

Take effect. § 4. This Act shall take effect and be in force from and after its publication in the Iowa Capital Reporter and the Iowa Republican.

APPROVED January 25th, 1855.

I certify that the foregoing Act was published in the Iowa Capital Reporter and Iowa Republican, January 31st, 1855,

GEO. W. McCLEARY, Sec'y of State

CHAPTER 156.

SWAMP LANDS.

A BILL to prevent trespass or waste on swamp, or other lands in the State of Iowa, and for other purposes.

Trespass. SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That whenever the county judge of any county shall become satisfied that trespass or waste, by cutting wood or carrying it away, or in any other manner, has been, within six months then past, or is then being committed on any swamp or overflowed lands, situate in, and belonging to, such county, and which have been properly selected according to law, and the returns thereof made to such county judge by the selecting officer, it shall be the duty of said county judge to issue a warrant to the sheriff of his county, or to some other officer directing said sheriff, or officer, to arrest and bring before him, forthwith, the person or persons charged in said warrant with having committed trespass or waste, as aforesaid, or any person then committing the same:

Warrant. *Provided,* that this section shall not be construed as authorizing a warrant for trespass to be issued against any person for cutting or carrying away wood on swamp or overflowed lands, which such person shall have entered at any United States land office, or against any person who has acquired a *bona fide* pre-emption right to any of said lands, under the subsequent provisions of this act.

Arrest.

Proviso.

Subpoena. § 2. It shall be the duty of the county judge, at the time of issuing said warrant, to issue a subpoena to any person or persons, who may be cognizant of trespass or waste com-

mitted in violation of this act, requiring such person or persons to appear before him forthwith, to testify in relation to the matter; which subpoena shall be served by the sheriff of the county, or some other officer, deputed by the county judge.

§ 3. On the appearance of the person or persons arrested ^{Tit. 1.} under said warrant, the county judge shall proceed to hear testimony in the case, and if the person so arrested shall be found guilty of having committed trespass or waste, contrary to the provisions of this act, he shall be adjudged to pay ^{Fine and im-} a fine, not exceeding one hundred dollars, and costs of suit, ^{prisonment.} or to be imprisoned in the county jail, for a period not exceeding sixty days, or to be both fined and imprisoned, at the discretion of said judge; *Provided*, that any person so arrested, shall be entitled to be tried by a jury of six disinter-^{Jury.}ested residents of the county, if he require it. And said judge shall have authority, in his discretion, to commit such persons to the county jail until the fine and costs adjudged against him shall be paid: *Provided*, his imprisonment shall not exceed, altogether, ninety days.

§ 4. All fines so inflicted shall inure to the use of the school ^{Fines, how} fund, and be paid to the person having charge of that fund ^{disposed of.} in the county, after deducting from the same the amount of costs which may have been paid by the county, in cases of failure, to sustain any previous action commenced under this act; and the costs in prosecutions under this act, shall be the same as the costs in similar prosecutions before a justice of the peace.

§ 5. It shall be the further duty of the county judge of ^{Mandate to} each county, whenever he may suspect that trespass or ^{prevent some-} waste has been committed, as mentioned in the first section ^{val of timber.} of this act, to issue his mandate to the sheriff of his county, or to some other officer therein, to restrain and prevent all persons from carrying away wood or timber, that may have been cut on any of the swamp or overflowed lands above specified; and to take possession of such wood or timber, and dispose of the same by public or private sale, at the discretion of the sheriff, or officer serving said writ, and return the proceeds thereof to the county treasurer.

Suit for damages.

§ 6. It is further made the duty of the county judge of the several counties, to sue for damages, in the name, and for the use of, their respective counties, in the proper district court, any person who shall have committed trespass or waste, in violation of the provisions of this act: *Provided*, that it shall be discretionary with said judges to proceed against such person either by criminal prosecution, or civil suit, as above provided, or both.

Trespass or waste.

Appeal

§ 7. Any person convicted of trespass or waste, before the county judge, as above specified, may take an appeal to the proper district court, by giving bond and security to the satisfaction of the county judge, in the usual penalty and condition, with the further condition that he will not, in the meantime, and until the decision of said district court in the matter, commit further waste or trespass as above specified.

All State lands.

§ 8. The foregoing provisions are extended to all school, university, or other lands belonging to the state, so far as the same may be applicable.

Pre-emption.

§ 9. Any person who shall have a *bona fide* claim, by actual settlement or improvement upon any of the swamp or overflowed lands in this State, which shall have been selected, and the returns thereof made to the county judge, as specified in the first section of this act; and any *bona fide* assignee of such person shall be allowed to enter the same by paying into the county treasury of the proper county the sum of one dollar and a quarter per acre therefor, as hereinafter provided: *Provided*, that such person, or his assignee, shall first prove such claim, before the proper county judge, within ninety days after the first day of March, 1855: *Provided, further*, that in any county in which the proper returns shall not have been made to the county judge thereof, by the selecting officer, such person shall have ninety days after the time at which said returns shall be made, wherein to prove his said claim.

Limitation.

Perfecting right of Pre-emption.

§ 10. Any person desirous of perfecting his said claim, and of receiving the benefit of a pre-emption right to any swamp or overflowed lands above specified, shall be entitled to the same, by proving his claim, within the time specified in the eighth section of this act, to the satisfaction of the

proper county judge, by any testimony which shall be satisfactory to said judge; and in case the claimant's right is contested by another, said judge shall appoint a day, when he will hear the evidence on both sides, and he shall make such decision in the case as he may deem right, and award costs in his discretion; and he shall give to the successful claimant a certificate of pre-emption: *Provided*, that no person shall receive a certificate for more than 160 acres of land, which may be situate in two distinct tracts, one to consist of prairie, and one of timber: *Provided*, that the timber tract shall not exceed 80 acres. The provisions of this, and the preceding section, are hereby extended to any person who shall hereafter acquire a *bona fide* claim, as above specified: *Provided*, he shall prove the same according to the provisions of this act, within sixty days after acquiring the same.

§ 11. The said certificate shall entitle the holder thereof to perfect his title to the land mentioned therein, whenever the proper returns of the Iowa swamp lands are made, so as to complete the title of the several counties thereto; and the several county judges shall give public notice thereof, and require the several claimants holding certificates, to pay the entrance money into the treasury of the proper county; whereupon said claimant shall be entitled to receive a patent for the land mentioned in their respective certificates.

§ 12. Any person feeling aggrieved by the decision of the county judge, under the ninth section of this act, may appeal therefrom to the district court of the proper county, which shall have final jurisdiction over the matter, and shall make such decision in the premises as justice and equity may require.

§ 13. The term of office of drainage commissioner in the several counties shall expire on the first Monday of April, A. D. 1857, at which time their successor shall be elected.

§ 14. All acts and parts of acts, in relation to swamp lands, inconsistent herewith, are repealed.

§ 15. This act to be published in the Iowa Capital Reporter and the Iowa City Republican, and to take effect from and after the first day of March, 1855.

APPROVED January 25th, 1855.

LAW OF IOWA.

I certify that the above and foregoing Act was published in the Iowa Capital Reporter and Iowa City Republican on the 31st day of January, 1855.
GEO. W. McCLEARY, Secretary of State.

CHAPTER 157

STATE LIBRARY.

AN ACT regulating the State Library.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa*, That the library of the State shall be in the care and custody of a Librarian appointed by the Governor, by and with the advice and consent of the Senate.

§ 2. The Librarian shall give bond to the State in the sum of five thousand dollars, for the faithful performance of his duties, for the preservation and safe delivery of all the property committed to his care, to his successor, or to the Governor, and for the faithful paying over of all moneys that may come into his hands from fines, forfeitures or otherwise, which bond is to be approved by the Governor, or in his absence, by the Secretary of State, and the bond filed in the Secretary's office.

§ 3. The Librarian shall have the custody and charge of all books, maps, charts, engravings, paintings, and all other things properly belonging to the library, or directed to be deposited therein.

§ 4. The library shall be kept open during the session of the General Assembly and of the Supreme Court at the seat of government, from nine to twelve o'clock in the forenoon, and from two to nine o'clock in the afternoon, and at other times during the afternoon of each Wednesday and Saturday.

§ 5. The compensation of the Librarian shall be an annual salary of one hundred and fifty dollars, payable quarterly from the State Treasury.

§ 6. No person shall be permitted to remove from the library any book or other property belonging thereto, except