

HISTORIC STRUCTURE REPORT

A Comparative Study

EPHRAIM HARTWELL TAVERN

MINUTE MAN NATIONAL HISTORICAL PARK

MASSACHUSETTS

Prepared by

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PREFACE

While examining the interior fabric of the Ephraim Hartwell House in Lincoln, Massachusetts, Historical Architect Orville Carroll realized he could not explain the physical evidence he had revealed. Consequently, he requested additional research on the interior use of tavern rooms during the colonial period. Research completed by National Park Service Historians Robert Ronsheim and John Luzader during the 1960s has already established that Hartwell operated a tavern at his home from 1757 to 1772, but little information about the tavern itself has been incorporated into the Hartwell studies. An immediate, intensive, but brief study of period taverns carried out by this writer confirmed suspicions of historians and librarians consulted in the research: that little documentation exists on the interior of colonial taverns, and only conjectural conclusions can be reached by a study of the available contemporary records.

During two weeks of travel, the writer visited several Boston-area research centers, but the majority proved disappointing in their resources on the colonial tavern, and several secondary sources proved to be repetitious and undocumented. In order to spare future researchers the frequent false leads encountered by this writer, a bibliographical essay has been included to indicate those sources that are helpful and those that provide no pertinent or reliable information about colonial taverns.

Without the generous advice and assistance of many people, the research for this report could never have been completed within the required time limitations. Special thanks go first to Orville Carroll, whose interest in the historical facts both prompted and enhanced the research effort; to Cindy Kryston, Historian at Minute Man National Historical Park; to John Luzader, Supervisory Historian at the Denver Service Center; to Mrs. Fletcher and Miss Collins at the Massachusetts Historical Society; to Mr. Sostek at the Middlesex County Courthouse; to Dr. Bell at the New England Historical and Genealogical Society; and to Mr. Loans at the Society for the Preservation of New England Antiquities.

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I. EPHRAIM HARTWELL, COMMUNITY LEADER AND TAVERN KEEPER (1707-1793)

Ephraim Hartwell was born in Concord, Massachusetts, in 1707, a member of the fourth generation of Hartwells in America. Ephraim lived near his rural birthplace all of his 86 years, and proved himself a good provider for his family and a valuable member of his community.

One year after his marriage to Elizabeth Heywood in 1732, Ephraim, aged 26, received several pieces of property from his father in a deed of gift. Included in the gift was a new house on an 18-acre lot in East Concord. Ephraim lived the rest of his life in this house, altering it only once, in the late 1780s, to provide additional space for his son's family who shared the home during his retirement years.

Early in their marriage, in 1740, Ephraim and Elizabeth lost all five of their children to a throat distemper. The tragedy did not, however, devastate them as parents; rather, between 1741 and 1752 Elizabeth gave birth to eight more children--four boys and four girls. During this period Ephraim supported his family as a cordwainer (shoemaker) and farmer.¹

At the time of the incorporation of Lincoln, Massachusetts, in 1754, Ephraim Hartwell was 47 years old and the head of a family of 10. His status as a cornet in the county militia and as a long-standing citizen of Concord evidently helped him secure an invitation to serve as one of Lincoln's first selectmen, a position of considerable local influence. In each Massachusetts town the selectmen generally directed the moral, physical, and economic development of their communities. As the decision makers, they protected and guided nearly every aspect of colonial community living. Their responsibilities involved planning the town layout and roads, approving local tavern licenses, and promoting education

1. Robert Ronsheim, "Ephraim Hartwell Homestead," MS., on file at Minute Man National Historical Park (hereafter cited as MIMA); John Luzader, Historic Structure Report, Samuel Hartwell House and Ephraim Hartwell Tavern, Minute Man National Historical Park, Historical Data Section, Part I (Washington, D.C.: U.S. Department of the Interior, 1968), pp. 9-11. Ronsheim included a genealogical chart of the Hartwell family, beginning with William Hartwell, who migrated to America in the mid-17th century.

in the township. Ephraim's role as a selectman of Lincoln coincided with the town's formative years, and thereby facilitated his own personal decisions as the supporter of a large family.²

Ephraim continued to serve as a selectman on alternate years until 1774. His influential position in the town no doubt prompted his participation in additional civic and political matters. During the two decades that he officiated as a selectman, Hartwell also served on committees formed to build a steeple for the town meetinghouse (1755), to examine the town treasurer's accounts (1756), to study the boundary between the town of Lincoln and Lexington (1766), and to appear before the County Court of General Sessions to argue a road dispute (1770). During this time, Hartwell also assumed additional responsibilities as a Lincoln tax assessor and collector in 1759, as a surveyor of highways in 1759 and 1763, and as a grand juror of the Middlesex County Court of General Sessions in 1763. From 1757 to 1783, Hartwell held the town office of the Sealer of Leather. Presumably, Lincoln townsfolk who needed an official seal for the weight or quality of their leathers came to the Hartwell homestead, which became an appealing location once Ephraim received his first license to operate a tavern or inn at his house in 1757. From the Lincoln meetinghouse, the townspeople needed only to follow the road laid out in 1755 to Bedford, which passed close by the Hartwell house and tavern.³

The Lincoln-Bedford road was planned by the Lincoln selectmen shortly after the incorporation of the town, and its construction opened a direct trade channel to the thriving community in Bedford. On its route north, about midway between the two towns, the road actually passed through Hartwell's property, and close by his tavern. Although no 18th-century maps became available during research, a current map of the Boston vicinity shows that a probable remnant of the Lincoln-Bedford road, to the north of the present Bedford airport, still retains the name "Hartwell Road." The name might

2. Lincoln Town Records, 1754-1806, MIMA, Microfilm Roll 5. The town of Lincoln had only five selectmen in 1755.

3. Ibid. Although both Ronsheim and Luzader gave 1756 as the year Hartwell first received a tavern license, this writer found no mention of any license prior to 1757 in examining the minutes of the Middlesex County Court of General Sessions, 1748-61, MIMA, Microfilm Roll 18.

indicate that Hartwell's local fame as a tavern keeper and town official won him the posthumous honor of having an important town road named after him.⁴

Hartwell's tavern also stood on another main area road--known in colonial times as the "Country Road," "County Road," or "Bay Road"--which connected Boston with Concord, Massachusetts. This heavily traveled route undoubtedly provided considerable business to the Hartwell Tavern.⁵

The Lincoln and Middlesex County records reveal that Hartwell profited socially and financially from his local authority and tavern trade. Beginning in 1754 Hartwell changed his title in a land deed from "cordwainer" to "gentleman." The tax assessment records not only indicate that he had become one of the most prosperous men in the town by 1770, but also that he owned a slave, an unusual acquisition in rural New England communities, except in wealthy families. Most likely Hartwell would not have indulged in such a luxury had he not needed "Violet" to help in the tavern work. The fact that Hartwell's young children also assisted in serving the customers suggests how busy his tavern must have been in its heyday. Probably the clearest indication of Hartwell's prosperity, however, comes from the town treasurer's accounts, which show several notations of money repaid to Ephraim Hartwell for various sums that he either raised or advanced to cover town expenses.⁶

The very fact that Hartwell made financial advances to the town of Lincoln offers additional evidence that he felt a civic responsibility to the community in which he had gained his social and economic prominence. Besides the loans he provided, the offices he held, and the committees on which he served, Hartwell also boarded various

4. Ibid. Sections of the present Bedford Road running north from Lincoln follow the historic road trace. The current Boston and vicinity road map mentioned is offered by Atlantic Richfield Company.

5. Luzader, p. 1.

6. Lincoln Treasurer's Accounts, 1758-88, MIMA, Microfilm Roll 8; Ronsheim's manuscript not only covers all of the tax evaluations of Hartwell's property, but discusses the livestock and produce Hartwell raised as a typical farmer. The manuscript also notes that the name Violet appears in Hartwell's will of 1786 in a reference to his Negro servant. The Massachusetts Supreme Court passed a decision in 1784 to free all slaves.

Lincoln school teachers during the winter sessions throughout the 1760s and 1770s. He may even have furnished a schoolroom for his unmarried daughter, Mary, who taught in North Lincoln in 1768, 1771, 1773, and 1775.⁷

Other Hartwell children besides Mary reflected the example of civic responsibility set by their father. The oldest son, Samuel, served as the town constable in 1770, as a surveyor of the highway in 1775 and 1784, as an inspector of the market in 1779, and as a warden in 1785. John Hartwell, who lived with his father, first served the town as a field driver, later accepted the positions of constable, selectman, assessor and tither, and also served as surveyor of the highway from 1778-85. Samuel, John, and Isaac, the youngest son, joined the Lincoln company of Minute Men in April 1775 under Capt. William Smith, their next-door neighbor; both Samuel and John served in the Massachusetts militia, the former as a sergeant, the latter as a lieutenant and a captain.⁸

Although Ephraim Hartwell was too old to serve in the military during the Revolution, he no doubt gave moral support to the cause for which his sons fought. Indeed, Ephraim probably followed the course of many other patriotic tavern keepers by opening his facilities as a community recruiting center, a meeting hall, a temporary headquarters, or even as a temporary armory and hospital for the army during the war. The only documented evidence that suggests his allegiance, however, appears in the Revolutionary War account books in the William Heath Collection, Massachusetts

7. Lincoln Town Meeting Records, MIMA.

8. Ibid.; Massachusetts Soldiers and Sailors of the Revolutionary War (Boston: Wright and Potter Printing Co., 1900), pp. 393-95; D. Hamilton Hurd, History of Middlesex County, Massachusetts, 3 vols. (Philadelphia: L. W. Lewis & Co., 1890), 2:618-23; Ronsheim mentions William Smith as an abutter on Ephraim Hartwell's property in his analysis of the Hartwell real estate.

Historical Society, and shows that in March 1777 Hartwell received £24 for "transporting Collr Nixons baggage from Pecks Hill to Hartford."⁹

No contemporary documentation exists to verify that Ephraim Hartwell operated his tavern throughout the Revolution; the last record of his tavern license appeared in 1772, after which time the Middlesex County Court of General Sessions discontinued listing all innkeepers and retailers in the county's towns. Nevertheless, available circumstantial evidence suggests that the Hartwell Tavern remained open until 1780. For example, the Lincoln tax records assessed Ephraim Hartwell as substantially above the average Lincoln citizen until 1780, when his assessment finally showed a definite and enduring drop. Secondly, the Lincoln town records continued until 1776 to show payments to Ephraim for boarding local school teachers; 3 years later they showed similar payments to Ephraim's son, John, who lived with his father. Evidently John agreed to run the tavern for his aging father during the latter part of the decade, but gave up the business in 1780 as shown by the fact that he and his father received an average tax evaluation in the town assessments.¹⁰

9. For examples of tavern keepers fighting in the Revolution and of tavern uses during the war, see Edward Field, The Colonial Tavern, A Glimpse of New England Town Life in the Seventeenth and Eighteenth Centuries, 2 vols. (Providence: Preston and Rounds, 1897), pp. 232-65; Allan Forbes and Ralph M. Eastman, Taverns and Stagecoaches of New England, 2 vols. (Boston: State Street Trust Company, 1954), 2:63-69, 72-73, 94; Elise L. Lathrop, Early American Inns and Taverns (New York: Tudor Publishing Company, 1926), pp. 81-90; Irvin Hass, America's Historic Inns and Taverns (New York: Atlantic Richfield Company Press, 1972), pp. 30, 48; and Stephen Jenkins, The Old Boston Post Road (New York and London: G. P. Putnam's Sons, 1913), p. 364. Jenkins mentions a distinguished Revolutionary hero from Sudbury, Mass., in Middlesex County, by the name of Gen. John Nixon, who possibly was the same Nixon for whom Hartwell hauled baggage in 1777. Ephraim Hartwell might have been the tavern keeper's son or relative, but Lincoln town records suggest that the senior Hartwell also received payment for hauling materials for town purposes. See March 1766 Lincoln Treasurer's Accounts, 1758-88, MIMA, Microfilm Roll 8.

10. Middlesex County Court of General Sessions Minutes, 1771-79, 1790-1801, MIMA, Microfilm Roll 19; Ronsheim; Lincoln Treasurer's Accounts, MIMA, Microfilm Roll 8; Luzader, p. 10, notes that in 1774, on the eve of the Revolution, Hartwell's taxes were higher than all his Lincoln neighbors'. According to Ronsheim's tax tables, Ephraim Hartwell's tax assessment in 1779 stood at £1000, while in 1780 it dropped to £255, the same as his son John's. In the tax records for 1784, 1788, 1789, and 1791, the real estate of Ephraim and John Hartwell had the same evaluation, which suggests that father and son were joint owners of property.

Ephraim Hartwell died on May 7, 1793, at age 86. Early in his retirement, he and his wife, Elizabeth, moved into a new gambrel-roofed addition to the house in which they had shared their married lives. Their second son, John, and his family took over the main house and no doubt assured the elder Hartwells of a comfortable old age. The era of the tavern and stagecoach had only begun, but the history of the Hartwell tavern had closed forever.¹¹

11. According to Ronsheim, Ephraim Hartwell mentions the "new" addition to the house in his will dated Jan. 25, 1786, which indicates that the wing was added in 1785 or before. John married in 1783 and his first child was born in 1785. According to the population census for 1790, John stood at the head of a household of 10, which did not include Ephraim and Elizabeth Hartwell; they were listed separately. See First Census of the United States, 1790, Massachusetts Heads of Families (Washington, D.C.: U.S. Government Printing Office, 1908), p. 146.

II. HARTWELL TAVERN, INTERIOR USE: A COMPARATIVE STUDY

Although general information concerning Ephraim Hartwell--cordwainer, farmer, town official, tavernkeeper, and family man--accumulated from contemporary 18th-century sources, no documentation concerning the tavern and its interior use became evident during this research. A comparative study of county, state, and New England taverns of the 18th-century became the only method of assisting the historical architect in his exploration of the building fabric. Generally speaking, the commonwealth laws and local customs tended to govern the format of tavern interiors, and the financial circumstances and personal taste of the family naturally determined the specific size, type, and arrangement of the public rooms.

As reflected in period records, the 18th-century taverns throughout New England provided similar services as community social centers and offered adequate to excellent lodging accommodations to travelers. Because taverns were so numerous and commonplace, colonial diarists and travelers commented little on individual tavern structures, but they did note the services and companionship they provided. Although the colonial records furnish little information about the interior of typical taverns during the period, they do offer some useful data for the interpretation of the tavern's role in colonial society.

A. Massachusetts Provincial Laws

The Massachusetts colonists drew up strict laws to govern the operation of taverns and inns. The legislators aimed at regulating the quality of the accommodations to protect the traveler and the tavern community, and at raising additional money through a liquor excise tax. During the 17th century, as the laws imply, some differences existed between the role of the inn and that of the tavern: the former served more as a lodging and eating establishment, and the latter more as a drinking house. In 1693, however, a Massachusetts law was passed that required "all innholders, taverners and common victuallers" to furnish "Suitable provisions and lodgings [underscoring added] for the refreshment and entertainment of strangers and travellers." From this date on the terms "tavern" and "inn" remained legally interchangeable.

While "innkeeper" continued to be the term used on Middlesex County licenses through 1772, the term "tavern" had almost universally replaced it by the time of the Revolution. Actually, this was not the first evolution of terms. Before "inn" became a popular expression

both "ordinary" and "house of common entertainment" were in regular use--current terms brought from England. Throughout England during the 17th and 18th centuries, the term "tavern" referred to "a public house or taproom where wine was retailed," while an "inn" or "ordinary" implied the provision of food and lodging in addition to liquor. No credible explanation is offered in the available research sources for the adoption of "tavern" in lieu of "inn" throughout the northern colonies, but, as one writer pointed out, the phenomenon was geographically isolated to New England; in the middle and southern colonies the terms "ordinary" and "inn" remained in widespread use during the 18th century.¹²

Appendix A of this report contains the 17th- and 18th-century Massachusetts legislation regarding the regulation of taverns and retailers. The major bills had all been approved by the time Hartwell first applied for his tavern license, so all the laws, at least in theory, governed the operation of the Hartwell Tavern.

B. Eighteenth-Century Diaries and Travel Accounts

Excerpts from diaries and travel accounts of the 18th century give a glimpse of the social climate and role of the tavern during the Revolutionary period. As in modern times, travelers both raved and railed about their accommodations while on the road, and

12. Alice Morse Earle, Stage Coach and Tavern Days (New York: Macmillan Co., 1900), p. 30; Lathrop, p. viii. Haas, p. v., offers the explanation that New Englanders adopted "tavern" instead of "inn" as a sign of their rebellion against the mother country during the period of tension that preceded the Revolution. This theory, however, cannot be substantiated. The definition of "tavern" quoted above comes from The Oxford English Dictionary. The Massachusetts Provincial Laws that pertain to inns and taverns reflect the gradual change in terminology. During the 17th century, the laws favored the term "inn" both in the text and in the index headings, while by the early 18th century, "tavern" begins to show up and then replaces the term "inn" both in the index and terminology of the text. An excellent example of the legal interchangeability by the mid-18th century can be seen in an order from the General Court of Massachusetts in 1760, which reads: "A Petition of Hepzibah Raymond of Lexington, widow and Administrator of the Estate of her late Husband . . . Innholder, deceased . . . that her late Husband kept a Publick Tavern on the Great Road in Lexington." See The Acts and Resolves, Public and Private, of the Province of the Massachusetts Bay, 1757-1760, 18 vols. (Boston: Wright & Potter, 1869-1912), 16:614.

focused their attention primarily on the food, sleeping arrangements, and company they encountered during their brief tavern stay. These accounts provide information on tavern fare and the variety of drinks offered in the barrooms.

In 1760 John Adams voiced his indignation at social abuses in the local taverns and defined the intended role of all licensed houses:

Few things I believe have deviated so far from the first Design of their Institution, are so fruitful of destructive Evils or so needful of a speedy Regulation, as Licensed Houses. The Accomodation of Strangers, and perhaps of Town Inhabitants on public occasions, are the only warrantable Intentions of a Tavern and the supply of the Neighborhood with necessary Liquors, in small quantities (to be consumed at home) and at the cheapest Rates, are the only excusable Designs of a Retailer.¹³

According to Adams, the social problems of 1760 arose because the tavern keepers corrupted their customers while they exploited their communities and greatly inconvenienced wayfaring travelers. Evidently planning to submit his views to local print, Adams wrote:

But at the present such Houses are become the eternal haunt, of loose disorderly People of the same Town, which renders them offensive and unfit for the Entertainment of a Traveller of the least delicacy; and, it seems that Poverty, and distressed Circumstances are become the strongest Argument, to procure an Approbation . . . none can afford to make Provision, for any but the trifling, nasty vicious Crew, that most frequent them. The Consequences of these Abuses are obvious. Young People are tempted to waste their Time and Money, and to acquire habits of Intemperance and Idleness that we often see reduce many of them to Beggary, and Vice, and lead some of them at last to Prisons and Gallows. The Reputation of our County is

13. L. H. Butterfield, ed., Diary and Autobiography of John Adams, 4 vols. (Cambridge: Belknap Press, 1961), 4:128.

ruined among Strangers who are apt to infer the Character of a Place from that of the Taverns and the People they see there. But the worst Effect of all, and which ought to make every Man who has the least sense of his Priviledges tremble, these Houses are become in many Places the Nurseries of our Legislators;-- An Artful Man, who has neither sense nor sentiment may be gaining a little sway among the Rabble of a Town, multiply Taverns and Dram Shops and thereby secure the Votes of Taverner and Retailer and of all, and the Multiplication of Taverns will make many who may be induced by Phlip and Rum to Vote for any Man whatever.¹⁴

Probably the greatest insult to Adams's sense of righteousness was the disruption of the political system:

The Number of these Houses have been lately so much augmented, and the fortunes of their owners so much increased, that an Artful man has little else to do, but secure the favour of Taverners, in order to secure the suffrages of the Rabbles that attend these Houses, which in many Towns within my observation makes a very large, perhaps the largest Number of Voters. The Consequence is that these offices and Elections . . . have already become the Gratuity of Tiplers, for Dramms and slops!

Several months later Adams neatly summarized his point: "therefore Retailers and Taverners are generally in the Country Assessors, or select Men, or Representative or Esquires."¹⁵

As one traveler in New England observed, the high social status of the local tavern keepers reflected itself in the architecture of their establishments:

Every ten or fifteen miles you come either to a little village composed of a few frame

14. Ibid., pp. 128-29.

15. Ibid., pp. 191, 215.

houses, with an extensive substantial house, whose respectable appearance, rather than any sign, demonstrates it to be a tavern (as the inns are called,) or a single house appropriated to that purpose and standing alone in the woods.¹⁶

Although tavern keepers were usually prominent and wealthy townsmen, their position evidently did not instill in them the social aloofness often typical of the more affluent classes. Even John Adams changed his opinion of tavern keepers, as his affectionate observations of the keeper at the Ipswich Tavern in 1771 reflect:

Landlord and Landlady are some of the grandest people alive. Landlady is the great granddaughter of Governor Endicott, and has all the notions of greatest family. As to Landlord, he is as happy, and as big, as proud, as conceited as any nobleman in England, always calm and good-natured and lazy.¹⁷

His notes on the tavern keeper at Enfield also indicate the change of heart:

Oated and drank tea at Peases--a smart house and landlord truly; well dressed with his ruffles &c. and upon inquiry I found he was the great man of the town, their representative as well as tavern-keeper.¹⁸

Other travelers of the 1770s expressed their admiration for the tavern keepers they encountered, such as the Marquis de Lafayette who wrote in a letter to his wife in 1777: "Host and hostess sit at the table with you and do the honors of a comfortable meal, and on going away you pay your fare without higgling," and the Honorable

16. Description by Adam Hodggood, as quoted in Mary Crawford, Among Old New England Inns (Boston: L. C. Page & Co., 1907), p. 221.

17. Quoted in Alice Morse Earle, Customs and Fashions in Old New England (Scribners, 1893; reprint ed., Rutland, Vt.: Charles F. Tuttle Co., 1973), p. 196. For a summary of the role of the tavern keeper as a leader in his community, see Field, pp. 40-62, and Earle, Stage Coach and Tavern Days, pp. 62-75.

18. Earle, Customs and Fashions in Old New England, p. 196.

William Ellery, who wrote about his stay in Durham, Massachusetts, in 1778: "Landlady was very kind and pleasant, the cheese and butter were excellent; but alas! they had no cyder."¹⁹

Certainly cider and other alcoholic beverages served as important attractions of any New England tavern. Adams's censure of the heavy drinking was not without justification, but because abundant drinking was so common, it received little other criticism or attention. Colonists often imbibed great quantities of liquor, sometimes to the point of its interference with their daily work. John Parker of Shirley, Massachusetts, noted in his diary in 1771 that he and two friends "Went to Mr. Ivorys at Night and Drunk Flip. Ye Next Day went home." Evidently Mr. Ivory, one of the two tavern keepers in Shirley that year, lodged Parker and his companions until they had properly sobered up.²⁰

For the weary traveler, local politics and alcoholic intake at the country taverns weighed little against the comforts he looked for after a long day's journey. Naturally, each traveler maintained his own set of standards for tavern accommodations, as suggested by William Ellery's diary entry for 1777:

This house is not in high reputation, because it is old, and may not furnish such good Provisions as some taverns, but the traveler ought to esteem the best house which affords the best lodging and best entertainment for horses.

Although the Massachusetts lawmakers required tavern keepers to provide lodging for travelers, they evidently did not regulate very closely the quality of these facilities. Thus, on his trips

19. Quoted in ibid., p. 197; William Ellery, "Journal of Route and Occurrences in a Journey to Philadelphia from Dighton, Begun October 24th, 1778, by William Ellery," Pennsylvania Magazine of History and Biography 12 (1888): 192.

20. James Parker "Extract from the Diary of James Parker of Shirley, Massachusetts," New England Historical and Genealogical Register 69 (1915): 10. John Adams as an elderly man looked back on his youthful crusade and observed: "I only acquired the Reputation of a Hypocrite and an ambitious Demagogue by it; the Number of licensed Houses was soon reinstated. Drums, Grog and Sotting were not diminished, and remain to this day as deplorable as ever. You may as well preach to the Indians Against Rum as to our People." Quoted in Butterfield, 4:130. Adams had a clear picture of the drinking problem because he had difficulty keeping his farmhands sober.

between Massachusetts and Pennsylvania in 1777 and 1778, Mr. Ellery regularly made note of his sleeping arrangements:

I surveyed my bed according to custom before I ventured to enter it . . . and lo! a bug of enormous size.

The Beds were good, the linen clean, but the bedsteads were infested with bugs; and I laid on the floor.

Our beds here and at Tomkins's were clean and not infested with bugs.

Arrived at Lyme . . . where we lodged in clean beds, free from Bugs.²¹

Besides sleeping with bugs, the colonial traveler often shared his bed with other tavern visitors. At Howard's tavern in Worcester, Massachusetts, one diarist noted, "I slept with a man who came to bed to me and got up long before me, so that I knew not what he was."²²

If the colonial traveler managed to get a bed free of bugs, he still stood a good chance of sharing his lodging room with other people, because sleeping quarters were usually arranged like a dormitory. What was probably a fairly typical evening for an 18th-century wayfarer was described by a visiting Scotchman in 1771:

At last, thank God, I arrived safe at one Mr. Thompson's, who keeps a tavern. Turned out Dick to pasture, drank some toddy and eat a fowl which my coming caused the death of, smoked my pipe, and talked religion with the old people, who told me Mr. Whitfield always stayed at their house when he came that way, that he had converted a vast many people thereabout, and that I should sleep in the same bed to-night,-- they having taken a liking to me by the grave deportment I put on, which in reality was caused by my being tired and worn out. At last sleep caught such a fast hold on me that I fell off my chair on the floor.

21. Ellery, "Journal of Route and Occurrences," pp. 195-96; William Ellery, "Diary of the Honorable William Ellery, of Rhode Island, October 20-November 15, 1777," Pennsylvania Magazine of History and Biography 11 (1887): 480-81.

22. Mary G. Powell, ed., "A Scotchman's Journey in New England in 1771," New England Magazine 12 (1895): 343.

Then says I, "I must actually go to bed." And after bidding a good night with gladness to get off, I slept in Mr. Whitfield's bed, as they called it, according to promise, but was interrupted in my slumbers by son Johnny coming in from a husking frolic. He entered my room, and came and drew his hand across my face, which awakened me. I immediately bawled out, thinking that old Whitfield had come from New York that night to disturb me on account of my pretended sanctity with the old folks. I dare say they thought I was converted as they called it. I laughed at heart, but indeed I hardly could construct the muscles of my face into anything like a smile, so weary was I. I hailed my unknown friend with: "What cheer, brother?" and he, happening to be a seafaring youth, readily replied: "Damned good cheer. I have been up to Uncle Jerry's to a husking, and I have got almost groggy. Plenty of girls were there, and I have been home with my partner." I bid him strip and tumble into the other bed, and being myself but little refreshed, was soon again in the arms of sleep. I found myself so well next morning that I got up early.²³

The same traveling Scotchman found himself unexpectedly entertained on a tavern evening in New London, Connecticut:

I . . . was highly diverted on my own account by five Frenchmen who had just come in from a turtle frolic, and who felt so well on the occasion, assisted by Billy Bacchus, that they jumped, sung, whistled, and showed so many tricks that any man of common sense would have sworn that they were related to the baboon family. For my part I kept by the chimney corner and smoked my pipe and drank my toddy, yet was highly diverted with the monsieurs.²⁴

23. Ibid., pp. 348-49.

24. Ibid., p. 349.

Light entertainment, food, drink, and lodging, however, were not the only services local taverns provided in colonial New England. Contemporary diarists reveal the extent to which the tavern environment contributed to the development of 18th-century social institutions and customs. After railing about the corrupt nature of the gatherings at local taverns in 1760, John Adams admitted later that the barroom discussions had acted as stimuli for the Revolutionary movement. Indeed, most taverns of local fame in Massachusetts associate their historical significance with the services the tavern keepers and tavern facilities furnished during the Revolution.²⁵

On a local level, 18th-century taverns provided their communities with a center for business, trade, recreation, and education. Although she did not identify her sources, Historian Alice Morse Earle summarized her research findings on the role and significance of the tavern in New England's colonial towns:

Notices of town-meetings, of elections, of new laws and ordinances of administration were posted at the tavern, just as legal notices are printed in the newspapers nowadays. Bills of sales, of auctions, records of transfers were naturally posted therein; the taverns were the original business exchanges. No wonder all the men in the township flocked to the tavern--they had to know anything of town affairs, to say nothing of local scandals. Distances were given in almanacs of the day, not from town to town, but from tavern to tavern.²⁶

John Parker's diary for 1771-72 indicates some of the uses of the tavern in Shirley, Massachusetts:

at Night I went to Mr. Ivory's to see an arbitration between Mr. Ivory and Thos. Little.

The community met at Mr. Ivorys to see about schooling

was March meeting, Mr. Ivory ye second
Selectman

25. Butterfield, 4:130. For references to Revolutionary taverns see footnote 9.

26. Earle, Customs and Fashions in Old New England, p. 196.

Capt. Shirley and Ja² Holden was at Mr. Ivorys with an ext^{ion} [execution]

their was 7 or 8 Injons Squaws at Mr. Ivorys. I bought a broom and a basket of them.

Capt. Ivory and Capt. Sawtell and fourteen more of us killed in all about 75 squarreels and Potteridges and then we had a set down at Mr. Ivorys.²⁷

In addition to hosting informal banquets such as Parker's diary mentions, local keepers frequently made their tavern available as the community dancehall. While the research for this report uncovered only one diarist who mentioned attending an evening dance, (where he had "the pleasure of seeing the young ladies" of the town), many of the restored historic taverns in New England still retain the swinging door that divided one of the large tavern sleeping chambers but that could be removed if the entire space was needed for a dance.²⁸

In conclusion, 18th-century diaries and travel accounts furnish considerable evidence that the colonial tavern of New England often stood at the center of community life and that the tavern keepers stood near the top of the local social ladder. The available documentation on Ephraim Hartwell and his licensed inn on the Concord country road lends support to this broad generalization on period taverns and their owners.

C. Province, County, and Town Records

The province, county, and town records contain a wealth of research material for a comparative study of tavern keepers in Lincoln, Middlesex County, or Massachusetts, depending on the scope of interest. Although the research for this report focused on Ephraim Hartwell's circumstances, the information about him gleaned from the records suggests the same general conclusions that might be reached should an in-depth investigation be made of other licensed tavern keepers of Massachusetts.

27. Parker, pp. 9-15.

28. Powell, p. 347. A good example of the swinging door can be seen at the Jones Tavern in Weston, Mass., only a short distance from the Hartwell Tavern in Lincoln.

The Middlesex County Court of General Sessions for some 20 years listed all the innkeepers and retailers licensed in the various towns under its jurisdiction. These lists proved helpful when searching for probate records of the licensed tavern keepers in hopes of finding a detailed tavern inventory. Although the probate records contained at least 15 inventories of deceased tavern keepers' estates, unfortunately no valuable information about the interior use of the public rooms became available. Perhaps an investigation of probate records in other towns and counties would prove more successful.

The Lincoln town records offered considerable sociological data on the relationship of Ephraim Hartwell to his community; data that could prove useful if applied to other keepers within the county. Certainly such a study would lend depth and variety to the conclusions reached from the investigation of Ephraim Hartwell's tavern experience.

D. Application to Ephraim Hartwell's Tavern

After more than 20 years of raising a family in the house where he brought his young bride in 1733, Ephraim Hartwell decided to convert part of his home into a tavern. The architectural design of his house followed closely that of his father's house nearby (the Samuel Hartwell House, destroyed by fire in 1974), as well as that of many other colonial frame farmhouses in the area. The rectangular construction, divided in two by a central chimney, stairwell, and entryway, contained four equal-sized rooms, two to a floor. Additional living and storage space were available under the roof eaves in the attic and in the cellar. The total physical space, however, did not allow for large numbers of customers to visit the tavern at one time; nor did the large size of Hartwell's family, which, in 1757 when he received his first tavern license, numbered 10 members, aged 5 to 50.²⁹

Hartwell had already been recognized as a "gentleman," rather than a yeoman or cordwainer, when he received his tavern license, and had already served several years as one of Lincoln's selectmen. As an established member of both the Lincoln and Concord communities, and situated in a location accessible to traffic on two main travel routes, Hartwell no doubt had little trouble attracting a steady clientele.

29. In 1757 Ephraim's eight children were: Elizabeth, 16; Samuel, 15; Abigail, 13; Ephraim, 12; John, 10; Mary, 9; Sarah, 7; and Isaac, 5. Ronsheim, n.p.

Nearly 200 years have elapsed since Hartwell's house was last licensed as a tavern. Since that time the families in residence have made at least two major renovations and untold minor ones to the house. Nonetheless, Historical Architect Orville Carroll has found a few clues in the interior fabric of the structure to indicate the probable tavern layout in the 18th century. In the first floor west room, for instance, the architect found evidence that the ceiling beams had been exposed to considerable smoke, that a narrow closet stood in the northwest corner of the room, and that a doorway on the north wall had been partially covered by a later door leading to the 19th-century kitchen wing. The smoky beams in the ceiling of this room are not repeated in other rooms in the house, and, considering that many other New England tavern barrooms had exposed beams, they probably are the best evidence that the room served as the Hartwell Tavern taproom. In addition, the dimensions of the corner cabinet, although small and narrow, fit the description of the typical enclosed bars of colonial tavern taprooms. And finally the barroom often had a second doorway leading to the kitchen behind it, which possibly was the doorway found on the north side of the room under discussion.³⁰

The location of the Hartwell Tavern kitchen remains a mystery to the architect, because the original central chimney of the house has been removed and the present kitchen dates to the early 19th century. If the two Hartwell houses--those belonging to Samuel and his father, Ephraim--were built as similarly as they appear, then the kitchen during the tavern period stood on the north side of the house, where it would have been convenient to the barroom. This location, as indicated above, would fit the pattern of many other colonial tavern layouts.

Markings on the ceiling and floor of the room directly above the barroom indicate that a wall once divided the space much as in the sleeping quarters of other colonial taverns. The architect uncovered no similar room dividers on the east side of the house. Presumably Hartwell, like many tavern keepers of the period, added a temporary wall, possibly a sliding partition, to furnish his overnight customers with more privacy.

The architect found no structural evidence of colonial features in the two rooms on the east side of the house, and because the comparative information on colonial taverns furnished no consistent uses for tavern rooms except the barroom and the sleeping quarters,

30. For descriptions of barroom and kitchen features see Haas, pp. 7, 30, 50; Lathrop, pp. 81, 83-84, 86; Earle, Stage Coach and Tavern Days, pp. 42-43; and Mary Harrod Northend, We Visit Old Inns (Boston: Small, Maynard & Co., 1925), p. 8.

any speculation on the use of these east-side rooms would only be conjectural and not very useful for the study of a tavern interior.

The provincial laws required the tavern keeper to have adequate stable facilities for his customers' horses, so at least one of the outbuildings on Hartwell's property served this purpose. Hartwell's stables very likely stood northwest of the house where archeological remains of a rectangular structure can be seen.

In conclusion, then, the existing information on Ephraim Hartwell's tavern concerns the two west rooms, which may have been the only public rooms. The cellar was no doubt used for storage of tavern cider barrels, wine casks, rum bottles, smoked beef, and grain. The attic, too, probably provided storage space until 1770, when it might have become the bedroom for the slave-servant, Violet. The two east rooms of the house were possibly the living quarters for Ephraim Hartwell's large family.

III. RECOMMENDATIONS FOR FURTHER RESEARCH

Further investigation of period inventories would be helpful in the study of colonial taverns. The historical architect has been in communication with the owner of the Ball Tavern in Weston, Massachusetts, who has hired a part-time student to research inventories of tavern keepers. Possibly the National Park Service could benefit from this student's research.

In 1964 the Society for the Preservation of New England Antiquities published a book compiled by Abbott Lowell Cummings entitled Rural Household Inventories, 1675-1775, which also might be beneficial to further research on tavern furnishings and use. The book establishes the names, uses, and furnishings of rooms in country houses in Suffolk County, Massachusetts.

An in-depth study of tavern keepers in other towns within Middlesex County might lend considerable support to the conclusions reached concerning Ephraim Hartwell. No such study has been made applying town records and local tax assessments to available inventory information.

APPENDICES

Appendix A

MASSACHUSETTS PROVINCIAL LAWS, 1642-1757

Cited from:

1. The Colonial Laws of Massachusetts Reprinted from the Edition of 1672 With the Supplements through 1686 (Boston: Rockwell and Churchill, 1890), pp. 79-85.
2. The Acts and Resolves, Public and Private, of the Province of the Massachusetts Bay (Boston: Wright and Potter, 1869), 1:56-58, 154-55, 190-92, 327-28.
3. Ibid., 1874, 2:203-5.
4. Ibid., 1878, 3:1011-22.

1. The Colonial Laws of Massachusetts, 1890. (1634-70)

INDITEMENTS.

IT is Ordered by this Court; That no person shall be Indited, Presented, *A. J. 2. p. 10.*
 Informed against, or Complained of to any Court or Magistrate within
 this Jurisdiction, for the breach of any penal Law, of any other misde-
 meanour, the forfeiture whereof belongs to the Country, unless the said
 Inditement or Complaint, be made and exhibited within one year after
 the offence be committed; and if any such Inditement, Presentment, In-
 formation or Complaint be not made within the time limited, then the
 same shall be void and of none effect.

*Complaints and
 Presentments to
 be made within
 a year.*

Provided always, this Law shall not extend to any Capital Offences,
 nor any Crimes that may concern loss of Member or Banishment, or to
 any Treasonable Plots or Conspiracies against the Common-wealth, nor to
 any Felonies above *ten shillings*, nor shall it hinder any person grieved,
 or that hath any wrong done to him or his Wife, Children, or Servants,
 or Estate, real or personal, but that every such person shall have such
 remedies as formerly he might or ought to have. [1652.]

In-keepers, Ordinaries. Tipling, Drunkenness.

FORasmuch as there is a necessary use of Houses of Common Entertainment
 in every Common-wealth, and of such, as Retail Wine, Beer and Victuals,
 yet because there are so many abuses, both by persons entertaining and by persons
 entertained;

It is therefore Ordered by this Court and Authority thereof; That no
 person or persons shall at any time, under any pretence or colour what-
 soever, undertake to be a Common Victualler, Keeper of a Cooks shop,
 or House for Common Entertainment, Taverner, or publick Seller of Wine,
 Ale, Beer, or Strong-waters by Retail, (nor shall any sell Wine privately
 in his House, or out of doors, by a less quantity then Quarter Cask)
 without approbation of the Selected Townsmen; and Licencie of the Coun-
 ty Court where they dwell, upon pain of forfeiture of *five pounds* for eve-
 ry such offence, or Imprisonment at the pleasure of the Court.

*None to keep
 Ordinaries with-
 out Licencie.*

Provided, it shall be lawful for any whole sale Merchant of Wines, or
 the present Stillers of Strong-waters; being Masters of Families, or such
 as receive the same from forreign parts in Cafes, &c. or makers of Cyder
 to sell by Retail; Provided the quantity of Wine and Cyder, be not less
 then three Gallons at a time to one person, nor Strong-waters less then a
 quart; and that it be only to Masters of Families of good and honest re-
 port, or persons going to Sea; and they suffer not any person to drink
 the same in their Houses, Cellars or Yards.

A. J. r.

*Liberty to sell
 Wine & Strong-
 waters by retail*

And every person so Licensed for Common Entertainment, shall have
 some inoffensive Sign, obvious for direction of Strangers, and such as have

*Ordinaries to
 have Signes*

no such Signe after three Months so Licensed, shall lose their License, and others be allowed in their stead.

L. 2. p. 13.
A. 51. p. 4.
A. 53. p. 19.
To be always
provided with
strong Beer s., d.
per quart

2. And every person Licensed to keep an Ordinary, shall always be provided of Strong Wholsome Beer, of four Bushels of Malt (at the least) to a Hoghead, which he shall not sell at above *two pence* the Ale quart, upon penalty of *forty shillings* for the first offence; and for the second offence to lose his License.

And it is permitted to any that will, to sell Beer out of doors, at *one penny* the Ale quart or under.

WHer the Law tit. In-keepers, Sect. 2. hath provided, that every person Licenced to keep an Ordinary, shall always be provided of strong wholsome Beer, of four Bushels of Malt at the least to a Hoghead, which was Intended, and is hereby Declared to be of good Barly Malt, not to be sold for above two pence the Ale quart, on penalty as in the said Law is expressed, notwithstanding which, many keepers of Inns and Ordinaries as regardless of the said Law, or of the debasing of the produce of the Country, take liberty to make and sell Drink Brewed of, or mixed with Melasses, course Sugar, or other Materials, to the damage, just offence and prejudice of sundry persons;

Four Bushels of
Barly Malt in a
Hoghead

It is therefore Ordered by this Court and the Authority thereof, that no person Licenced as aforesaid, shall after publication hereof, sell or any wayes utter any Beer, Ale or Drink instead thereof, by Retail that is not made altogether of good Barly Malt, without any mixture of Melasses, course Sugar or other Materials instead of Malt, on penalty of *five pounds* for every such offence, one half to the Informer, the other half to the County where such offence shall be committed; besides the penalties in the former recited Law expresses, on Complaint to any Magistrate, County Court or Commissioner for Boston, unless the party complained of, shall legally prove his or her Innocency therein, in which case, it shall be in the liberty of the Authority as aforesaid, to accept the Oath of such person if tendred to him or them, if they see cause: And the Authority aforesaid, are hereby impowred to hear and determine such Complaints; any Law, Custome or Usage to the Contrary notwithstanding. [1667.]

L. 1. p. 30.
Not to permit
any to be Drunk
&c.

3. And no Licenced person as aforesaid, shall suffer any to be Drunk, or to Drink Excessively, viz. above half a pint of Wine for one person at a time, or to continue Tipling above the space of half an hour, or at unreasonable times, or after nine of the Clock at night, in, or about any of their Houses, on penalty of *five shillings* for every such offence.

L. 2. p. 6.
Not to conceal
Drunkards

And if any person Licenced to sell Wine or Beer as aforesaid, shall conceal in his House any person that shall be found Drunken, and shall not forthwith procure a Constable to carry such Drunken person before some Magistrate or Commissioner, and in the interim, the said Vintner or Drawer of Beer, shall make stay of such persons till the Constable shall come, under the penalty of *five pounds*, for every default.

L. 1. p. 30.

4. And every person found Drunken, viz. so as he be thereby be-reaved or disabled in the use of his understanding, appearing in his speech

or.

or gesture, in any of the said Houses or elsewhere, shall forfeit *ten shillings*, and for excessive Drinking *three shillings four pence*, and for continuing above half an hour Tipling *two shillings six pence*, and for Tipling at unreasonable times, or after nine of the Clock at night *five shillings* for every Offence in those particulars, being lawfully convicted thereof, and for want of payment, they shall be imprisoned till they pay, or be set in the Stocks one hour or more (in some open place) as the Weather will permit not exceeding three hours.

Drunkness,
Tipling the pe-
nalty

5. And if any person be found Drunken, by night or by day, or shall in his Drunkenness offer any abuse to the Constable or others, either by striking or reviling him or them, or using any endeavours by himself or others to make an escape, it shall be in the power of the Constable to commit such person or persons to safe keeping or imprisonment, or take Bond for his appearance, as he shall see cause; and the Keepers of each Prison, upon Warrant from any Magistrate, or Commissioner, or Select men, shall receive all such as shall be so committed, and take but *twelve pence* for his fee in such cases.

L. 2. p. 6.

Drunkards abü-
sing the Constable
to be committed

And the Constable shall inform the next Magistrate thereof, but if no Magistrate be in Town, he shall convent such person or persons before one or more of the Commissioners for ending small causes, and where no Commissioners are, before any one or more of the Select men of the Town, who have power given them to do as any one Magistrate may do in like case; Provided nevertheless, if any such Delinquent shall confess his fault, and pay his fine and other charges, the Constable shall receive it and dismiss the offender, and every person hereby Authorized to receive the fines aforesaid, shall forthwith make return to the Treasurer of the County where such offence is committed, of what he hath done and received in such cases.

Convented be-
fore some Magist.
Commissioner of
Select men

6. It shall be lawful notwithstanding, for all Licensed persons to entertain Land-travellers or Sea-faring men in the night season, when they come on shore or from their journey for their necessary refreshment, or when they prepare for their voyage or journey the next day early, so there be no disorder among them, and also Strangers, Lodgers or other persons in an orderly way, may continue in such Houses of Common Entertainment during meal times, or upon lawful business what time their occasion shall require.

L. 1. p. 30.

Travelers enter-
tained for a
night

7. Nor shall any Merchant, Cooper, Owner or Keeper of Wines, or other persons that have them in their custody, suffer any person to drink to Excess or Drunkenness in any of their Wine-sellers, Ships or other Vessels, or places where Wines do lye on pain to forfeit for each person so doing, *ten shillings*.

Wine merchants
Coopers &c. not
to permit any to
be Drunk

Nor shall any person Licensed to sell Strong waters, or any private House-keeper permit any person or persons to sit Drinking or Tipling Strong-waters, Wine or Strong Beer in their Houses. And if any such Seller of Strong-waters or private Housekeeper, shall be legally convicted before any County Court, any one Magistrate or Commissioners Court, such persons shall for the first offence be fined *twenty shillings*, and if the party so convicted be not able to pay his fine, he shall be set in the Stocks, where he shall continue one whole hour, and if any such Seller of Strong waters shall be convicted as aforesaid of a second Offence of the same nature, he shall forfeit his License, and shall also pay *twenty shillings* as a fine to the Country, and if any private House-keeper, shall be convicted as aforesaid of a second Offence against this Law, he shall pay a fine of *five pounds*,

A. 54. p. 2.

Private House-
keepers not to
permit any to
tipple in their
Houses

First offence to 20s

Second offence
5, li

third offence
good behaviour. and for a third offence, such person or persons being so convicted, shall be bound to their good Behaviour in *twenty pound* Bond, with two sufficient Sureties, or be committed to Prison.

L. 1. p. 30.

Drunk the se-
cond time
double fine

third treble

fourth time im-
prisonment

8. And if any person offend in Drunkenness, excessive or long Drinking the second time, they shall pay double fines.

And if they fall into the same offence the third time, they shall pay treble the fines, and if the parties be not able to pay the fines, then he that is found Drunk shall be punished by whipping, to the number of *ten stripes*; and he that offends in excessive or long Drinking, shall be put into the Stocks for three hours, when the weather may not hazard his life or limbs.

And if they offend the fourth time, they shall be imprisoned until they put in two sufficient sureties for their good Behaviour.

Inkeepers con-
vict of a third
offence

forfeit their Li-
cense

9. And it is further Ordered, That if any person that keepeth or hereafter shall keep a common house of Entertainment, shall be lawfully convicted the third time, for any offence against this Law; he shall (for the space of three years next ensueing the said conviction) be disabled to keep any such house of Entertainment, or sell Beer, or the like, unless the Court aforesaid, shall see cause to continue him.

Provision for
Horses

10 It is further Ordered, that every In-keeper or Victualler, shall provide for the entertainment of Strangers Horses, *viz.* one or more Inclosures for Summer; Hay and Provender for Winter, with convenient Stable-room and Attendants, under the penalty of *two shillings six pence* for every dayes default, and double damage to the party thereby wronged, except it be by inevitable accident.

Vintners to pay
50. s. per Butt

11. And it is further Ordered by the Authority aforesaid; That no Taverner, Seller of Wine by Retail Licensed as aforesaid, shall take above *nine pound* profit by the Butt or Pipe of Wine, (and proportionably for all other Vessels) towards his waste in drawing and otherwise, out of which allowance, every such Taverner or Vintner, shall pay *fifty shillings* by the Butt or Pipe, and proportionably for all other Vessels to the Country; for which they shall account with the Treasurer or his Deputy every six Months and discharge the same, all which they may do by selling *six pence* a quart in Retail which they shall no time exceed) more then it cost by the Butt: Besides the benefit of their Art and Mystery which they know how to make use of.

To give notice
to the Treasurer
what Wine they
buy

And every Taverner or Vintner shall give a true account and notice unto the Treasurer or his Deputy, of every Vessel of Wine he buyes from time to time within three dayes, upon pain of forfeiting the same or the value thereof, the one half to the Country, the other half to the Treasurer and Informer.

A. 18.

Treasurer to
have 2. s. per lb
of this Impost

And it is Ordered, that the said Impost, shall from time to time be paid in Wines at Merchantable price, or other equivalent Merchantable good pay, to the content of the Treasurer, and that the Treasurer shall take special care in collecting the same; who is hereby impowred to substitute such Deputies under him as he shall see meet in the several Towns for his help and furtherance herein; for all which pains and care, he shall be allowed *two shillings* in the pound of all such Imposts as he shall bring into his Annual account with the Country.

Provided alwayes, that if any Vintner, Taverner or Retailer of Wines, shall

shall give an account to the Treasurer of any part of any Wine entred as above said, that he hath sold away again by whole-sale, being no less in quantity then a Quarter Cask to one person at one time, and shall truly certify the person who had it, and the time when; such person or persons shall be abated of their Impost, in proportion to what they have sold.

Sellers of strong water to give notice to the Marshal within 3 dayes

And all such as Retail strong Waters, shall in like manner pay two pence upon every quart to the use of the Country, who shall also give notice to the Marshal General of every Case and Bottle, or other quantity they buy within three dayes, upon pain of forfeiture as before

12. And it is Ordered; That in all places where Week-day Lectures are kept, all Taverners, Victuallers and Ordinaries, that are within one mile of the Meeting-house to which they belong, shall from time to time clear their Houses of all persons able to go to Meeting, during the time of the exercise, (except upon extraordinary cause, for the necessary refreshing of Strangers unexpectedly repairing to them) upon pain of five shillings for every such offence, over and besides the penalties incurred by this Law for any other disorder.

L. 2. p. 31.

Ordinary-keepers to clear their houses in meeting time

13. It is also Ordered, That all offences against this Law, may be heard and determined by any one Magistrate, who shall hereby have power by warrant to send for, and examine parties and witnesses concerning any of these offences: and upon due conviction either by view of the said Magistrate, or Affirmation of the Constable, and one sufficient witness with circumstances concurring, or two witnesses, or confession of the party, to leavy the said several fines, by warrant to the Constable for that end.

One Magistr. to hear & determine all offences against this Law

And if any person shall voluntarily confess his offence against this Law in any the particulars thereof, his Oath shall be taken in evidence and stand good against any other offending at the same time.

Delinquents Testimony

14. It is further Ordered by the Authority, aforesaid, That all Constables may, and shall from time to time, duely make search throughout the limits of their Towns upon Lords dayes and Lecture dayes in times of exercise, and also at all other times so oft as they shall see cause, for all Offences and Offenders against this Law, in any the particulars thereof.

Constable to search in Ordinaries

And if upon due Information or Complaint, of any of their Inhabitants or other credible persons, whither Taverner, Victualler, Tabler or other, they shall refuse or neglect to make search as aforesaid, or shall not to their power perform all other things belonging to their place and office of Constable, then upon complaint and due proof before any one Magistrate, within three Months of such refusal or neglect, they shall be fined for every such offence ten shillings, to be leavyed by the Marshal as in other cases by Warrant from such Magistrate before whom they are Convicted or Warrant from the Treasurer upon notice from such Magistrate:

Constab. neglect

Fined 10. s.

15. And because it is difficult to Order and keep the Houses for publick Entertainment in conformity to the wholesome Laws established, as is necessary for preventing Drunkenness, excessive Drinking, vain Expences of money, Time, and the abuse of the good Creatures of God;

A. 57. p. 21.

It is therefore Ordered by this Court and the Authority thereof, That no person or persons hereafter shall be Licensed to keep a House of Common entertainment for any longer then one year at one time, and that such as keep Houses of publick entertainment, (the present Vintners during their contract excepted) shall and hereby are enjoyed once every year

Ordinaries to renew their Licenses yearly

year, to repair to the several County Courts for renewing their several Licenses (for which they shall pay *two shillings six pence* to the Clerk of the Court) or else they shall forfeit *five pounds* as unlicensed Ale-house keepers. [1645, 46, 47, 48, 51, 53, 57, 58.]

UPon complaint of the great abuses that are daily committed by the Retailers of Strong-waters, Rhum, &c. both by the Stillers thereof, and such as have it from *ferraigine parts*;

None to Still or
Retail Liquors
without License

This Court do therefore Order, that henceforth no person or persons shall practise the Craft of Stilling Strong-waters, nor shall sell or Retail any, by less quantities than a Quarter Cask, and the same to be delivered not at several times or in several parcels, but at one time, without Covin or Fraud, excepting only such as shall be allowed Annually by the County Courts respectively, on penalty of *five pounds* forfeiture for every time that any person or persons shall be legally convicted thereof; any Law, Usage or Custome, or former Licenses to the contrary notwithstanding.

Provided alwayes, this Law shall not prohibit such Merchants as have Strong-liquors from forreigne parts in Cafes, from selling the same by the whole Cafe, either to such as are going to Sea, or to Masters of Families of good report. [1661.]

THis Court being sensible of the great increase of prophaness among us especially among the younger sort, taking their opportunity of meeting together in places of publick Entertainment, to corrupt one another by their uncivil and wanton carriage, rudely singing and making a noise, to the disturbance of the Family and other Guests if any be in the House;

Penalty for rude
singing in Ta-
verns

This Court do therefore Order and hereby Enact, That no person or persons whatsoever, do presume either in Word or Deed to carry it uncivilly, or wantonly, singing rudely, or making a noise to the disturbance of the Family, or any other Guests in any place of Publick Entertainment, on penalty of paying *five shillings* for every offence against this Law, being therefore legally Convicted before any Court, Magistrate or Commissioner:

And where fundry persons are in the same company, where any such rude and uncivil carriages are acted, and the particular person or persons unknown, every of the said persons shall be liable to the like penalty, unless they can attest their innocency, and do freely give in their testimony against the nocent.

And if any person allowed to keep a house of publick Entertainment shall suffer such carriages by any person or persons, and not legally prosecute the same before Authority, or legal conviction thereof, before the County Court of whom they had their License, they shall be debarred of any further renewal thereof. [1664.]

AS an Addition to the Law, tit. In-keepers;

It is Ordered by this Court and the Authority thereof, That where any person or persons whatsoever, shall presume to keep an House of publick

publick Entertainment, Ordinary, Cooks shop, or shall by Retail sell Wine, Strong Beer, Liquors or Cyder, without License first had and orderly obtained; or having had License, and not renewed as the Law requireth, or being discharged for any misdemeanour committed, or suffered to be done in their Houses, or in or about the same: It shall be lawful for any Court or Magistrate, on complaint made to them of such Misdemeanour, to end for such person or persons before them, and being legally convicted of any the abovesaid offences, besides the penalty, to require Bond, with sufficient Sureties for the good Abbearance of such person or persons, and in special for their observance of the said Law: And in case of Refusal to give such Bond with Sureties as is required; the Court or Magistrate that hath cognizance of such Complaint, shall commit such person or persons convicted as abovesaid to Prison, until the next Court of that County. [1665.]

VV Hereas this Court hath made several Laws and Orders for the prevention of the sin of Drunkenness, and mispending precious Time and Estate; and yet notwithstanding great complaint is made of several persons spending their Time and Estate by Drinking and Tipling in Taverns and Ale-houses, to the great dishonour of God, and prejudice of their Families; For the prevention whereof;

It is Ordered by this Court and the Authority thereof, That the Select men of each Town shall be, and are hereby required and impowred to take special care and notice of all and every person and persons transgressing as abovesaid, and thereupon to require him or them to forbear the frequenting of such Houses or Taverns: and if any person shall after such warning given him, be found in any such House of Entertainment, and be legally convicted thereof, before any one Magistrate or Commissioner, he shall forfeit five shillings, to be paid to the Treasurer of that Town for every such Offence, or sit in Stocks as the Judges shall see meet.

For prevention
of Drunkenness

And it is further Ordered, That the Select men shall also give notice to the keepers of such Publick Houses, that they suffer no such noted person in any of their Houses, upon the penalty of twenty shillings for every such defect, to be paid to the Treasurer as aforesaid. [1670.]

Judgements and Executions,

VV Hereas there is a great abuse in selling of Judgements and Executions, and so altering the property of them before they be satisfied, or Goods seized, whereby great inconvenience may arise, as experience hath proved;

A. 54.

This Court doth therefore Order, That after the end of this Session, no person shall sell, Alienate or Assigne any Judgement or Execution whatsoever, and if any shall presume to Act contrary to this Order, his Sale, Assignment or Alienation shall be void in Law; and in case the party die after the Judgement

Judgements and
Executions not
to be sold

T

before

Incest.
Levit. xx. 11,
12, &c.
Rape.

[SECT. 10.] If any persons commit incest in any of the particular instances made capital by the law of God, they shall be put to death.

[SECT. 11.] If a man shall ravish any woman, committing carnal copulation with her by force, against her will, he shall be put to death.

[SECT. 12.] If any man shall unlawfully and carnally know and abuse any woman child, under the age of ten years, every such unlawful and carnal knowledge shall be felony, and the offender thereof, being duly convict, shall suffer as a felon.

Burning.

[SECT. 13.] If any person, of the age of sixteen years and upwards, shall wittingly, willingly and feloniously burn or cause to be burned any dwelling-house, meeting-house, storehouse or ship, or shall in like manner set on fire any out-house, barn, stable, stack of hay, corn or wood, whereby any dwelling-house, meeting-house, storhouse or ship shall happen to be burned, every such offender shall be put to death.

Piracy.

[SECT. 14.] If any shall piratically and feloniously seiz any ship or other vessel, whether in the harbour or on the high seas, or shall rise up in rebellion against the master, officer, merchant or owner of any such ship or other vessel and goods, and dispoil and dispossess them thereof, and exclude the right owners or those betruusted on their behalf, every such offender, together with their complices, being legally convicted thereof, shall be put to death: *provided, always,* that* any of such company (who, through fear or force, have been deemed to comply with such wicked action) shall, upon their first arrival in any port or harbour, speedily repair to some justice of the peace and make discovery of such piracy, they shall not be liable to the aforesaid penalty of death. [*Passed October 29.*]

"The Act &c., hath likewise been repealed by reason of the Articles relating to Witchcraft, Blasphemy, Incest and slaying by develish Practice which are conceived in very uncertain and doubtful terms, and in regard that according to the said Acts those Crimes are to be punished with death as shall likewise the person that shall slay another upon sudden heat which is not conformable to y^e Laws of England and in y^e Article of Treason no punishment is inflicted for counterfeiting the Great Seal of England or the seal of y^e Province nor is that article agreeable to the statute of the 25th of Edward the third in relation to Treason."—*Letter from the Privy Council, ut supra.*

CHAPTER 20.

AN ACT FOR THE SUPPRESSING OF UNLICENCED HOUSES, AND THE DUE REGULATION OF SUCH AS ARE OR SHALL BE LICENCED.

Be it ordained and enacted by the Governour, Council and Representatives convened in General Court, and by the authority of the same,

None to keep a house of common entertainment, or sell strong drink publicly or privately, without license, on penalty of forty shillings: one-half to the informer and the other to the use of the poor.

Upon second conviction to give bond for the good behavior.

[SECT. 1.] That no person or persons whatsoever (other than such as, upon producing certificate from the selectmen of the town where they dwell, or who shall be otherwise thought fit by the justices themselves, shall be licensed by the said justices in quarter sessions) may presume to be a common victualler, innholder, taverner, or seller of wine, beer, ale, cyder or strong liquors by retail; nor shall any presume, without such licence, to sell wine or strong liquors privately by a less quantity than a quarter cask, and that delivered and carried away all at one time, on pain of forfeiting the sum of forty shillings for every such offence upon due conviction thereof, one-half thereof to the informer, and the other half to the use of the poor of the town where such offence is committed. And upon a second conviction, besides the forfeiture of forty shillings as aforesaid, shall enter into recognizance with one or more sureties for the good behaviour, especially not to transgress the law in that respect.

* *Sic.*—"if" omitted?

Be it further enacted by the authority aforesaid,

[SECT. 2.] That all licences be renewed yearly, and bond given for the due observance of the same and of the laws, and that the person licensed shall use his licence in such house as shall be therein named, and no other. And if the justices in quarter sessions shall think fit to licence any person or persons not presenting a certificate as aforesaid from the selectmen, the clerk of the sessions, before granting licence to any such, shall signify the name and desire of every [such] person unto the selectmen of the town where such person dwells, one month beforehand, that so they may have opportunity and liberty to offer their objections against it, if any [such] [shall] be.

Licenses to be renewed yearly, and bond given.

Justices may grant licence without certificate of the selectmen, upon notice given.

And forasmuch as the ancient, [true] and principal use of inns, taverns, ale-houses, victualling-houses, and other houses for common entertainment, is for [the] receipt, relief and lodging of travellers and strangers, and the refreshment of persons upon lawful business, or for the necessary supply of the wants of such poor persons as are not able by greater quantities to make their provision of victuals, and are not intended for entertainment and harbouring of lewd or idle people to spend or consume their money or time there: therefore, to prevent the mischiefs and great disorders happening daily by the abuse of such houses,

It is further enacted by the authority aforesaid,

[SECT. 3.] That no taverner, inn-keeper, ale-house keeper or victualler, shall have or keep in or about their houses, out-houses, yards, backsides, gardens or places to them belonging, any dice, cards, tables, bowls, shuffleboard, billiards, coys, cales, logats, or any other implements used in gaming; nor [shall] suffer any person or persons resorting [into] [unto] any of their houses, to use or exercise any of the said games, or any other unlawful game or sport within their said houses, or any of the dependences as aforesaid, or places to them belonging, on pain of forfeiting the sum of forty shillings for every such offence, upon due conviction thereof; the said fine to be disposed of as aforesaid. And every person convicted of playing as aforesaid in any such house or dependences thereof, shall forfeit the sum of six shillings and eightpence, to be disposed of as aforesaid.

Games and gaming forbidden in public houses, on pain of forty shillings.

Penalty on gamesters.

And further it is enacted by the authority aforesaid,

[SECT. 4.] That any person duly summoned to give in evidence respecting the breach of this act, in any of the branches thereof (other than the party himself, his children or servants), that shall refuse to give in upon his oath when so required, what he knows relating to the premises, shall forfeit forty shillings to the use of the poor of the town as aforesaid.

Penalty for refusing to give evidence against persons selling without license.

And it is further enacted by the authority aforesaid,

[SECT. 5.] That every justice of the peace in the county where he dwells, as well as the justices in quarter sessions, are hereby respectively impowred to hear and determine all offences against this act, and may commit the offender to prison, until he pay the said fine and enter into recognizance as aforesaid for the good behaviour, or may cause the fine to be levied by distress and sale of the offender's goods, returning the overplus, if any be. [Passed November 10.]

One justice may hear and determine all offences against this act.

CHAPTER 21.

AN ADDITIONAL ACT FOR IMPOST AND EXCISE.

Be it enacted by the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

That there shall be paid by the importer for all wines imported into this province not particularly named and mentioned in an act entitled

Ante, chap. 5. “An Act for Impost, Excise and Tonnage of Shipping,” made at the first sessions of this court, the sum of ten shillings per hogshead, and so proportionably for greater or lesser quantities. And that there be paid by those that sell any of the said wines by retail, the sum of six pence per gallon excise, and so proportionably for greater or lesser quantities. And to be under the same regulation, inspection and forfeitures as is provided by said act; and the said payments to be made unto the commissioners appointed for the receiving of the rates and duties therein mentioned. This present act to remain and continue in force only during the time set for continuance of the act before recited, and no longer. [*Passed November 10.*]

CHAPTER 22.

AN ACT FOR THE BETTER OBSERVATION AND KEEPING THE LORD'S DAY.

Be it enacted and ordained by the Governour, Council and Representatives convened in General Court or Assembly, and it is enacted by the authority of the same,

Labor and sports prohibited on penalty of five shillings.

[SECT. 1.] That all and every person and persons whatsoever, shall, on that day, carefully apply themselves to duties of religion and piety, publickly and privately; and that no tradesman, artificer, labourer or other person whatsoever, shall, upon the land or water, do or exercise any labour, business or work of their ordinary callings, nor use any game, sport, play or recreation on the Lord's Day, or any part thereof (works of necessity and charity only excepted), upon pain that every person so offending shall forfeit five shillings.

Further it is ordered and declared,

Travelling prohibited on penalty of twenty shillings.

[SECT. 2.] That no traveller, drover, horse-courser, waggoner, butcher, higler, or any their servants, shall travel on that day, or any part thereof, except by some adversity they were belated and forced to lodge in the woods, wilderness or highways the night before; and in such case to travel no further than the next inn or place of shelter [*on that day*] upon the penalty of twenty shillings.

Further it is ordered,

Public houses not to entertain any others than strangers and lodgers on penalty of five shillings for every person.

[SECT. 3.] That no vintner, innholder, or other person keeping any publick house of entertainment, shall entertain or suffer any of the inhabitants of the respective towns where they dwell, or others not being strangers or lodgers in such houses, to abide or remain in their houses, yards, orchards or fields, drinking, or idly spending their time on Saturday night after the sun is set, or on the Lord's Day, or the evening following, upon the pain and penalty of five shillings for every person, payable by themselves respectively, that shall be found so drinking or abiding in any such publick house or dependences thereof as aforesaid; and the like sum of five shillings to be paid by the keeper of such house for every person entertained by them.

One justice of the peace may hear and determine any breach of this act.

[SECT. 4.] And for the better execution of all and every the foregoing orders, every justice of the peace within his county shall have power and authority to convent before them any person or persons who shall offend in any of the particulars before mentioned, and upon his own view or other legal conviction of any such offence, to impose the fine and penalty for the same and to restrain [*or*] [*and*] commit the offender until it be satisfied, or to cause the same to be levied by distress and sale of the offender's goods, returning the overplus (if any be) and in case any such offender be unable or refuse to satisfy such fine, to cause him to be put in the cage or set in the stocks not exceed-

CHAPTER 20.

AN ACT OF SUPPLEMENT AND ADDITION TO SEVERAL ACTS AND LAWS OF THIS PROVINCE.

Disallowed by the privy council, Dec. 10, 1696. See note to Acts of 1694-5, chap. 18, post. 1692-3, chap. 20. *Be it enacted by the Governour, Council and Representatives in General Court assembled, and by the authority of the same it is ordained and enacted,*

In addition to the act entituled "An Act for the suppressing of unlicensed houses, and the due regulation of such as are or shall be licensed,"—

[SECT. 1.] That all innholders, taverners, and common victuallers shall, at all times, be furnished with suitable provisions and lodging for the refreshment and entertainment of strangers and travellers, pasturing, stable room, hay and provender for horses, on pain of being deprived of their licence; and no such licensed person shall sell oates for more than one penny the quart.

[SECT. 2.] And that no person who is or shall be licensed to be an inholder, taverner, common victualler, or retailer, shall suffer any apprentice, servant, or negro to sit drinking in his or her house, or to have any manner of drink there, otherwise than by special order or allowance of their respective masters, on pain of forfeiting the sum of ten shillings for every such offence.

[SECT. 3.] Nor shall any such licensed person suffer any inhabitant of such town where he dwells, or coming thither from any other town, to sit drinking or tipling in his or her house, or any of the dependences thereof, or to continue there above the space of one hour (other than travellers, persons upon business or extraordinary occasions), on the like penalty of ten shillings for every offence.

[SECT. 4.] And every person, as aforesaid, who, contrary to this act, shall continue in any such house, tipling or drinking or otherwise mis-ordering him- or herself, or above the space of one hour (other than as aforesaid), shall forfeit and pay the sum of three shillings and fourpence, or be set in the stocks not exceeding four hours' time.

[SECT. 5.] That no person licensed as aforesaid shall suffer any person to drink to drunkenness or excess in his or her house, nor shall suffer any person, as his or her guest, to be and remain in such house, or any the dependences thereof, on the Lord's day (other than strangers, travellers, or such as come thither for necessary refreshment), on pain of forfeiting the sum of five shillings for every offence in that kind.

[SECT. 6.] All fines and forfeitures arising for any of the offences before mentioned, shall be one moiety thereof to the use of the poor of the town where the offence is committed, and the other moiety to him or them that shall inform and prosecute the same, except where such offences are presented by a grand jury; in such case, the whole forfeiture to be to the use of the town.

[SECT. 7.] And every justice of the peace, within his precincts, is hereby impowred to hear and determin concerning any of the offences aforesaid, and to restrain and commit the offender to prison, until he pay and satisfy the penalty or forfeiture, or otherwise, by warrant, cause the same to be levied by distress and sale of the offender's goods.

And further it is enacted,

[SECT. 8.] That, before any person shall receive licence to be an innholder, common victualler, taverner, or retailer, every such person shall become bound, by recogniscance, to their majesties, in the sum of ten pounds, the principal, and two sureties in five pounds apiece, before one or more of the justices of the quarter sessions, on condition following; that is to say,—

Innholders, &c., to be provided for the entertainment of travellers, &c., & their horses.

Not to give entertainment to servants, &c.

Nor to suffer inhabitants to sit drinking or tipling.

No person licensed may suffer drunkenness or entertain guests on the Lord's Day.

Fines, &c., how to be disposed.

One justice to hear and determine the offences aforesaid.

All persons taking license to become bound.

The condition of this recognisance is such, that, whereas the above-bounded A. B. is admitted and allowed by the justices in quarter sessions to keep a common inn, ale-house, or victualling-house, and to use common selling of wine, beer, ale, cyder, &c., or to retail wine and strong liquors, out of dores, for the space of one whole year next ensuing, and no longer, in the row dwelling-house of the said A. B., in Form of the recognisance commonly known by the sign of and no other. If, therefore, the said A. B., during the time aforesaid, shall not permit, suffer, or have any playing at dice, cards, tables, quoits, loggets, bowles, shuffle-board, nine-pins, billiards, or any other unlawful game or games in his or her house, yard, garden, backside, or any of the dependences thereof, nor shall suffer to be or remain, in his or her house, any person or persons, not being of his or her ordinary household or family, on the Lord's day, or any part thereof, contrary to law; nor shall sell any wine, liquors, or other strong drink, to any apprentices, servants, Indians or negros; nor shall suffer any person or persons to be there tipling, drinking, or continue there after nine of the clock in the night time, or otherwise, contrary to law; and in his or her said house shall and do use, maintain and uphold good order and rule, and do endeavour the due observance of the laws made for regulation of such houses; then this present recognisance to be void; or, else, to stand and abide in full force and virtue.

For which recognisance, the party to whom such licence is granted shall pay two shillings, to be divided betwixt the justice and the clerk. Fee.

[SECT. 9.] And for the better inspection of licensed houses, and the discovery of such persons as shall presume to sell without licence, the selectmen in each town, respectively, shall take due care that tythingmen be annually chosen at the general meeting for choice of town officers, as is by law provided, who shall have power, and whose duty it shall be carefully to inspect all licensed houses, and to inform of all disorders or misdemeanours which they shall discover or know to be committed in them or any of them, to a justice of the peace, or the sessions of the peace, within the same county; as, also, such as shall sell by retail, without licence, and other disorders or misdemeanours committed in any such house; and, in like manner, to present or inform of all idle and disorderly persons, prophane cursers or swearers, Sabbath-breakers and the like offenders; to the intent such offences and misdemeanours may be duly punished and discouraged. Every of which tythingmen shall be sworn before a justice of the peace, or at the sessions of the peace, to the faithful discharge of his office, in manner following; that is to say,—

Tythingmen, their power & duty.

You, A. B., being chosen a tythingman within the town of C., for one year next ensuing, and until another be chosen and sworn in your stead, do swear that you will faithfully endeavour and intend the duty of your office, according to law. So help you God. Oath.

[SECT. 10.] Which tythingmen shall have a black staff, of two foot long, tip't at one end with brass about three inches, as a badge of their office. Staff.

[SECT. 11.] And if any person, being duly chosen to the said office, shall refuse to take his oath, or serve therein, he shall forfeit and pay the sum of forty shillings, to the use of the poor of the town whereto he belongs, upon conviction of such refusal before the justice of the peace, or sessions of the peace, where he is summoned to be sworn; certificate being produced under the hand of the town clerk that such person was legally chosen to that office. And the said forfeiture to be levied by distress and sale of such person's goods, by warrant from a justice of [the] peace, or sessions of the peace, respectively, and delivered to the town treasurer, or overseers of the poor, for the use aforesaid. Penalty for not serving.

[SECT. 12.] And all tythingmen that shall inform and prosecute for the breach of any penal act shall have the benefit of such part of the forfeiture as does by law accrue to the informer. And all persons prosecuted for breach of the act relating to excise and retailers without licence, the penalty whereof for one offence exceeds not forty shillings, Tythingmen allowed the benefit of informers.

Provided, also, that where it happens any person or persons, being principals, that were under bond, obligation or recognizance for appearance at the said court to have been holden at Salem, are, since that, removed and gone beyond sea or out of this province, and shall not be returned before the sitting of the next court to be held at Ipswich, it shall be in the power of the court sitting at Ipswich, upon motion made on that behalf, and they are accordingly to allow a continuance of any such bond, obligation or recognizance to such further time as shall be thought necessary; that no person concerned may be surprized or have advantage unreasonably taken against them.

And be it further enacted by the authority aforesaid,

Power for
adjourning of
courts.

[SECT. 2.] That when and so often as it shall happen the superiour court of judicature, court of assize and general goal delivery, or the inferiour court of pleas in any of the respective counties within this province cannot be held and kept on the day by law prefixed for holding of the same, by reason of death or sickness befalling any of the justices of such court, or any providential, necessary and unavoidable let or hindrance of their attendance, it shall and may be lawful to and for any two of the justices of such court, respectively, by writt under their hands and seals, directed unto the sheriff of the county, therein inserting the occasion thereof, to adjourn the said court unto a further day, as in the said writ shall be expressed, at as little distance of time as possibly may be from the day whereon by law the court should have sat, that so justice be not deferred or delayed; and the sheriff, upon receipt of said writ, shall cause publication to be made of the same at the usual place of the said court's sitting, and some other of the most publick places within the same county, and also to cause a signification of such adjournment, and the time unto which it is made, to be posted up at or near the house or place where the said court uses to sit, and other publick places as aforesaid, to the intent that unnecessary travail, charge and attendance of all persons concerned may be prevented, and the sheriff is to return such writ with his doings thereon into the clerk's office of such court; and all pleas, writs, actions, suits, plaints, process, precepts, recognisances and other thing and things, whatsoever, returnable or having day or days in said court, shall stand, abide and continue unto the said adjournment, and be held, deemed and adjudged to be as good, effectual and available in law, to all intents, constructions and purposes, as if such court had been held and kept on the day by law for holding of the same and no adjournment thereof had been made. [Passed March 6, 1694-5; published March 16, 1694-5.]

CHAPTER 22.

AN ACT FOR THE MORE EFFECTUAL SUPPRESSING OF DRUNKENNESS, AND PUTTING IN EXECUTION THE LAWS AGAINST SUCH AS SHALL PRESUME TO SELL STRONG DRINK WITHOUT LICENCE.

1692-3, chaps. 20,
and 22.

WHEREAS, divers persons that obtain licence for the retailing of wine and strong liquors out of doors only, and not to be spent or drank in their houses, do, notwithstanding, take upon them to give entertainment to persons to sit drinking and tipling there, and others who have no licence at all are yet so hardy as to run upon the law, in adventuring to sell without, tending to the great increase of drunkenness and other debaucheries, such houses not falling under the inspection of officers as those that are licensed,—

Be it therefore enacted by the Licutenant Governour, Council and Representatives in General Court assembled, and by the authority of the same,

[SECT. 1.] That from and after the publication hereof, every person and persons now licensed or that shall hereafter obtain licence to retail wine and strong liquors to be spent out of doors and not otherwise, who shall be convicted of entertaining or suffering any person or persons to sit drinking or tipling in their houses, cellars, backsides, or within any of the dependencies of such houses, or of selling any other sort of drink than what they have licence for, shall incur and suffer the like penalties and forfeitures as may by law be inflicted upon persons selling without licence, to be recovered and employed in manner as by said law is directed.

Retailers to sell no other sorts of drink than what they are licensed to, nor to suffer persons to drink in their houses, &c.

[SECT. 2.] And all officers, as well grand jurors, constables, tything men, as the officers employed in and about the collecting of the excise, are hereby authorized and required diligently to see that this act be duly observed, and to present and inform of all breaches of the same, either at the court of general sessions of the peace, or to some justice of the peace, who are hereby respectively impowred to hear and determine the said offence according to law, as also alike to present or inform of any that shall presume to sell any sort of strong drink without licence; and it shall and may be lawful to and for any of the aforesaid officers, respectively, *ex officio*, to enter into and inspect the house of any person having once been convicted of selling without licence, as they may by law into licensed houses; and if any of the before mentioned officers shall be convicted of taking or receiving any bribe, fee or reward, directly or indirectly, to connive at, conceal, or not to present or inform against any person or persons being licensed to retail for spending out of doors only, that shall suffer persons to drink or tipple in their houses or any [of] the dependencies thereof, or for any others who shall presume to sell without licence, every officer so offending shall forfeit and pay three times the value of all and every such sum and sums by him received as a bribe, fee or reward, one moiety thereof unto their majesties, for and towards the support of the government, and the other moiety to him or them that shall inform and sue for the same in any of their majesties' courts of record; and if such officer be one that be employed about the excise, over and above the forfeiture aforesaid, he shall, *ipso facto*, be discharged of and from his said office, and be rendered incapable to be employed in any publick service as an officer, by the space of three years next following.

Officers to inspect public houses and to present such as sell without.

Penalty for receiving any bribe, &c.

And be it further enacted by the authority aforesaid,

[SECT. 3.] That if any person licensed as a taverner, innholder or retailer of wine and strong liquors out of doors, shall transgress this act or any other law of the province made for the regulation of such houses, in any of the particulars therein mentioned, and shall be more than twice convicted of such breach of law within the compass of one year, every person so offending, over and above the penalty in the law for such transgression, shall forfeit his or her licence, not to be renewed again by the space of three years next following.

License to be forfeited upon a third conviction.

[SECT. 4.] And if any person or persons duely convicted of the breach of law in any of the particulars herein before mentioned, or for selling without licence, shall be unable or neglect to pay and satisfy the fine imposed by law for such transgression, it shall and may be lawful to and for the court or justice before whom the conviction is, to order such person or persons either to stand committed to the goal of the county by the space of twenty dayes without baile or mainprize, or to be set in the cage or stocks, to remain there not exceeding the space of three hours.

Persons unable or neglecting to pay their fine how to be punished.

And it is further enacted by the authority aforesaid,

Selectmen to
cause reputed
drunkards, &c.,
to be posted up.
Penalty on the
keepers of pub-
lic houses giv-
ing them enter-
tainment.
1692-3, chap. 18,
§ 2.

[SECT. 5.] That the selectmen in each town shall cause to be posted up in all publick houses within such town a list of the names of all persons reputed drunkards or common tiplers, mispending their time and estate in such houses; and every keeper of such house, after notice given him as aforesaid, that shall be convicted, before one or more justices of the peace, of entertaining or suffering any of the persons named in such list to drink or tipple in his or her house or any [of] the dependencies thereof, shall forfeit and pay the sum of twenty shillings, one moiety thereof to him or them who shall inform of the same, and the other moiety to and for the use of the poor of the town where such offence shall be committed. [*Passed March 2, 1694-5; published March 16, 1694-5.*]

CHAPTER 23.

AN ACT FOR PREVENTING OF MEN'S SONS OR SERVANTS ABSENTING THEMSELVES FROM THEIR PARENT'S OR MASTER'S SERVICE WITHOUT LEAVE.

WHEREAS complaint has been made by sundry inhabitants of this province, that they have sustained great damage by their sons and servants deserting their service without consent of their parents or masters, being encouraged to enter themselves on board of private men of war, or merchants' ships, and there entertained; for redress whereof,—

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the authority of the same,

Penalty on
commanders or
masters of
ships, &c., for
entertaining
men's sons or
servants with-
out leave.

[SECT. 1.] That no commander of any private man of war, or master of any merchant ship or vessel, coming into, tarrying or abiding in, or going forth of any port, harbour or place within this province, shall receive, harbour, entertain, conceal or secure on board such ship or other vessel, or suffer to be there harboured or [enter] [*de*]tained any man's son, being under age, or apprentice, or covenant servant (knowing him to be such, or after notice thereof given), without licence and consent of his parent or master, in writing, under his hand, first had and obtained, on pain of forfeiting the sum of five pounds per week; and so proportionably for a longer or shorter time that any son, apprentice or servant shall be held, harboured, concealed or detained on board any such ship or other vessel as aforesaid, without licence and consent as aforesaid; the one moiety thereof unto their majesties, to be employed towards the support of the government of the province, and the other moiety unto the parent or master of such son, apprentice or servant, that shall inform and sue for the same in any of their majesties' courts of record within this province, by bill, plaint, or information, wherein no essoign, protection or wager of law shall be allowed.

And be it further enacted by the authority aforesaid,

Penalty on ser-
vants deserting
their master's
service.

[SECT. 2.] That every apprentice or covenant servant who shall unlawfully absent himself from his master, and enter himself on board any ship or vessel as aforesaid, with intent to leave his master's service, or continue there more than the space of twenty-four hours, and be thereof convicted before their majesties' justices in general sessions of the peace within the same county, shall forfeit unto his master such further service, from and after the expiration of the term which his said master had in him at the time of his departure, as the said court shall order, not exceeding one year. [*Passed March 14, 1694-5; published March 16, 1694-5.*]

thereof be defreyed, such person so offending shall forfeit and pay unto the finder of such stray the full value of the same; all the penalties and forfeitures in this act mentioned to be recovered by action, bill, plaint or information before a justice of the peace, where the value exceeds not his cognizeance, or in any other of his majesty's courts within this province: *provided* that no person, from the first day of March to the first day of December yearly, shall take up any horse, gelding, mare or other beast for a stray, or account or use them as strays, though the owner thereof be not known, unless such beast be taken damage-feasant in inclosures. [*Passed June 15; published June 27.*]

Penalties, &c., how to be recovered.

No strays to be made from the first of March to the first of December.

CHAPTER 10.

AN ACT FOR THE INSPECTING AND SUPPRESSING OF DISORDERS IN LICENSED HOUSES, &c.

Be it enacted and declared by the Lieutenant-Governour, Council and Representatives convened in General Assembly, and by the authority of the same,

[SECT. 1.] That all inholders, taverners and common victuallers shall at all times be furnished with suitable provisions and lodging for the refreshment and entertainment of strangers and travellers, pasturing, stable room, hay and provender for horses, on pain of being deprived of their licence.

Inholders, &c., to be provided for entertainment of men and horses.

[SECT. 2.] And that no person who is or shall be licenced to be an innholder, taverner, common victualler or retailer, shall suffer any apprentice, servant or negro to sit drinking in his or her house, or to have any manner of drink there, without special order or allowance of their respective masters, on pain of forfeiting the sum of ten shillings for every such offence. Neither shall any licensed person suffer any inhabitant of such town where he dwells, or coming thither from any other town, to sit drinking or tipling in his or her house, or any of the dependencies thereof, or to continue there above the space of one hour, (other than travellers, persons upon business, or extraordinary occasions), on the like penalty of ten shillings for every offence.

Penalty for entertaining of servants or negroes.

None to continue in public houses above one hour, unless, &c.

[SECT. 3.] And every person, who, contrary to this act, shall continue in any such house tipling or drinking, or otherwise misordering him or herself, or above the space of one hour, (other than as aforesaid), shall forfeit and pay the sum of three shillings and fourpence, or be set in the stocks not exceeding four hours' time.

[SECT. 4.] And no person or persons licensed as aforesaid shall suffer any person to drink to drunkenness or excess in his or her house, nor shall suffer any person as his or her guest to be and remain in such house or any the dependencies thereof, on the Lord's day, (other than strangers, travellers, or such as come thither for necessary refreshment), on pain of forfeiting the sum of five shillings for every offence in that kind.

None to be suffered to be drunk there, or to be there on the Lord's day, unless, &c.

And be it further enacted by the authority aforesaid,

[SECT. 5.] That all fines and forfeitures arising for any of the offences before mentioned, shall be one moiety thereof to the use of the poor of the town where the offence is committed, and the other moiety to him or them that shall informe and prosecute for the same, (except where such offences are presented by a grand jury, in which case, the whole forfeiture to be to the use of the town). And every justice of the peace within his precincts is hereby impowred to hear and determin concerning any of the offences aforesaid, and to restrain

Penalties, &c., how to be employed.

Justice of the peace, his power.

and commit the offender to prison, until he pay and satisfy the penalty or forfeiture, or otherwise by warrant cause the same to be levied by distress and sale of the offender's goods.

And be it further enacted by the authority aforesaid,

No innholder, &c., to receive licence before entering into recognizance.

[SECT. 6.] That before any person shall receive licence to be an innholder, common victualler, taverner or retailer, every such person shall become bound by recognizance to his majesty in the sum of ten pounds the principal, and two sureties in five pounds apiece, before one or more of the justices of the general sessions of the peace, on condition following; that is to say,—

Recognizance for innholders, &c.

The condition of this recognizance is such, that whereas the above-bounden A. B. is admitted and allowed by the justices of the court of general sessions of the peace to keep a common inn, ale-house or victualling house, and to use common selling of wine, beer, ale, cyder, and other strong liquors by retail, for the space of one whole year next ensuing, and no longer, in the now dwelling-house of the said A. B. in C., commonly known by the signe of _____, and no other. If, therefore, the said A. B. during the time aforesaid shall not permit, suffer or have any playing at dice, cards, tables, quoits, loggets, bowles, shuffle-board, nine-pins, billyards, or any other unlawful game or games in his house, yard, garden, backside, or any of the dependencies thereof, nor shall suffer to be or remain in his house any person or persons (not being of his ordinary household or family), on the Lord's Day or any part thereof, contrary to law, nor shall sell any wine, liquors, or other strong drink to any apprentices, servants, Indians or negroes, nor shall suffer any person or persons to be there tipling, drinking, or continuing there after nine of the clock in the night time, or otherwise contrary to law, and in his said house shall and do use, maintain and uphold good order and rule, and do endeavour the due observance of the laws, made for regulation of such houses, then this present recognizance to be void, but on default thereof, to abide and remain in full force and virtue.

And before any person shall receive licence to retail any wine or strong liquors to be spent out of doors, and not otherwise, such person shall become bound by recognizance as aforesaid, on condition following; that is to say,—

Recognizance for retailers out of doors.

The condition of this recognizance is such, that whereas the above-bounden A. B. is licensed and allowed by the justices of the court of general sessions of the peace to retail, for the space of one whole year next ensuing, and no longer, out of his now dwelling-house in C. _____ sort of strong liquors, to be spent out of doors, and not otherwise. If, therefore, the said A. B. shall not entertain or suffer any person or persons to sit drinking or tipling in his house, cellars, back-sides, or any of the dependencies of said house, nor shall sell any other sort of drink than what he is licensed for as abovesaid, and shall and do, in and by all things, observe the directions of the law relating to persons licensed for retailing out of doors only, then this present recognizance to be void, but on default thereof to abide and remain in full force and virtue.

For each of which aforesaid recognizances the party to whom such licence shall be granted shall pay two shillings, to be divided betwixt the justice and the clerk.

And for the better inspecting of licensed houses, and the discovery of such persons as shall presume to sell without licence,—

Be it enacted by the authority aforesaid,

Tythingmen to be annually chosen;—their power and duty.

[SECT. 7.] That the selectmen in each town respectively shall take due care that tythingmen be annually chosen at the general meeting for choice of town officers, as is by law provided, and upon any vacancy to fill up the number at any other town meeting; which tythingmen shall have power, and whose duty it shall be, carefully to inspect all licensed houses, and to informe of all disorders or misdemeanours which they shall discover or know to be committed in them or any of them, to a justice of the peace, or sessions of the peace, within the same county, as also of all such as shall sell by retail, without licence, and

ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTY-FIRST DAY OF MAY, A.D. 1721, AND
REHEARD BY ADJOURNMENT, AT CAMBRIDGE,* ON THE
SIXTH DAY OF JUNE FOLLOWING.

CHAPTER 1.

AN ACT FOR GRANTING UNTO HIS MAJESTY AN EXCISE UPON WINES,
LIQUOR AND OTHER STRONG DRINK, SOLD BY RETAIL.

WE, his majesty's most loyal and dutiful^[1] subjects, the representa- Preamble.
tives of the province of the Massachusetts Bay, in general court assem-
bled, being desirous to lessen the present debt of the province, by
having in a number of the bills of credit, in pursuance of the several
resolutions of this court in the years 1718 and 1719, have cheerfully and
unanimously granted, and do hereby give and grant unto his most
excellent majesty for the ends and uses abo^[vo]ve mentioned, and for
other uses, an excise upon all brandy, rum and other spirits dis-
tilled, and upon all wine whatsoever, sold by retail in this province, to
be raised, levied, collected and paid, by and upon every taverner, inn-
holder, common victualler and retailer within each respective county, in
manner following:—

*And be it accordingly enacted by His Excellency the Governour, Council
and Representatives in General Court assembled, and by the authority
of the same,*

[SECT. 1.] That from and after the twenty-ninth day of June, one Time limited.
thousand seven hundred and twenty-one, for and during the space of five
years next coming, every person licen^[s][c]ed for retailing brandy, rum
or other spirits, or wine, shall pay the dut^[ie][y]s following; vizt,—
For every gallon of rum, brandy and spirits distilled, Fees stated.
eightpence, £0 0s. 8d.
For every gallon of wine of every sort, eightpence, 0 0 8

A pipe of wine to be accounted one hundred gallons.

And it is further enacted by the authority aforesaid,

[SECT. 2.] That there be one commissioner or more in each county, Commissioners
appointed.
appointed by the general court, or by the general sessions of the peace,
where it shall happen that such commissioner^[s] refuse to accept s^[ai]d
office, or be removed by death, &c., to take charge of this duty of ex-
cise, who shall have power to inspect the houses of all such as are
licen^[s][c]ed, and of such as are suspected to sell without licence;
which commissioner shall be upon oath to take care of the due execu-
tion of this law, and to prosecute the breakers of it, and shall have
power to appoint underofficers upon oath.

[SECT. 3.] And the said commissioners shall carefully examin^[e] the
accounts of every licen^[s][c]ed person in his respective county, and

* Because of the small-pox in Boston.

demand, sue for and receive the several sums due from them by act, and shall account with the province treasurer upon oath, and receive within six months from the date of [their] [his] commission, and so from time to time within that space of six months, as long as [they] [he] shall continue in such office, on pain and forfeiture of the reward given such commissioner by this act, who shall be allowed five per cent on all money by him collected and paid into the treasury, as aforesaid; each commissioner to give bond to the [satisfaction of the justices at their first general sessions of the peace in their respective count[ie][y]s, with sufficient security for the faithful[1] discharge of his duty; and that they will duly pay in the money they shall collect to the treasurer of this province, for the time being; and that the treasurer of this province, for the time being, shall put in suit the bonds of all such commissioners who shall neglect to make due payment six days after the expiration of each year; and that the justices in each county within this province, shall on such suit [and a judgement on the forfeiture] proceed to appoint a new commissioner.

Five per cent
for collecting.

And be it further enacted,

Account to be
taken.

[SECT. 4.] That every taverner, innholder, common victualler and retailer shall, after the twenty-ninth day of June, 1721, take an exact account of all rum, brandy and other distilled spirits, and wine, then by him, and give an account of the same to the commissioner upon oath (the like account to be given by such others as shall be licen[s][c]ed during the continuance of this act) of what brandy, rum, or other distilled spirits, and wine, they shall have at the time of their licence.

Within six
months account
to be delivered

[SECT. 5.] That every taverner, innholder, common victualler and retailer shall make a fair entry in a book, of all such rum, brandy, distilled spirits and wine as he, or any for him, shall buy, distill or take in for sale after such account taken, and at the end of every six months deliver the same unto the commissioner upon oath, and pay him the duty thereof, excepting such part as the commissioner shall find is still remaining by him; twenty per cent being to be allowed for leakage and other waste, for which no duty is to be paid.

Twenty per
cent leakage.

General ses-
sions to take
recognizance.

[SECT. 6.] That the justices in their general sessions of the peace, be, and hereby are, directed to take sufficient recognizances of all persons by them licen[s][c]ed within the space of ten days after the granting such licence; the persons neglecting to give bond within that time shall loose the benefit thereof; and that it be inserted as one condition in the recognizance, that he shall render the above account upon oath.

Lodging to be
provided for
strangers and
travellers.

[SECT. 7.] That every taverner, innholder or common victualler that shall be licen[s][c]ed to sell as abovesaid, shall be provided with good lodging for strangers, according to the direction of the law, upon forfeiture of five pounds for neglect, to be disposed of in manner following; vizt., two-thirds of the fine to be to the commissioner, his under-officers or the person that shall inform the commissioner; the other third to the poor of the town.

And notwithstanding the laws made against selling strong drink without licence, many people, not regarding the penalties and forfeitures in said acts, do receive and entertain persons in their houses, and sell great quantities of spirits and other strong drink, by reason whereof great debaucheries are committed and kept secret, and such as take advantage thereon, pay for their licences wronged and injured thereby,—

Be it therefore further enacted,

Forfeiture of
ten pounds to
sell without
license.

[SECT. 8.] That whosoever, after the twenty-ninth day of June, 1721, shall presume to sell brandy, rum or other distill'd spirits, wine, beer, cyder or perry, or any other strong drink, without license first had

and obtained from the general sessions of the peace, shall, for every offence forfeit the sum of ten pounds, one-third to the poor[e] of the town where the offence is committed, one-third to the commissioner, and the other third to any person that shall inform the commissioner, as by this act is before provided, and costs of prosecution; and all such as shall refuse or neglect to pay the fine and costs shall be whipt at the common whipping-post not exceeding twenty stripes, and not less than ten, and stand committed in the common goal of the county for the space of ten days, or pay the costs of prosecution that shall be awarded against [him] [them].

[SECT. 9.] That when and so often as it shall be observed that there is a resort to houses suspected to sell strong drink without licence, any justice of the peace shall have full power to convene such persons before him, and examin[e] them on oath of the person suspected of selling or retailing strong drink in such houses, and on just ground to bind over the person transgressing, and the witnesses, to the next general sessions of the peace for the county where such offence shall be committed.

Houses not licensed.

And be it further enacted by the authority aforesaid,

[SECT. 10.] That any person refus[e]ing to give evidence, as aforesaid, shall be liable to the same penalty that the persons convicted for selling of drink without licence are liable unto, and shall enter into recognizance to answer it at the next general sessions of the peace in the county where such contempt is offered.

Persons refusing to give evidence.

[SECT. 11.] That every taverner, innholder, common victualler or retailer, who shall refuse to renew his licence at the time by law appointed, and to give bond to pay the dut[ie][y]s of this act, shall be afterwards excluded during the continuance of this act.

Persons refusing to renew licence.

[SECT. 12.] That every taverner, innholder, common victualler or retailer, who shall be found to give a false account, knowingly, of any brandy, distilled spirits and wine by him at the time, or bought d[i][c]s-tilled or taken in for sale, after his licence is renewed, or new granted, or refuse to give in an account on oath, as aforesaid, shall be rendered incapable of having a licence afterwards, and shall be prosecuted by the commissioner for his neglect, and ordered by the general sessions of the peace to pay such sum of money as they may conclude that the excise of the liquors, &c., by him sold within such time would have amounted to, to be paid to the commissioner for the use of the province.

Innholder, &c., giving a false account.

[SECT. 13.] And all fines, forfeitures and penalties aris[e]ing by this act, shall be recovered by bill, plaint or information in any of his majesty's courts of record within the respective count[ie][y]s where the offence shall be committed, or by presentment of the grand jury, who are hereby strictly enjoyned to inform and present all breaches of this act.

Fines and forfeitures, how disposed of.

Provided always, and it is the true intent and meaning of this act,—

[SECT. 14.] That if any taverner, retailer or common victualler shall buy of another taverner or retailer such small quantities of liquors as the law obliges him to account to the commissioner for, and pay the excise, the taverner, retailer or common victualler shall notwithstanding, be accountable and pay the excise, as if none had been paid by the person he bought the same of. [Passed June 16; published June 29.]

Taverner, &c., to account for small quantities.

You, A. B., do swear that the account by you now rendered is, to the best of your knowledge, a just and true account of all the wines, rum and distilled spirits, limes, lemmons and oranges you had by you, or in your possession, on the twenty-sixth day of March, one thousand seven hundred and fifty-seven; and also of all the wine, rum and other distilled spirits bought, distilled, taken in or received by you, or by any person or persons for or under you, or by or with your knowledge, allowance, consent or connivance, and that there still remains thereof in your possession unsold, so much as is in this account said to remain by you unsold; and that you do not know or believe that there hath been by you, or by any other person or persons for or under you, or by your or their order, allowance, consent or connivance, either directly or indirectly, sold, used or consumed any wine, or any liquor for, or as, wine; any rum or distilled spirits, or liquor for, or as, rum or distilled spirits; or that there hath been any limes, lemmons or oranges by you, or by any person or persons for or under you, or by your order, consent, allowance or connivance, used or consumed in making punch, or otherwise, since the said twenty-sixth day of March, besides what is contained in the account by you now rendered. So help you God.

Form of the
oath.

[SECT. 3.] And for every person that was not licenced on the said twenty-sixth day of March, the form of the oath shall be so varied, as that instead of expressing the day aforesaid, the time of taking and rendering their last account shall be inserted and used; and for every person rendering an account after the first, the oath shall be so varied, as that instead of expressing the day aforesaid, the time of taking and rendering their last account shall be inserted and used.

[SECT. 4.] And every such taverner, innholder, and common victualler and retailer shall pay the duties aforesaid to him or them that shall farm the same, or the whole of the several articles mentioned in such account rendered, save only for such part thereof as remains in their hands unsold: *provided, nevertheless*, that for leakage, &c^a., ten per cent shall be allowed them on all liquors in such account mentioned, besides what remains in their hands unsold.

Duties to be
paid to the
farmer.

Ten per cent
allowed for
leakage.

And be it further enacted,

[SECT. 5.] That every person hereafter licenced to be a taverner, innholder, common victualler or retailer of wine, rum or spirits distilled shall, within thirty days after such licence granted, and before he or she sell by virtue of the same, not only become bound to keep good rule, &c^a., as by law is already required, but shall also become bound, with sufficient sureties, by way of recognizance, to his majesty, for the use of him or them that have or shall farm the duties aforesaid, in a sufficient sum, to be ordered by the court that grants the licence, which sum shall not be less than fifty pounds, conditioned that they shall keep and render the accounts aforesaid, and pay the duties aforesaid, as in and by this act is required.

Taverner, &c.,
to give bond.

And be it further enacted,

[SECT. 6.] That every such taverner, innholder, common victualler and retailer, who shall neglect or refuse to take, keep and render such accounts as by this act are required, or that shall neglect or refuse to take the oath aforesaid, if required, shall forfeit and pay, to him or them that shall farm the duties aforesaid, double the sum which the court of general sessions of the peace in that county shall adjudge that the duties of excise upon the liquors, limes, lemmons and oranges by such taverner, innholder, common victualler or retailer, or by any for or under him or them, sold, used or consumed would have amounted to; and no persons shall be licenced by the justices of the general sessions of the peace who hath not accounted with the farmer, and paid him the excise aforesaid, due from such person at the time of his or her taking or renewing such licence.

Forfeiture for
neglect in keep-
ing and render-
ing account.

And whereas, notwithstanding the laws made against selling strong

Preamble.

drink without licence, many persons, not regarding the penalties of said acts, do receive and entertain persons in their houses, and sell great quantities of spirits and other strong drink, without licence; by reason whereof great debaucheries are committed and kept secret, and such as take licences and pay the duties of excise therefor are greatly wronged, and the farmers unjustly deprived of their dues,—

Be it therefore enacted,

Forfeiture of £4
for selling with-
out licence.

[SECT. 7.] That if any distiller, importer or any other person whatsoever, after the said twenty-sixth day of March, shall presume, directly or indirectly, to sell any rum or other distilled spirits, or wine, in less quantity than twenty-five gallons, or any beer, ale, cyder, perry or other strong drink, in any quantity less than ten gallons, without licence first had and obtain[*e*]'d from the court of general sessions of the peace in that county, and recognizing in manner as aforesaid, shall forfeit and pay for each offence, the sum of four pounds, lawful money, and costs of prosecution, one half to the farmer of said duties and the other half to the informer; and all such as shall neglect or refuse to pay the fine aforesaid, shall stand closely committed in the common goal of the county, and not have the liberty of the goaler's house or yard, until[1] said sum of four pounds is paid, with costs; and any goaler giving liberty contrary to this act, shall forfeit and pay the said sum of four pounds, and costs of prosecution.

And whereas, in order to elude the design of this act, some persons may join together and buy wine, rum, brandy and other spirits distilled in quantities above twenty-five gallons, and afterwards divide the same among themselves in less quantities,—

Be it therefore enacted,

Persons not
licensed joining
together in pur-
chasing liquors,
and dividing the
same, liable to a
forfeiture.

[SECT. 8.] That where two or more persons, not licenced as aforesaid, shall join together, and purchase rum, brandy or other spirits distilled, or wine, or shall employ any other person not licenced as aforesaid to do it, and shall afterwards divide the same, or cause it to be divided among themselves, or otherwise, in less quantit[*y*][*ie*]s than twenty-five gallons, they shall be deemed and taken to be sellers of such rum, brandy and other distilled spirits and wine, and each and every of them shall be subject to the same pains, penalties and forfeitures as any person by this act is who shall sell rum or other spirits distilled, or wine, without licence first had and obtained.

And whereas some doubts have arisen whether the lending or delivering rum, brandy or other spirits distilled, or wine, to others for their use, upon agreement or in confidence of having the like liquors returned again, be a sale thereof; wherefore, for removing all such doubts,—

Be it enacted,

Liquors lent, or
delivered, on the
above considera-
tion, to be
deemed a sale.

[SECT. 9.] That all rum, brandy and other spirituous liquors and wine, lent or delivered to others for their use, upon such like consideration, is and shall be deemed and taken to be, an absolute sale thereof. And that every person not licenced as aforesaid, that shall order, allow, permit or connive at the selling rum, brandy or other distilled spirits, or wine, contrary to the true intent and meaning of this act, by his or their child or children, servant or servants, or any other person or persons in or belonging to his or her house or family, shall be deemed and taken to be the seller of such liquors, and be subject to the aforesaid pains and penalties provided against such offenders, and shall be recovered in like manner: *provided*, that if it shall be made appear that the liquors lent or delivered as aforesaid, shall have had the duty paid upon them, or were purchased of any person or persons having licence or permit, the person lending or delivering the same, aforesaid, shall not be subject to the aforesaid pains and penalties.

Preamble.

And whereas divers other persons than those licenced to sell rum and

other distilled spirits by retail, have heretofore suppl[y][e]d persons employed by them in the fishery, building vessels, and in other business, with rum and other liquors, without paying any excise thereon, and thereby have defrauded the government of the duty of excise, and have not been subject to the penalty provided by law against selling drink without licence, and the same practice will probably be continued, unless effectual care be taken to prevent the same,—

Be it therefore further enacted,

[SECT. 10.] That all persons not licenced, as aforesaid, who hereafter shall, by themselves, or by any other person or persons under them, or by their order, allowance or connivance, supply any person or persons employed by them in the fishery, building of vessels, or in any other business or employ, with rum or other distilled spirits, or wine, shall be deemed and taken to be sellers of such liquors, and be subject to the aforesaid pains and penalties provided against persons selling any of the liquors aforesaid without licence, which shall be recovered in the like manner, unless they make it appear that such wine, rum or other distilled spirits, was purchased of a taverner, innholder or retailer, or other person or persons that had licence or permit to sell the same.

Persons not licenced supplying those employed by them, in the fishery, &c., with spirituous liquors, to be deemed sellers.

And be it further enacted,

[SECT. 11.] That when any person shall be charged with selling strong drink without licence, one witness produced to the satisfaction of the court or justice before whom the trial is, shall be deemed sufficient for conviction. And when and so often as it shall be observed that there is a resort of persons to houses suspected of selling strong drink without licence, any justice of the peace in the same county, shall have full power to convene such persons before him, and examine them upon oath concerning the persons suspected of selling or retailing strong drink in such houses, out-houses or other dependencies thereof; and if upon examining such witnesses, and hearing the defence of such suspected persons, it shall appear to the justice there is sufficient proof of the violation of this act by selling strong drink without licence, judgment may thereupon be made up against such person, and he shall forfeit and pay in like manner as if process had been commenced by bill, plaint or information before the said justice; or otherwise such justice may bind over the person suspected, and the witnesses, to the next court of general sessions of the peace for the county where such person shall dwell.

One witness sufficient for conviction.

And be [it] further enacted,

[SECT. 12.] That when and so often as any person shall be charged with selling strong drink without licence to any negro, Indian or mollar[t]o slave, or to any child or other person under the age of discretion, and other circumstances concurring, it shall appear to be highly probable in the judgment of the court or justice before whom the trial shall be, that the person complained of is guilty, then, and in every such case, unless the defendant shall acquit him- or herself upon oath (to be administered to him or her by the court or justice that shall try the cause), such defendant shall forfeit and pay four pounds to the farmer of excise, and costs of prosecution; but if the defendant shall acquit him- or herself upon oath as aforesaid, the court or justice may and shall enter up judgment for the defendant to recover costs.

Penalty for selling strong drink to negroes, mulattoes, &c.

And be it further enacted,

[SECT. 13.] That if any person or persons shall be summoned to appear before a justice of the peace, or the grand jury, to give evidence relating to any person's selling strong drink without licence, or to appear before the court of general sessions of the peace, or other court proper to try the same, to give evidence on the tr[y][e]al of any person

Penalty on persons refusing to give evidence

informed against, presented or indicted for selling strong drink without licence, and shall neglect or refuse to appear, or to give evidence in that behalf, every person so offending shall forfeit the sum of twenty pounds and cost of prosecution; the one half of the penalty aforesaid to be to his majesty for the use of the farmer, and the other half to and for the use of him or them who shall sue for the same as aforesaid. And when it shall so happen that witnesses are bound to sea before the sitting of the court where any person or persons informed against, for selling strong drink without licence, is or are to be prosecuted for the same, in every such case, the deposition of any witness or witnesses, in writing, taken before any two of his majesty's justices of the peace, *quorum unus*, and sealed up and delivered into court, the adverse party having first had a notification, in writing, sent to him or her of the time and place of caption, shall be esteemed as sufficient evidence, in the law, to convict any person or persons offending against this act, as if such witness or witnesses had been present at the time of trial, and given his, her or their deposition *viva voce*; and every person or persons who shall be summoned to give evidence before two justices of the peace, in manner as aforesaid, and shall neglect or refuse to appear, or to give evidence relating to the facts he or she shall be enquired of, shall be liable and subject to the same penalty as he or she would have been by virtue of this act, for not appearing, or neglecting or refusing to give his or her evidence before the grand jury or court as aforesaid.

And be it further enacted,

How fines are to
be recovered.

[SECT. 14.] That all fines, forfeitures and penalties arising by this act shall and may be recovered by bill, plaint or information, before any court of record proper to try the same; and where the sum forfeited doth not exceed four pounds, by bill, plaint or information before any one of his majesty's justices of the peace in the respective counties where such offence shall be committed: which said justice is hereby empowered to try and determine the same. And said justice shall make a fair entry or record of all such proceedings: *saving always* to any person or persons who shall think him-, her- or themselves aggrieved by the determination of the said justice, liberty of appeal therefrom to the next court of general sessions of the peace to be holden within and for said county, at which court such offence shall be finally determined: *provided*, that in the same appeal the same rules be observed as are already required, by law in appeals from justices, to the court of general sessions of the peace: *saving only*, that the recognizance for prosecuting the appeal[s] shall be eight pounds.

Be it further enacted,

Farmer to settle
accounts.

[SECT. 15.] That every farmer shall settle all accounts relating to said excise in the several towns of the county where he is farmer, first giving seasonable and public notice of the time and place or places where said business shall be transacted.

Be it further enacted,

Persons em-
powered to farm
out the excise.

[SECT. 16.] That one or more person or persons, to be nominated and appointed by the general court, for and within the several counties in this province, public notice being first given of the time and place and occasion of their meeting, shall have full power, and are hereby authorized, from time to time, to contract or agree with any person for or concerning the farming the duties in this act mentioned, upon rum and other the liquors and commodities aforesaid, in the respective counties for which they shall be appointed, as may be for the greatest profit and advantage of the public, so as the same exceed not the term of one year after the commencement of this act; and every farmer, or his deputy or deputies, of the duties of excise in any county, shall have power to inspect the houses of all such as are licenced, and of such

as are suspected of selling without licence, to demand, sue for, and receive the excise due from licenced persons or others by virtue of this act.

And be it further enacted,

[SECT. 17.] That the farmer shall give bond with two sufficient sureties, to the province treasurer for the time being, and his successor in said office, in double the sum of money that shall be contracted for, with condition that the sum agreed on be paid into the province treasury, for the use of the province, at the expiration of one year from the commencement of this act; which bond the person or persons to be appointed a committee of such county are to take, and the same to lodge with the treasurer as aforesaid, within twenty days after such bond is executed; and the said treasurer, on failure or neglect of payment at the time therein limited, may and is hereby impowered to issue out his execution, returnable in sixty days, against such farmer of excise and his sureties, or either of them, for the full sum expressed in the condition of their bonds, as they shall respectively become due, in the same manner as he is enabled by law to issue out his execution against defective constables, or to put such bond in suit; and the said committee shall render an account of their proceedings touching the farming this duty on rum, wine and other the liquors and species aforementioned, in their respective counties, to the general court in the first week of the next sitting of this court, and shall receive such sum or sums for their trouble and expence in said affair as said court shall think fit to allow them.

Farmer to give bond that the sum agreed for be paid into the public treasury.

[SECT. 18.] And every person farming the excise in any county may substitute and appoint one or more deputy or deputies under him, upon oath, to collect and receive the excise aforesaid, which shall become due in said county, and pay in the same to such farmer; which deputy and deputies shall have, use and exercise all such powers and authorities as in and by this act are given or committed to the farmer for the better collecting the duties aforesaid, or prosecuting offenders against this act.

Farmers may appoint deputies.

And be it further enacted,

[SECT. 19.] That in case any person farming the excise as aforesaid, or his deputy, shall, at any time during their continuance in said office, wittingly and willingly connive at, or allow, any person or persons within their respective divisions, not licenced by the court of general sessions of the peace, their selling any wines, rum or other liquors by this act forbidden, such farmer or deputy, for every such offence, shall forfeit the sum of fifty pounds and costs of prosecution; one half of the penalty aforesaid to be to his majesty for the use of this province, the other half to him or them that shall inform and sue for the same, and shall be thenceforward forever disabled for serving in said office: *saving* that said farmer may give a permit to any person to sell rum or other spirits distilled, or wine, in quantity from twenty-five gallons and upward[s], agreeable to this act.

Penalty for farmers' or deputies' offending.

And be it further enacted,

[SECT. 20.] That in case of the death of the farmer of excise in any county, the executors or administrators of such farmer shall, upon their accepting of such trust of executor or administrator, have and enjoy all the powers, and be subject to all the duties, the farmer had or might enjoy and was subject to by force of this act.

Provision in case of death, &c.

Provided, always, and it is the true intent and meaning of this act,—

[SECT. 21.] That if any taverner or retailer shall sell to any other taverner or retailer any quantity whatsoever of distilled liquors and wine, such taverner or retailer, selling as aforesaid, shall not be held to pay such duty, but the taverner or retailer who is the purchaser

Proviso.

shall pay the same; and the seller as aforesaid, shall and is hereby required to deliver to the farmer of this duty, a true account of such liquors sold as aforesaid, and to whom sold.

And to the end that the revenue arising from the excise upon spirituous liquors may be increased and raised with more equality,—

Be it enacted,

Duties to be paid by private persons for what liquors they expend.

[SECT. 22.] That from and after the twenty-sixth day of March, one thousand seven hundred and fifty-seven, to the twenty-sixth day of March, one thousand seven hundred and fifty-eight, upon all rum and other distilled spirits, and all wine, imported or manufactured, and sold for consumption within this province, there be laid, and hereby is laid, the duty of excise following; viz^o.,—

For every gallon of rum and spirits distilled, fourpence.

For every gallon of wine of every sort, sixpence.

To be paid to the farmer of excise, or his deputy, by every person having permit to sell the said liquors in each county, respectively.

And be it further enacted,

Liquors not to be sold by the importer, &c., without a permit.

[SECT. 23.] That every person that shall import any of the liquors aforesaid, or to whom any of them shall or may be consigned, shall be and hereby is prohibited from selling the same, or any part thereof, without having a permit so to do from the farmer of excise, or his deputy; which permit shall be had and procured before the landing of such liquors. And every person distilling or manufacturing any of the said liquors, and every person owning or possessing any of them, excepting such as are or may be licenced by the court of general sessions of the peace, as aforesaid, shall be and hereby are prohibited from selling the same, or any part thereof, without having a permit so to do from the farmer of excise, or his deputy, on forfeit^{ure} of two hundred pounds, and of the value of the liquors so sold; and the said permit shall express the particular shop, house, warehouse, or distil^l-house where the said liquors shall be permitted to be sold, and if any person who shall have such permit shall sell and deliver, or cause to be sold and delivered, any of the liquors aforesaid from any place or places not mentioned in such permit, he shall forfeit^{ure} four pounds, to be paid to the farmer.

Provided, nevertheless,—

Proviso.

[SECT. 24.] That the impost officer, and his deputy, shall be and hereby are respectively impowered to grant a permit for selling the liquors aforesaid, or any of them, to any person applying for the same, until^l the duty or excise aforesaid, in each county, respectively, shall be let or farmed, and until^l the farmer shall give public^l notice that said duty or excise is let or farmed to him as aforesaid. And said impost officer, and deputy, shall transmit to the farmer of each county an account of the permits by each of them respectively granted to persons living in such county.

And be it further enacted,

Farmer applying to a justice for a warrant may search for liquors supposed to be concealed.

[SECT. 25.] That if said farmer or his deputy, shall have information of any place where any of the liquors aforesaid shall have been sold by any person not having permit, as aforesaid, he may apply to any justice of the peace within the county, for a warrant to search such place, and said justice shall grant such warrant, directed to some proper officer, upon said farmer or deputies making oath that he hath had information as aforesaid, and that he hath just cause to suspect that the liquors aforesaid, or some of them, have been sold at such place informed of as aforesaid, and having such warrant, and being attended by such officer, the said farmer, or his deputy, may, in the day-time, between sun-rising and sun-setting, demand admittance of the person owning or occupying such place, and upon refusal, shall have right to break open

said place, and finding such liquors, may seize and take the same into his own custody; and the farmer aforesaid, or his deputy, shall be and hereby is empowered to command assistance and impress carriages necessary to secure the liquors seized as aforesaid; and any person refusing assistance or preventing said officers from executing their office, shall forfeit five pounds to the farmer; and the said farmer, or his deputy, shall make reasonable satisfaction for the assistance afforded, and carriages made use of, to secure the liquors seized as aforesaid; and the farmer, or his deputy, shall then file an information of such seizure in the inferior court of common pleas for the county wherein such seizure shall be made: which court shall summon the owner of such liquors, or the occupier of the shop, house, warehouse or distil[1]-house where the same were seized, to appear and shew cause, if any he has, why said liquors so seized should not be adjudged forfeited; and if such owner or occupier shall not shew cause as aforesaid, or make default, the said liquors shall be adjudged forfeited, and the said court shall order them to be sold at public vendue, and the net produce of such sale shall be paid, one half to the province treasurer, for the use of the province, and the other half to the farmer.

Provided,—

[SECT. 26.] That if the liquors seized as aforesaid be less in quantity than one hundred gallons, the farmer, or his deputy, shall file an information thereof with one of the justices of the peace within the county where the seizure shall be made, who shall summon the owner or occupier aforesaid in manner as aforesaid, and if such owner or occupier shall not shew cause, or shall make default as aforesaid, he shall adjudge such liquors forfeited, and shall order them to be sold as aforesaid, and the net produce of said sale to be disposed of as aforesaid: *saving* to the person convicted the liberty of an appeal, he entering into recognizance to the king, for the use of the farmer, in the sum of fifty pounds.

Provided, also,—

[SECT. 27.] That if such farmer or deputy shall not find any of the liquors aforesaid in the place informed of, and broken open, as aforesaid, he shall pay double damages.

Be it further enacted,

[SECT. 28.] That every person having permit as aforesaid, shall, at the end of each half year, respectively, from the twenty-sixth day of March, one thousand seven hundred and fifty-seven, be ready to render to the farmer aforesaid, or his deputy, an account, on oath, if required, of all the liquors aforesaid by him or her, and by any person or persons on his or her behalf, sold; and also of all the aforesaid liquors by him or her imported, distilled or manufactured, or which have come into his or her possession since the twenty-sixth of March aforesaid, except the same were bought of a licenced person in a quantity less than twenty-five gallons, which in his or her family have been consumed or expended within each half year, respectively: which account shall express the number of gallons of each kind of the liquors so sold and consumed, and shall pay therefor to the said farmer or his deputy the duty aforesaid, excepting for so much as shall have been sold to taverners, innholders or retailers having licence from the sessions as aforesaid, or to any other persons having permit as aforesaid; and so much as shall have been exported out of this province; and if any of said liquors shall have been sold to persons licenced by the sessions, or to persons having permit, said account shall exhibit the names of such licenced persons who purchased, and persons having permit, and the time when they purchased the same; and the person accounting shall exhibit a certifi-

Proviso.

Persons having permit as aforesaid, to render an account to the farmer, at the end of every half year, saving, &c.

cate under the hand of the licenced or permitted person purchasing, which shall express the number of gallons, and the kind of the liquors purchased, and the time when the same were purchased, and the name of the town and county wherein such licenced or permitted person lives, and shall lodge the said certificate with the said farmer or his deputy; and for the quantity of said liquors mentioned in such certificate, the said farmer or his deputy shall not demand any duty, but shall deliver said certificate to the farmer of the county wherein such licenced or permitted person, signing the same, lives: which last-mentioned farmer or his deputy shall settle with such licenced or permitted person for the duty aforesaid w^hich may be due from him or her.

Persons having permit as aforesaid, to give an account of liquors by them sent out of the province.

[SECT. 29.] And if any person, having permit as aforesaid, shall ship or export any of the liquors aforesaid out of this province in a quantity not less than sixty gallons, and shall make a fair entry thereof with the farmer aforesaid, or his deputy, and shall produce to such farmer or deputy, when he comes to settle his account of excise, one of the receipts or bills of lading given therefor by the master of the vessel on board which such liquors shall be shipped, or if it shall be carried out of the province by land or in small boats, then of the person who is master of the land-carriage or boat, expressing the quantity thereof and the time of their being shipped, and shall lodge such receipt or bill of lading with the farmer or his deputy aforesaid, and at the same time shall swear that such liquors are *bonâ fide* sent, or intended to be sent, out of this province, he or she shall not be held to pay thereon the duty aforesaid.

Persons not having permit, to render an account, &c.

[SECT. 30.] And if any person not having permit shall purchase for exportation out of this province any of said liquors in a quantity not less than sixty gallons of a person having permit, the purchaser shall make entry thereof with the farmer or his deputy, and at the same time swear that such liquors are *bonâ fide* sent, or intended to be sent, out of this province, and shall within ten days after the purchase deliver one of the receipts or bills of lading given for such liquors, as aforesaid, to the person of whom he purchased the same, or be subject to pay the amount of the duty thereon to the person of whom he purchased as aforesaid, who shall pay such duty to the farmer or his deputy; but if the purchaser aforesaid shall deliver such receipt or bill of lading as aforesaid, and it be lodged with the farmer or his deputy, then, for the quantity of said liquors mentioned therein, the farmer or his deputy shall not demand any duty.

Penalty for masters' or others' giving certificate without receiving the liquors.

[SECT. 31.] And if the master of any vessel, or any other person, shall give such certificate, receipt or bill of lading, without receiving the liquors mentioned therein; or if any person shall procure such certificate, receipt or bill of lading, with design to defraud the farmer, and shall be thereof convicted, they and each of them shall forfeit and pay the sum of one hundred pounds; one half for the use of this government, and the other half for the use of the farmer. And if any such certificate, receipt or bill of lading shall be forged, counterfeited or altered, the person forging, counterfeiting or altering shall incur the penalty of one hundred pounds.

Provided, nevertheless,—

Proviso.

[SECT. 32.] That the person having permit as aforesaid, shall not sell any of the liquors aforesaid in a quantity less than twenty-five gallons (to be sold and delivered to one person at one time), unless he or she hath licence from the court of general sessions of the peace, as aforesaid, on pain of incurring the several fines and penalties in the former part of this act laid upon those persons who sell the liquors aforesaid without licence.

Be it further enacted,

[SECT. 33.] That the farmer aforesaid, or his deputy, when the exporter shall make an entry with him as aforesaid, or shall make an entry with him and swear as aforesaid, shall give to said exporter a certificate of such entry, or a certificate of such entry and oath, on penalty of one hundred pounds for the use of the exporter. Farmer to give certificate, on penalty.

Provided, nevertheless,—

[SECT. 34.] That until[1] the duties aforesaid be let or farmed, the exporter aforesaid may make an entry as aforesaid with the impost officer or his deputy, or make such entry and swear as aforesaid; and of such entry, or of such entry and oath, the said impost officer or his deputy shall give the said exporter a certificate: and for the liquors mentioned in such certificate, when the same shall be exhibited, the farmer or his deputy shall not demand any duty. Proviso.

And be it further enacted, .

[SECT. 35.] That every person applying to the farmer or his deputy, or to the impost officer or his deputy, for a permit, shall give bond, if required, for the use of the farmer, with two sufficient sureties, in a sum not exceeding two hundred pounds, nor less than twenty, at the discretion of the two next justices of the peace, conditioned for the payment of the excise that shall become due according to the account to be exhibited by such person taking such permit; and no person shall have such permit of the impost officer until[1] he hath given such bond. Persons applying for a permit, to give bond.

And whereas the importer of any of the liquors aforesaid, or the person to whom they shall be consigned, may intend the same for his or her own private consumption, in which case such importer or consignee is not held by any preceding part of this act to pay the duty or excise aforesaid; wherefore, in order to lay said duty or excise in as equal manner as may be,— Preamble.

Be it enacted,

[SECT. 36.] That every person that shall bring or import into this province, either by land, or water, carriage, any of the liquors aforesaid for his own private consumption, shall, at the end of each half year, respectively, make out an account expressing the kind and the full quantity of the liquors aforesaid, imported or consigned as aforesaid; which account such importer or consignee shall render to the farmer or his deputy, on oath, if required, and shall pay to the said farmer or his deputy, on the liquor or liquors mentioned in said account, the duty or excise aforesaid, deducting ten per cent for leakage, or pay treble duty or excise on the quantity so imported or consigned, to and for the use of the farmer. Persons importing liquors for private consumption, &c., to render account thereof to the farmer.

[SECT. 37.] And if said farmer or his deputy shall have reason to suspect any person of bringing or importing into this province, either by land, or water, carriage, any of the liquors aforesaid, without having rendered account and paid the duty or excise as aforesaid, the said farmer may apply to any justice of the peace within the county where the person suspected lives, for a warrant or citation; and such justice is hereby empowered and required to cite or apprehend such suspected person to appear before him within twenty-four hours on a complaint made against him or her by the farmer or his deputy touching the duty or excise aforesaid; which warrant or citation shall be served on or delivered to the suspected person himself or herself; and when the parties shall be before him the said justice shall examine into the cause of complaint; and if it shall appear, either by the confession of the party, or by the evidence of one credible witness, that such suspected person has, by him- or herself, or by any one on his or her behalf, imported, or has had any of the liquors aforesaid consigned to him or her, without having rendered an account thereof, or paid the duty or Farmer may apply to a justice for a warrant or citation, where he may suspect persons of giving a false account, &c.

excise as aforesaid, such suspected person shall then render a full account, on oath, of the kinds and quality of the liquors imported or consigned as aforesaid, and shall pay on such liquors treble duty or excise as aforesaid, and costs. And said justice is hereby impowered to make up judgment and award execution accordingly: *provided* the said treble duty exceed not four pounds; but if such duty exceed four pounds, then such justice shall bind the offender to answer his offence at the next court of general sessions of the peace for the county where the offence was committed, and such offender shall enter into recognizance, with two sufficient sureties, to answer for his offence, in the sum of fifty pounds; and any person or persons upon refusing to render such account and paying as aforesaid, shall forfeit fifty pounds for the use of the farmer, in lieu of such treble duty, to be recovered as is hereafter provided in this act.

[SECT. 38.] And if no confession be made by such suspected person, and no evidence produced as aforesaid, he or she shall then clear him- or herself from the complaint aforesaid, by taking an oath in the form following; viz^(t).—

Form of the oath.

You, A. B., do swear that you have not, directly or indirectly, either by yourself, or any person on your behalf, imported into this province any rum or spirits distilled, or wine, and that you have not had any of said liquors directly or indirectly consigned to you, but what you have paid the duty or excise upon, according to an act of said province, made in the thirtieth year of his majesty's reign, intituled "An Act for granting unto his majesty an excise upon spirits distilled, and wine, and upon limes, lem[m]ons and oranges." So help you God.

—which oath the said justice is hereby impowered and required to administer.

Penalty for refusing to take the oath.

[SECT. 39.] And if such suspected person shall refuse to take said oath, and shall neglect to appear upon the citation aforesaid, he or she shall pay the cost of citation, and shall forfeit, for the use of the farmer, the aforesaid sum of fifty pounds, and costs of prosecution; but if such suspected person shall take the said oath, the costs of citation or warrant shall be paid by the farmer or his deputy, respectively, who applied for such citation or warrant; who shall also pay to the person cited or apprehended, and taking said oath, the sum of twenty shillings.

And be it further enacted,

Farmer to grant a permit, on penalty.

[SECT. 40.] That the farmer aforesaid, or his deputy, shall be and hereby is obliged to grant a permit, under his hand, to every person applying for the same, on penalty of two hundred pounds, to and for the use of the person making application; which permit shall be in the form following; viz^(t).—

Form of the permit.

You, A. B. of C., in the county of D., are hereby permitted to sell rum and other distilled spirits, and wine, or any of said liquors, at _____, in C. aforesaid, until [1] the twenty-sixth day of March, one thousand seven hundred and fifty-eight, pursuant to an act of this province, made in the thirtieth year of his majesty's reign, intituled "An Act for granting unto his majesty an excise upon spirits distilled, and wine, and upon limes, lemmons and oranges." Dated at C., this _____ day of _____, 175_____.

A. B., Farmer (or deputy farmer) of excise for the county aforesaid.

And for such permit the said farmer or deputy shall be intituled to receive twopence, and no more; and the like sum for an entry made with him, and the like sum for a certificate given by him.

And be it further enacted,

Farmer to keep an office in each seaport town, &c.

[SECT. 41.] That the farmer aforesaid, either by himself or his deputy, shall keep an office in each seaport town within his county, where he or his deputy shall give his attendance on every Thursday,

from nine of the clock in the morning to twelve at noon, to grant permits, receive entries, give certificates, &c^[a].

Provided,—

[SECT. 42.] That in the town of Boston such an office shall be kept, and attendance given on every Monday and Thursday, within the hours aforesaid, of each of said days, respectively.

Provided, also,—

[SECT. 43.] That the said farmer or his deputy, on application made, shall at any other time grant permits, receive entries, and give certificates as afores^[ai]d.

And whereas persons not belonging to this province may import the liquors aforesaid, and take permit to dispose of the same, and may go out of the province before the time comes about when persons selling said liquors are held to account with the farmer, and by that means may avoid paying the duty upon what has been so disposed of; for preventing whereof,—

Preamble.

Be it enacted,

[SECT. 44.] That every person importing the liquors aforesaid, and applying to the farmer or his deputy for a permit to sell the same, shall give bond to said farmer, if required, in a sum not exceeding two hundred pounds, nor less than twenty pounds, at the discretion of the two next justices of the peace, with sufficient surety or sureties, that he will render to said farmer or his deputy an account, on oath, if required, of the kind and full quantity of the liquors aforesaid sold by him, or by any person or persons on his behalf, and that he will pay thereon the duty or excise aforesaid before he leaves the province; and if such person shall refuse to give such bond, the said farmer or his deputy shall not be obliged to grant him a permit, anything in this act to the contrary notwithstanding; and if such person shall sell any of the liquors aforesaid without permit, he shall be subject to all the penalties that other persons selling without permit are subject to; or if such person shall give bond as aforesaid, and shall leave the province before such bond be discharged, the farmer may bring his action on said bond against the surety or sureties, for the recovery of the sum in such bond mentioned, which shall be for the use of the farmer.

Person importing liquors as aforesaid, to give bond.

And to the end that this government may know what monies shall be received by the farmers of each respective county, and his deputies, by virtue of this act,—

Preamble.

Be it enacted,

[SECT. 45.] That to every person licenced by the sessions, and to every person having permit as aforesaid, the said farmer or his deputy, when said persons shall account with them, shall give two receipts, under their hand, for what each of them, respectively, have received, either as duty or as forf^[ie][^[ei]]ture, or in any other way; and the said receipts shall express the just and true sum received, and the consideration for which it was received; and one of the said receipts shall be lodged, within one month after the date thereof, by each person, respectively, to whom said receipt shall be given, with the clerk of the sessions for the county wherein such person lives, on penalty of forty shillings, one half to the poor of the town or district in which the person neglecting to lodge his receipt lives, and the other half to the person complaining or su^[c]ing for the same, and of being rendered incapable of renewing his or her licence or permit for the future. And the clerk aforesaid shall transmit a true and fair copy of the receipts that shall be so lodged with him, to the secretary of this province, who shall lay the same before this court.

Farmer to give two receipts, &c.

And be it further enacted,

Farmer to render an account, on oath, of sums received, to the province treasurer.

[SECT. 46.] That the farmer of each respective county shall render an account, on oath, to the province treasurer, when he shall come to discharge his bond given for the farm of the duties aforesaid, of the sums and securities he and his deputy, or either of them, have in any way received by virtue of this act; and the said account shall express the name of each person of [whom] they, or either of them, have received any sum or security, how much that sum or security is, and what it is for, and the time when the same were received; and it shall be part of the condition of the said farmer's said bond, that he will render such account as aforesaid; and if said farmer shall not have settled, when he comes to discharge said bond, with every person obliged by this act to account and settle with him, his said bond shall not be discharged till he has so settled, and rendered an account, on oath, of such settlement to the province treasurer as aforesaid. And if the account rendered by the farmer as aforesaid be a false one, he shall not only be liable to the pains and penalties to which a person convicted of perjury is liable, but also to pay a fine of fifty pounds, one half to the informer and the other half to his majesty for the use of the province; and in case the farmer shall neglect or refuse to render to the treasurer of the province, an account on oath as aforesaid, he shall forfeit and pay the sum of one thousand pounds to his majesty for the use of the province.

Provided, nevertheless,—

Provido.

[SECT. 47.] That if said farmer shall, at the end of one month, and of ten months, respectively, from the time of payment expressed in said bond, render an account on oath as aforesaid, and shall swear that such account expresses the whole sum that he hath received, either in money or by securities, or by any other way whatsoever, then his said bond shall be discharged and be delivered up to him.

Be it further enacted,

Farmer limited for bringing his actions, &c.

[SECT. 48.] That if any account of excise shall remain unpaid or not settled by bond or note for the space of ten months after the expiration of this act, unless the action is depending, the said farmer or his deputy shall not have right to bring any action against the person whose said account shall remain so unpaid or unsettled, but shall forfeit what might otherwise have been due from such person.

Be it further enacted,

How fines, &c., arising by this act, are to be disposed of.

[SECT. 49.] That all fines, penalties and forfeitures, arising or accruing by any breach of this act, and not otherwise appropriated, shall be, one half to his majesty for the use of this province, and the other half for the use of the farmer; to be recovered by action, bill, plaint or information in any of his majesty's courts of record. [Passed February 4; * published February 5, 1757.]

CHAPTER 22.

AN ACT FOR THE SUPPLY OF THE TREASURY WITH THE SUM OF THIRTY-FIVE THOUSAND POUNDS, AND FOR APPLYING THE SAME FOR THE PAYMENT OF THE FORCES RAISED FOR THE LATE EXPEDITION AGAINST CROWN POINT.

Preamble.

WHEREAS the provision, already made by this court at their session in June last for the above purpose, is insufficient to answer the ends proposed, and it being necessary that a further and an immediate supply should be made, that so the officers and private soldiers, who have served his majesty in the said expedition, may forthwith receive

* Signed February 26, according to the record.

Appendix B

MIDDLESEX COUNTY, MASSACHUSETTS,
PROBATE RECORDS OF A RANDOM LIST OF
INNKEEPERS IN 1761 AND 1772

APPENDIX B¹

LICENSED INNKEEPERS IN 1761	TOWN	COMPARISON OF LICENSED INNKEEPERS WITH PROBATE RECORDS		
		LAST LICENSE RECORDED	YEAR OF DEATH	TYPE & LOCATION OF ESTATE PAPERS
*Pratt, Oliver	Newton	1766	1767	Administration No. 17914
*Miller, Thomas	"	1770**	1775	" No. 15214
Woodward, Jonothan	"		1745	Nothing
Hartwell, Ephraim	Lincoln	1772	1793	Will No. 10560--Inventory of Estate
Park, Stephen	"	1768	----	Nothing
Dakin, Samuel	"	1762	----	"
Newhall, Sarah	Malden	1764	----	"
Hill, Isaac	"	1764 or 5	----	"
*Osgood, David	Billerica	1768	1768	Will No. 16271--Inventory of Estate
Manning, William	"	1770**	1776	Will No. 14611
Swaine, Jonothon	Reading	1771**	1774	" No. 21917
Damin, David	"	1771**	1778	" No. 5569
Gates, Samuel	Stow	1772	1788	" No. 8981
Johnson, Abr ^m	"	1761	----	Nothing
Wood, Jona.	"	1772	----	"
*Brown, Boaz	Littleton	1761	1772	Will No. 2968--Inventory of Estate
Sox, Sarah	"	1764		Nothing
*Gilbert, Joseph	"	1762	1763	Will No. 9124--Inventory of Estate
Coolidge, Treeheve	Sherburn	1762	----	Nothing
Hill, Jass	"	1767	----	"
Harrington, Danl	Waltham	1762	1763	Will No. 10385--No inventory
*Cutting, Richard	"	1766	1767	Administration No. 5682

*Inventories selected for reproduction.

**Last date found on photostats available to this writer; the town, however, not always included on the lists photostated. The lists of licensed innkeepers in the county end in 1772.

1. The writer used faded and incomplete photostat lists of innkeepers licensed in Middlesex County between 1761 and 1772--the last year such lists were made. The photostats were from MIMA files.

APPENDIX B

LICENSED INNKEEPERS IN 1761	TOWN	COMPARISON OF LICENSED INNKEEPERS WITH PROBATE RECORDS		
		LAST LICENSE RECORDED	YEAR OF DEATH	TYPE & LOCATION OF ESTATE PAPERS
Woodburn, Samuel	Waltham			Nothing
Wellington, Thos.	"	1772	1783	Administration No. 24067
Brown, Nathaniel	"	1765		Nothing
Stone, Anne	Hopkinston	1768		"
Abbey, Joseph	"	1771**		"
Varnum, Samuel	Drucutt	1772	1795	Administration No. 23309
Abbot, Israel	"	1761		Nothing
Hay, James	Stoneham	1766**	1781	Will No. 10843
*Kitteridge, James	Tewkesbury	1770	1771	Will No. 13364--Inventory of Estate
Hunt, William	"	1762		Nothing
Morse, William	Natick	1766	1769	Will No. 15586
Buckminster, Joseph	Framingham	1771**	1780	Will No. 3361
*Drury, Josiah	"	1771**	1771	Administration No. 6443
Trowbridge, Jn ^o	"	1767	1762	Will No. 22810
Pepper, Benjamin	"	1771**		Nothing
Havin, Jn ^o	"	1767		"
Chamberlain, Saml	Westford	1768	1769	Will No. 4196 (Ephraim Chamberlain re- ceived license in 1769)
Pollard, James	"	1772		<u>Nothing checked</u>
Prescott, Oliver	"	1772		Nothing
Kendall, Eben ^r	Dunstable	1772	1775	Will No. 13036
Colburn, Oliv ^r	"	1769	1781	" No. 4786
Swallow, Jn ^o	"	1768		Nothing
Butterfield, Reub ⁿ	"	1762		"

APPENDIX B

LICENSED INNKEEPERS IN 1761	TOWN	COMPARISON OF LICENSED INNKEEPERS WITH PROBATE RECORDS		
		LAST LICENSE RECORDED	YEAR OF DEATH	TYPE & LOCATION OF ESTATE PAPERS
Hill, Joseph Stone, Jn ^o	Holliston "	1769 1772	1806	Nothing Administration No. 21636
Stevens, John Conant, Sarah	Townshend "	1765 1765		Nothing Not checked
Wyman, Noah Wright, Saml. Shartell, Obada	Wilmington " "	1772 1764 1761**		Nothing " "
Kenley, Saml.	Shirley	1761**		"
Parman, Jonas	Pepperill	1761		"
IBID. IN 1772		FIRST LICENSE RECORDED		
Buckley, Jonathan Child, Moses Peine, George	Groton " "	1761 1769 1763		" " "
Bullard, Samuel Langor, Saml	Sherburn "	1763 1762		Will No. 3485 Nothing
Kitteridge, Thos Brown, Timothy Baldwin, Jesse	Twekesbury " "	1762 1763 1765		Will No. 13387--Inventory Administration No. 3229 Nothing
Mosher, Jn ^o Woods, Henry *Gillison, Saml	Pepperill " "	1771 1771 1771		Will No. 15595 Administration No. 25437 Administration No. 9175

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APPENDIX B

LICENSED INNKEEPERS IN 1772	TOWN	COMPARISON OF LICENSED INNKEEPERS WITH PROBATE RECORDS		
		FIRST LICENSE RECORDED	YEAR OF DEATH	TYPE & LOCATION OF ESTATE PAPERS
Colman, James	Ashby	1767**	1773	Administration No. 4837--No inventory
Stone, Saml	"	1768	1839	" No. 21722
Davis, Josiah	"	1770	1798	" No. 6059
Stone, Eben ^r	"	1772		Nothing
Stone, Jn ^o	Holliston	1761	1806	Administration No. 21636
Penniman, Saml	"	1772		Nothing
Wyman, Noah	Wilmington	1761		"
Jones, Eben ^r	"	1771	1791	Will No. 12806
Kendall, Eben ^r	Dunstable	1761	1775	Will No. 13036--Inventory
Prentise, W ^m H.	"			Nothing
Williams, Ab ^r	Newboro			"
Howe, Cyprian	"			"
Cranion, Abn ^r	"			"
Raymond, John	Lexington	1764	1775	"
Buckman, John	"	1768	1768	Administration No. 3384
Fish, Ebenezer	"	1761	1777	Will No. 7573
Stone, Saml	"	1772		Administration No. 21715
Danforth, Benj.	Bedford	1761		Nothing
Fitch, Israel	"	1772	1773	Administration No. 7694
Mead, David	Lincoln	1765		Nothing
Whitehead, Jon.	"	1765		"
Park, Stephen	"	1761		"
Hartwell, Ephraim	"	1761	1793	Will No. 10560--Inventory

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APPENDIX B

LICENSED INNKEEPERS IN 1772	TOWN	COMPARISON OF LICENSED INNKEEPERS WITH PROBATE RECORDS		
		FIRST LICENSE RECORDED	YEAR OF DEATH	TYPE AND LOCATION OF ESTATE PAPERS
Ivory, John	Shirley	1764	1789	Administration No. 12393
Jartell, Obad ⁿ	"	1761		Nothing
Holden, Am ^s	"	1764		"
Jones, Saml	Acton	1761	1773	"
White, Mark	"	1761		"
Brooks, Danl	"	1770		Administration No. 2810--died insolvent-- a trader

Appendix C

INVENTORIES OF ESTATES OF JAMES KITTERIDGE AND
JOHN BUCKMAN, TAVERN KEEPERS, 1771 AND 1768

Administration No. 13364 and No. 3384, Probate
Records, Middlesex County Courthouse, East
Cambridge, Massachusetts

APPENDIX C

The bury September 12-1771 the appraisement of the estate of M^r ^{and} ^{Jan 1772}
 of the state
 one Barrow hog £12-0 one sow £1-1 - two hogs £1-0-0 = 3 13-1
 Eleven Sheep at Six Shilling apiece — 3 6-0
 one black cow £3-0-0 one head heffer 3 00 — 6 0-0
 one ~~ff~~ Small heffer — 1 1-4
 one Craft Chair 5-4 one pick fork 1 — 0 6-0
 one ax 11-5 one hoe 1-4 one old staff tack 1 — 0 4-7
 one old sickle 6- one kiddle 1-3 — 0 1-9
 one seed plow 12-0 one old head 1-4 — 0 13-4
 twelve bushels and a peck of Key — 2 9-0
 three teen bushels of indian corn — 1 19-0
 Eight barrells of Liden Six shilling eight pence a barrill 2 13-4
 fourteen pounds and a half of clove seed at 4- a pound — 0 7-9
 one note of hand against Ephraim West of — 2 16-8
 one note of hand against Benjamin Hickney of — 1 19-1-2
 one note of hand against Samuel Frost of — 1 16-10
 one note of hand against Ephraim fish of — 1 3-5
 one note of hand against Ebenezer Kirtland of 1791 —
 one note of hand against Ebenezer Kirtland of 1792 — 3 12-6-0
 one note of hand against Newman Dear let of 1793 — 0 12-5-3
 four loads of meadow grass — 0 16-0
 two loads of grass 16- one load of grass 8 — 1 4-0
 one note of hand against Jonathan Butler June 1788 — 0 18-8
 sum to lat of the personal estate — 39 19-2-3

Real Estate

the one half of a lot of land the whole supposed to be a bout 73 acres
 with half the Dwelling house and one half the barn standing there
 the land bounds northerly by the land of Jacob Shed Easterly by
 the great meadows Southerly by the land that belongs to the heirs
 of Josiah Richard son and westerly by the high way —
 the corner bounds are stakes and stones a bout six acres
 of land more bounds northerly on said lot of land westerly
 by the high way southeasterly by lawn of Solomon French
 the corner bounds to said lot of land are stakes and stones
 the afore said piece of land ^{and buildings} value at — 750 8-0

one half of a lot of meadow lying in the lower great meadows about
four acres bounds northerly by Solomon French's meadow land and
Easterly by the brook southerly by John French's meadow land westerly
by a high way Valued at $\text{£} 4-13-4$

also another piece in the same meadows containing a bout three
acres bounds northerly by the brook Easterly by Jacob Thad's
meadow land southerly by Mich^d and Faylers land westerly
by Thomas Kittredges meadow land Valued at $\text{£} 6-13-4$

also another lot in the same meadows of a bout ten acres
bounds Easterly on the brook southerly by meadow belonging
to the heirs of Stephen Blane Chard westerly by the high way
northerly by Eya Kindells land Valued at $\text{£} 13-6-8$

one parcel of land containing about five acres bounds nor
therly by the land belonging to the first mentioned lot
that have the buildings on against the orchard Easterly by
the land that for ever by belonged to Andrew Richardson
southerly by land of Solomon French and westerly by land
belonging to said estate Valued at $\text{£} 16-13-4$

$\text{£} 191-6-8$
Sum total of the Real Estate

An inventory of the Real and personal Estate of m^r James Kittredges
deceased taken by us the Subscribers of what was shewn to us by the
Executors September 12th 1771

John Needham
Isaac Kittredges
William Brown

To the Hon^{able} Sam^l Danforth Esq^r Judge of the Probate
for the County of Midd^{le} &c: the Subscribers being
Appointed a Committee, to appraise all the Estate of John
Bushman late of Lexington. Deced^{de}: all Parties being
Relinquish^d we proceeded in manner & form, Follows (viz)

1791	To the Great Bible and a number of other Books.	£0=19=11=0
1791	To his wearing Apparel.	10=18=1=0
1791	To her wearing Apparel.	15=24=8=0
1791	Gold necklace & Ear rings & Buttons & Silver Buckle, 3	09=8=0
1791	Bed and furniture in a Bed Room.	4=15=6=0
1791	two new, covered, and thirty two yds, of Cotton & Linnen	4=11=0=0
1791	or Parcel of Linnen & woollen yarn.	1=19=8=0
1791	To a Chest of Draw, & square table Mahogany oval	7=15=4=0
1791	table and Desk and eight Chairs in the Bed Room.	
1791	Seven pair of old Gloves	0=01=6=0
1791	To Seven Diaper Napkins & five Table Cloaths	1=17=10=0
1791	thirteen towels of three Cotton Sheet, 20/	1=06=0=0
1791	To Eighteen Cotton & Linnen Sheet,	6=01=0=0
1791	fifteen pillow Cases 12/ window Curtains & Training Cloath	0=16=6=0
1791	two Looking Glasses fire Shovel & Tongs in a Bed Room	1=05=6=0
1791	two Large Glass Bottles punch Bowl & Sun Leatherware	0=08=9=0
1791	To a Bed and furniture in the East Chamber	3=17=10=0
1791	the Server & Set of Dining tea Cups & the pot in a Chamber	0=17=4=0
1791	oval table two Chest with Draw to half a Doz of four	1=18=8=0
1791	Back and a Great Chair & Carved Chair in said Chamber	
1791	a Bed and furniture in the West Chamber	2=06=1=0
1791	To half a Doz: three Back Chair, 10/ to two old Chest, 1/6	0=12=0=0
1791	To two Spinning wheels of Leather & Pannel, 9/	0=17=0=0
1791	To a pillow & Cloath 2/ to a pair of Card, 2/	0=07=6=0
1791	To a Chest of Draw, 6/	1=00=0=0
1791	the Bed and Bedding & three Chairs, in a Bed Room.	4=08=0=0
1791	To a Cap of Draw, & two table frames in a Garret	1=08=0=0
1791	To Board and Lumber in a Garret	0=06=0=0
1791	To flax and tow & two flux Coyes	2=04=0=0
1791	To six Bushels of malt 2/ to a number of Baskets of	1=10=8=0
1791	Bread trough & Bread Shovel and two Seives	0=08=0=0
1791	To two trays & three meal Bags 2/	0=02=8=0
1791	Brass kettle, and Skillet and tea kettle	2=03=4=0
1791	To iron pot, & kettles and other iron ware	1=12=8=0
1791	To nails and half Bushel & Lanthorn & knives & forks.	0=19=10=0
1791	a Clock & Cap in the West Lower Room.	9=06=8=0

It To a Doff 20¹/₂ mahogany tea Table 20¹/₂ in 4, w¹/₂ off Lower Room £ 2 70 = 0
 To a small Dillo¹/₂ to an old oval Table 4¹/₂ 0 10 = 0
 To Eight old Chairs 1¹/₂ to Brass Saddle 3¹/₂ Brass Skimmers 3¹/₂ . . . 0 07 = 1
 To a large Loom 1¹/₂ to half Doz. silver tea Spoons 1¹/₂ . . . 0 = 12 = 0
 To Glass ware 2¹/₂ to Stone ware 4¹/₂ 0 = 06 = 0
 To Glass Bottles and vials and tin ware in cold Room . . . 0 = 10 = 9
 To Stone plates & Doff. plates 1¹/₂ to poster 46¹/₂ 2 = 08 = 4
 To four Candle Sticks 1¹/₂ to Locking Glass 4¹/₂ Brush 1¹/₂ 0 = 07 = 2
 To two pair of flat irons 6¹/₂ to Box iron and taters 2¹/₂ 0 = 08 = 1
 To a warming 1¹/₂ a crane 6¹/₂ to three old Guns 19¹/₂ 12 00 = 10
It Sundry articles in the Retailer Shop 12 = 03 = 10
 To Sundry articles in the Shop cellar 1 = 06 = 4
 To some pork 19¹/₂ to powdering tub, 5¹/₂ to Saw 8¹/₂ 1 = 07 = 0
 To some Soap and four tubs 1¹/₂ 0 = 14 = 0
It Sider Barrel, & Sundry old Cask in the house. Celler 0 = 18 = 0
 To a chest of Draw in the wood house 2¹/₂ to tubs 7¹/₂ 1 = 06 = 8
 To seven Bushels of Corn 1¹/₂ twelve Bushel of Rice 4¹/₂ 2 = 12 = 8
 To some Salt in a wood 1¹/₂ to two Rice Been 4¹/₂ 0 = 04 = 0
 To a Chair & harness 4 = 00 = 0
It horse Cart and the horse tubling 1 = 12 = 8
 To iron Bar 7¹/₂ to a Shovel 1¹/₂ to hoes 4¹/₂ 0 = 13 = 0
 To Garden Rake 1¹/₂ to an ax 2¹/₂ pitch fork & old Rakes 7¹/₂ 0 = 05 = 4
 To a Windmill for grain 1 = 00 = 0
 To 27 pound, of Soap Green 9¹/₂ 0 = 09 = 4
It two Chest of Draw in a Shop 2 = 08 = 0
 two Wedges and Beetle Rings 2¹/₂ to old iron 4¹/₂ 0 = 06 = 0
 three tea table Leaves in the Shop 20¹/₂ to Grind Stones 1 1 208 = 0
 To Charity Board, in the Shop Chamber 1 = 04 = 0
 To maple Board, & pie in the Shop Chamber 0 = 04 = 0
 To White pine & pitch pine Board, & Refuse Lumber 1 1 204 = 8
 of all sort in the Shop Chamber
It tools in the Joiner Shop 10 = 00 = 0
 To the well hook 2¹/₂ to a plow 5¹/₂ to three Geese 7¹/₂ 0 = 15 = 0
 To a part of a wheel Barrow 1¹/₂ third of hundred Board 1¹/₂ 0 = 11 = 0
 To fifty seven ^{fat} of maple Board, 30¹/₂ 2 10 = 0
 To five maple pieces saw out for Draw 3¹/₂ 0 = 03 = 0
 To a pile of old Board, at a end of the Joiner Shop 0 = 10 = 0
 To some pieces of Building timber & a Cant for a trough 0 = 05 = 0
 To a small number of Bricks 3¹/₂ to a Dunge fork 7¹/₂ 0 = 05 = 0
It To a Grain Sciver 0 = 00 = 0
 three Cord & two feet of pine wood 29¹/₂ 1 03 = 0

It Twenty five Gallons of molasses 36/ ----- £1-16-8
 To four mahogany servers for tea tables ----- 1-01-0
 It the Stock to a horse £26-8 to two cows 7-0-0 .. 12-06-8
 To a Sheep & Lamb 12/ to a fat hog 48/ .. 03-00-0
 the Store hog 40/ ----- 2-00-0
 To Cash ----- 43-04-7
 Due upon notes, Interest & principal Emmon Excepted ... 43-05-11
 It Potash & Ashes ----- 16-10-7
 It the Land, with all a Building, on the same being
 Jonathan Harrington, Right in the potash
 appraised at £ 266-13-4. Real Estate 266-13-4
 Personal Estate 278-19-10
 The Total of the whole £ 45 13-02

• Mary & Sarah Daughters of y^e Deceased have
 Recid toward their portion each of them in their
 farther Life time - £ 48-2-6 -

we have set y^e Real Estate to John Buckman y^e only son of y^e
 Deceased he paying to y^e heirs, what y^e honorable Judge of probate
 shall order above his own portion

Dated June 21. 17 68.

Wm. Reed
 Joseph Loring } The Committee
 Benja. Brown }

witnessed by July 25. 17 68
 Mr J^r. Buckman the Ed. and J^r. made oath to the foregoing Inven-
 tory - Before me S. Danforth J. Justice

BIBLIOGRAPHICAL ESSAY

In the search for manuscript and published sources about colonial taverns, this writer consulted card catalogues at the Library of Congress, the Massachusetts Historical Society, the New England Historical and Genealogical Society, and the Boston and Denver public libraries. In addition, the writer consulted with staff members at Minute Man National Historical Park; at the North Atlantic Region; at the Historic Preservation Team, Denver Service Center; at the Society for the Preservation of New England Antiquities; and, finally, at the American Antiquarian Society in Worcester, Massachusetts.

1. Manuscript Materials

Mostly circumstantial and comparative evidence about Hartwell and his tavern was gleaned from the manuscript collections listed here.

Boston. Massachusetts Historical Society. The Adams Papers. Letters Received and Other Loose Papers, 1639-1766. Microfilm Roll 343. One travel account of 1754 provides some information about the types of drinks served in taverns.

_____. William Heath Collection. This collection contains one reference to Ephraim Hartwell: a notation that Hartwell received £24 to carry baggage to Providence, Rhode Island.

Concord. Minute Man National Historical Park. Federal Direct Tax of 1798, Massachusetts, Middlesex County. Microfilm Roll 15. This manuscript is also on file at the New England Historical and Genealogical Society at Boston. Unfortunately, this potentially rich architectural source did not include Middlesex County properties, except in its most general schedules.

_____. Lincoln Town Records. Microfilm Rolls 5, 6, 7, 8, and 9.

_____. Middlesex County Court of General Sessions Minutes, 1748-72. Microfilm Rolls 18 and 19.

_____. Robert Ronsheim, "Ephraim Hartwell Homestead," MS. This manuscript is a draft of a report on the two Hartwell properties at Minute Man National Historical Park. Ronsheim completed in-depth research on the Hartwell family and on the chain of title for the two properties. His compilation of tax records for Ephraim Hartwell brought into focus much of the relevant conclusions concerning the tavern's duration.

East Cambridge. Middlesex County Courthouse. Probate Records. The inventories investigated with the hopes of finding a clear indication of the furnishings in taverns of the eighteenth century proved to be disappointing. Little more than information on typical cider barrels, tables, chairs, drinking and eating utensils, and bedding provisions was indicated in the lists of estates. Whether every tavern or inn had an enclosed bar in the barroom could not be established from this source. Moreover, even though inventories of the estates of tavern keepers listed in 1772 were located, there has been no way to establish whether the men listed in the licensed rolls of 1772 still operated a tavern in the year of their death. Ephraim Hartwell died in 1793, at least 13 years after he closed his tavern, so that the inventory of his estate reflects nothing of his tavern-keeper days. No inventory for his son John's estate could be found in the county records. (John inherited the house and most of the furnishings of Ephraim Hartwell.)

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