

CHAPTER '221.

LICENSE LAW.

AN ACT to license and regulate the sale of malt, spiritous and vinous liquors, in the State of Iowa.

SECTION 1. *Be it enacted by the General Assembly of the* Co judge general license.
State of Iowa, That the county judge of any county in this State may, at any regular term of the county court, grant and issue a license for the sale of malt, spiritous and vinous liquors to any person who shall comply with the following conditions :

First. The applicant for a license under this act shall file Applicant file petition. with the county judge the petition of at least twelve freeholders of the township in which he resides, signed and attested before a justice of the peace, or other competent officer, setting forth that the applicant for a license is a man of respectable character and standing, and a resident of this State, and praying that license may issue to him.

Second. The applicant shall at the same time file with File bond. the county judge, his bond to the county in the sum of five thousand dollars, with good and sufficient sureties conditioned, that during the continuance of his license, he will not keep a notorious or disorderly house, that he will not allow gambling with cards, dice, or any other implements or devices used in gaming, within his house or within any out-house, yard, or other premises under his control; for the payment of all damages, fines and forfeitures which may be adjudged against him under the provisions of this act.

Third. The applicant shall pay into the county treasury Use of schools. for the use of the school fund, to be distributed by the school fund commissioner as other moneys, the sum of not less than one hundred nor more than five hundred dollars at the discretion of the county judge, and file the treasurer's receipt therefore, in duplicate with the county judge, before such license shall issue.

SEC. 2. Said license shall continue in force for one year One year. and no longer, and no license shall issue for a less period than six months.

SEC. 3. Any person licensed as aforesaid, who shall sell Penalties. or give any malt, or spiritous, or vinous liquors, or other in-

toxicating drink, to any minor, apprentice, or servant, under twenty-one years of age, without the consent of the parent, guardian, or master thereof, shall forfeit and pay for each offence the sum of twenty-five dollars to the use of such parents, guardian or master, to be recovered by action of debt before any court having competent jurisdiction.

Indians, &c.

SEC. 4. Any person so licensed, who shall sell any intoxicating liquor to any Indian, insane person, or idiot, shall be subject to a fine of not less than fifty dollars for each such offence, which said fine shall be paid into the school fund of the State, to be sued for and recovered before any court of competent jurisdiction.

Damages.

SEC. 5. The person so licensed shall pay all damages that community or individuals may sustain in consequence of said traffic. He shall support all paupers, widows, and orphans, and pay the expenses of all civil and criminal prosecutions growing out of or justly attributable to his said retail traffic in intoxicating drinks, said damages and expenses to be recovered in any court of competent jurisdiction by an action on the bond named and required in the first section in this act, a copy of which, properly authenticated, shall be taken in evidence in all courts of justice in this State, and it shall be the duty of the county judge to deliver on demand such a copy thereof to any person who may claim to be injured by such traffic.

Action.

SEC. 6. It shall be lawful for any married woman, or any other person at her request, to institute and maintain in her own name a suit on any such bond for all damages sustained by herself and children on account of such traffic, and the money when collected shall be paid over for the use of herself and children.

Suit.

SEC. 7. When any person shall become a county or city charge, by reason of intemperance, a suit may be instituted by the proper authorities on the bond of any person licensed under this act, who may have been in the habit of selling or giving intoxicating liquor to the person so becoming a public charge: *Provided*, That the person against whom a judgment may be rendered under the provisions of this act, may recover by similar action a proportionate part of said judgment from any and all persons engaged in said traffic, who may have sold or given liquor to such person

becoming a public charge, or to any person committing an offence.

SEC. 8. On the trial of any suit under the provisions of Proof. this act, the cause or foundation of which shall be the acts or injuries of a person or persons under the influence of liquor, it shall only be necessary, to sustain the action, to prove that the defendant or defendants sold or gave liquor to the person or persons so intoxicated or under the influence of liquor, whose acts or injuries are complained of, on that day or about that time when said acts were committed or said injuries received; and in action for damages brought by a married woman, or other person whose support legally devolves upon a person disqualified by intemperance from earning the same, it shall only be necessary to prove that the defendant has given or sold intoxicating drinks to such person in quantities sufficient to produce intoxication, or when under the influence of liquor.

SEC. 9. No suit for liquor bills, when sold in quantities Liquor bills void. less than five gallons, shall be entertained by any court in this State, and when it shall appear that any promissory note, mortgage, or other obligation upon which a suit is pending, was given in whole or in part for liquor sold in less quantities than five gallons, such suit shall be dismissed at the cost of the plaintiff, except such sale be for medicinal, mechanical or sacramental purposes.

SEC. 10. All persons who shall vend or retail, or for the Penalty. purpose of avoiding the provisions of this act, give away under any pretext, malt, spirituous or vinous liquors, or any intoxicating drink, without first having complied with the conditions and obtained license as set forth in the first section thereof, shall for each offence be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty dollars, nor more than one thousand, or be imprisoned not exceeding one year, in the county jail, or be both fined and imprisoned, and shall be liable in all respects to the public and to individuals the same as he would have been had he given the bond and obtained the license as herein provided.

SEC. 11. It is hereby made the duty of justices of the Warrant and arrest. peace, and all other competent courts of this State, upon the filing of complaint under oath, when any person within

the jurisdiction of said court is guilty of a violation of the provisions of this act, to issue a warrant forthwith for the arrest of such person complained of, as in other cases of misdemeanor, and if upon examination, the court shall have reason to believe the party guilty, he shall be held to answer at the next term of the district court as in other cases of misdemeanor.

Suits.

SEC. 12. All suits for damages or expenses arising under this act may be commenced and prosecuted before a justice of the peace, when the damages claimed do not exceed \$100, although the penalty in the bond may exceed that amount, and the judgment shall be for the damages proved.

Convicted persons.

SEC. 13. When any person licensed under this act shall be convicted for any violation of its provisions, or when judgment for damages or expenses as herein provided, rendered against any person licensed, it shall be the duty of the court so convicting or rendering judgment, to transmit forthwith to the county judge a certified copy of said conviction or judgment, with a statement of the evidence in the case, for which shall be allowed a fee of \$1, to be assessed with the costs.

Revoke license

SEC. 14. Upon the receipt of the certified copy and statement mentioned in the 13th section, the county judge shall, if he deems the cause sufficient, cite the power to appear and show cause why his license shall not be declared forfeited, and may in his discretion revoke and annul said license. No person whose license has been declared forfeited by the county judge, shall be eligible to receive license within five years from such forfeiture.

Powers of towns & cities

SEC. 15. All the powers and duties in this act, devolved upon the county judge, shall belong to, and be exercised exclusively by the proper authorities of any and all incorporated towns or cities of this State, within the incorporated limits thereof; and the authorities of such towns and cities are hereby empowered to make all needful rules, and pass all necessary ordinances, decrees or orders to carry out the intent of this act. They may determine what municipal officer shall receive the petition, file the bond and receipt, and issue the license as in the first section of this act required: *Provided, however,* that such incorporated cities and towns may require such additional sum to be

Proviso.

paid for license under this act, as to the authorities thereof shall seem best, not to exceed one thousand dollars, which sum, together with the sum herein required to be paid to the county treasury, may be paid to the treasurer of said city or town, who shall account for the same, and his receipt therefor shall be equivalent to the receipt of the treasurer of the county for all the purposes named in the first section of this act.

SEC. 16. Nothing contained in this act or an act entitled "an act for the suppression of intemperance," approved January 22d, 1855, or any other act heretofore passed, shall be held to prohibit the manufacture of beer, ale, wine or cider. Not prohibited

SEC. 17. The county judge of any county shall upon the petition of one hundred of the legal voters in said county, order a vote to be taken at any election therein, upon the question of licensing the sale of spirituous or vinous liquors as in this act provided, and if a majority of the legal voters in any county shall vote in favor thereof, then the proper officer shall proceed to issue license for such sale as herein provided. Thirty days' notice of such election shall be given by proclamation published in one or more newspapers published in said county, and if there be no newspaper published in the county, then by posting such proclamation in twelve of the most conspicuous places in said county. Submit this act

The ballots shall be either written or printed "For license," and "Against license," and shall be received, counted and returned, as the ballots for county officers are now received, counted and returned: *Provided*, That the question of license under this act shall be submitted to the voters of any county but once in any one year. Ballots.

SEC. 18. All acts and parts of acts now in force, coming in conflict with the provisions of this act, are hereby repealed: *Provided*, That the act entitled "an act for the suppression of intemperance," approved January 22d, 1855, be not and is not by this act repealed in any county of this State, unless the people of such county by a vote taken as herein provided, shall adopt this act. Repeal.

Sec. 19. This act shall be in force from and after its publication in the Iowa Capital Reporter and Iowa City Republican.

Approved January 29, 1857.

I certify that the foregoing act was published in the Iowa City Republican, Feb. 20, 1857, and in the Iowa Capital Reporter Feb. 19, 1857

ELIJAH SELLS,
Sec'y of State.

CHAPTER 222.

DESMOINES RIVER.

AN ACT in relation to the Des Moines river improvement.

Com'r contract SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That there shall be appointed by the governor of the State of Iowa, a commissioner who, with the commissioner already existing by law, shall be, and is hereby fully authorized and empowered, to agree and contract with any party or parties for the speedy and earliest prosecution of the work upon the Des Moines river improvement, upon such terms as they may believe to be just and advantageous to the State, and it shall also be the duty of said commissioners upon just and equitable terms to ascertain and pay any and all indebtedness which may be due any party or parties for money advanced, work done or materials furnished for or on account of said improvement. In case of a disagreement between the commissioners as to the terms of the contract or settlement, the attorney general shall act as a third commissioner, and any two of the commissioners shall have power to act. Any settlement or contract entered into by said commissioners shall not be valid until approved by the governor.

Sell & mortgage lands. SEC. 2. That it shall be lawful for said commissioners to sell and dispose of lands belonging to the Des Moines river grant, and not heretofore sold or any portion thereof, or pledge the same or any portion thereof, by mortgage or deed of trust, together with the improvement contemplated, and make them the basis of bonds to be issued for money