

HOUSE.....No. 47.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 14, 1839.

Mr. FAIRBANKS, of Boston, gives notice, that he shall move the following as a substitute for the bill to regulate the sale of spiritous liquors :

PROPOSED AMENDMENT TO THE BILL.

Strike out all after the enacting clause, and insert the following :

1 SEC. 1. No person shall hereafter sell, directly or
2 indirectly, any wine or spiritous liquor, or mixed
3 liquor, part of which is wine or spirit, in any quanti-
4 ty less than fifteen gallons, and that to be taken and
5 carried away at one and the same time, unless he
6 shall have previously lodged with the clerk of the
7 town or city in which such sale may be made, a bond,
8 with sufficient surety to the satisfaction of the select-
9 men of such town, or the aldermen of such city, in

10 the penal sum of five hundred dollars, payable to the
11 said town or city, for the due observance of this and
12 all other acts relating to the sale of wine and spirit-
13 ous liquors.

1 SEC. 2. No person shall sell, directly or indirect-
2 ly, by an agent or otherwise, to any person or per-
3 sons, nor authorize or permit to be sold any wine or
4 spiritous liquors, mixed or unmixed, to be drunk in
5 his house, store, shop, or distillery, or any other place
6 or dependency, owned, occupied, leased or hired by
7 him, nor suffer or permit any wine or spiritous liquor
8 when so sold to be drunk in the premises aforesaid,
9 nor keep any wine or spiritous liquor for sale to be
10 drunk in or upon such premises. And any violation
11 of this act by any tenant of any leasehold estate, shall
12 be a forfeiture of such lease. *Provided, however,*
13 that no landlord shall be answerable for any such act
14 of his tenant, if upon notice from the selectmen of
15 the town, or mayor and aldermen of the city, he shall
16 immediately enter upon the premises to determine
17 the lease, and shall thereupon proceed to eject the
18 tenant by legal process. *And provided, further,* that
19 no person who shall have lodged with the clerk of the
20 town or city, a bond as aforesaid, shall be permitted
21 to sell any of the articles mentioned in this section, in
22 less quantity than ——— gallons ; and that to be ta-
23 ken and carried away at one and the same time.

1 SEC. 3. If any person shall violate any of the
2 provisions of this act, he shall forfeit and pay the sum
3 of one hundred dollars, to the use of the town or city
4 in which the offence may have been committed ; and
5 when a bond shall have been given, as provided in
6 the first section of this act, the penalty shall be en-

7 forced by an action of debt on said bond, in any court
8 of competent jurisdiction; and the pendency of one
9 suit on such bond shall not prevent other suits being
10 brought on the same bond for subsequent violations of
11 this act.

1 SEC. 4. The inhabitants of any town or city, at
2 their annual meeting for the choice of municipal offi-
3 cers, or at any meeting duly warned for the purpose,
4 and held in either of the months of February, March
5 or April, may, by their vote, prescribe the quantity in
6 which the sales of the articles mentioned in the pre-
7 ceding section may be made in such city or town:
8 *provided*, the quantity prescribed by such vote shall
9 not be less than —— gallons; nor shall such vote
10 be enforced longer than one year from the first day of
11 April of the year in which the same shall be passed.

1 SEC. 5. In case such vote as is mentioned in the
2 fourth section of this act shall be adopted by any city
3 or town, any person who shall, within such town or
4 city, sell any rum, brandy or other spiritous liquor, or
5 any mixed liquor, part of which is spiritous, or any
6 wine, in less quantity than shall be directed in such
7 vote, and that delivered and carried away all at one
8 time, shall be subject to the same penalties as are
9 provided in the third section of this act.

1 SEC. 6. If any person, with design to avoid any
2 penalty in this act provided, shall sell or give away
3 any brandy, rum, or other spiritous liquor, or any mixed
4 liquor part of which is spiritous, or any wine, upon
5 pretence of admission to any room, show, or exhibition,
6 taking pay for such admission, or shall furnish any
7 person, with such brandy, rum, spiritous liquors,
8 mixed liquor, or wine taking pay for some other arti-

9 cle or merchandise, sold to such or any other person :
10 or taking pay of such or any other person or any other
11 account or pretence, he shall, notwithstanding such
12 pretence, be deemed guilty of the offence set forth in
13 the first section of this act, and be subject to the
14 penalties therein provided.

1 SEC. 7. If any person shall sell any brandy, rum,
2 or other spiritous liquor or any mixed liquor, part of
3 which is spiritous, or any wine, in a secret or clan-
4 destine manner, either by a dumb waiter, revolving
5 stand, slide or drawer, or any other secret way, he
6 shall be deemed guilty of the offence set forth in the
7 first section of this act, and be subject to the penalties
8 therein provided.

1 SEC. 8. All common dram-shops are hereby de-
2 clared to be public nuisances, and it shall be the duty of
3 the selectmen of any town, and of the mayor and
4 aldermen of any city, to proceed against any common
5 dram-shop within such town or city, and the person or
6 persons keeping the same, in the same manner that a
7 board of health, or health officer, is authorized by the
8 Revised Statutes, chapter twenty-one sections nine,
9 ten, and eleven, to proceed in the prosecution for, and
10 removal of, nuisances, sources of filth and causes of
11 sickness.

1 SEC. 9. Nothing in this act shall apply to any inn-
2 holder, duly licensed as such, agreeably to the Re-
3 vised Statutes, chapter forty-seven, so as to prevent
4 him from selling wine and spiritous liquor, to be
5 drunk by travellers and inmates of the house within
6 the premises which such innholder may keep as an inn
7 or house of public entertainment. Nor shall any thing
8 herein contained be construed to prevent apothecaries

9 and physicians from vending spiritous liquors when
10 compounded with medicine, or rectified alcohol, for
11 medicinal purposes or the arts; nor to prevent any
12 persons from selling the articles usually denominated
13 essences, perfumery, &c.

1 SEC. 10. The statute of one thousand eight hun-
2 dred and thirty-eight, chapter one hundred and fifty-
3 seven, and such parts of all former acts and statutes
4 as are inconsistent with any of the provisions of this
5 act, shall be and they are hereby repealed, from and
6 after the time when this act shall take effect, but no
7 offence committed and no penalty or forfeiture in-
8 curred and no prosecution commenced, under any act
9 hereby repealed, shall be affected by such repeal.

1 SEC. 11. The meetings of the inhabitants men-
2 tioned in the fourth section of this act may be held
3 for the year one thousand eight hundred and thirty-
4 nine, after the last day of April next.

