

or may require the inspector to give notice, to any person licensed to sell, or who sells or is reputed to sell, intoxicating liquor of any kind, not to deliver intoxicating liquor to the person having such habit; and if the person so notified, at any time within 12 months after such notice, either himself, or by his clerk, servant, or agent, otherwise than in terms of a special requisition for medicinal purposes, signed by a licensed medical practitioner, delivers, or in or from any building, booth, or place occupied by him, and wherein or wherefrom any such liquor is sold, suffers to be delivered, any such liquor to the person having such habit, he shall incur upon conviction a penalty not exceeding \$50, and the person giving or requiring the notice to be given may, in an action as for personal wrong (if brought within six months thereafter, but not otherwise) recover from the person notified such sum, not less than \$20 nor more than \$500, as may be assessed by the Court or jury as damages; and any married woman may bring such action in her own name, without authorization by her husband. . . .”

The notice which is the basis of the right of action must be in writing and must be given to the licensee, but personal service is not necessary; the Act does not expressly or impliedly require it; it is enough if the notice be served upon any agent of the licensee, expressly or impliedly authorized to receive it for him. In some cases personal service might at times be practically impossible, and might be of less benefit to the licensee than service upon his agent would be, as, for instance, in the case of an absent licensee whose business is during such absence entirely managed by an agent.

In this case the licensee is a rather elderly man, and one who seems to depend upon others, to a considerable extent, in the management of his licensed business. The notice was served upon his bar-man . . . the person in charge of the very part of defendant's business directly affected by the notice; the very person to whom notice was most essential, whether it came from his master to him or otherwise, for it would, in all probability, be his act in supplying the liquor which would create the liability. The bar-man occupied such a position under defendant and in his licensed business that it cannot but be that he was an agent for defendant authorized to receive the notice, and, if that be so, it seems to be immaterial whether or not defendant had knowledge of it, or perhaps it would be better to say it is not essential; service upon the agent for service, was service upon the principal: see *Tanham v. Nicholson*, L. R. 5 H. L. 561.