

CHAPTER 118.

CHANGE OF THE PLACE OF TRIAL IN CIVIL CASES.

AN ACT to amend section 2590, Chapter 5, Title 17, of the Code, limiting the number of Changes of the Place of Trial in Civil Cases. H. F. 73.

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

SECTION 1. That section 2590 of the Code be, and the same is hereby amended, by adding thereto the following: Code, § 2590, amended.

Provided, however, That not more than two changes to either party of the place of trial shall be allowed for any of the causes enumerated in this section; nor shall a change of venue from the county be allowed in case of appeal from a justice of the peace; nor shall a change of the place of trial be allowed when the issue can only be tried to the court, for any objection to the inhabitants of the county, or for the objection that the adverse party or his attorney has such an undue influence over the inhabitants thereof, that he can not obtain a fair trial; and Number of changes limited.

Provided, That after any change of venue has been taken as herein provided, and a trial had and the jury been discharged or a new trial has been granted them a subsequent change of venue may be taken for any of the causes mentioned in said section. Provided.

Approved, March 25, 1878.

CHAPTER 119.

PROHIBITING THE SALE OF MALT OR VINOUS LIQUORS WITHIN TWO MILES OF CORPORATION AND OF PLACE OF ELECTION.

AN ACT to Prohibit, Regulate, and Punish the Sale of Malt or Vinous Liquors within Two Miles of the Corporate Limits of any Municipality, and within Two Miles of where an Election is held, and to Extend the Powers and Jurisdiction of said Municipality and its Officers. Additional to Code, Title IV, Chapter 10, "Of Cities and Incorporated Towns." Sub. S. F. 259.

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

SECTION 1. It is hereby made unlawful for any person by himself, his agent or employe, directly or indirectly to sell to any person ale, wine, beer or other malt or vinous liquor within two miles of the corporate limits of any municipal corporation; except at wholesale for the purpose of shipment to places outside of such corporation and such two mile limits, except as hereinafter provided; and excepting further, that when said two miles embrace Unlawful to sell ale, wine, or beer within two miles of corporate limits. Except at wholesale, for shipment.

And when two mile limit embraces another corporation.

any part of another municipal corporation, that part so embraced within said other corporation shall not be held to be affected by this act, but shall remain as heretofore exclusively under the control of the corporation within which it is situated.

Unlawful to sell on election day within two miles of the polls.

SEC. 2. It is hereby made unlawful for any person by himself, his agent or employe, directly or indirectly to sell to any person, and upon any pretext whatever ale, wine, beer or other malt or vinous liquors upon the day on which any election is held under the laws of this state, within two miles of the place where said election is held.

May sell on prescription of physician.

SEC. 3. The foregoing sections shall not be held to include the sale, by any person holding a permit therefor under the laws of this state, of said malt or vinous liquors, when said sale is made upon the prescription therefor of a practicing physician. The provisions of this section shall be a matter of defense in any prosecution under this act.

Giving wine, ale, or beer in consideration of purchase of other property.

SEC. 4. The giving to any person of ale, wine, beer, or other malt or vinous liquor, in consideration of the purchase of any other property shall be construed and held to be a sale thereof within the meaning of this act, and courts and jurors shall construe this act so as to prevent evasion.

Penalty for violating the provisions of this act.

SEC. 5. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and shall pay, on his first conviction for said offense, a fine of twenty dollars, and costs of prosecution, and shall stand committed five days, unless the same be sooner paid; on the second conviction for said offense, he shall pay a fine of fifty dollars and the costs of prosecution, and shall stand committed fifteen days, unless the same be sooner paid; and on the third and every subsequent conviction for said offense, he shall be punished by a fine of one hundred dollars, and shall pay the costs of prosecution, and shall stand committed for thirty days, if the same be not sooner paid, or by imprisonment in the county jail for thirty days.

Liability of agent.

SEC. 6. Any employe or agent of whatsoever kind, engaged or employed in selling, in violation of this act, shall be charged and convicted in the same manner as a principal may be, and shall be subject to the penalties and punishment in this act provided for such principal.

Number of allegations in information.

SEC. 7. Informations for violations under this act may allege any number of violations of its provisions by the same party, but the various allegations must be contained in separate counts, and the person so charged may be convicted and punished for each of the violations so alleged as on separate informations; but a separate judgment must be entered on each count on which a verdict of guilty is rendered. The second and third convictions mentioned in this act shall be construed to mean convictions on separate informations. If the information does not otherwise indicate, it shall be held to be for a first offense.

SEC. 8. A conviction for a violation of the provisions of this act, shall, at the option of the landlord or his agent, be held to be a forfeiture of any lease of the real estate in or upon which such sale in violation thereof is made, and such landlord or his agent

shall have the right at any time within thirty days from such conviction to institute a suit of forcible entry and detainer for the possession of said real estate, and shall recover possession of such leased premises upon proof of the conviction of the tenant, his agent, servant, clerk, or any one claiming under him, of a violation of the provisions of this act, committed in or upon said leased premises.

Conviction may be held to be a forfeiture of lease.

SEC. 9. The power and jurisdiction of every municipal corporation, whether acting under general or special charter, to regulate, prohibit or license the sale of ale, wine and beer, and of the courts and officers thereof to enforce said regulations, is hereby extended two miles beyond the corporate limits of said corporation.

Jurisdiction of municipal corporation.

Provided, That this section shall not be held to authorize said corporation to license any malt or vinous liquors, other than those malt or vinous liquors which said corporation, at this date, is authorized to license.

Approved, March 25, 1878.

CHAPTER 120.

MASON FISH, J. P.

AN ACT to Legalize the acts of Mason Fish, a Justice of the Peace in S. F. 80. Clay Township, Shelby county.

WHEREAS, At a general election held in October, 1875, in Clay township, Shelby county, Iowa, Mason Fish, Esq., a citizen of that township and county, was elected a justice of the peace, and supposed himself elected for the term of two years, and the electors of that township were of like opinion; and

WHEREAS, The fact was that the said Mason Fish was elected for but one year; and

WHEREAS, The said Mason Fish continued to act as a justice of the peace until the fourth day of April, 1877, without authority so to do; therefore,

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

[SECTION 1.] That all official acts of the said Mason Fish, of Clay township, Shelby county, Iowa, done between January 1, 1877, and April 4th, 1877, as a justice of the peace, while he and his constituents supposed he held that office, be and the same are hereby legalized.

Official acts legalized.

Approved, March 25, 1878.