

HOUSE.....No. 29.

[Reported by the Committee on the Judiciary.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Forty-
Five.

AN ACT

Regulating the Use of Steam Engines and Furnaces.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

1 SECT. 1. No stationary steam engine or furnace,
2 designed for use in any mechanical art, shall hereafter
3 be erected, or put up to be used, in any city or town
4 in this Commonwealth, unless the mayor and aldermen
5 of such city, or selectmen of such town, shall have
6 previously granted license therefor, designating the

7 place where the building or buildings shall be erected,
8 in which such steam engine or furnace shall be used,
9 the materials and construction thereof, and such other
10 provisions and limitations, as to the height of flues,
11 and protection against fire, as they shall judge neces-
12 sary for the safety of the neighborhood; such license
13 to be granted on written application, and to be re-
14 corded in the records of such city or town.

1 **SECT. 2.** Whenever the mayor and aldermen of
2 any city, or the selectmen of any town, after due no-
3 tice in writing to the owner of any steam engine or
4 furnace heretofore erected, or in use, and a hearing of
5 the matter, shall adjudge the same to be dangerous,
6 or a nuisance to the neighborhood, they may make and
7 record an order, prescribing such rules, restrictions
8 and alterations, as to the building in which such steam
9 engine or furnace is constructed or used, the construc-
10 tion and height of its smoke flues, or other provisions,
11 as they shall deem the safety of such neighborhood to
12 require; and it shall be the duty of the city or town
13 clerk to deliver a copy of such order to a constable,
14 who shall serve such owner with an attested copy
15 thereof, and make return of his doings thereon to said
16 clerk, within three days from the delivery thereof to
17 him.

1 **SECT. 3.** Whenever the mayor and aldermen of
2 any city, or the selectmen of any town, after notice
3 and hearing as aforesaid, shall adjudge that, by reason
4 of any change in the neighborhood, or for other causes,
5 further regulations are required for the safety of such
6 neighborhood, in relation to any such engine or fur-
7 nace as is named in either of the foregoing sections,

8 they may make an order therefor, to be recorded and
9 served and returned as aforesaid.

1 SECT. 4. The owner of any such steam engine or
2 furnace shall, within ten days after such order is served
3 upon him, or within such further time as he may be
4 required so to do by such order, make all such altera-
5 tions as are there required, and conform to such order.

1 SECT. 5. Any such engine or furnace hereafter
2 erected without such license, made and recorded as
3 aforesaid in section first, shall be deemed and taken
4 to be a common nuisance, without any other proof
5 thereof than proof of its use; and any steam engine
6 or furnace used contrary to the provisions of sections
7 second, third and fourth of this act, shall be taken and
8 deemed to be a common nuisance.

1 SECT. 6. The mayor and aldermen of any city, or
2 selectmen of any town, shall have the same power and
3 authority to abate and remove any such steam engine
4 or furnace erected or used contrary to the provisions
5 of this act, as are given to the board of health, in the
6 tenth and eleventh sections of the twenty-first chapter
7 of the Revised Statutes.

1 SECT. 7. Whenever application shall be made for
2 license as aforesaid, the mayor and aldermen, or se-
3 lectmen, shall assign a time for the consideration, and
4 shall cause at least fourteen days' public notice to be
5 given of such application, and of the time and place
6 for the consideration, which notice shall be published
7 in some newspaper published in such city or town; or,
8 if no newspaper be published therein, then such notice
9 shall be given in such manner as said mayor and alder-

10 men or selectmen may appoint, at the expense of the
11 applicant, that any person interested may be heard
12 before such license is granted.

1 SECT. 8. Any person aggrieved by any such order,
2 as provided in sections second, third and fourth of this
3 act, may apply to the court of common pleas, if sitting
4 in such county, or to any justice thereof in vacation,
5 for a jury, and such court or justice shall issue a war-
6 rant for a jury to be impannelled by the sheriff, in the
7 same manner as is provided in the twenty-fourth chap-
8 ter of the Revised Statutes, in regard to the laying
9 out of highways; such application shall be made
10 within three days after such order is served upon the
11 said owner; and the said jury shall be impannelled
12 within fourteen days from the issuing of said warrant.

1 SECT. 9. Upon any application to said court of
2 common pleas, or to any justice thereof, for a jury,
3 said court or justice, on granting the same, shall issue
4 an injunction restraining the further use of said engine
5 or furnace, until the final determination of such appli-
6 cation by the jury and court to which such verdict
7 may be returned.

1 SECT. 10. The jury shall find a verdict either
2 affirming or annulling the said order in full, or making
3 alterations therein, as they may see fit; which verdict
4 shall be returned to the next term of the said court by
5 the sheriff for acceptance, in like manner as in the
6 case of highways, and, being accepted, shall be binding
7 to the same effect as the original order would be with-
8 out such appeal.

1 SECT. 11. If the verdict shall affirm such order,

2 costs shall be recovered by the city or town against
3 such applicant; if the verdict shall annul such order
4 in whole, costs shall be recovered by the complainant
5 against such city or town; and in case the verdict
6 shall alter such order in part, the court may render
7 such judgment as to costs, as to justice shall appertain.

1 SECT. 12. This act shall take effect from and after
2 its passage.

