent ; or (4) to any new tenant, or occupier, of any house having so become unoccupied ; or (5) to any person to whom such heirs, executors, administrators, or assigns shall by sale, or otherwise, have *bonâ fide* conveyed, or otherwise made over, his or their interest in the occupation and keeping of the premises.

And in the event of

7. The house being, or being about to be, pulled down or occupied for any public purpose under the provisions of any Act ;
8. Or of the premises being destroyed by fire,

tempest, or other unforeseen and unavoidable calamity, rendering them unfit for the reception of travellers, and for the other legal purposes of an inn ;

the Justices may, at such meeting, grant licence to the keeper if he shall open and keep as an inn some other fit and convenient house.

But the applicant must, in the two last-mentioned events, within the six weeks next before the special meeting, give the like notices as are required to be given by parties intending to apply for a licence at the annual licensing meeting, and as directed in Chapter II.

In case of the death of a beerhouse-keeper his licence can be transferred, and in that event only, to his executors, administrators, widow, or child. Or a new licence altogether may be obtained on payment of the duty and giving the usual bond, if the residue of the term be less than three months.

In case of the transfer of a licence and in the general case, the tenant should get the landlord to elect the new tenant. A transfer is generally made for a consideration for fixtures and goodwill, and the form of an assignment thereof is given in the Appendix.

The licence being obtained by transfer or otherwise, it is the duty of the victualler at once to inform himself of its import, that he may not unknowingly be led to commit any breach of its provisions. We shall therefore now analyse these provisions.

CHAPTER IV.

CONDITIONS OF LICENCES.

1. *Justices' Licences.*

LICENCES to innkeepers are granted under the provisions that they do not—

1. Fraudulently dilute or adulterate their liquors, or sell the same knowing them to have been fraudulently diluted or adulterated.

2. Nor use in the selling thereof any weights or measures that are not of the legal standard.

3. Nor wilfully or knowingly permit drunkenness or other disorderly conduct in their houses or premises.

4. Nor knowingly suffer any unlawful games or any games whatsoever therein.

5. Nor knowingly permit or suffer persons of notoriously bad character to assemble and meet together therein.

6. Nor keep open house, except for the reception of travellers; nor permit or suffer any exciseable liquor to be conveyed from or out of the premises during the usual hours of Divine service on Sundays, Christmas-day, or Good-Friday, but do maintain good order and rule therein. To these days must be added any day appointed for a public thanksgiving.

The hours observed for doing business in the

Metropolitan Police District, and within a radius of 15 miles from Charing Cross, under this last condition and under the Act 18 and 19 Vic. cap. 118, 14th Aug. 1855, for regulating the sale of liquors on the days mentioned, are from one to three and after five o'clock. And inns must be further closed on Saturday nights at twelve o'clock, on the nights of the days mentioned at eleven o'clock, and on the day following these days they cannot be opened before four o'clock A.M. The regulation in regard to hours is materially affected by the recent Public-house Closing Act, 1864, as regards licensed victuallers, refreshment-house keepers, and free vintners, as to which see Chapter XIV. And wine retailers and beerhouse keepers are also curtailed in hours as after mentioned.

Two Justices may direct any innkeeper, refreshment-house keeper, or beer-house keeper, whose house shall be near the place where any riot or tumult shall happen, or be expected to take place, to close his house at any time during which the said Justices shall direct. And if he refuse he shall be deemed not to have maintained good order and rule therein.

And further, innkeepers and others must not allow disorderly persons or prostitutes to assemble and linger about their houses. If they do, they subject themselves to a fine, while they cannot be witnesses in their own behalf.

A music-house keeper must have inscribed in large capital letters and placed over the door or

entrance to his place of entertainment the words—
“Licensed pursuant to Act of Parliament of the
twenty-fifth of King George the Second;” and he
must not open his place for the public before five
o’clock P.M.

2. *Excise Licences.*

A keeper of a refreshment house is bound to
maintain good order and rule therein; and the other
conditions of his licence are the same as the third,
fourth, and fifth conditions of the Justices’ Licence
to Innkeepers.

A licence to the keeper of a refreshment-house to
sell wine by retail to be consumed therein is granted
under the conditions that he do not—

Mix or cause to be mixed any spirits, or any
drugs, or other pernicious ingredients, in any wine
sold in his house, nor sell, or offer for sale, any
wine which to his knowledge has been so mixed,
diluted, or adulterated.

And under the other conditions, being from two
to six inclusive before specified under the head of
Conditions of the Justices’ Licence to Innkeepers.

The Excise licence to sell wine by retail not to
be consumed on the premises is granted under the
conditions first above specified under which the
last-mentioned licence is granted.

Further, as to hours, wine retailers under the
Wine Licences and Refreshment-houses Act, besides
being subject to the hours and times for opening
and closing their places of business to which inn-

keepers are subject on certain days, must also close every ordinary day within the cities of London and Westminster, and the boroughs of Marylebone, Finsbury, the Tower Hamlets, Lambeth, and Southwark, at twelve o'clock P.M., and not open before five o'clock A.M. In any other place with a population exceeding 2500, the hour of closing at night is eleven o'clock; elsewhere, ten o'clock.

The penalty for an offence against this regulation is 40s. for every offence, there being as usual an exemption in favour of lodgers.

Beerhouse-keepers are subject to all the ordinary rules and police regulations to which other licensed traders are subject, and to the same hours and times for opening and closing their places of business as wine retailers as above mentioned, under the same penalty.

By the Wine Licences and Refreshment Houses Act it is deemed to be drinking on the premises to take or carry away, or permit to be taken or carried away, with intent to evade the provisions of the act, any wine from the licensed person's premises for the purpose of being sold on his account, or for his benefit or profit, drunk or consumed in any other house, or in any tent, shed, or other premises of any kind whatsoever, belonging to such licensed person, or hired, used, or occupied by him. And such breach of the licence subjects the offending party to the same penalty as if the wine had actually been consumed on the licensed premises.

To drink at a bench placed outside the door of

any licensed house is also held to be drinking on the premises.

And officers of police may enter the premises and outhouses to see that the terms of the licences are not infringed, and at any time. If refused admittance, the keeper is liable to a penalty of five pounds for a first offence, for a second to have his licence suspended.

These being the conditions of the licences, the next chapter may be properly devoted to a consideration of the question of penalties for infringement thereof, in so far as not already mentioned.

CHAPTER V.

PENALTIES.

1. *For Selling by Retail without Licence.*

THE penalty for every offence for selling without a licence exciseable liquors by retail to be consumed on the premises is a sum not less than 5*l.* nor more than 20*l.*, besides costs of conviction. And it may be recovered on conviction before one justice.

But the penalty is not incurred by heirs, executors, administrators, or assigns' of any licensed person who shall die, or become bankrupt, or take the benefit of the Insolvency Act, before the expiration of his licence, if the sale be made in the licensed house, and prior to the next special session, or prior to the special session following, if the first shall be holden

within fourteen days next after the death, bankruptcy, or insolvency of the said person.

The penalty is over and above the excise penalty of 20*l.* incurred by every person who shall sell wine by retail, whether to be consumed on the premises or not, without being licensed.

And the defendant, if he alleges it, must show that he has a licence by producing it.

2. *For Offences against Justices' Licence.*

1. *To Innkeepers.*

We have already given the tenour of the licence. The penalty for offences against any of the conditions is—

For the first offence, a sum not exceeding 5*l.*

For the second, a sum not exceeding 10*l.*

And for the third, a sum not exceeding 50*l.*, besides the costs of conviction in each case.

The penalty may be recovered before any two justices as regards the first and second offence. And as regards the third, on proof of the previous convictions, the justices must adjourn the further consideration of the charge to the next special session, or to the general annual licensing meeting if it shall first take place; which meeting again before the hearing of the charge may direct an adjournment to the next Quarter Session, there to be inquired into by a jury; or the party charged may require this by writing forthwith given to the justices, and giving a recognizance, with two sufficient sureties, personally

then to appear and abide by the judgment, and to pay such costs as shall be awarded.

The penalty for a third offence so tried by a jury is increased to a fine not exceeding 100*l.*, or forfeiture of licence, or both. The excise licence is also forfeited. And if found guilty, the offender shall also be deemed to be incapable of selling exciseable liquors by retail in any inn kept by him for the space of three years.

And the jury's verdict is final.

The court may adjourn the hearing to the then next general or Quarter Sessions on sufficient cause being shown.

Witnesses, whether for the complainer or the accused, are subject to a penalty not exceeding 2*l.* if they shall fail to attend or refuse to give evidence.

Penalties may be recovered by distress and sale of the goods of the offender. But if in custody, he must be discharged at the time the warrant for the distress is granted. And if there be not sufficient distress, the offender may be committed to gaol for any term not exceeding one calendar month, if the penalty shall not be above 5*l.*; if above 5*l.* and not exceeding 10*l.*, for three calendar months; and for any term not exceeding six calendar months if the penalty shall be above 10*l.* But he may be liberated at any time on payment of the penalty, costs, costs of apprehension, and conveyance to gaol.

Convictions proceed on the oath of one or more credible witnesses. And they cannot be quashed for

want of form, or be removed into a superior court. But appeal may be taken by any party feeling aggrieved to the Quarter Sessions.

And no warrant of commitment is void by reason of any defect therein, provided it states the fact of the conviction, and that, in point of fact, there was a good conviction to sustain the same.

2. To Music-House Keepers.

Parties keeping places of public resort for dancing, or music, or other entertainment of a like kind, in the cities of London or Westminster, or within a distance of twenty miles thereof, may be fined 100*l.* if not duly licensed. They are also otherwise punishable as the law directs in cases of disorderly houses. The penalty for any breach of the conditions of the licence is forfeiture thereof, and a new one can never be obtained.

3. For Offences against Excise Licences.

In case of a breach of any of the conditions or regulations contained in a refreshment-house licence, or in a licence to a keeper of a refreshment-house to retail wine to be consumed on the premises, the licences cease and determine and become void.

A refreshment-house keeper subjects himself to a penalty of 20*l.* if he fails to take out a licence; and to a fine if he suffers prostitutes and bad characters to assemble and linger in his house.

For adulterating beer, a first offence subjects the offender to a penalty of not less than 10*l.*, nor more

than 20*l.*; a second offence to disqualification to sell beer for two years, or to a penalty of 20*l.* and not exceeding 50*l.*

A beer-house keeper is subject to a penalty of 2*l.* for a first offence for permitting drunkenness or disorderly conduct, to a fine of 5*l.* to 10*l.* for a second; and to a fine of 20*l.* to 50*l.*, or to disqualification to sell beer, for a third.

Other penalties under the Acts are given under the heads respectively to which they relate.

These being the penalties, we shall now consider the matter of security given to a defendant that he shall not suffer from an erroneous judgment. That is done by giving him, first, right of appeal.

CHAPTER VI.

APPEALS.

APPEAL against any act of any Justice may be taken to the next Quarter Sessions if not holden within twelve days after the date of the act complained of, and if so to the Quarter Sessions to be held next thereafter.

Notice of the appeal, and of the cause and matter thereof, must be given in writing to the Justice within five days after the date of the act and seven days at least before the Sessions. A form is given in the Appendix.

And within such five days the appellant must enter into a recognizance, with two sufficient sure-

ties, before a Justice, to appear and try the appeal, and to abide by the judgment to be given thereupon, and to pay such costs as may be awarded.

Thereupon the Justice shall liberate the appellant if in custody for any act which is the subject of the appeal.

And the Appeal Court may grant or transfer licences refused at the general annual licensing meeting, or at the Special Sessions.

And the judgment of the court is final.

If the appeal be dismissed, the court orders the judgment appealed against to be carried into execution, and any costs awarded to be paid, and issues process for enforcing such order if that be required.

The Justice whose act is complained of cannot sit in the Appeal Court.

And if the cause of complaint has arisen "within any liberty, county of a city, county of a town, city, or town corporate," the complainant may appeal to the Quarter Session of the county within which or adjoining to which such Liberty or place shall be situated.

The Justice may order not more than one half the penalty recovered to be paid to the prosecutor, and the remainder to the treasurer of the county.

A defendant may also have cause of action against justices or others maliciously going beyond the powers conferred upon them in the exercise of their duties. Some justices, too, are disqualified from acting at the licensing court.

These give subject-matter for another chapter.

CHAPTER VII.

ACTIONS AGAINST JUSTICES AND OTHERS; AND JUSTICES DISQUALIFIED FROM ACTING AT LICENSING COURTS.

1. *Actions.*

ACTIONS against justices, constables, or other persons for things done under the general Licensing Act must be commenced within three calendar months after the act complained of has arisen.

And the Justice, or party complained against, may plead the general issue, and give the special matter in evidence.

Penalties imposed by the Act upon Justices, as, for instance, for acting notwithstanding disqualification, may be sued for and recovered by action of debt in any of Her Majesty's Courts of Record at Westminster.

And one half of the penalty recovered is paid for the use of Her Majesty, the other to the prosecutor.

If a magistrate acts from a partial, malicious, or corrupt motive, he is deemed to be guilty of a misdemeanour, and may be proceeded against by indictment or criminal information in the Court of Queen's Bench.

2. *Disqualified Justices.*

Common brewers, distillers, makers of malt for sale, and retailers of malt, or any exciseable liquors,

and any one concerned with them in partnership, are disqualified from acting at the licensing meeting.

And so are Justices who are owners of houses licensed, or about to be licensed, or who manage, or act as agents for such houses.

Or who, by blood or by marriage, are the father, son, or brother, of any such owner.

Or who are partners of such owner in any trade or calling.

A Justice so disqualified is liable to a penalty of 100*l.* if he acts notwithstanding his disqualification.

Some persons, too, are disqualified to hold licences, while others may retail wine without a licence at all. These exceptional parties will be mentioned in the next chapter.

CHAPTER VIII.

PERSONS DISQUALIFIED TO HOLD LICENCES; AND PERSONS FREE TO SELL WINE WITHOUT LICENCE.

1. *Persons Disqualified.*

SHERIFF'S officers, or officers executing the process of any court of justice cannot receive, use, or hold licences for the sale of exciseable liquors to be consumed on the premises.

Neither can persons legally incapacitated from entering into contracts by reason of lunacy, nonage, marriage, or otherwise.

But married women can by a custom of the City

of London carry on the trade of innkeeper there. And a married woman whose husband is transported, or from whom she is judicially separated, or who is protected by a protection order, can enter into any business on her own account.

And in the event of an innkeeper becoming insane, his committee can carry on the business or transfer the licence.

2. *Free Vintners.*

A certain class of the city of London are privileged to sell wines without a licence, and are called *Free Vintners*. The privilege also extends to the freemen of the universities of Oxford and Cambridge, and the mayor and burgesses of St. Albans. A Free Vintner is limited to one house. And he must make entry at the next Office of Excise of any house, building, place, vessel, or utensil, used, or intended to be used, in carrying on his business. The entry is made by delivering a true and particular account, as by the Act or Acts relating to such business is required, to the Officer of Excise of the Survey.

The Public House Closing Act, 1864, applies to a free vintner; and he is subject to the other rules and regulations applicable to the houses of licensed traders. And if he desires to extend his business beyond the sale of wines, he must obtain licences in the ordinary way.

We shall now explain what is meant by selling by retail and standard measures.

CHAPTER IX.

WHAT IS SELLING BY RETAIL ; AND WHAT
ARE STANDARD MEASURES.

THE sale of beer, cider, or perry, in a less quantity than four and a half gallons, or in less than two dozen reputed quart-bottles, at one time, is deemed selling by retail.

And it is selling by retail the sale of spirits or foreign wine in any quantity less than two gallons, or in less than one dozen reputed quart-bottles at one time.

Except in quantities less than half a pint, the standard measures shall be used if required, that is, the gallon, quart, pint, or half-pint measure, sized according to the standard. An offender forfeits the illegal measure, and a sum not exceeding £2, and costs of conviction. The sum may be recovered within thirty days next after the day on which the offence is committed, and before one justice. The above sum is over and above any penalty in which the offender may be liable under any other Act.

We shall now consider the liabilities of an inn-keeper to billet soldiers, and in respect of the goods of a guest.

CHAPTER X.

LIABILITY OF INNKEEPERS TO BILLET SOLDIERS,
AND IN RESPECT OF THE GOODS OF THEIR
GUESTS.1. *To Billet Soldiers.*

INNKEEPERS, beerhouse-keepers, and keepers of livery stables are liable to have soldiers, with their officers and horses, billeted upon them; but not free vintners.

A fair allowance is made for the billeting.

For refusing to receive or properly to accommodate any billeted soldier, the party offending is liable in a penalty of not less than 2*l.*, nor more than 5*l.*

2. *In respect of the Goods of their Guests.*

The law concerning the liability of innkeepers in respect of the goods of their guests is amended by the Act 26 and 27 Vic. cap. 41, 13th July, 1863, entitled "An Act to amend the Law respecting the Liability of Innkeepers, and to prevent certain frauds upon them."

The term innkeeper, as used in this Act, means the keeper of any "hotel, inn, tavern, public-house, or other place of refreshment," who "is now by law responsible for the goods and property of his guests."

The innkeeper who "is now by law responsible for the goods and property of his guests" is the common innkeeper, and not the licensed refreshment-

house keeper, or beerhouse-keeper, or publichouse-keeper, who does not lodge his customers; and he is responsible, though the goods may not have been specially given into his charge.

A guest means any person travelling, whether on business or not, gone to an inn for refreshment or lodgings. A mere customer, being a neighbour or friend, visiting the inn as he would any beerhouse or refreshment-house, is not a guest for whose goods and property taken with him to the inn the innkeeper is responsible. Nor does a regular boarder or lodger at an inn for a fixed sum come under the meaning of the word guest. But a traveller going there, though for temporary refreshment only, is deemed to be a guest.

By the Act in question the innkeeper is not liable for any loss or injury to goods or property brought to his inn by his guests beyond the value of £30, except

1. Where the goods or property shall have been stolen, lost, or injured through the innkeeper's own wilful act, default, or neglect, or that of any of his servants.
2. Where the goods or property shall have been deposited expressly for safe custody with the innkeeper.

In the latter case, the innkeeper may require as a condition of his liability, that the goods or property shall be deposited in a box, or other receptacle, fastened and sealed by the person depositing the same.

But the innkeeper will lose the benefit of the Act—

1. If he refuses to receive for safe custody, as before mentioned, any goods or property of his guest.
2. Or if he fails to exhibit in a conspicuous part of the hall or entrance to his inn, at least one copy of the first section of the said Act printed in plain type. A copy of the section is given in the Appendix.
3. Or if the guest shall be unable to deposit his goods or property, as aforesaid, through any default of the innkeeper.

The Act does not apply to horses, or to other live animals, or to their gear, or to carriages.

It falls further to be explained, that an innkeeper is not liable for the goods of a guest agreeing to *shift* amongst the other guests for himself after being told that the house was already full.

Nor for goods carried off by the companion at an inn of the guest, or by the guest's servant.

Nor when the goods are lost through the guest's own negligence—that is, when with ordinary care as a prudent man he would have saved them.

Nor when lost through inevitable accident—that is, accidents not arising from the negligence or carelessness of the innkeeper, or of his servant, but through lightning, storm, earthquake, inundation. Nor when lost through fire not traced to the negligence or carelessness of the master or servant. Nor when lost or destroyed through the Queen's enemies—that is, foreigners at war with this country.

If lost through riot, the innkeeper may recover from the county authorities, by making complaint to a justice within seven days, and bringing his action for compensation within three months of the riot and loss.

As a corollary, as it were, of the rule as to the liability of innkeepers for the goods of a guest, we have the law of innkeeper's *lien*, and which shall now be explained.

CHAPTER XI.

INNKEEPERS' LIEN.

WHILE the innkeeper is responsible for the loss of his guest's goods or property, as explained in the preceding chapter, he has a right to retain possession of the property of a guest, who has incurred and failed to pay a bill, until it shall be satisfied by payment or discharge. This right is technically called *lien*. It *extends* to horses of guests for their keep, and to their carriages for standing-room. But not to horses put to the inn at livery, a trade not necessarily within the scope of an innkeeper, or put there by any other person than a guest.

The goods must have come legally into the possession of the innkeeper; and goods cannot be taken from the guest by force.

The lien does not give a right to sell, but only of security. Except as regards London and Exeter,

in which places innkeepers, by a particular custom, may sell horses for the expenses of their keep.

Goods of a third person amongst those of a guest may be retained unless the innkeeper is aware of the fact to whom they belong, in which case he must deliver them up.

And as regards horses, all must be retained for the operation of the innkeeper's relief, as one horse is not subject to the right for the keep of another. The innkeeper cannot use or work horses so detained; and he should bring his action against the owners with all dispatch, otherwise the claim for the keep of the horse alone may become greater than its value.

CHAPTER XII.

BREWERS AND BREWING.

To enjoy the privilege of brewing an Englishman's beer, an annual duty is payable upon each barrel brewed during the twelve months preceding. And if sugar be to be used in the brewing, an additional licence, giving liberty to use that article, must be taken out. The schedule of duties is given in Chapter XV.

The licence determines on 10th October. A beginner, who is to use sugar, may have a licence for any period to that day, on payment of a proportional part of the year's duty. But a beginner who is to brew from malt is not afforded the same

privilege, and must pay a whole year's duty at whatever period he may begin. He usually begins in October; and a wag might thus try to account for the superiority of an October brewing over the brewing of any other month by the plea of additional competition then begun.

Like a retailer of beer, the brewer must enter the whole of his premises with the Excise, a room being specially set apart for roasted malt. He cannot store in that room any grain not meant for malting. For horse-corn a distinct room must be kept, not communicating internally with the brewery. He must also enter his brewing utensils. And before he can mash malt, or dissolve sugar, he must enter the quantity he means to use in a paper provided by the Excise, as also the date of entry, the day on which he is to brew, and the hour at which he is to begin to mash or dissolve, not being sooner than twenty-four hours from the time of making the entry. He must also enter the time at which the grain will be finally drained and ready for guaging, and the time at which the worts will be ready to be sampled. And the grain must not be removed from the tun, nor the worts mixed with the yeast, for one hour after the times so stated.

And before he can obtain a renewal of his licence, he, or his manager, must make a declaration before a Justice of the Peace, or before the collector of Excise, of the quantity of malt and of sugar used for the year to 10th October, and upon which the duty is payable; every two bushels of malt used

being computed to turn out a barrel of beer, and fifty pounds of sugar being deemed to give the same quantity.

If the duty exceeds the sum of 10*l.*, it may be paid in moieties ; the first after the amount has been ascertained in October, the second in March following.

Returns of duty are allowed, and surcharges made, on the death or bankruptcy of the brewer ; or on his giving up business. And the surcharge on a first licence is payable immediately after death or bankruptcy, under a penalty of double the amount, if not paid within three days after having been demanded. And the claim is preferable over the stock-in-trade and utensils.

Malt must be crushed by plain metal rollers, and sugar must be used as imported, and not diluted with water or any other liquor. Malt, hops, sugar, and brown malt, may be used in colouring ; and hops may have a substitute.

If roasted malt is received from a roaster or dealer, a certificate must be taken from him, to be delivered to the officer of Excise at his next survey. But the roaster or dealer must be duly licensed before he can sell, or the brewer buy from him.

The penalties for a breach of the conditions of licence, or the rules and regulations relating to brewers, are generally heavy. To brew for sale, without having a licence, involves a penalty of 100*l.* ; and a person brewing at any place away from the premises of the person for whom the beer

is brewed is deemed to be a brewer for sale. But he may brew for sale at a lawful fair without taking out a licence. For making false entries in an entry paper the penalty is 200*l.*; and the same penalty is incurred for receiving roasted malt without a certificate, and 100*l.* if taken from a roaster or dealer who is not licensed. And a brewer must not take into his possession any sugar on which the custom duties have not been paid, under a penalty of 200*l.*

CHAPTER XIII.

SPIRITS, SPIRIT-DEALERS, AND RETAILERS.

THE term "spirits," as explained in the introductory chapter, includes all its mixtures and compounds. A retailer of spirits, or a dealer therein, cannot receive into his stock, or send out of it, any *British* spirits of a strength exceeding 25 per cent. over proof, except *Spirits of Wine*, which must be up to the standard of 43 per cent. over proof. The penalty is forfeiture of the sum of 50*l.*, and the casks and packages. And the burden of proof of strength lies on the owner or claimer sending out the permit or certificate. But *Foreign* Spirits may be kept in stock, or sent out, by a retailer or dealer therein, of any strength.

Like other traders in exciseable liquors, and brewers, this class also must enter their premises, and all storing casks, standing or fixed, with the

Excise, each room and cask being distinguished by a particular letter or number. The number of gallons which the cask is capable of containing must also be marked upon it, by paint in oil, or by cutting or branding, if a standing cask, on a conspicuous part, and if a rolling or movable cask, on each head or end of it, under a penalty of 50*l.* And the quantity and strength of sweetened and compounded spirits, which cannot be tested by the hydrometer, must be marked on each cask containing the liquor, if the dealer be required to do so by an officer, and under a like penalty.

A retailer may sell spirits, home, foreign, or colonial, in any quantity at a time, but *not* to any other retailer, dealer, or rectifier, except, of course, for consumption on the premises, under a penalty of 50*l.* Under a like penalty he cannot buy or receive spirits from any other retailer not licensed as a dealer. And a dealer, who is not also a retailer, cannot sell to a retailer in less quantity than two gallons at a time.

But any licensed dealer may also take out a retail licence for sale of *foreign liqueurs*. The duty is 2*l.* 2*s.*; and under which he may sell any small quantity, not to be drunk on the premises, and not being less than a reputed quart-bottle, or the quantity as contained in a bottle as imported. And under the licence he may also send out any quantity, not exceeding a gallon at a time, without certificate, and if not sent to the stock of a dealer or retailer.

He may also take out a licence to sell by retail

foreign or British spirits, in quart, or the imported bottles, not to be consumed on the premises. The duty is 3*l.* 3*s.*

The licences expire on 5th July; a beginner paying a proportionate part of the duty to that date from the time he begins.

A retailer cannot distil, rectify, or compound, using a still, at a place within two miles of his premises licensed for retail, or be in any way interested in any such trade, under a penalty of 200*l.* And the licensed premises cannot have an internal communication with the premises of a distiller. To break out such a communication would involve a penalty also of 200*l.*

Spirits cannot be purchased or received by a dealer or retailer from any party other than a distiller, or rectifier, or compounder, or another dealer, or at a public excise or Customs' sale, or, in the case of foreign or colonial spirits, from a Customs' warehouse, or from an Excise warehouse in the case of British spirits, under a penalty of 500*l.*

A stock-book must be kept, the pattern being provided by the Excise, in which purchases and sales must be entered on the day made. It is kept open for the inspection of officers of Excise at any time, and each book, when filled, must be preserved for at least twelve months. If the book be not regularly kept, or if entries be wilfully obliterated or fraudulently made, or if the Excise be hindered from examining it to make minutes therein or to take extracts therefrom, a penalty of 100*l.* is incurred.

Permit or certificate books must also be kept, and are furnished by the Excise, in which the sales sent out by a *dealer*, and the sales exceeding the quantity of one gallon at a time sent out by a *retailer*, are entered in duplicate, one of the duplicates being sent along with the spirits to the buyer. This book must also be kept open to the inspection of the Excise, and must be properly kept, and the certificates must be sent out, under a like penalty of 100*l*. The certificate and its counterpart must also shew the strength of the spirits sold, under the same penalty; but a mistake of one per cent. above, or two per cent. below does not render the seller liable. The keeper must be as careful of the book as he is of his bank cheque-book, and as careful in tearing out leaves, and which must not be done till the certificate and its counterpart are properly filled up, nor till required to be sent out, the counterpart, of course, being left in, otherwise the penalty of 100*l*. will be incurred. But a further penalty of 500*l*. is incurred for using a certificate improperly, filled up or not, and for doing anything to the book to frustrate the officer in keeping his account or of checking the dealer's stock. The penalty is over and above forfeiture of licence for the current year of the licence.

A permit or certificate must be taken with each quantity of spirits received, which must be immediately cancelled by the dealer or retailer, being the buyer, writing across it, or on the space prepared for that purpose, in large letters in ink, the word

“Received,” and the day and hour when received, or by otherwise cancelling it, as by drawing lines in ink across it, so as to prevent its being used again. He should also immediately enter the purchase in his stock-book. He must do it before the expiration of the day at any rate under the penalty, and if not done at the moment it has the more chance of being neglected altogether till the penalty be incurred. If the permit be not cancelled a penalty of 50*l.* is incurred; and if he receives the spirits without permit at all, a penalty of 100*l.*; and the forfeiture of the spirits or an equal quantity taken out of his stock.

The permit cancelled is to be retained for delivery to the Excise under a penalty of 50*l.* But if lost or destroyed after the expiration of three months from its date the penalty is not incurred.

If on the survey the officer shall find the dealer's spirits to exceed in quantity the quantity contained in his stock-book, the spirit being computed at proof, the excess is deemed to have been illegally received, and may be seized, a penalty of 20*s.* for every gallon in excess being also forfeited. The dealer, if required, must also assist with his servants in taking such stock under a penalty of 50*l.*

No dealer must receive any spirits without being accompanied with a proper certificate or permit; and no person whatever must knowingly carry, remove, or transport, or assist or aid in carrying, removing, or transporting, or knowingly suffer to be removed, carried, or transported, any spirits which

by law ought to be accompanied by a permit or certificate, under a penalty of 200*l.* and the forfeiture of the spirits themselves, the casks or packages, and the conveyance. And no spirits exceeding in quantity one gallon at a time, of the same denomination for the same person, can be removed from one place to another without a certificate from the Custom officer if to be removed from a Custom warehouse, unless the same be under Bond and on removal between two such warehouses, or without permit if the removal be from the stock of a rectifier, a retailer, or a dealer, or from the stock of any other person, or from an excise warehouse. A breach is forfeiture of the spirits found and a sum of 100*l.* against the party in whose possession they shall be found, or treble the value of the spirits, as the Commissioners of Inland Revenue, or Commissioners of Customs, or the person prosecuting, shall elect.

And persons carrying spirits may be stopped by the Excise or their officers, and the spirits examined, and production of the certificate or permit required. Failure to produce the permit or certificate incurs a penalty of 100*l.*, and the party may be arrested and taken before a Justice of the Peace, who, however, may mitigate the penalty to 10*l.*, and if not paid the offender may be imprisoned and kept at hard labour for any period not less than one calendar month nor more than six; unless the fine shall be sooner paid.

To counterfeit a certificate is a very grave offence. The forger is liable to be adjudged a felon, and sub-

jects himself to seven years' penal servitude, or imprisonment for a period not less than two years.

No spirits must be delivered, removed, or received where a permit is required, without a permit, or in any greater quantity or kind different from that expressed in the permit. And a permit being obtained, the person must send out the proper spirits it refers to, or return it to the officer, under a penalty of 500*l.* The same penalty is incurred if a permit be obtained on false pretences, or used as relating to other spirits than those it mentions, or if anything be done in the use of any permit whereby the officer may be frustrated in his duty in taking the dealer's stock. The penalty is over and above all other penalties and forfeitures.

Spirits sent to a buyer without permit are forfeited to the buyer, and the seller is liable further in a penalty of double their value.

Retailers cannot receive pawns or pledges in security of bills incurred for liquors, under a penalty of 40*s.* for every offence, which may be recovered before a justice; and the person owning the pledge may also recover the article or its value as if it had not been pledged.

No person must sell spirits knowingly to be unlawfully retailed, under a penalty of 100*l.* over and above other penalties. And under the penalty of treble their value as they would sell for in London, and the forfeiture of the spirits, no person, whether he have any claim of interest therein or not, must knowingly buy, receive, or have in his possession any

spirits after being removed from the place where the proper duty ought to have been charged and paid, or secured to be paid, or before such spirits have been lawfully condemned as forfeited.

A person detected carrying spirits into a gaol or workhouse may be taken into custody and before a magistrate, who may impose a fine upon him of 20*l.* and not less than 10*l.*, and if not immediately paid, he may be imprisoned for any period not exceeding three months.

And a person hawking spirits in any street or unlicensed place is subject to a penalty of 100*l.* and not less than 25*l.*, or three calendar months' imprisonment if the penalty be not paid.

CHAPTER XIV.

THE PUBLIC-HOUSE CLOSING ACT, 1864.

BEFORE the passing of the Act, licensed victuallers and refreshment-house keepers, besides being bound to keep their houses closed during certain hours on certain days, were also bound to close on Saturdays at twelve o'clock P.M., and on these certain days at eleven o'clock P.M. The only other restriction as to hours was, that on the day following these days they should not open before four o'clock A.M. Now, where the Act in question applies and is adopted, they cannot "sell or expose for sale, or open or keep open" their houses "for the sale or consumption of exciseable liquors, or any article whatsoever," be-

tween the hours of one and four o'clock morning, under a penalty of 5*l.*

We may repeat, that wine retailers and beerhouse keepers, under the Acts under which they obtain their licences, cannot open before five o'clock A.M. on any day, or keep open after twelve, eleven, or ten o'clock P.M., as the house shall be situated in London or elsewhere, as explained in Chapter IV.

The Act now under consideration, being 27 and 28 Vic. cap. 64, is entitled "An Act for further regulating the closing of Public houses and Refreshment houses within the Metropolitan Police District, the *City of London*, certain Corporate Boroughs, and other places (25th July, 1864)," and may be cited as the "Public-house Closing Act, 1864." And it applies "to the limits of the Metropolitan Police district, the *City of London* and the liberties thereof, and such corporate boroughs and districts of Improvement Commissioners" as may adopt the same.

We have already, in Chapter II., given the meaning of a house called a *refreshment-house*, to which this Act and the other Acts for the regulation of such houses apply. The other houses mentioned in the Title of the Act are, *public-houses*; and it is public-houses and refreshment-houses that are mentioned in the Preamble. But it is the term *licensed victualler* that is afterwards used to express the party who comes under the provisions of the Act, besides a refreshment-house keeper and a *free vintner*. But as all public-house keepers who have the authority of the Justices as well as the Excise licence are known

as licensed victuallers, the Act applies to them also. If they did not come under that term, then we submit that it would not apply as has been said. But the term appears to be well understood as a generic term comprehending all parties licensed to sell spirituous liquors by retail, to be consumed on the premises, having the Justices' authority as well as the Excise licence. Another view that may be taken of the meaning of the Act, left thus perhaps a little vague by the confounding of terms, is, that as the title and the preamble specially mention public-houses, and as these parts of an Act are always considered in construing any other part otherwise left doubtful, the term *licensed victualler* must be held as being limited to public-house keepers; and that thus the common innkeeper—being the keeper of an inn now by law responsible for the goods and property of his guests, as distinguished from a mere public-house keeper, who does not lodge his customers, and as explained in Chapter X.—does not fall within the provisions of the Act. But we do not adopt this view. As to this, it may only be further mentioned, that while the Act defines the meaning of *refreshment-house*, by reference to the *Wine Licences and Refreshment-houses Act*, and also the meaning of *exciseable liquors*, it does not define the meaning of the term *licensed victualler*.

Notwithstanding the limitation by the Act of the usual hours for closing, the rule does not apply to a licensed victualler selling exciseable liquors to persons lodging in his house, or to the keeper of a

refreshment-house selling refreshments to persons lodging in his house. Neither does it apply to sales at railway stations to persons arriving at or departing therefrom by railway.

Under the Act, a licensed victualler or a keeper of a refreshment-house may obtain from the local authority a licence exempting him from the provisions of the Act "on a special occasion or occasions," and "during certain hours to be specified in the licence." And while he shall not be subject to any penalty under the Act during the time to which the occasional licence shall apply, "he shall not be exempted by such occasional licence from any penalty to which he may be subject under any other Act of Parliament." That is, he shall be subject to all the rules and regulations for the proper conduct of his business under the occasional licence that he is subject to under his ordinary licence.

The local authority is defined by the Act to mean—in the metropolitan police district, the Commissioner of Police for the metropolis, subject to the approbation of one of Her Majesty's Principal Secretaries of State—in the City of *London*, and the liberties thereof, the Commissioner of City Police, subject to the approbation of the Lord Mayor of the city—in any borough, the Superintendent or other chief officer of Police, subject to the approbation of the Mayor—and in any district of Improvement Commissioners, the Superintendent or other chief officer of Police, subject to the approbation of the Chairman of Commissioners.

We observe from newspaper reports of applications made as under the clause allowing occasional licences, that it has been tried to make its terms broader than they really are. The spirit of the clause is, in fact the very words are, that an occasional licence may be granted for special occasions only. By a special occasion is meant any exceptional meeting, as a midnight ball; and the clause does not give power to the local authority to grant a special permanent licence for a particular locality to any special person to open his house and sell refreshments, notwithstanding the Act, though to the early industrial portion of the community only.

The local authority could only now get such power under an amending Act to that effect; and we have heard it contended that any privilege to be granted under such an Act for the supply of temperance beverages under stringent regulations could not be well abused, while the object of the Act in question, the suppression of *Haymarketing*, would still be secured.

CHAPTER XV.

LICENCE DUTIES AND FEES; STAMP DUTIES AND TAXES.

1. *Licence Duties under the Wine Licences and Refreshment Houses Act.*

To keep a refreshment-house,—

Where the rent and value is under

20l. a-year	£0	10	6
20l. and upwards	1	1	0

To a licensed keeper of a refreshment-house to sell therein wine by retail to be consumed on the premises,—

Where the rent and value is under

50*l.* a-year £3 3 0

50*l.* and upwards 5 5 0

To sell Foreign and British wine by retail not to be consumed on the premises,—

Where the rent and value is under

50*l.* a-year 2 2 0

50*l.* and upwards 3 3 0

To sell beer by retail not to be consumed on the premises . . . 1 1 0

To sell beer by retail to be consumed on the premises . . . 3 3 0

2. *Licence Duties under the Acts 6th Geo. IV. cap. 81 ; and 3rd Vic. cap. 17.*

Beer retailers who are also public-house keepers, and whose premises are rented or valued under 20*l.* per annum £1 2 0 $\frac{1}{2}$

At 20*l.* and upwards 3 6 1 $\frac{3}{4}$

Retailers of spirits—rent or value under

10*l.* per annum 2 4 1

Under £20 4 8 2 $\frac{1}{4}$

„ 25 6 12 3 $\frac{1}{2}$

„ 30 7 14 4

„ 40 8 16 4 $\frac{3}{4}$

„ 50 9 18 5 $\frac{1}{4}$

And where 50 or upwards . . . 11 0 6

Publican's Sweets or British Wine Licence—that is, liquors made by fermentation from fruit and sugar, or from fruit or sugar mixed with any other material	£1	2	0½
Tobacco dealers	0	5	3
Retailers of foreign wine having a licence to retail beer but not spirits	4	8	2¼
Having licences to retail beer and spirits To retail beer and cider alone not to be drunk on the premises, or beer re- tailer's licence	2	4	1
To be drunk <i>on</i> the premises	1	2	0½
To be drunk <i>on</i> the premises	3	6	1¾
Cider and perry licence to be drunk on or off the premises.	1	2	0½

3. *Licence Duties payable by Postmasters under
the Act 16 and 17 Vic. cap. 88.*

For every licence to be taken out by
any person to let horses for hire with
or without a carriage—if the person
taking out such licence,—

Keeps 1 horse or 1 carriage only	7	10	0
Not exceeding 2 horses or 2 carriages .	12	10	0
„ 4 „ or 3 „	20	0	0
„ 8 „ or 6 „	30	0	0
„ 12 „ or 9 „	40	0	0
„ 16 „ or 12 „	50	0	0
„ 20 „ or 15 „	60	0	0
Exceeding 15 „	70	0	0

Exceeding 20 horses, then for every additional number of 10 horses, and for any additional number less than 10, over and above 20, or any other multiple of 10 horses, the further additional duty of 10%.

If an Excise licence be required before the usual annual period at which licences are issued, a proportionate part of the duty up to that period only is payable.

4. *Licence Fees.*

The fees payable for Justices' licences under the general licensing Act are, to the clerk for the constable, 1s. ; for the licence, 5s. ; and for preparing precepts and the notices, 1s.

If the clerk shall demand or receive higher fees, he is subject to a penalty of 5l., and which may be recovered on conviction before the Justice.

5. *Schedule of Duties payable by Brewers of Beer for Sale under the Act 25th Vic. cap. 22, and 17 and 18 Vic. cap. 30.*

For and upon every licence to be taken out yearly,—

If the quantity brewed within the year to 10th October previous to taking out such licence shall not

exceed 20 barrels £0 12 6

Exceeding 20 and not exceeding 50 1 7 6

Exceeding 50 2 0 0

Exceeding 100 and not exceeding 1000,—

For every 50 and fractional part of 50 over and above the first 100,

the additional duty of 0 15 0

Exceeding 1000 and not exceeding 50,000,—

For every 50 and fractional part of
50 over and above 1000, the
additional duty of £0 14 0

Exceeding 50,000,—

In addition to the duty chargeable
on 50,000, for every 50 and frac-
tional part of 50 over and above
50,000, the further duty of . . 0 12 6

Beginners 0 12 6

And to pay such additional sum within ten
days after the expiration of the licence
as with the duty of 12*s.* 6*d.* shall amount
to one of the rates of duty above men-
tioned, according to the number of
barrels brewed within the preceding
year.

Brewers using sugar 1 0 0

5. *Stamp Duties.*

Unstamped instruments that require to be stamped
are not invalid, but only inadmissible in evidence
until properly stamped.

The agent preparing any deed will provide the
proper stamp. But it may be mentioned that the
stamp duty on leases at a yearly rent without fine,
and for any period not exceeding 35 years' duration,
runs from 6*d.* where the yearly rent shall not ex-
ceed 5*l.* to 10*s.* where it is above 75*l.* and does not
exceed 100*l.* Five shillings additional is thereafter
charged for every 50*l.* or fractional part of 50*l.*

When the term exceeds 35 years, and does not exceed 100, the duty runs from 3*s.* for a 5*l.* rent to 3*l.* where the rent is 100*l.*, with an additional sum of 1*l.* 10*s.* for every 50*l.* or part of 50*l.* thereafter. And where it exceeds 100 years the duty is exactly double these sums.

If the lease be granted on fine alone, the same duty is payable as is charged for a conveyance.

If the rent be partly fine and partly rent the conveyance and proper lease duties are chargeable.

If the lease contains upwards of 2159 words, a further progressive duty equal to the stamp duty is chargeable when it does not exceed 10*s.*, and 10*s.* when it exceeds that sum on every 1080 words additional or part thereof.

Agreements when the subject matter is of the value of 20*l.* are subject to a stamp duty of 6*d.* Receipts for rent and other receipts, excepting those for taxes on account of revenue and some others specially exempt, are subject to a stamp duty of 1*d.*, if the sum be not less than 2*l.*

Leases are exempt from stamp duty when the rent does not amount to 5*l.*

6. *Taxes.*

Taxes are payable by the tenant in the first instance; and arrears of land-tax, property-tax, and house duty, payable by an out-going tenant, are claimable against any one found in possession.

But arrears of parochial or local taxes, being personal taxes, cannot be claimed against the ingoing

tenant, who is only liable for his proportion from the day of entry.

The tenant retains from his rent the land and property-tax, and as regards the property-tax, he should do so at next term, or he will lose his recourse. The commissioners assess landlord or tenant for sewers rates at discretion.

An agreement to pay all rent without deduction includes all rates, except property-tax, an agreement to pay that tax not being binding.

House duty is not payable where the premises are not worth 20*l.* a year. And hotels and taverns, and dwelling-houses connected with shops in the front and on the ground or basement storey, are privileged as to this duty, which in their case, as with farm-houses, is fixed at 6*d.* a pound, other parties paying 9*d.*

Besides stamp duties and taxes, there are other matters common to the innkeeper and ordinary householder, and which will form the subject of the chapter following.

CHAPTER XVI.

MATTERS COMMON TO ALL HOUSEHOLDERS AS WELL AS TO INNKEEPERS.

THE laws of master and servant, and landlord and tenant, being common to all householders, properly form subjects for distinct treatises. But to obviate so far the necessity of reference to any other work,

a short summary of these laws will now be given, as far as may be deemed to come within the scope of such a book as this, and specially necessary for the information of householders being innkeepers.

The matter of taxes, a division of the law of landlord and tenant, has already been treated of in the preceding chapter. In the same chapter the stamp duties have been referred to. We shall now consider other portions of the law of landlord and tenant, and first that relating to leases.

1. *Leases.*

It is improbable that any person would take a house for the purposes of an inn, except upon lease for a term of years, for various reasons that are obvious, as the risk of being turned out at any time on six months' notice, and that too from a flourishing trade.

In taking the lease, the lessee should satisfy himself that the party granting it is the proper party, and not legally incapacitated from entering into contracts. He should also satisfy himself whether or not there are arrears of taxes, and whether the fixtures are legally claimable by the outgoing tenant or the landlord.

As to the incapacity of certain persons to enter into contracts it is well to know—

That guardians appointed by will make leases for infants, that is, parties not yet twenty-one years of age.

That a married woman can grant leases of sub-

jects only in which the right of her husband has been excluded.

That the committee of a lunatic grant leases of his property under the direction of the Lord Chancellor; though leases made by a lunatic himself are valid till set aside by proof of the lunacy at the time the deed was granted.

And that a lease made while either party is so intoxicated as not to know what he is about may be set aside.

A lease for a period longer than three years must be in writing, while an agreement for a lease entered into verbally is altogether invalid, whatever the period.

A lease for a time undefined, and without specifying when the rent is payable, is held to be for a year from the day named, or from the date the tenant enters.

A lease for "one year, and so on from year to year," implies a let for a term of years, and the tenant must possess for at least two.

A tenant under a lease for a term of years certain, becomes a yearly tenant after the expiration of his lease, if for the after period rent has been received. If not, he is considered as a tenant at sufferance, liable to be evicted at any moment.

When the lease is for an alternative period, say seven or fourteen years, the choice rests with the tenant to determine the tenancy at the end of the first period, if the question be not settled by the deed.

2. *Covenants of Leases.*

Covenants mean the stipulations or agreements entered into. They are real or personal. Real covenants mean the conditions existing between the parties to the lease relating to the subject's set, and continue notwithstanding a change of tenancy. Personal covenants are conditions under which the original parties may come irrespective of the real covenants, and which do not "run with the lands," but are personal to the contracting parties, and not binding on others.

If the covenants be not specially expressed in the lease, and a tenant goes into a house in such a state of disrepair as even to be unfit for habitation, payment of rent must still be made, as there is no implied warranty of fitness for occupation. The tenant should have first satisfied himself on the point.

But as an innkeeper should always have a written lease, so should he always have the covenants specially expressed therein. And he should understand thoroughly the import or meaning of the covenants, by having them explained by his solicitor, otherwise he may have more to perform than he meant to contract for. As, for instance, the rebuilding of his house at his own expense in case of fire, if he be under a covenant to keep the house in repair, and there be no exemption in that event; but in the event of conditions not being specially agreed upon and expressed in the lease, it may be men-

tioned that the law implies certain covenants as between landlord and tenant. The implied covenants are, that the landlord shall protect the tenant in the quiet enjoyment of the premises against others pretending right thereto, and claiming under him; and that the tenant shall pay the rent, commit no waste, and do proper repairs.

3. *Waste and Repair.*

Waste is voluntary or permissive. Voluntary waste is where the tenant pulls down any part of the premises, even to improve them in value, to convert them into any purpose for which they were not let, as to convert a dwelling-house into a shop. If he do so without the consent of the landlord he subjects himself to a claim for damages.

Permissive waste is where the tenant neglects to make ordinary repairs, if a yearly tenant, and substantial repairs besides, if a tenant for a term of years. As to ordinary repairs by a yearly tenant, regard must be had to the age, state, and condition of the premises when he took possession, for he is not bound to renew old and worn-out materials, or liable for ordinary tear and wear. His whole obligation appears to be to keep the premises wind and water tight by repairing windows, doors, shutters, and the like. By substantial repairs is meant repairs to the walls and roofs, and the renewing of beams and girders.

4. *Rent.*

Rent is generally made payable quarterly, and is due at midday. It must be tendered to the landlord, or to his agent personally, or at any place agreed upon.

It is recoverable by distress. But rent payable to a third party, not being the setter, cannot be distrained for.

In the event of the decease of the setter, the rent is payable to the heir-at-law if he died in fee-simple, otherwise to the executor.

A remittance by post, though lost, is good, if the usual way was to remit by post.

A Bill granted for the rent is not security against distress though not due, nor till judgment shall be taken upon it.

5. *Distrain.*

Generally, all moveable effects found on the premises are liable to distraint to whomsoever they may belong. The following exceptions may be stated:—

1. Fixtures.
2. Property of other parties in their own possession at the time of the distraint.
3. The goods of a guest or customer.
4. Property in actual use, as a horse being ridden.
5. Perishable articles, as food.
6. Coin, except it be in a bag, and bank-notes.
7. Deeds and writings.

8. Sheep and animals used in the plough, if sufficient can be got otherwise to satisfy the claim.

9. Wild animals. It is doubtful as to dogs.

But the exemption does not apply to—

Horses at livery ;

Beer-casks in use in the way of the tenant's trade ;

Or cattle for pasture, or straying because of the owner's negligence.

We mention the case of the sheep and the cattle as to many country inns farms or land are attached.

Distress cannot be made till the day after the rent is due, nor after sunset and before sunrise, nor on a day of public thanksgiving, a Sunday, Good-Friday, or Christmas-Day.

Goods removed on the morning of the day rent is due may be followed and recovered within thirty days, if they have not been sold to one ignorant of the fraud, or if they do not belong to a stranger, or if not given to a creditor in satisfaction of a prior debt. The penalty for removing goods clandestinely is forfeiture of a sum double their value.

6. *Fixtures.*

By fixtures we mean such articles as are put up by the tenant for his personal convenience, and do not become part of the freehold, but are removable by him. In the ordinary case of a set for the purposes of a dwelling only, articles so annexed to the house or the soil that they cannot be removed

without damage thereto, or to themselves, cannot be taken away. And so, screw-nails or bolts should always be used in fixing those articles that the tenant means to claim as fixtures. When, by the custom of the place, certain things are treated as fixtures they may be safely dealt with as such. But it falls to be here particularly remarked that the law looks more favourably upon articles put up for the purposes of business than it does upon articles put up for ornamental or domestic uses, and gives the tenant more extensive scope in their removal. So shop and office fittings, and machinery and vessels put up for business purposes, may be removed, though to occasion even substantial damage to the premises.

But an agreement to keep in repair all erections "built and hereafter to be erected and built" precludes the removal of even trade fixtures. A tenant will also lose that right if he quits possession before removing his fixtures, or illegally retains possession against his landlord's will. And a tenant has no right to fixtures put up during the currency of the first term, if he renews the tenancy for a second without specially reserving right to them.

An ingoing tenant should not purchase fixtures without advising with the landlord, as the outgoing tenant may have no claim to them.

If one fixture has been substituted for another, the tenant is bound to replace the old one by another at his removal, or to restore it.

The following things, amongst others, have been

held by decision to be removable. However, every case has its own peculiar circumstances, and the judgments cannot be held as settling every question that may arise relating to the like articles.

1. *Things being Trade Fixtures.*

Buildings accessory to a removable utensil.	Coffee-mills. Cranes. Desks.	Plant and pipes of brewers, distillers, &c.
Brewing vessels and pipes.	Drawers. Gas-pipes.	Partitions. Presses.
Cider mills.	Glass-fronts.	Pumps.
Cisterns.	Iron safes.	Reservoirs.
Closet.	Machinery let into caps or steps of timber.	Shelves.
Coppers.		Stills.
Counters.		Vats.

2. *Things not being Trade Fixtures.*

Beds fastened to ceiling.	Furniture, fixtures put up as.	Pattens, erections on. Posts.
Bells.	Grates.	Rails.
Bins.	Hangings.	Ranges.
Blinds.	Ironbacks to chimneys.	Sheds.
Book-cases.	Iron chests.	Sinks.
Cabinets.	Iron malt-mills.	Slabs of marble.
Chimney-backs.	Iron ovens.	Stoves.
Chimney-glasses.	Jacks.	Tapestry.
Chimney-pieces, ornamental.	Lamps.	Tubs.
Clock-cases.	Looking-glasses.	Turret clocks.
Cornices, ornamental.	Mash-tubs.	Vessels on brickwork.
Cupboards.	Ornamental fixtures.	Wainscot fixed by screws.
Dutch-barns.	Ovens.	Water tubs.
Furnaces.		

7. *Insurance—Fire.*

It is equally the interest of landlord and tenant to see that the premises are insured against fire. Were they burnt down, and there was no express agreement to the contrary, the tenant would, not-

withstanding, continue liable for the rent. He would be further liable to rebuild the premises if the agreement contain a condition to keep the premises in repair and there be no expressed exemption in the case of fire—as he would, without exemption, were the premises destroyed by flood or tempest.

We shall now very shortly refer to the law of Master and Servant and the subject of Horse-hiring before making a few general observations, and closing, with the Appendix, the volume.

8. *Servants.*

The duties of master and servant are reciprocal. Masters must not treat their servants harshly; and servants must be civil and obedient to orders, honest, and diligent, and are bound to exercise due care over the property of their masters.

Innkeepers are liable for the acts of their servants.

In case the servant be a married woman, the receipt of the husband should be taken for her wages, as he may afterwards claim them though paid to her. The husband in his option, too, may break the contract. But the master may safely deal with a married woman whose husband is transported, or from whom she is judicially separated, or who is protected by a protection order.

Infants can enter into contracts of service.

Servants are usually paid at so much a year, and the contract is terminable on a month's notice, or

on payment of a month's wages. But by misconduct on the part of a servant to warrant dismissal, he forfeits his wages for the year running. A servant enlisting is entitled to wages for the time he has served.

A servant may be turned out if discharged and he refuses to leave quietly.

Horse-Hiring.

Innkeepers alone, generally, though not necessarily, take out licences for the hire of horses and carriages, and the rules as regards them fall also to be noticed in this chapter.

While an innkeeper must take out a licence for every set of premises at which he may commence business, a postmaster may have any number of establishments under one licence. The licence duty is given under the head *Licence Duties*; and the licence is granted by the Excise. And while an innkeeper must receive all travellers, under the explanation given in the next Chapter, a postmaster is not bound to supply horses but in his own option.

A postmaster must put up a signboard thus—
“A. B., licensed to let horses for hire.”

And he may transfer his licence.

He must enter with the Excise every building in which he means to keep his horses or carriages, under a penalty of 100*l.* for every place left unentered; and if he wishes to extend his business he may get a supplemental licence.

CHAPTER XVII.

GENERAL OBSERVATIONS AND ILLUSTRATIONS.

WE shall now give a few general remarks on some of the subjects already treated, and on other points which cannot be conveniently placed under distinct heads, as we consider may be useful for the further information of the licensed victualler.

As already mentioned in Chapter II., the Justices grant licences to such applicants as a majority of the Bench shall deem fit and proper. And in deciding regard is had to the character of the applicant, the situation of the proposed inn, and the number of inns already existing in the locality.

Innkeepers all know that they must provide with food and accommodate with beds such travellers as may offer themselves, whatever the day and whatever the hour, and who are ready and willing to pay for such provision and such accommodation. Refusal subjects the innkeeper to action and indictment. But to that rule there is this exception: an innkeeper may publicly profess to accommodate a certain class only, and if he professes to accommodate the class A alone, he is not bound also to admit to his hospitalities the class B. And there is also the necessary exception of want of room. Neither is the innkeeper bound to receive one who may offer himself in a state to unfit him for reception amongst the other guests by reason of his being intoxicated, or of his labouring under any contagious or infec-

tious disease. And any person falsely representing himself to be a traveller in order to be treated as a guest at an inn is liable to be fined or imprisoned.

Nor can a person admitted as a guest select his own apartment to enforce possession. The accommodation afforded, however, must be reasonable and proper.

An innkeeper must supply his customers at a uniform and reasonable rate. He cannot vary his charges at pleasure; and a guest tendering a reasonable sum in payment of a bill which shall be an overcharge will be entitled to a verdict if an action be brought to recover. By overcharging, the innkeeper also subjects himself to indictment on the ground of extortion. And in no case must he try to detain a guest for non-payment of his bill, or to take off his clothes with the view of retaining them.

A guest misconducting himself and annoying the house may be expelled; and an innkeeper has not the care of the person of his guest, so that if he be assaulted while in the inn by one misconducting himself, or by any other person, the landlord is not responsible for the consequences.

With regard to the innkeeper's limited liability for the goods and property of his customers, as stated in Chapter X., reference may be again made to the conditions the non-observance of which will make him lose the benefit of the Act. And if not already done, the first section of the Act in question should at once be hung up in the hall or entrance to the inn.

An innkeeper cannot recover by action the price of spirituous liquors sold on credit in less quantities than of the value of 20s., except for consumption elsewhere than on the premises where sold, and the liquors were delivered at the residence of the purchaser, in which case the innkeeper may recover for sales made in quantities not less than a reputed quart at a time. This law, under the Act called the "Tippling Act," does not apply to *guests* at an inn, but only to ordinary customers. Nor can an innkeeper recover for liquors sold on credit to a person in a state of intoxication.

In Middlesex and Surrey, licences for the sale of exciseable liquors date from 5th April, as do all postmasters' licences. Tobacco and packet-boat licences and spirit-dealers' licences expire on 5th July; and licences granted under the *Wine Licences and Refreshment-houses Act* on 31st March. All other licences are in force for a year from 10th October.

The *General Licensing Act* does not extend to the rights or privileges of the universities of Oxford or Cambridge, or alter the time for granting licences for the city of London, or prohibit the sale of beer at lawful fairs in booths or other places at the time and within the limits of the ground or place in or upon which the fair is held.

Licences may be granted by the Excise alone for the sale of exciseable liquors in any theatre established under Royal Letters Patent, or any theatre or public place of entertainment licensed by the Lord Chamberlain, or by the Justices of the Peace.

A party obtaining a Justices' licence or certificate may take out a beer licence only; but one who retails spirits to be consumed on the premises must also have a beer licence.

To allow drinking after hours is a breach of licence, though the drink may have been previously supplied.

The freemen of the Vintners' Company of the City of London, the universities of Oxford and Cambridge, and the mayor and burgesses of St. Alban's are privileged to sell wine without the authority of the magistrates or Excise.

Publicans who take out a licence for brewing must pay a whole year's licence to 10th October at whatever period they may begin.

A publican's retail beer licence enables him to sell *in any quantity* either to be drunk or consumed on or off the premises where sold. And his retail wine licence gives him the same privilege.

On the death of a publican, his executors or administrators must produce to the collector of Inland Revenue a probate of the will or letters of administration, the Justices' certificate, the Excise officer's certificate of entry, and the licences, on applying for a transfer.

When a publican absconds, a letter or petition is presented to the Commissioners of Inland Revenue, of which a form is given in the Appendix.

And where a certificate or licence is stopped, or the house pulled down or destroyed, a return of the duty paid may be obtained for the period yet to run of the licence by applying to the Board of Inland Revenue.

In the metropolitan police district, including a distance of 15 miles round London, it is deemed to be a misdemeanour for any person maliciously to bore or otherwise injure any cask containing wine or other liquor lying in or upon any warehouse, wharf, quay, or bank, or in or upon any ship, boat, or vessel.

And within the same district, the business of fairs must cease at 11 o'clock *evening*, and not begin before 6 o'clock *morning*; and booths and other places of public resort cannot be kept open after 11 or before 6 o'clock, or the owner subjects himself to a penalty of 5*l.*, and may be taken into custody by any constable, as well as any party found therein who may refuse to leave, and who thereby subjects himself to a penalty of 40*s.* To erect a booth after a fair has been duly declared unlawful subjects the party to a penalty of 10*l.*

Spirits must not be supplied to children apparently under sixteen years of age to be drunk on the premises, under a penalty of 20*s.* for a first offence, 40*s.* for a second, and 5*l.* for a third.

Licensed houses must have no communication internally with unlicensed houses.

The law of an innkeeper's liability for the goods of a guest, of which the principle has already been given, may be illustrated by reference to some more cases.

And with regard to Horses.—An innkeeper is liable for a horse left at an inn by a traveller, though the latter should not himself lodge at the inn; and such a horse may be detained for its keep. The innkeeper is also liable for any vehicle brought to

his house, though special instructions may be given only as to the horse. But a horse left by a person whom the innkeeper was not bound to receive as a guest cannot be detained. His remedy is by action, as for an ordinary debt.

And a horse put to an inn by a policeman as having been stolen, or found under suspicious circumstances, cannot be detained.

An innkeeper must accept the horse of a traveller without question as to its ownership. Though it should belong to another and be claimed, the innkeeper's right of retention, or lien over it for its keep, still remains. But he must take care that a horse over which he has a claim does not get out of his possession in any way. If it does, his claim is no longer preferable as against it, and his remedy is against the party leaving it, as for an ordinary debt.

If a horse put to pasture at the request of the owner or traveller be stolen, the innkeeper is not responsible for the loss.

An innkeeper who is also a postmaster may refuse to furnish horses on hire to a guest, as he can to anybody else.

With regard to Goods.—As before explained, an innkeeper is liable for the goods of his guest, though not specially given into his charge. But after a guest has left the inn, this rule does not apply, as the owner is not then a guest, and the innkeeper derives no benefit from their lying in his house. And so where a hamper containing hats was stolen belonging to a party who had left it, and after he had

been away for two days, the innkeeper was not held liable for the loss. The law is different as regards horses so left, and as before explained, as the innkeeper is benefited by the keep of the horse. But in the case of the hamper, as it would be in similar cases with regard to any other article, had the owner returned the same evening, or had the innkeeper promised specially to take charge of the article, he would have been liable for its loss.

In whatever room the goods may be placed the innkeeper is responsible for their loss, as from the Commercial-room, though placed there at the request of the traveller and against the usual practice of the inn. And an innkeeper who did not require valuable goods to be put in a safer place than a public room was held responsible for the loss of the goods. He is even liable, it would appear, for goods placed in the guest's own private room and of which he may keep the key.

But as we have already explained, if the goods are lost through the guest's own negligence, the innkeeper is not liable; and the loss of goods through the negligence of a guest by omitting to lock the door of a room of which he was provided with a key, did not fall upon the innkeeper. Nor is the innkeeper liable for goods placed in a room of which the guest has the exclusive possession for use as a warehouse.

The innkeeper's liability extends to money; and he has a lien over his guest's goods for money lent, if that were agreed upon at the time.

APPENDIX.

1. *Notice to be given when it is intended to apply for a new Licence.*—See page 20.

To the Overseers of the Poor and the Constable of the parish of _____, and to all whom it may concern :

I, A. B. (*state the trade or occupation*), now residing at _____, in the parish of _____, in the county of _____, and for six months last past having resided at _____, in the parish of _____ (*or in the several parishes of _____*), in the county of _____ (*or in the counties of _____*), do hereby give notice, that (*if application is intended to be made to a Special Session, here state the cause for such application*) it is my intention to apply at the General Annual Licensing Meeting (*or at the Special Session*) to be holden at _____, on the _____ day of _____ next ensuing, for a licence to sell exciseable liquors by retail, to be drunk or consumed in the house or premises thereunto belonging, situate at (*here describe the house intended to be opened, specifying the situation of it, the person of whom rented, the present or late occupier, whether kept or used as an inn, alehouse, or victualling-house, within the three years preceding, and, if so, by whom and under what sign*), and which I intend to keep as an inn, alehouse, or victualling-house.

Given under my hand, this _____ day of _____ one thousand eight hundred and _____

2. *Notice to be given when it is intended to apply for permission to transfer Licence.*—See page 25.

To the Overseers of the Poor, the Constables of the parish of _____, in the county of _____, and to all whom it may concern.

I, A. B. (or We, the executors, &c., &c., of the late A. B.), victualler, being authorized by virtue of the licence granted to me (or him or her) at the General Annual Licensing Meeting (or Special Session) held at _____, on the _____ day of _____, one thousand eight hundred and _____, to sell exciseable liquors by retail to be drunk or consumed in the house or premises thereunto belonging, situate at (*here describe the situation of the house*), and commonly known by the sign of the _____, do hereby give notice, that it is my (or our) intention to apply at the Special Session to be holden at _____, in the county of _____, on the _____ day of _____, one thousand eight hundred and _____, for permission to transfer the above-mentioned licence to C. D. (*state his trade or occupation*), now residing at _____, in the parish of _____, in the county of _____, and for six months last past having resided at _____ (*or in the several parishes of _____*), in the county of _____ (*or counties of _____*), that the said C. D. intending to keep as an inn, alehouse, or victualling-house, the said house so as aforesaid kept by me (or us), may sell exciseable liquors by retail, to be drunk or consumed in the said house or premises thereunto belonging.

Given under my hand, this _____ day of _____, one thousand eight hundred and _____

3. *Assignment of Fixtures and Goodwill of Business.*—
See page 27.

Memorandum of an agreement made the _____ day of _____, 18 _____, between A. B. of C., D. E. of F., and G. H. of I.

Whereas the said A. B. is at present the keeper of an inn situated at _____, and commonly known by the sign of the _____, which he holds for a term of _____ years under an agreement dated the _____ day of _____, as tenant of the said G. H. And whereas the said term of _____ years will expire on the _____ day of _____ And whereas the said G. H. has let the said premises to the said D. E.

for a term to commence at the expiration of the term of the said A. B. And whereas an agreement has been entered into between the said A. B. and D. E. for the sale and purchase of *the goodwill of the business of the said A. B. carried on by him within the foresaid inn, and of certain fixtures belonging to him the said A. B., and now being in and upon the said premises*: Now, it is hereby witnessed that in consideration of the sum of £ paid to him by the said D. E., the receipt whereof is hereby acknowledged by the said A. B., he, the said A. B., bargains, sells, and assigns unto the said D. E. *all his interest in or concerning his trade or business carried on by him within the said inn, and also all the fixtures now being in, upon, or about the same (or the said inn), as per inventory annexed.* And it is further witnessed that in consideration that the said A. B. will not remove the said fixtures now belonging to him, and being in and upon the said premises, before the expiration of his said term and tenancy, he, the said G.H. hereby agrees that he will not at any time claim the said fixtures on account of their not having been removed by the said A. B. before the expiration of his tenancy; and that he will permit the said D. E. to remove or sell them at any time during or previous to the expiration of his term in or tenancy of the said premises. In witness whereof the said parties hereunto have set their hands, the day and year above-mentioned.

(Signature of parties.)

THE INVENTORY.

Inventory of fixtures referred to in the foregoing
Memorandum of agreement.

(Insert a complete list of the articles sold. This inventory must also be signed by the parties to the memorandum of agreement.)

If the stock is also to be sold to the party going in, the written agreement may embrace the arrangement as to it also. But it is better to treat that sale as an ordinary

business transaction, and to have the liquors measured and valued, and paid for in cash or bill, with security or not, as may be arranged.

Omit the words printed in italics, and the form becomes one for the sale of fixtures only.

4. *Endorsement to be made on Licence in case of transfer.*

I hereby transfer all my title to, and interest in, this licence to A. B., for the unexpired portion of the time for which it was granted.

Witness, C. D.

E. F.

5. *Copy of the First Section of the Act 26 and 27 Vic. cap. 41.—See page 44.*

ANNO VICESIMO SEXTO ET VICESIMO SEPTIMO
VICTORIÆ REGINÆ.

CAP. XLI.

An Act to amend the law respecting the Liability of Innkeepers, and to prevent certain Frauds upon them. (13 July, 1863.)

WHEREAS it is expedient to amend the law concerning the liability of innkeepers in respect of the goods of their guests in manner hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows; that is to say,

I. No innkeeper shall after the passing of this Act, be liable to make good to any guest of such innkeeper any loss of or injury to goods or property brought to his inn, not being a horse or other live animal, or any gear appertaining thereto, or any carriage, to a greater amount than the sum of thirty pounds, except in the following cases; that is to say,

- (1.) Where such goods or property shall have been stolen or injured through the wilful act, default, or neglect of such innkeeper or any servant in his employ.
- (2.) Where such goods or property shall have been deposited expressly for safe custody with such innkeeper.

Provided always, that in the case of such deposit it shall be lawful for such innkeeper, if he think fit, to require, as a condition of his liability, that such goods or property shall be deposited in a box or other receptacle, fastened and sealed by the person depositing the same.

6. *Appeal.*—See page 36.

To A. B. and C. D., two of Her Majesty's Justices of the Peace for the county of

I, E. F., residing at , in the county of , hereby give you notice, that it is my intention to appeal to the next (General or Quarter) Sessions to be holden at , against a conviction of yours, whereby you fined me in the penalty of , for that I, as alleged (*state the offence*), and adjudged me to have committed a offence against the provisions of an Act to regulate the granting of licences to keepers of inns, alehouses, and victualling-houses in England, besides the costs of conviction. And I give you further notice that I will within the time prescribed by the Act in that case made and provided, enter into the required recognizances to prosecute such appeal.

Dated this day of

E. F.

7. *Certificate of Value of House, required in certain cases.*—See page 22.

We, the undersigned, being respectively the owner and occupier of the (inn or public-house) known by the sign of , situated at , in the parish of ,

and county of _____, do hereby certify that the said (inn or public-house), together with the offices, courts, yards, and gardens, therewith occupied, are held at a yearly rental of £ _____, and no more.

Witness our hands, this _____ day of _____

A. B., owner.

C. D., occupier.

8. *Letter to Commissioners of Inland Revenue when a licensed dealer shall have absconded.*—See page 80.

Honourable Sirs,

Having taken possession of the house known by the sign of the _____, in _____ street, in the parish of _____, in the county of _____, lately in the occupation of _____, who has absconded without withdrawing his entry, I respectfully request that I may be allowed to make entry of the above-named premises.

I am, Honourable Sirs,

Your most obedient servant,

To the Honourable

A. B.

The Commissioners of Inland Revenue.

9. *Withdrawal of Entry.*

Take notice, that I, A. B., of C., do hereby withdraw all and every entry and entries of rooms, places, and utensils, made by me as a _____ at C., I having entirely discontinued the said trade and business.

Dated this _____ day of _____.

A. B.

(To be addressed to the proper officer of Excise of the Survey.)

10. *Entry for Licensed Victuallers.*

I, A. B., of C., in the parish of D., in the county of E., do hereby make entry of the following rooms, places, and utensils in and adjoining my dwelling-house, situated at C. as aforesaid, and known by the sign of the _____, that is to say—One room marked A, on the ground-floor, for

the purpose of storing and retailing ; one other room on the first floor marked B, for the purpose of ; one store cask marked No. 1 (*and so on*).

As witness my hand, this day of .
A. B.

11. Request and Receipt for Certificate-Books.

Sir, (Date)

I request of you to furnish me with a certificate-book for the removal of spirits from my stock at A.

B. C.

(*To be addressed to the proper officer of Excise of the Survey.*)

Received certificate-book as above requested
(Date)

B. C.

12. Form of Justices' Licence.

At the General Annual Licensing Meeting (*or an adjournment of the General Annual Licensing Meeting, or at a Special Petty Session*) of Her Majesty's Justices of the Peace acting for the division (*or liberty, &c., as the case may be*), of , in the county of , holden at , on the day of , in the year one thousand eight hundred and , for the purpose of granting licences to persons keeping inns, ale-houses, and victualling-houses, to sell exciseable liquors by retail, to be drunk or consumed on their premises, we, being of Her Majesty's Justices of the Peace acting for the said county (*or liberty, &c., as the case may be*), and being the majority of those assembled at the said Session, do hereby authorize and empower A. L., now dwelling at , in the parish of , and keeping (*or intending to keep*) an inn, alehouse or victualling-house, at the sign of the , in the of , in the division and county aforesaid, to sell by retail therein, and in the premises thereunto belonging, all such exciseable liquors as the said A. L. shall be licensed and empowered to sell under the authority

and permission of any Excise licence, and to permit all such liquors to be drunk or consumed in his said house or in the premises thereunto belonging; provided that he (*or* she) do not fraudulently dilute or adulterate the same, or sell the same knowing them to have been fraudulently diluted or adulterated; and do not use in selling thereof any weights or measures that are not of the legal standard; and do not wilfully or knowingly permit drunkenness or other disorderly conduct in his (*or* her) house or premises; and do not knowingly suffer any unlawful games, or any gaming whatsoever therein; and do not knowingly permit or suffer persons of notoriously bad character to assemble and meet together therein; and do not keep open his (*or* her) house, except for the reception of travellers, nor permit or suffer any beer or other exciseable liquors to be conveyed from or out of his (*or* her) premises during the usual hours of the morning and afternoon divine service in the church or chapel of the parish or place in which his (*or* her) house is situated on Sundays, Christmas-Day, or Good-Friday, but do maintain good order and rule therein; and this licence shall continue in force from the day of next, until the day of then next ensuing, and no longer; provided that the said A. L. shall not in the meantime become a sheriff's officer or officer executing the process of any court of justice, in either of which cases this licence shall be void.

Given under our hands and seals, on the day and at the place first above written.

13. *Form of Licence to Keeper of Refreshment-House.*

We, the undersigned, being the collector and supervisor of Excise for the collection of , and district of , do hereby authorize and empower , now being a householder, and dwelling in a house in , in the parish of , within the limits of the said collection and district, to keep open the said house as a refreshment-house, and to sell any victual or

refreshment to be consumed therein, and in the premises thereunto belonging (provided that for the sale of any exciseable liquor he shall have in force a proper licence granted to him in that behalf), and for this licence he has paid the sum of _____, the said house and premises being of (or under, *as the case may be*) the value of twenty pounds a year; and this licence is granted upon the condition that the said _____ do not wilfully or knowingly permit any drunkenness, or any violent or quarrelsome or other disorderly conduct, in his house or premises, nor knowingly suffer any unlawful games or any games whatsoever therein, nor knowingly suffer or permit persons of known bad character to assemble and meet together therein, but do maintain good order and rule therein: And this licence shall continue in force from the _____ day of _____ until the first day of April next ensuing, and no longer; and this licence shall cease and determine and shall become void in case any of the conditions or regulations contained therein shall be transgressed or shall not be observed by the said _____.

Given under our hands, this _____ day of _____, 186 .

Collector.

Supervisor.

14. *Form of Licence to sell Wine by Retail, not to be consumed on the Premises.*

We, the undersigned, being the collector and supervisor of Excise for the collection of _____, and district of _____, do hereby authorize and empower _____, now keeping a shop for the sale of goods and commodities at _____, in the parish of _____, within the limits of the said collection and district, to sell therein foreign and British wine by retail, and in reputed quart or pint bottles only, and not to be consumed in the house or shop, or on the said premises where sold, and for this licence he hath paid the sum of _____, the house and premises being of (or under, *as the case may be*) the value of fifty pounds a year; and this licence is granted upon the

in his house or premises, nor knowingly suffer any unlawful games or any gaming whatsoever therein, nor knowingly suffer or permit persons of known bad character to assemble and meet together therein, but do maintain good order and rule therein ; nor have or keep his house or premises open for the sale of any victual, refreshment or wine, nor suffer the same to be consumed or drunk in or at such house or premises at any time before the hour of four o'clock in the morning nor after any hour of the clock at night prohibited by the Act 23 Vic. cap. 27 ; nor have or keep his house or premises open for the sale or consumption therein of any article whatever at any time during which the houses of licensed victuallers are required by law to be closed, on any Sunday, Christmas-Day, or Good-Friday, or any day appointed for a public fast or thanksgiving, except to a lodger therein ; and this licence shall continue in force from the day of _____ until the first day of April next ensuing, and no longer : Provided and upon condition that the said _____ shall not in the meantime become a sheriff's officer, or officer for executing the process of any court of justice ; and this licence shall cease and determine and shall become void in case any of the conditions or regulations contained therein shall be transgressed, or shall not be observed by the said _____

Given under our hands, this _____ day of _____ 186 .

 Collector.
 Supervisor.

16. *Form of Conviction for Offences against the tenour of Justices' Licence.*

To WIT. { BE IT REMEMBERED, That on this _____ day
 of _____, in the year _____, A. B.,
 of _____, was duly convicted before _____ of Her
 Majesty's Justices of the Peace for the _____ of _____,
 for that (*here state the offence, and the time and place
 where committed*), whereby the said A. B. has forfeited
 the sum of _____, this being adjudged to be the first

offence (or second, or third, as the case shall happen to be) against the provisions of an Act to regulate the granting of Licences to Keepers of Inns, Alehouses, and Victualling-houses in *England*, besides the costs of this conviction, which the said Justices do hereby assess at the sum of _____, pursuant to the Statute in that case made and provided. Given under _____ hand and seal the day and year above written.

17. *Form of Notice usually served on Innkeepers at Billeting of Soldiers.*

To

You are hereby required to find quarters for
of the _____ Regiment of _____ for _____ night

Dated the _____ day of _____

Billet Master.

THE END.