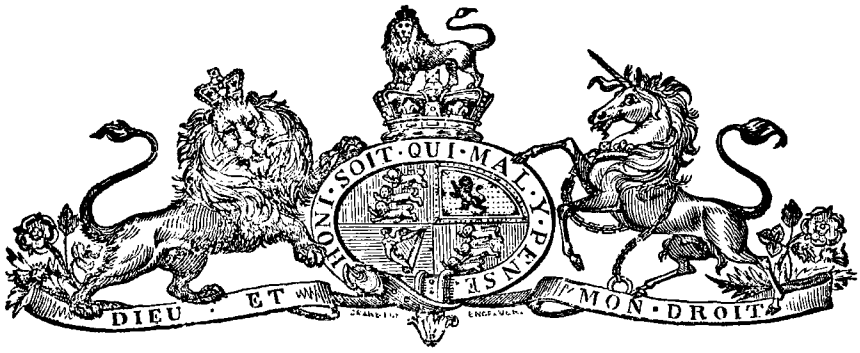


ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

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CAP. LXI.

An Act to amend the Acts relating to the general Sale of Beer and Cider by Retail in *England*.

[7th *August* 1840.]

WHEREAS an Act was passed in the First Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to permit the general Sale of Beer and Cider by Retail in* England: And whereas another Act was passed in the Fourth and Fifth Years of the Reign of His said late Majesty, intituled *An Act to amend an Act passed in the First Year of His present Majesty, to permit the general Sale of Beer and Cider by Retail in* England: And whereas it is expedient to alter and amend the said Acts: 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, That no Licence to sell Beer or Cider by Retail under the said recited Acts or this Act shall be granted to any Person who shall not be the real resident Holder and Occupier of the Dwelling House in which he shall apply at be licensed, nor shall any such Licence be granted in respect of any Dwelling House which shall not, with the Premises occupied therewith, be rated in One Sum to the Rate for the Relief of the Poor of the Parish, Township, or Place in which such House and Premises are situate on a Rent or annual Value of Fifteen Pounds *per Annum* at the least if situated in the Cities of *London* or *Westminster*.

11 Geo. 4. & 1 W. 4. c. 64.

4 & 5 W. 4. c. 85.

Licence to retail Beer not to be granted to any but the real resident Occupier, nor in respect of any House rated at less than 15*l.* per Annum

within the Bills of Mortality, or in Cities, Towns, &c. containing 10,000 Inhabitants;

minster, or within any Parish or Place within the Bills of Mortality, or within any City, Cinque Port, Town Corporate, Parish, or Place, the Population of which according to the last Parliamentary Census shall exceed Ten thousand, or within One Mile, to be measured by the nearest public Street or Path, from any Polling Place used at the last Election for any Town having the like Population, and returning a Member or Members of Parliament; nor shall any such Licence be granted in respect of any Dwelling House which shall not, with the Premises occupied therewith, be rated in One Sum to the Rate for the Relief of the Poor of the Parish, Township, or Place in which such House and Premises are situate on a Rent or annual Value of Eleven Pounds *per Annum*, if situated within any City, Cinque Port, Town Corporate, Parish, or Place, the Population of which according to such last Parliamentary Census shall exceed Two thousand five hundred and shall not exceed Ten thousand, or within One Mile, to be measured as aforesaid, from any Polling Place used at the last Election for any Town having the like Population as last aforesaid, and returning a Member or Members of Parliament; nor shall any such Licence be granted in respect of any Dwelling House which shall not, with the Premises occupied therewith, be rated in One Sum to the Rate for the Relief of the Poor of the Parish, Township, or Place in which such House and Premises are situate on a Rent or annual Value of Eight Pounds, if situated elsewhere than as aforesaid; and every Licence granted contrary hereto shall be null and void.

nor less than 11*l.* per Annum in Places exceeding 2,500 Inhabitants;

nor less than 8*l.* per Annum in Places situated elsewhere,

Person applying to be licenced to produce a Certificate of his being the real resident Occupier of the House, and of the Amount at which it is rated.

II. And be it enacted, That every Person who shall apply to be licensed to retail Beer or Cider shall produce to the proper Officer of Excise authorized to grant such Licences a Certificate in Writing from an Overseer of the Township, Parish, or Place in which he shall reside, certifying that such Applicant is the real Resident, Holder, and Occupier of the said House, and also certifying the true Rent or annual Value at which such House, with the Premises occupied therewith, is rated in One Rating to the Poor Rates, according to the last Sum or Rate made and allowed in such Township, Parish, or Place for the Relief of the Poor; and every such Certificate shall be deposited and left with the proper Officer of Excise by whom such Licence shall be granted; and a Duplicate thereof shall be deposited and left with the Clerk of the Peace for the County, Riding, or City within which such Township, Parish, or Place is situate.

Provision for new Houses occupied since a Rate was made.

III. Provided always, and be it enacted, That when any Person shall become the Occupier of a House newly erected, and not yet rated, and shall be desirous of taking out a Licence to retail therein Beer and Cider before the making of a new Rate, it shall be lawful for the proper Officer of Excise, if the Applicant shall in other respects be duly qualified, to grant such Licence, on the Certificate of the Overseer of the Poor certifying the Rent or annual Value to be not less than that at which such House, with the Premises occupied therewith, will be rated in One Sum to the Relief of the Poor in the next Rate to be made and allowed, and certifying also that the Applicant has claimed to be rated in respect of the said House and Premises.

In extra-parochial

IV. And whereas in some extra-parochial Places no Assessments are made or Rates collected for the Relief of the Poor, and it is

expedient

expedient to provide for Persons obtaining Licences in such Places; be it therefore enacted, That in any extra-parochial or other Place where no Rates are made or collected for the Relief of the Poor it shall be lawful for the proper Officers of Excise authorized to grant Licences to grant a Licence to any Person to retail Beer or Cider in a Dwelling House, which, with the Premises occupied therewith, shall be of the real Rent or annual Value of Fifteen Pounds, Eleven Pounds, or Eight Pounds respectively, according to the Situation thereof as aforesaid; and in such Case the Person applying for such Licence shall produce to and deposit and leave with the proper Officer of Excise granting such Licence a Certificate in Wiritng, signed by Two Inhabitant Householders of the Township or Place, certifying that the Party applying is the real Resident in and Occupier of the Dwelling House sought to be licensed, and also certifying the true and real annual Value of the same, with the Premises occupied therewith, according to the best of their Judgment and Belief.

Places Licences may be granted on the Certificate of Two Inhabitant Householders of the required annual Values.

V. And be it enacted, That every Overseer of the Poor who shall refuse to grant a Certificate of the Rating or Assessment of any rated House and Premises, when demanded, or of any Person having claimed to be rated in respect of any newly erected House not yet rated, or who shall falsely certify any House to be rated when the same was not duly rated at the Time of the making and Allowance of the last Rate made and allowed for the Relief of the Poor, and every Overseer or other Person who shall falsely certify any Person to be the real Resident, Holder, and Occupier of any House, contrary to the Fact, or falsely certify the Rent or annual Value at which any Dwelling House and Premises shall now or will be rated, or the Rent paid for the same, or the annual Value thereof, or shall grant any Certificate which shall in any other respect be wilfully false, shall forfeit Twenty Pounds.

Penalty on Overseers refusing to grant Certificates, and on Overseers and other Persons granting false Certificates.

VI. And be it enacted, That every Person who shall, for the Purpose of obtaining for himself or enabling any other Person to obtain a Licence to retail Beer or Cider, forge or counterfeit any Certificate, or shall produce or make use of any Certificate, knowing the same to be forged or counterfeit, or the Matters certified therein or any of them to be false, shall forfeit Fifty Pounds; and every Licence for the Retail of Beer or Cider obtained by any Person on any such forged, counterfeit, or false Certificate shall, on the Conviction of such Person, be void to all Intents and Purposes, and shall be so adjudged; and every Person who shall be convicted of any of the said Offences shall be disqualified from obtaining any Licence under the said recited Acts or this Act to retail Beer or Cider, either to be drunk and consumed on the Premises or off the Premises.

Penalty on forging Certificates, or using false Certificates.

Licences obtained by false Certificates to be void, and the Persons obtaining them disqualified.

VII. And be it enacted, That every Person who shall hereafter be lawfully convicted of Felony, or of selling Spirits without Licence, shall for ever thereafter be disqualified from selling Beer and Cider by Retail, and no Licence to sell Beer and Cider by Retail under the said recited Acts or this Act shall be granted to any Person who shall be so convicted as aforesaid; and if any such Person shall, after having been so convicted as aforesaid, take out or have any Licence to sell Beer or Cider by Retail under the said recited Acts or this Act, the same shall be void to all Intents and Purposes, and every Person who shall, after being convicted as aforesaid, sell any Beer or Cider by Retail, in any Manner whatsoever, shall incur the Penalty for

Licences to be void on Conviction of Felony or of selling Spirits without Licence.

for so doing without Licence, and in all such Cases in the Prosecution for the Recovery of such Penalty a Certificate from the Clerk of the Peace, or Person acting as such, of any such Conviction as aforesaid, shall on the Trial in such Prosecution be legal Evidence thereof.

On the Death of a licensed Person the Executors or Administrators, or the Widow or Child, may be authorized to sell for the Remainder of the Term of Licence.

VIII. And be it enacted, That upon the Death of any Person whatever licensed to retail Beer or Cider under the said recited Acts or this Act before the Expiration of the Licence, it shall be lawful for the Person authorized to grant Licences to authorize and empower, by Endorsement or otherwise, as the Commissioners of Excise shall direct, the Executors or Administrators, or the Widow or Child, of such deceased Person, who shall be possessed of and occupy the Dwelling House and Premises before used for such Purpose, to continue to retail Beer and Cider in the same House and Premises during the Residue of the Term for which such Licence was originally granted, without taking out any fresh Licence, or Payment of any additional Duty thereon; and also at the Expiration of such Licence (in case the Residue of the said Term shall be less than Three Calendar Months from the Death of the Person licensed) to grant a new Licence to such Executors, Administrators, or Widow, on Payment of the proper Licence Duty, and entering into the usual Bond.

Persons licensed to retail Beer or Cider to make Entry with the Excise.

7 & 8 G. 4. c. 53.

4 & 5 W. 4. c. 51.

IX. And be it enacted, That every Person whatever licensed to retail Beer or Cider under the said recited Act or this Act shall, in manner directed by an Act passed in the Seventh and Eighth Years of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to consolidate and amend the Laws relating to the Collection and Management of the Revenue of Excise throughout* Great Britain *and* Ireland, and by another Act passed in the Fourth and Fifth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to amend the Laws relating to the Collection and Management of the Revenue of Excise*, make Entry with the Officers of Excise of every House, Cellar, Room, and Place for storing, keeping, or retailing Beer or Cider, on pain of forfeiting the Penalties imposed by the said last-mentioned Act for making use of any unentered Room or Place; and all Beer and Cider found in any such unentered House, Cellar, Room, or Place shall be forfeited.

Penalty on Persons licensed to sell Beer or Cider having Wine, Spirits, or Sweets in their entered Premises.

Wine, &c. to be forfeited.

Licence in such Case to be void.

X. And be it enacted, That if any Person licensed to retail Beer or Cider under the said recited Acts or this Act shall receive into or keep or have in his Possession, in any Cellar, Room, or Place entered for storing, keeping, or retailing Beer or Cider, any Wine or Spirits or Sweets, such Person shall, in addition to all other Penalties, forfeit Fifty Pounds, to be recovered and applied under the Powers and Provisions of the said Acts of the Seventh and Eighth Years of the Reign of His said late Majesty King *George* the Fourth, and the Fourth and Fifth Years of the Reign of His said late Majesty King *William* the Fourth; and all Wine and Spirits and Sweets found in any such entered Cellars, Rooms, or Places shall be forfeited; and on Conviction of any such licensed Person in any Penalty for having Wine or Spirits or Sweets in his Possession, or for selling or retailing Wine or Spirits or Sweets, the Licence of such Person for retailing Beer or Cider shall become null and void, and shall be so adjudged.

Officers of Excise em-

XI. And be it enacted, That it shall be lawful for any Officer of Excise, at all Times during the Hours in which any House licensed for

for the Retail of Beer or Cider may be kept open, to enter into every House, Cellar, Room, or Place entered for the storing, keeping, or retailing of Beer or Cider, and to make Search for and seize all Wine and Spirits and Sweets which may be found in any such House, Cellar, Room, or Place, and to examine all Beer or Cider kept therein. powered to enter the Premises of licensed Beer Retailers;

XII. And be it enacted, That it shall be lawful for any Officer of Excise, during the Hours which any House is kept open for the Sale of Beer after the Rate of One Penny Halfpenny or after a less Rate the Quart, to enter into every such House, Cellar, Room, or Place for the keeping or retailing such Beer, and to make Search for and seize all Wines, Spirits, Sweets, and all Beer which by Law they are not entitled to sell. and also the Houses of Persons selling Beer at the Rate of 1½*d.* or less the Quart.

XIII. And be it enacted, That if any Person, not being duly licensed to sell Beer or Cider, shall retail any Beer or Cider, either to be consumed in or upon the House or Premises or off the Premises where sold, or if any Person shall sell any Beer or Cider to be consumed in or upon the House or Premises where sold, without being duly licensed so to do, such Person shall, in addition to any Excise Penalty to which he may thereby become subject, forfeit Five Pounds, such Penalty to be recovered in the same Manner as any other Penalty (not being Excise Penalties) are by the said recited Acts or this Act to be recovered, levied, and applied: Provided always, that no Information or other Proceeding for the Recovery of the said Penalty shall be exhibited or commenced except by and in the Name of a Constable or other Officer of the Peace. Additional Penalty on unlicensed Persons selling Beer or Cider; to be sued for by a Peace Officer.

XIV. And be it enacted, That so much of the said recited Act of the First Year of the Reign of His said late Majesty as enacts, "that no Person licensed to sell Beer by Retail under this Act shall have or keep his House open for the Sale of Beer, nor shall sell or retail Beer, nor shall suffer any Beer to be drank or consumed in or at such House, at any Time before the Hour of Four of the Clock in the Morning nor after Ten of the Clock in the Evening of any Day in the Week, nor at any Time between the Hours of Ten of the Clock in the Forenoon and One of the Clock in the Afternoon, nor at any Time between the Hours of Three and Five of the Clock in the Afternoon, nor any *Sunday*, *Good Friday*, *Christmas Day*, or any Day appointed for a public Fast or Thanksgiving; and that if any such Person shall keep his House open for selling Beer, or shall sell or retail Beer, at any Time after the Hour of Ten of the Clock in the Evening or before the Hour of Four of the Clock in the Morning of any Day, or between the Hours of Ten of the Clock in the Forenoon and One of the Clock in the Afternoon, or between the Hours of Three and Five of the Clock in the Afternoon, on any *Sunday*, *Good Friday*, *Christmas Day*, or any Day appointed for a public Fast or Thanksgiving, such Person shall forfeit the Sum of Forty Shillings for every Offence, and every separate Sale shall be deemed a separate Offence;" and so much of the said recited Act of the Fifth Year of His said late Majesty's Reign as enacts, "that it shall be lawful for the Justices of the Peace of every County, Riding, Division, Franchise, Liberty, City, Town, and Place, in Petty Sessions assembled, to fix, Once a Year, within Thirty Days after the passing of this Act in that Year, and in every future Year in the Counties 11 G. 4. & 1 W. 4. c. 64. s. 14. and 4 & 5 W. 4. c. 85. s. 6. repealed.

of *Middlesex* and *Surrey* within the first Ten Days of the Month of *March*, and in every other County on some Day between the Twentieth Day of *August* and the Fourteenth Day of *September* inclusive, the Hours at which Houses and Premises licensed to sell Beer under this Act shall be open and closed: Provided always, that any Person thinking himself aggrieved by any such Order to be so made may appeal to the Justices of the Peace in Quarter Sessions assembled at any Time within Four Calendar Months after the making of such Order, giving to the Justices by whom such Order shall have been made Fourteen Days Notice of his Intention to appeal; and the Decision of the said Justices so assembled in Quarter Sessions shall be final and conclusive: Provided also, that the Hour so to be fixed for opening any such House shall not in any Case be earlier than Five of the Clock in the Morning, nor for closing the same later than Eleven of the Clock at Night, or before One of the Clock in the Afternoon on *Sunday*, *Good Friday*, *Christmas Day*, or any Day appointed for a Public Fast or Thanksgiving; and the Hours so fixed from Time to Time by such Justices, with reference to the Districts and Places within their respective Jurisdictions, shall be deemed and taken to be the Hours to be observed and complied with under this Act as fully as if the same had been specially appointed by this Act," shall be and the same is hereby repealed.

Hours for opening and closing Houses.

XV. And be it enacted, That no Person licensed to sell Beer or Cider by Retail under the said recited Acts or this Act shall have or keep his House open for the Sale of Beer or Cider, nor shall sell or retail Beer or Cider, nor shall suffer any Beer or Cider to be drank or consumed in or at such House, at any Time before the Hour of Five of the Clock in the Morning nor after Twelve of the Clock at Night of any Day in the Week in the Cities of *London* or *Westminster*, or within the Boundaries of any of the Boroughs of *Marylebone*, *Finsbury*, the *Tower Hamlets*, *Lambeth*, or *Southwark*, as defined by an Act passed in the Second and Third Years of His late Majesty King *William* the Fourth, intituled *An Act to settle and describe the Divisions of Counties, and the Limits of Cities and Boroughs in* England *and* Wales, *in so far as respects the Election of Members to serve in Parliament*, nor after Eleven of the Clock within any Parish or Place within the Bills of Mortality, or within any City, Cinque Port, Town Corporate, Parish, or Place, the Population of which, according to the last Parliamentary Census, shall exceed Two thousand five hundred, or within One Mile, to be measured as aforesaid, from any Polling Place used at the last Election for any Town having the like Population, and returning a Member or Members to Parliament, nor after Ten of the Clock in the Evening elsewhere, nor at any Time before One of the Clock in the Afternoon, nor at any Time during which the Houses of Licensed Victuallers now are or hereafter shall be closed, on any *Sunday*, *Good Friday*, *Christmas Day*, or any Day appointed for a Public Fast or Thanksgiving; and if any such Person shall keep his House open for selling Beer or Cider, or shall sell or retail Beer or Cider, at any Time other than as herein-before prescribed and directed, such Person shall forfeit the Sum of Forty Shillings for every Offence, and every separate Sale shall be deemed a separate Offence.

2 & 3 W. 4. c. 64.

Justices may mitigate Penalties.

XVI. And be it enacted, That it shall be lawful for any Justice or Justices of the Peace, when he or they shall see Cause,

to mitigate any Penalty incurred for any Offence committed against the said recited Acts or this Act; provided that where any Conviction shall take place on any Information exhibited under the Laws of Excise such mitigated Penalty shall not be less than One Fourth Part of the Penalty.

No Person to forfeit his Licence for a First Offence; and no Licence to be void unless so adjudged.

Notice to the Excise.

XVII. And be it enacted, That no Person licensed to retail Beer or Cider under the said recited Acts or this Act shall forfeit his Licence for a first Offence against the Tenor or Conditions of his Licence except as herein-before provided; and no such Person shall be deemed to have forfeited his Licence, on any Conviction by any Justices of the Peace for any Offence, unless such Forfeiture shall be adjudged and declared by the Justice or Justices by whom such Person shall be convicted of the Offence in respect of which the Forfeiture shall be incurred; and when any Justices of the Peace shall adjudge and declare the Licence of any Person to be forfeited such Justices shall cause Notice in Writing to be immediately given to the Commissioners of Excise within the Limits of the chief Office of Excise, or to the Collector of Excise out of such Limits, of such Adjudication.

Licences may be granted to Persons licensed before the passing of the Act whilst they continue the Occupiers of the same House, although it is below the Qualification.

XVIII. Provided always, and be it enacted, That nothing in this Act contained shall prevent any Person from obtaining, at the Expiration of his existing Licence, a renewed Licence in respect of any House in which he shall at the Time of the passing of this Act be duly licensed to retail Beer or Cider under the said recited Acts or either of them, notwithstanding such House may not be of the Rent or annual Value by this Act prescribed, nor to oblige such Person to produce any other Certificate (where a Certificate is required) for obtaining his Licence than the Certificate required by the said recited Acts; but it shall be lawful for the Officers of Excise duly authorized to grant Licences to renew and continue to grant Licences to such Person (being in other respects properly qualified) on the Production of such Certificate as last aforesaid, so long as such Person shall continue to be the resident Holder and Occupier of the same House, any thing in this Act to the contrary notwithstanding.

Penalties under this Act, where not otherwise directed, to be recovered under the Provisions of the former Acts.

XIX. And be it enacted, That all Penalties and Forfeitures by this Act imposed, except where otherwise specially directed, shall be sued for, recovered, mitigated, and applied in the same Manner and by the same Means as the Penalties imposed by the said recited Acts of the First and Fourth and Fifth Years of the Reign of His late Majesty King *William* the Fourth are directed to be sued for, recovered, mitigated, and applied; and all the Powers, Provisions, Authorities, and Regulations in the said Acts contained, for the Recovery, Mitigation, and Application of Penalties, shall, except where otherwise specially directed, extend to and be put in force, as to Penalties imposed by this Act, as fully and effectually as if they were herein repeated and re-enacted.

Recited Acts to continue in force, except as hereby altered.

XX. And be it enacted, That all the Provisions of the said Two recited Acts shall be deemed and taken to be in full Force and applicable to this Act, save and except where the Provisions of the said first-recited Act are altered by the Provisions of the said secondly recited Act, or where the Provisions of either of the said Two Acts are altered by this Act; and that so much of the said first-recited

Act

Interpretation of Words.

Act as relates to the Interpretation of certain Words therein mentioned shall be applied to the Interpretation of the same Words where used in this Act.

Powers, Provisions, and Penalties of 11 G. 4. & 1 W. 4. c. 64. and 4 & 5 W. 4. c. 85. to apply to Persons licensed under this Act.

XXI. And be it enacted, That all the Powers, Regulations, Proceedings, Forms, Penalties, Forfeitures, Enactments, and Provisions contained in the said recited Acts, or in either of them, with reference to Persons licensed under either of the said Acts, and to the Offences committed by such Persons against either of the said Acts, or against the Tenor of any Licence granted under the said Acts, and also with reference to the Sureties of such Persons, and to Persons doing the Things thereby prohibited without the Licence required by the said Acts or either of them, shall (except where they are altered by this Act, or are repugnant thereto,) be deemed and taken to be applicable to all Persons licensed under this Act, and to all Offences committed by such Persons of the same Description as the Offences mentioned in the said Acts, and to the Sureties of all such Persons in respect of such Offences, and to all Persons doing, without the Licence required by this Act, Things of the same Description as the Things prohibited without the Licence required by the said recited Acts, as fully and effectually as if all the said Powers, Regulations, Proceedings, Forms, Penalties, Forfeitures, Enactments, and Provisions had been repeated and re-enacted in this Act, with reference to Persons licensed under this Act, and to the Sureties of such Persons, and to Persons acting without the Licence required by this Act; and also that all the Powers, Regulations, and Provisions in the said Acts contained, authorizing any Party convicted to appeal to the General Session or Quarter Sessions of the Peace against any Conviction under the said Acts, shall also extend and apply to any Convictions under this Act.

Act not to affect the Two Universities.

XXII. Provided always, and be it enacted, That nothing in this Act contained shall extend to alter or in any Manner to affect any of the Rights or Privileges of the Universities of *Oxford* or *Cambridge*, or any of the Powers and Authorities vested by Charter or otherwise in the Chancellors, Masters, and Scholars of the said Universities, and their Successors, or in the Master, Wardens, Freemen, and Commonalty of the Vintners of the City of *London*; but not to extend to those Freemen of the said Company of Vintners who have obtained the same by Redemption only.

Act may be altered this Session.

XXIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed during the present Session of Parliament.

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