

provided that the appellant will abide the judgment of said Court, and pay all costs and damages awarded against him therein; or if the appeal be dismissed, that he will pay all sums for which he would have been liable if no appeal had been taken. The proceedings in the District Court in the appeal, shall be the same as on an appeal in a civil action from a justice of the peace as nearly as practicable, and costs shall be awarded for or against either party upon the same rules and conditions as in such appeal of a civil action.

Upon payment of damages and cost a drain may be forced.

Damages to a public highway.

Drain may be kept open.

SEC. 7. Upon the payment of the damages assessed by the jury and of all the costs of the proceedings, allowing to the justice, constable and jurors the same fees as nearly as may be as are allowed to such persons for services in other civil cases, it shall be lawful for the person applying for such summons, to enter upon the lands which such drain shall cross, with all the necessary implements to open such drain; Provided that if such drain open upon a highway, such applicant shall be held responsible to the road supervisor for all damages done to such highway.

SEC. 8. After such drain shall have been opened, it shall be lawful for the said applicant to enter upon said lands for the purpose of cleaning out the same in such manner as to preserve the original dimensions thereof; and any person obstructing, or in any way injuring said drain, shall pay said applicant *treble* damages assessed by the jurors for such injury.

Approved, March 27th, 1862.

CHAPTER 71.

PROBATE RECORD.

AN ACT in relation to County Court Records.

SECTION. 1. *Be it enacted by the General Assembly of the State of Iowa,* That hereafter the County Judge of each County in this State shall keep an additional Probate Record Book, in which he shall keep a record as follows: showing

County judge shall keep a separate and complete probate record.

FIRST—The name of every deceased person whose estate is administered upon, and who dies seized of any real

estate situate within the County, and the date of his death;

SECOND—The names of all the heirs at law and widow of such deceased person, and the ages and places of residence of such heirs, so far as the same can be ascertained;

THIRD—When any of the Real Estate left by such deceased person, shall be sold under order of the County Court, such sale shall be noted in such book, together with a reference to the book, and the pages of the "Probate Record," where the complete record thereof required by the next section may be found.

SEC. 2. In all cases where sales of Real Estate are made under the order of the County Court, either by an executor, administrator or guardian, it shall be the duty of the County Judge to keep a complete record thereof in the "Probate Record," including complete copies of all papers filed, and all orders made, and including a copy of the deed, and of the approval thereof; and the said judge shall be entitled to charge and collect for keeping such record, ten cents for every one hundred words thereof.

SEC. 3. In order to ascertain the facts required to be stated in the record, mentioned in Section 1 of this Act, the County Judge may require the executor or administrator to furnish him with a list of the names, ages, and places of residence of the heirs, which list shall be sworn to by the executor or administrator, and shall be a guide to the judge in making such entry; but if such executor or administrator shall certify under oath that there are no heirs, or that after using due diligence he has been unable to ascertain the names, ages and residences of the heirs, the Judge shall make an entry on the Record accordingly. If necessary, in order to ascertain whether a deceased person died seized of real estate, the Judge may examine the Records, for which examination he may charge and collect from the estate the sum of one dollar.

SEC. 4. For keeping the Record required by Section 1 of this Act, the Judge may charge and collect the sum of fifty cents in each case.

Approved, March 27, 1862.