

## HOUSE...No. 133.

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### Commonwealth of Massachusetts.

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HOUSE OF REPRESENTATIVES, March 13, 1854.

ORDERED, That a committee, consisting of one from each Councillor District, to be joined by the Senate, be appointed to consider, if any, what alterations are necessary to be made in the present Liquor Law, in consequence of the Decision of the Supreme Court, rendered this morning, relating to the 14th section of said law.

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HOUSE OF REPRESENTATIVES, March 14, 1854.

Adopted, and

Messrs. Josselyn, of Duxbury,  
Ladd, of Chicopee,  
Currier, of Holliston,  
Thayer, of Worcester,  
Abbott, of Beverly,  
Bliss, of Pawtucket,  
Sanger, of Dover,  
Warner, of Northampton,  
and Bosworth, of Boston,

are appointed on the part of the House.

Sent up for concurrence.

WILLIAM STOWE, *Clerk.*

SENATE, March 15, 1854.

Concurred, and

Messrs. Mitchell, of Nantucket,  
 Murdock, of Worcester,  
 Paine, of Barnstable,  
 Vickery, of Bristol,  
 and Haskell, of Essex,

are joined, on the part of the Senate.

CHAS. CALHOUN, *Clerk.*

## Commonwealth of Massachusetts.

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HOUSE OF REPRESENTATIVES, March 31, 1854.

The Joint Special Committee appointed to consider what modifications may be necessary in the present Liquor Law, in consequence of the late Decision of the Supreme Court thereon, and which was appointed agreeably to the Order of the House adopted March 14th, have given to this matter their careful consideration, and direct me to Report the accompanying Bill.

And the committee further direct me to report, that, by leave of the House, they will hereafter report a schedule of forms of proceedings under the accompanying Bill.

Per order of the Committee,

AARON JOSSELYN,

*Chairman on the part of the House.*

## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Fifty-  
Four.

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### AN ACT

In addition to "An Act, concerning the Manufacture  
and Sale of Spirituous or Intoxicating Liquors."

*Be it enacted by the Senate and House of Representa-  
tives, in General Court assembled, and by the authority of  
the same, as follows :*

1     SECT. 1. No person shall be allowed to keep any  
2 spirituous or intoxicating liquors, for the purpose of  
3 selling the same, within this Commonwealth, unless  
4 the same are of foreign production, have been im-  
5 ported under the laws of the United States, and in  
6 accordance therewith, are contained in the original  
7 packages in which they were imported, and in quan-  
8 tities not less than the laws of the United States  
9 prescribe, or unless the same are kept for sale under

10 the authority of the act to which this is in addition ;  
11 and if any person shall keep any spirituous or intoxi-  
12 cating liquor, for the purpose of selling the same, in  
13 this Commonwealth, contrary to the foregoing provi-  
14 sions, he shall, on conviction thereof, before any jus-  
15 tice of the peace, or judge of any police court, having  
16 jurisdiction to try criminal offences in the place where  
17 such liquor is kept, be fined twenty dollars, and pay  
18 the costs of prosecution, and shall be imprisoned  
19 thirty days, in default of payment of said fine and  
20 costs.

1     SECT. 2. If any three persons, being of full age,  
2 and competent to testify in civil cases, shall, before  
3 any justice of the peace, or judge of any police court,  
4 having jurisdiction to try criminal causes, make com-  
5 plaint under oath, or affirmation, that they have rea-  
6 son to believe, and do believe, that any spirituous  
7 or intoxicating liquors, described in the complaint,  
8 are kept or deposited in any store, shop, warehouse,  
9 or in any steam-boat or other vessel, or in any vehicle  
10 of any kind, or in any building or place, in any city  
11 or town, by any person named in said complaint, and  
12 intended for sale in this Commonwealth, by such per-  
13 son, said justice or judge shall issue his warrant of  
14 search to any sheriff, or deputy sheriff, or city mar-  
15 shal, or chief of police, or deputy marshal, or consta-  
16 ble, commanding such officer to search the premises  
17 in which it is believed such liquor is deposited, and  
18 to seize such liquor, and to arrest the person com-  
19 plained against, and have him forthwith before the  
20 magistrate who issued the warrant, to answer to said  
21 complaint, and to show cause why the said liquor

22 should not be forfeited; but no warrant shall issue  
23 for the search of any dwelling-house, unless one of  
24 said complainants shall make oath or affirmation  
25 that he has reason to believe, and does believe, that  
26 such liquors have been sold therein by the occupant  
27 thereof, or by his consent or permission, contrary to  
28 law, within the time of one month before making  
29 such complaint, and are then kept therein for sale by  
30 the person complained against, contrary to law, and  
31 shall, in his oath or affirmation, state the facts and  
32 circumstances on which such belief is founded, which  
33 facts and circumstances shall be sufficient, in the  
34 judgment of the magistrate before whom the com-  
35 plaint is made, to reasonably induce said belief. And  
36 the officer to whom the warrant is committed, shall  
37 thereupon proceed to search the premises described in  
38 the warrant, and seize the liquors described in the  
39 warrant, with the casks or other vessels in which they  
40 are contained, if they are found in or upon the said pre-  
41 mises, and shall convey the same to some proper place  
42 of security, where he shall keep them until final ac-  
43 tion shall be had thereon. And said officer shall also  
44 arrest the person complained against, if he can find  
45 him, and bring him before the magistrate who issued  
46 the warrant. And such person so arrested and brought  
47 before the magistrate, may plead not guilty to such  
48 complaint. And if, upon the trial thereupon had, it  
49 shall appear to the court that said liquors were kept  
50 or deposited by the party complained against, for the  
51 purpose of selling the same within this Common-  
52 wealth, contrary to law, and he is thereupon found  
53 guilty; or if he shall plead guilty, he shall be pun-  
54 ished by a fine of twenty dollars and costs, and shall

55 be imprisoned thirty days, in default of payment  
56 thereof. And the liquors so seized, with the casks  
57 or other vessels in which they are contained, shall  
58 be declared forfeited to the Commonwealth. And any  
59 of such liquors which, in the opinion of said justice  
60 or judge, are pure and unadulterated, and suitable for  
61 use, for medicinal, chemical, or mechanical purposes,  
62 shall, by the authority of the written order of said  
63 justice or judge, to that effect, be delivered to any  
64 agent appointed for the sale of spirituous liquors, of  
65 the city or town in which said liquors were seized, to  
66 be sold by him according to law, and the net proceeds  
67 paid over to the treasurer of the Commonwealth.  
68 And if there be no such agent in said town or city,  
69 such of the said liquors as are pure and unadulterated,  
70 and suitable for use as aforesaid, shall be delivered to  
71 any such agent in the Commonwealth, that the said  
72 justice or judge may order, to be by such agent sold  
73 according to law, and the proceeds paid over to the  
74 treasurer of the Commonwealth; and any officer to  
75 whom such order is directed, shall make return there-  
76 on of his doings in the premises. And any of such  
77 liquors which, in the opinion of said justice of judge,  
78 are not pure and unadulterated, shall, by his like or-  
79 der, be destroyed in the presence of said justice or  
80 judge, or in the presence of some person appointed by  
81 him, to witness the destruction thereof, and who shall  
82 join with the officer by whom they are destroyed, in  
83 attesting that fact upon the back of the order, by au-  
84 thority of which it was done. If, however, upon  
85 trial, the judge or justice shall find the person so  
86 charged in the complaint not guilty, and shall also  
87 find that the liquors were not kept or deposited for

88 sale, contrary to law, he shall discharge the party  
89 complained against, and also order the said liquors to  
90 be given up to the owner or keeper ; but if the mag-  
91 istrate who finds the said party not guilty, shall be  
92 satisfied that the liquors so seized were so as afore-  
93 said, kept or deposited for unlawful sale, by some  
94 person not named in the complaint, he shall decline  
95 to order them to be restored; and shall proceed there-  
96 with as is hereafter provided.

1     SECT. 3. If the person complained of as the owner  
2 or keeper of any liquor seized under this act, cannot  
3 be found to be arrested, or if any person so arrested  
4 shall be acquitted, and the liquor not restored to the  
5 owner or keeper, the judge or justice before whom  
6 the warrant is returned, shall cause a notice to all  
7 parties interested, to be posted up in some public  
8 place, in the town or city where such liquor was  
9 seized, and inserted at least twice, in some newspaper  
10 printed in the county where such seizure is made, if  
11 there be any such newspaper, commanding them to  
12 appear before said judge or justice, at a place and  
13 time to be therein named, which time shall be not  
14 less than seven days after the time the same is posted  
15 up, and show cause, if any they have, why such liquors  
16 should not be forfeited. Said notice shall contain a  
17 description of the number and kind of packages, and  
18 quantity and kind of liquors seized, as nearly as may  
19 be, and where and when they were so seized ; and if  
20 at the place and time so named any person shall ap-  
21 pear and claim such liquors, and upon a trial of his  
22 said claim it shall not be proved that said liquors were  
23 kept for sale contrary to law, and it shall appear that

24 they belong to said claimant, then the said justice or  
25 judge shall deliver to said claimant an order to the  
26 officer having said liquors in custody, to surrender  
27 the same to said claimant, taking his receipt therefro  
28 on the back of said order, which shall be thereupon  
29 returned to said justice or judge; and if it shall ap-  
30 pear to the said justice or judge, after a trial, that the  
31 said liquors were kept for sale contrary to law, or if  
32 no claimant of said liquors appear, he shall declare  
33 the same to be forfeited; and the same proceedings  
34 shall be thereupon had as are provided in the second  
35 section of this act.

1    SECT. 4. If any person convicted under the first  
2 or second sections of this act, shall appeal from the  
3 decision of the justice or judge, he shall stand commit-  
4 ted to abide the sentence of the said justice or judge,  
5 until he shall recognize to the Commonwealth in not  
6 less than two hundred dollars, with good and sufficient  
7 surety or sureties, to appear at the court appealed to,  
8 and there to prosecute his appeal, and to abide the  
9 sentence of the court thereon; and in the mean time,  
10 to keep the peace and be of good behavior.

1    SECT. 5. If any person claiming any spirituous  
2 liquor under the third section of this act, shall ap-  
3 peal from any decision declaring the same to be for-  
4 feited, he shall recognize to the Commonwealth in  
5 the sum of two hundred dollars, with good and suf-  
6 ficient surety or sureties, to prosecute his appeal at  
7 the court appealed to, and to abide the sentence of the  
8 court thereon; and in case of such appeal, if the  
9 final decision of the court shall be that such liquors

10 are kept for sale contrary to law, the said liquors  
11 shall be forfeited, and the same proceedings had  
12 thereupon as are directed in the second section of this  
13 act.

1 SECT. 6. Nothing contained in this act, or the act  
2 to which this is in addition, shall be construed to  
3 prevent any chemist, or artist, or manufacturer in  
4 whose art or trade they may be necessary, from keep-  
5 ing, at his place of business, such spirituous liquors  
6 as he may have occasion to use in his art or trade,  
7 but not for sale.

1 SECT. 7. The fourteenth, fifteenth, and sixteenth  
2 sections of the act to which this is in addition, are  
3 hereby repealed.

1 SECT. 8. Hereafter, all fines, forfeitures, and pen-  
2 alties, which, by the act to which this is in addition  
3 would go to any town or city, shall go to the Com-  
4 monwealth, excepting and this provision shall not  
5 apply to penalties of bonds given by agents and man-  
6 ufacturers, to any cities or towns, under the third and  
7 fifth sections of said act to which this is in addition.

1 SECT. 9. Whenever, by the act to which this is in  
2 addition, a magistrate is authorized to take a bond  
3 from a party who appeals from his decision, such  
4 magistrate may, instead of such bond, at his option,  
5 require a recognizance to the Commonwealth, from  
6 the appellant, with good and sufficient sureties, to  
7 appear at the court appealed to, and there to prose-  
8 cute his appeal, and to abide the sentence of the  
9 court thereon; and in the mean time, to keep the  
10 peace, and be of good behavior.