

CHAPTER 37.

INTEREST.

AN ACT to regulate the interest on money.

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

SECTION 1. Rate—contracts—judgments—money retained — accounts — no rate fixed. That the rate of interest shall be six cents on the hundred, by the year, on money due by express contract, unless a different rate be expressed in writing; on all moneys after the same becomes due, where there is no contract fixing the rate of interest on judgments and decrees for the payment of money, where no other rate is expressed; on money lent without a contract fixing the rate of interest, and on money received for the use of another, and retained beyond a reasonable time, without the owner's consent, express or implied; on money due upon the settlement of matured accounts from the day the balance is ascertained; on money due upon open accounts, after six months from the date of the last item, and on all money due, or to become due, where there is contract to pay interest, and no rate stipulated.

[68] **SEC. 2. Agreement.** Parties may agree, in writing, for the payment of interest not exceeding ten cents on the hundred, by the year.

SEC. 3. Judgment to draw same rate as instrument. Interest shall be allowed on all moneys due on judgment and decrees, of any competent court or tribunal, at the rate of six per cent. per annum, unless a different rate is fixed by the contract, on which the judgment or decree is rendered, in which case the judgment or decree shall draw interest at the rate expressed in the contract; but no judgment or decree shall draw more than ten per cent. per annum, which rate must be expressed in the judgment or decree.

SEC. 4. Prohibition. No person shall, directly or indirectly, receive in money, goods, or things in action, or in any other manner, any greater sum or value, for the loan of money, or upon contract founded upon any bargain, sale, or loan of wares, merchandise, goods, chattles, lands and tenements, than is in this act prescribed.

SEC. 5. Unlawful interest—forfeiture—judgment—use of school fund—competent witness. If it shall be ascertained, in any suit brought on any contract, that a rate of interest has been contracted for greater than is authorized by this act, either directly or indirectly, in money, property, or other valuable thing, the same shall work a forfeiture of ten per cent. per annum upon the amount of such contract to the school fund of the county in which the suit is brought, and the plaintiff shall have judgment for the principal sum, without either interest or costs. The court in which said suit is prosecuted, shall render judgment for the amount of interest forfeited as aforesaid against the defendant, in favor of the state of Iowa, for the use of the school fund of said county, whether the said suit is contested or not, and in all cases where the unlawful interest is not apparent on the contract or writing, the person contracting to pay the unlawful interest shall be a competent witness to prove that the contract is usurious, and in no case where unlawful interest is contracted for, shall the plaintiff have judgment for more than the principal sum, whether the unlawful interest be incorporated with the principal or not.

SEC. 6. Assignee—may recover of usurer. Nothing in this act shall be so construed so as to prevent the proper *bona fide* assignee of any usurious

contract recovering against usurer the full amount of the consideration paid by him for such contract, less the amount of the [69] principal money, but the same may be recovered of such usurer in the proper action before any court having competent jurisdiction.

SEC. 7. Repeal. So much of chapter 57, title 13, of the code as may conflict with the provisions of this act, is hereby repealed. This act to take effect in thirty days from and after its publication in the Iowa Capital Reporter and the Iowa Republican.

This bill having remained with the governor three day (Sundays excepted) the general assembly being in session, has become a law this 20th day of January, 1853.

GEO. W. McCLEARY,
Secretary of State.

I certify that the foregoing act was published in the Iowa Capital Reporter, and Iowa Republican on the 9th day of February, 1853.

GEO. W. McCLEARY,
Sec'y of State.

CHAPTER 38.

CHANGE OF NAME.

AN ACT to change the name of Orson Hoar.

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

SECTION 1. Name changed—Orson Hubbard. That the name of Orson Hoar be, and the same is hereby changed to Oscar Hubbard.

SEC. 2. Not to affect liabilities. Nothing in this act shall, in any way, affect the rights or liabilities of the said Orson Hoar, but the same shall remain as though this act had not passed.

This bill having remained with the governor three days. (Sundays excepted) the general assembly being in session, has become a law, this 20th day of January, 1853.

GEO. W. McCLEARY,
Sec'y of State.

[70] CHAPTER 39.

NAMES CHANGED.

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

SECTION 1. Names changed—Coles. That the names of Robert Cock, Lydia Cock, Esther L. Cock, John O. Cock, Samuel Cock, Albert Cock, Jesse Cock, and Wesley W. Cock, of the county of Wapello, be, and the same are hereby changed to Robert Coles, Lydia Coles, Esther L. Coles, John O. Coles, Samuel Coles, Albert Coles, Jesse Coles, and Wesley W. Coles, and that they shall, from and after the taking effect of this act, respectively be known and called by the name of Coles: provided, that such change of name shall impair none of the legal rights of the persons herein named, nor the rights of others.

SEC. 2. Take effect. This act shall take effect and be in force from and after its passage.

This bill having remained with the governor three days, (Sundays excepted) the general assembly being in session, has become a law, this 20th day of January, 1853.

GEO. W. McCLEARY,
Secretary of State.