

section the words "before notice of such assignment is given in writing by the assignee to the debtor.

Approved, April 7, 1884.

CHAPTER 184.

H. F. 55. **AN ACT** in Relation to Attorney's Fees in Partition Cases of Real Estate. [Additional to Code, Ch. 3, Title XX.]

Be it enacted by the General Assembly of the State of Iowa:

Where no defense: attorney fee shall not exceed that allowed in section 2.
Fee allowed.

SECTION 1. That in all actions for partition of real estate where there is no defense made no greater attorney fee shall be allowed by the court to be taxed for and as attorney fees in such action for partition than provided in section two hereof.

SEC. 2. For the first two hundred dollars or less in value of the property to be partitioned ten per cent, for the excess of two hundred dollars to five hundred dollars five per cent and for the excess over five hundred to one thousand dollars three per cent for all excess over one thousand one per cent.

Approved, April 7, 1884.

CHAPTER 185.

TO REGULATE SALE OF COAL OIL.

S. F. 305. **AN ACT** to Provide for the Inspection and to regulate the Sale of Petroleum and its Products, and to Repeal Chapter 172 of the Acts of the Seventeenth General Assembly and Section 3901 of the Code.

Be it enacted by the General Assembly of the State of Iowa:

Governor with consent of senate to appoint state inspector of oils.

SECTION 1. That the governor, by and with the advice and consent of the senate, shall appoint a suitable person, resident of the state, who is not interested in manufacturing, dealing in, or vending any illuminating oils manufactured from petroleum, as State Inspector of Oils, whose term of office shall commence on the first day of April of each even-numbered year, and continue for the term of two years and until his successor is appointed and qualified. It shall be the duty of such state inspector, by himself or his deputies, hereinafter provided for, to examine and test the quality of all such oils offered for sale by any manufacturer, vender, or dealer; and if upon such testing or examination the oils shall meet the requirements hereinafter

Term.

Duty of inspector and deputies.

specified, he shall fix his brand or device, "*Approved, flash test—degrees*" (inserting the number of degrees), with the date, over his official signature, upon the package, barrel or cask containing the same. And it shall be lawful for the state inspector, or his deputies, to enter into or upon the premises of any manufacturer, vender or dealer of said oils, and if they shall find or discover any kerosene oil, or any other product of petroleum kept for illuminating purposes, that has not been inspected and branded according to the provisions of this act, they shall proceed to inspect and brand the same. It shall be lawful for any manufacturer, vender or dealer to sell the oil so tested and approved as an illuminator; but if the oil or other product of petroleum so tested shall not meet said requirements, he shall mark in plain letters on said package, barrel or cask, over his official signature, the words; "*Rejected for illuminating purposes; flash test—degrees*," (inserting the number of degrees). And it shall be unlawful for the owner thereof to sell such oil or other product of petroleum for illuminating purposes. And if any person shall sell or offer for sale any of such rejected oil or other product of petroleum for such purpose, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a penalty not exceeding three hundred dollars.

May enter upon premises of manufacturer or dealer.

When rejected.

Unlawful to sell rejected oil.

Penalty.

SEC. 2. The state inspector provided for in this act, is authorized to appoint a suitable number of deputies, which deputies are empowered to perform the duties of inspection, and shall be liable to the same penalties as the state inspector; *provided*, that the state inspector may remove any of said deputies for reasonable cause. It shall be the duty of the inspector and his deputies to provide themselves at their own expense with the necessary instruments and apparatus for testing the quality of said illuminating oils, and when called upon for that purpose to promptly inspect all oils hereinbefore mentioned, and to reject for illuminating purposes, all oils which will emit a combustible vapor at a temperature of one hundred degrees standard Fahrenheit thermometer, closed test, *provided* the quantity of oil used in the flash test shall not be less than one-half pint. The oil tester adopted and recommended by the Iowa state board of health, shall be used by the inspector and his deputies in all tests made by them. And said board shall prepare rules and regulations as to the manner of inspection in the use of the oil tester adopted, which rules and regulations shall be in effect and binding upon the inspector and deputies appointed under this act.

May appoint deputies.

Duty of inspector.

Board of health to adopt tester.

SEC. 3. The state inspector before he enters upon the discharge of the duties of his office shall take the oath or affirmation provided by law, and file the same in the office of the secretary of state, and execute a bond to the state of Iowa in a penal sum not less than twenty thousand dollars with sureties thereto, to be approved by the secretary of state, who shall justify as provided by law, and in addition thereto state under oath that they are not interested, directly or indirectly, in manufacturing, deal-

Inspector to take oath and give bond.

ing in or vending any illuminating oils manufactured from petroleum; such bond to be conditioned for the faithful performance of the duties imposed upon him by this act, and which shall be for the use of all persons aggrieved by the acts of said inspector, or his deputies, and the same shall be filed with the secretary of state. Every deputy inspector before entering upon the discharge of his duties, shall take a like oath or affirmation prescribed herein for the state inspector, and execute to the state a bond in the penal sum of five thousand dollars with like conditions and for like purposes, and with sureties thereto who shall justify and have like qualifications as herein provided for the sureties for state inspector and such sureties shall be approved by the clerk of the district court of the county in which such deputy inspector resides, and said bond and oath shall be filed in the office of such clerk and such deputy inspector shall before entering upon the discharge of his duties forward said clerk's certificate of such filing to the state inspector and to the secretary of state to be placed on file.

Filed with secretary of state. Deputies to give bond to be filed with clerk of district court.

Inspection to be made in the state.

Fees.

Proviso.

Record of oil inspected.

Report to auditor of state.

Sec. 4. All inspections herein provided for shall be made within the state of Iowa, and the inspector or deputy inspector shall be entitled to demand and receive for his services from the owner or party calling on him, or for whom he shall perform the inspection, the sum of forty cents for a single barrel, package or cask; twenty-five cents each when the lot exceeds one but does not exceed ten in number; fifteen cents each when the lot exceeds ten but does not exceed twenty in number; ten cents each when the lot exceeds twenty but does not exceed one hundred in number and five cents each for all lots exceeding one hundred barrels; but nothing herein shall preclude the inspection of oil in tanks used for transportation on railroads or in storage, *provided*, the inspector or deputy so inspecting the same shall see and know that the identical oil inspected in such tank is placed in the package, barrel or cask upon which the brand or device herein provided for shall be placed and his fees therefor shall be four dollars for each tank. All fees accruing for inspection shall be a lien upon the oil so inspected.

Sec. 5. It shall be the duty of the state inspector and every deputy inspector to keep a true and accurate record of all oils so inspected and branded by him which record shall state the date of inspection, the number of gallons rejected the number of gallons approved, the number of gallons inspected, the number and kind of barrels, casks or packages, the name of the person for whom inspected and the amount of money received for such inspection and such record shall be open to the inspection of all persons interested and every deputy inspector shall return a true copy of such record at the beginning of each month to the state inspector. It shall be the duty of the state inspector to make and deliver to the state auditor for the fiscal period ending the thirtieth day of June, 1885, and every two years thereafter a report of the inspections made by himself and deputies for such period, containing the information and

items required in this act to be made of record, and the same shall be laid before the general assembly. Report to G. A.

SEC. 6. If any person or persons, whether manufacturer vendee or dealer shall sell or attempt to sell to any person in this state any illuminating oil, the product of petroleum, whether manufactured in this state or not, which has not been inspected as provided in this act, he shall be deemed guilty of a misdemeanor and subject to a penalty in any sum not exceeding three hundred dollars, and if any manufacturer, vendee or dealer in either or any of said illuminating oils shall falsely brand the package, cask or barrel containing the same, as provided in this act, or shall refill packages, casks or barrels having the inspector's brand thereon without erasing such brand, having the oil inspected and such packages, casks or barrels re-branded he shall be guilty of a misdemeanor and shall be subject to a penalty not exceeding three hundred dollars or be imprisoned in the county jail not exceeding six months or both in the discretion of the court. Penalty for selling oil not inspected.
For falsely branding or re-filling.

SEC. 7. Any person selling or dealing in illuminating oils produced from petroleum who shall sell or dispose of any empty kerosene barrel, cask, or package before thoroughly cancelling, removing or effacing the inspection brand on the same, shall be guilty of a misdemeanor, and on conviction thereof, shall pay a fine of one dollar for each barrel, cask or package thus sold or disposed of; and any person who shall knowingly use any illuminating oil, the product of petroleum for illuminating purposes before the same has been approved by the state inspector of oils, or his deputy, shall be guilty of a misdemeanor, and, on conviction thereof shall pay a fine in any sum not exceeding ten dollars, for each offense. Empty barrels.
Penalty for using oil not approved of.

SEC. 8. No person shall adulterate with parafine or other substance, for the purpose of sale or for use, any coal or kerosene oils, to be used for lights, in such a manner as to render them dangerous to use; nor shall any person knowingly sell or offer for sale, or knowingly use any coal or kerosene oil, or any products of petroleum for illuminating purposes which by reason of being adulterated or for any other reason, will emit a combustible vapor at a temperature less than one hundred degrees of standard Fahrenheit's thermometer, tested as provided in this act: *provided* that the gas or vapor from said oils may be used for illuminating purposes when the oils from which said gas or vapor is generated are contained in closed reservoirs outside the building illuminated or lighted by said gas. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars or by both such fine and imprisonment in the discretion of the court: *provided further*, that nothing in this act shall be so construed as to prevent the sale for and use in street lamps of lighter products of petroleum, such as gasoline, benzine, benzole, naphtha Adulteration.
Proviso.
Penalty.
Proviso.

or to prevent the use of machines or generators constructed on the principle of the "Davy safety lamp."

Persons offending to be prosecuted.

SEC. 9. It shall be the duty of the state inspector, and of any deputy inspector, who shall know of the violation of any of the provisions of this act, to prosecute before a court of competent jurisdiction any person so offending. And in case the state inspector, or any deputy inspector, having knowledge of the violation of any of the provisions of this act, shall neglect to prosecute as required herein, he shall be deemed guilty of a misdemeanor and punished accordingly, and, upon conviction, shall be removed from office.

Penalty for failure to prosecute.

Oil which will ignite at 300° prohibited as freight, etc.

SEC. 10. No oil, nor fluid, whether composed wholly or in part of petroleum or its products, or of other substances or material, which will ignite and burn at a temperature of three hundred degrees of the standard Fahrenheit thermometer, open test shall be carried as freight, nor shall the same be burned in any lamp, or vessel, or stationary fixture of any kind, in any passenger, baggage, mail or express car on any railroad, nor on any passenger boat moved by steam-power, nor in any street railway car, stage coach, omnibus or other public conveyance in which passengers are carried, within this state. A violation of any of the provisions of this section shall be deemed a misdemeanor, and the offender shall on conviction thereof be fined not less than one hundred dollars, nor more than one thousand dollars, and shall be liable for all damages resulting therefrom.

Penalty.

Penalty for false branding.

SEC. 11. If any inspector or deputy shall falsely brand or mark any barrel, cask or package, or be guilty of any fraud, deceit, misconduct or culpable negligence in the discharge of his official duties, or shall deal in, or have any pecuniary interest, directly or indirectly in any oils or fluids used or sold for illuminating purposes, while holding such office he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding one hundred dollars, or imprisoned not exceeding thirty days, and be liable to the party injured for all damages resulting therefrom.

Removal from office.

SEC. 12. It shall be the duty of the governor to remove from office, and to appoint a competent person in the place of any inspector who is unfaithful in the duties of his office.

Penalty for selling oil below test.

SEC. 13. Any person who shall knowingly or negligently sell, or cause to be sold, any of the oils mentioned in this act, for illuminating purposes, except for the purposes herein authorized, which are below the standard and test required in this act, shall be liable to any one purchasing said oil, or to any person injured thereby, for all damages resulting from any explosion of said oil.

State board of health to make rules.

SEC. 14. Within sixty days after the passage of this act, the state board of health shall make and provide the necessary rules and regulations for the inspection of illuminating oil as contemplated in this act, and on application, shall furnish the inspector and his deputies with the same.

SEC. 15. Chapter 172 of the acts of the seventeenth general Repeal.
assembly and section 3901 of the code are hereby repealed.

SEC. 16. This act being deemed of immediate importance, Publication.
shall take effect and be in force from and after its publication
in the Iowa State Register and Iowa State Leader newspapers
published at Des Moines Iowa.

Approved, April 14, 1884.

I hereby certify that the foregoing act was published in the *Iowa
State Register* April 17, and *Iowa State Leader* April 18, 1884.

J. A. T. HULL, *Secretary of State.*

CHAPTER 186.

DRAINS, LEVEES AND CHANGES, IN WATER COURSES.

AN ACT in Relation to Ditches, Drains, Levees, Embankments S. F. 280.
and Changes in Water Courses, and Amendatory to Chapter 2,
Title X, of the Code.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Ditches or drains may be located and con-
structed within the limits of any public highway, and on either
or both sides thereof, and levees or embankments upon and
along the same; *provided*, they are so constructed as not to pre-
vent public travel thereon. The engineer or commissioner ap-
pointed to locate ditches, drains, levees, or embankments, may
recommend the establishment of a public highway upon and
along the route of the same, and the board of supervisors may
establish the same on such recommendation in the same man-
ner as on the report of a highway commissioner. All levees
built by taxation under the drainage laws shall be under the
control of the board of supervisors of the county in which they
are situated, and the board shall have the power to grant the
right of way thereon to any railway company that will main-
tain the same while used for railway purposes: *provided*, the
steps for condemnation and payment therefor, contained in
chapter 4, title 10, of the code, shall first be taken by said com-
pany, *provided further*, that nothing in this section shall be con-
strued so as to require such ditches or levees to be kept up at
the expense of the county.

Ditches or
drains in pub-
lic highway.
Levees and
embankments.
Proviso.

Engineer can
recommend
public high-
way, when.
Board of su-
pervisors may
establish.

What levees
are under con-
trol of board of
supervisors.

Proviso :
Chap. 4, Title
10, compiled
with.

Proviso : not
kept at ex-
pense of
county.

SEC. 2. Whenever the petition of one hundred legal voters
of the county, setting forth that any body or district of land
in said county, described by metes and bounds, or otherwise, is
subject to overflow, or too wet for cultivation: and that in the
opinion of petitioners the public health, convenience or wel-
fare, will be promoted by draining or leveeing the same, and

100 voters pe-
tition on over-
flowed lands.