

HOUSE....No. 132.

[Reported by the Special Committee on the subject.]

Commonwealth of Massachusetts.

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

AN ACT

For Regulating the Sale of Intoxicating Liquors.

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 person shall be allowed, at any time,
2 to sell, by himself, or his agent, directly or indirectly,
3 any spirituous or intoxicating liquors, or any mixed
4 liquors, a part of which may be spirituous or intoxi-
5 cating, except for medicinal or mechanical purposes,
6 and in the manner provided for in this act.

1 SECT. 2. The mayor and aldermen of any city, or
2 the selectmen of any town, may authorize as many

3 persons as they may think the public good requires,
4 to sell, as the agents of said city or town, within its
5 limits, spirits, wines and other intoxicating liquors,
6 for medicinal and mechanical purposes only.

1 SECT. 3. No person shall act as the agent of any
2 city or town, according to the provisions of the fore-
3 going section, till he shall have received a certificate
4 of his appointment from the mayor and aldermen of
5 such city, or the selectmen of such town; and in no
6 case shall such certificate be given till a bond, with
7 sufficient sureties, in the sum of not less than two
8 hundred dollars, shall have been lodged with such
9 mayor and aldermen or selectmen, the condition of
10 which shall require said agent to sell for medicinal
11 and mechanical purposes only. And every person
12 authorized as above, shall keep a just and true ac-
13 count of all his purchases and sales, embracing the
14 names of persons to whom it was sold and the quan-
15 ties, which account shall be open to the inspection of
16 the inhabitants of such town or city at all times, and
17 no person shall be authorized, as above, who is keeper
18 of a tavern, grocery, or other place of public resort.

1 SECT. 4. If any person, not authorized according
2 to the provisions of this act, shall, at any time, by
3 himself or his agent, sell any spirituous or intoxi-
4 cating liquors, or any mixed liquors, a part of which
5 is intoxicating, he shall forfeit and pay, on the first
6 conviction, twenty dollars and the costs of prosecu-
7 tion, and shall give a bond, with sufficient sureties,
8 in the sum of one hundred dollars, to keep the peace
9 for one year; and on every subsequent conviction, he
10 shall pay the sum of twenty dollars and the costs of
11 prosecution, and shall be imprisoned in the common

12 jail not less than twenty nor more than sixty days,
13 and in default of the payment of fines and costs, an
14 additional term of thirty days; and any person who
15 shall vend spirituous liquors in connection with any
16 other article of merchandise, or with any exhibition
17 or show, under the pretext of gratuity, shall be ad-
18 judged as selling the same; and any person who
19 shall, by himself or his agent, transport from one
20 town to another, any intoxicating liquor, and shall
21 vend or distribute the same without being authorized
22 according to the provisions of the third section, shall
23 be adjudged as selling, and shall be liable to the pen-
24 alties set forth in this section.

1 SECT. 5. If any three persons, voters in the town
2 or city where the complaint shall be made, shall, be-
3 fore any justice of the peace or judge of any munici-
4 pal or police court, make oath or affirmation that they
5 have reason to believe, and do believe, that spirituous
6 or intoxicating liquors are kept or deposited, and in-
7 tended for sale by any person not authorized accord-
8 ing to the provisions of this act, said justice or judge
9 shall issue his warrant of search to any sheriff, city
10 marshal, deputy, or to any constable, who shall pro-
11 ceed to search the premises described in said war-
12 rant; and if any spirituous or intoxicating liquors
13 shall be found therein, he shall seize the same and
14 convey them to some suitable place, to be kept and
15 used as evidence, in the same manner that imple-
16 ments of gambling and counterfeiting are now used,
17 according to the provisions of law, and such liquors
18 and implements shall, in all cases, be forfeit, and shall
19 be destroyed or disposed of as the court may direct,
20 unless the person holding the same, shall prove that
21 they were designed for use according to the provisions

22 of this act ; but no dwelling house in which, or in part
23 of which, a shop is not kept, shall be searched, unless
24 at least one witness shall testify to some act of sale
25 of intoxicating liquor therein, within one month of
26 making complaint.

1 SECT. 6. Any forfeiture or penalty, arising under
2 this act, may be recovered by an action of debt, or
3 upon complaint of any legal voter of the city or
4 town wherein the offence was committed, before any
5 justice of the peace or judge of any municipal or
6 police court in the same county, and the forfeiture or
7 penalty, so recovered, shall go to such town or city
8 for the benefit of the poor, and the prosecutor or
9 complainant shall be admitted as a witness upon the
10 trial.

1 SECT. 7. If any person shall claim an appeal from
2 the judgment rendered against him by any justice or
3 judge, on the trial of such action or complaint, he
4 shall, before the appeal shall be allowed, recognize in
5 the sum of one hundred dollars, with two good sure-
6 ties, in every case so appealed, to prosecute his appeal
7 and to pay and suffer all costs, fines and penalties,
8 that may be awarded against him upon a final dispo-
9 sition of such suit or complaint, and no recognizance
10 or bond shall be taken in cases arising under this
11 act, except by the justice or judge before whom the
12 trial was had, and if such recognizance shall not be
13 made within twenty-four hours after the judgment,
14 the appeal shall not be allowed. And in every case
15 of final conviction before a jury, the defendant shall
16 pay and suffer double the amount of fines and penal-
17 ties awarded against him by the justice or judge from
18 whose judgment the appeal was made.

1 SECT. 8. No person engaged in the unlawful traf-
2 fic in intoxicating liquors, shall be competent to sit
3 upon any jury, and when information shall be com-
4 municated to the court that any member of any pan-
5 nel is believed to be engaged in such traffic, the court
6 shall inquire of the juryman suspected, and no an-
7 swer that he shall give shall be used as evidence
8 against him in any case arising under this act; and
9 if he shall decline to answer, he shall be discharged
10 by the court from further attendance as juryman.

1 SECT. 9. Whenever a breach of any bond given
2 to the inhabitants of any city or town, in pursuance
3 of the provisions of this act, shall be made known to
4 the mayor and aldermen of such city, or the select-
5 men of such town, they or some one of them shall, at
6 the expense of such city or town, cause the bond to
7 be put in suit in some court competent to try the
8 same.

1 SECT. 10. All acts inconsistent with the provis-
2 ions of this act, are hereby repealed, but this act
3 shall have no effect upon any complaint or indict-
4 ment now pending.

1 SECT. 11. This act shall take effect from and after
2 its passage.

