

pany, when the said logs are scaled and ready for delivery as aforesaid, and said company shall be responsible to the surveyor for the scalage of such logs or timber.

Liability for damage.

SEC. 15. The said boom company shall pay to the owner or owners for all logs or timber, or may give other logs or timber of equal value in exchange for logs that may by accident pass through the boom and run over the Falls of St. Anthony, so called, that were intended to be run into the pond at St. Anthony, previous notice of such intention having been given to said company.

Passage of rafts and vessels.

SEC. 16. The said boom company shall always give passage by or through their said boom, at all times, to any raft running down the said Mississippi river, and to all steamboats, keel-boats, or flat-boats, or other water crafts running either up or down said river, without any let, hindrance, or delay, by reason or on account of said boom.

Legislature may alter or amend.

SEC. 17. The legislature of this territory shall have the right to alter, or amend this act, at any time.

J. D. LUDDEN,
Speaker of the House of Representatives.
WM. HENRY FORBES,
President of the Council.

APPROVED—February twenty-seventh, one thousand eight hundred and fifty-two.

ALEX. RAMSEY.

SECRETARY'S OFFICE,
St. Paul, June 23, 1852. }

I hereby certify the foregoing to be a true copy of the original on file in this office.

ALEX. WILKIN,

Secretary of the Territory of Minnesota.

March 6, 1852.

CHAPTER VIII.—AN ACT For the Restriction of the sale of Intoxicating Liquors within the Territory of Minnesota.

Not allowed to sell

Be it enacted by the Legislative Assembly of the Territory of Minnesota, No person shall be allowed at any time to manufacture or sell, by himself, his clerk, servant or agent, directly or indirectly, any spirituous or intoxicating liquors, or any mixed liquors, a part of which is spirituous, or intoxicating, except as hereinafter provided.

County Commissioners to appoint agents to sell.

SEC. 2. The county commissioners of any county, on the first Monday of May, annually, or as soon thereafter as may be convenient, may appoint two or more suitable persons, who shall reside in different precincts, as the agents of said county, or within the precincts of any unorganized county, which may be attached to such county for judicial purposes, to sell in their respective precincts within said county, spirits, wines, or other intoxicating liquors, to be used for medicinal or mechanical purposes and no other; and said agents shall receive such compensation for their services as the board appointing them shall prescribe, and shall, in the sale of such liquors, conform to such rules and regulations as said commissioners shall prescribe for that purpose. And such agents appointed as aforesaid, shall hold their situations for one year, unless sooner

removed by the board from which they received their appointments, as they may be at any time, at the pleasure of said board.

SEC. 3. Such agents shall receive a certificate from such county commissioners, by whom they have been appointed, authorizing them as the agents of such county, to sell intoxicating liquors for medicinal and mechanical purposes only, but such certificate shall not be delivered to the persons so appointed, until they each shall have executed and delivered to said board a bond, with two good and sufficient sureties, in the sum of six hundred dollars, in substance, as follows: Know all men that——, as principal, and——, as sureties, are holden and stand firmly bound unto the county of——, in the sum of six hundred dollars, to be paid to the treasurer of said county, to which payment we bind ourselves, our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated this—— day of——, A. D. The conditions of this obligation are such, that whereas the above bounden——, has been duly appointed an agent for the county of——, to sell within, and for and on account of said county, intoxicating liquors for medicinal and mechanical purposes, and no other, until the—— day of——, A. D., ——, unless sooner removed from said agency.

Agents to have certificate.

Now, if the said—— shall in all respects conform to the provisions of the law relating to the business for which he is appointed, and to such rules and regulations as now are, or shall be from time to time established by the board, making the appointment, then this obligation to be void, otherwise to remain in full force.

SEC. 4. If any person by himself, clerk, servant or agent, shall at any time sell any intoxicating liquors, or any mixed liquors, part of which is intoxicating, in violation of the provisions of this act, he shall forfeit and pay, on the first conviction, ten dollars and costs of prosecution, and shall stand committed until the same be paid; on the second conviction, he shall pay twenty dollars and the cost of prosecution, and shall stand committed until the same be paid; on the third and every subsequent conviction, he shall pay twenty dollars and the cost of prosecution, and shall be imprisoned in the common jail not less than three months, nor more than six months. And if any clerk, servant, agent or other person in the employment, or on the premises of another, shall violate the provisions of this section, he shall be held equally guilty with the principal, and on conviction shall suffer the same penalty.

Penalty for violation of act.

SEC. 5. Any forfeiture or penalty arising under the above section, may be prosecuted for, and recovered in a civil action, or by complaint by any individual in the name of the county commissioners, before any justice of the peace or district court, in the county where the offence was committed. And the forfeiture so recovered shall go into the county treasury, for the support of schools in the precinct where the convicted party resides; and if any one of the county commissioners shall approve of the commencement of such suit by endorsing his name upon the summons, the defendant shall in no event recover any costs, and in all civil actions arising under this section, the fines and forfeitures suffered by the defendant, shall be the same as if the actions had been by complaint. And it shall be the special duty of the county commissioners, or any of them, to commence an action in behalf of said county, against any person guilty of a violation of any of the provisions of this act, on being informed of the same, and being furnished with the proof of this fact.

Penalty, how recovered.

Appeal, how taken

Sec. 6. If any person shall claim an appeal from a judgment rendered against him by any judge or justice on trial of such action or complaint, he shall, before the appeal shall be allowed, recognize in the sum of one hundred dollars, with two good and sufficient sureties, in every case so appealed, to prosecute his appeal and to pay all costs, fines, and penalties that may be awarded against him upon a final disposition of such suit or complaint. And before his appeal shall be allowed, he shall also in every case give a bond, with two good and sufficient sureties running to the county where the offence was committed, in the sum of two hundred dollars, that he will not, during the pendency of such appeal, violate any of the provisions of this act. And no recognizance or bond shall be taken in cases arising under this act, except by the justice or judge before whom the trial was had; and the defendant shall be held to advance the jury fees in every case of an appeal in a civil action; and in the event of a final conviction before a jury, the defendant shall pay and suffer double the amount of fines, penalties and imprisonments awarded against him by the justice or judge from whose judgment the appeal was made. The forfeiture for all bonds and recognizances, given in pursuance of this act, shall go to the county for the support of schools, in the precinct wherein the offence was committed; and if the recognizances and bonds mentioned in this section, shall not be given within twenty-four hours after the judgment, the appeal shall not be allowed; the defendant in the meantime to stand committed.

Duty of County Commissioners.

Sec. 7. The county commissioners of any county, whenever complaint shall be made to them, that a breach of the conditions of the bonds given by any person appointed under this act has been committed, shall notify the person complained of, and if, upon a hearing of the parties, it shall appear that any breach has been committed, they shall revoke and make void his appointment. And whenever breach of any bond given to the commissioners of any county, in pursuance of any of the provisions of this act, shall be made known to the said commissioners, or shall in any manner come to their knowledge, they, or some of them, shall at the expense, and for the use of said county, cause the bond to be put in suit in any court proper to try the same.

Manufacturers etc, to be appointed.

Sec. 8. No person shall be allowed to be a manufacturer of any spirituous or intoxicating liquor, or common seller thereof, without being duly appointed as aforesaid, on pain of forfeiting on the first conviction, the sum of one hundred dollars, and costs of prosecution, and in default of the payment thereof, the person so convicted, shall be imprisoned sixty days in the common jail; and on the second conviction, the person so convicted shall pay the sum of two hundred dollars, and costs of prosecution, and in default of payment, shall be imprisoned four months in the common jail, and on the third and every subsequent conviction, shall pay the sum of two hundred dollars, and shall be imprisoned four months in the common jail of the county where the offence was committed; said penalties to be recovered before any court of competent jurisdiction, by indictment or by civil action, in the name of the county where the offence shall be committed, and whenever a default shall be had of any recognizance arising under this act, scire facias shall be issued, returnable at the next term, and the same shall not be continued unless for good cause, satisfactory to the court.

Sec. 9. No person engaged in the unlawful traffic in intoxicating liquors, shall be competent to sit on any jury, in any case, arising under this act, and when information shall be communicated to the Court, that any member of any panel is engaged in such traffic, or that he is believed to be so engaged, the Court shall enquire of the jurymen of whom such belief is entertained, and no answer which he shall make shall be used against him in any case arising under this act, but if he shall answer falsely, he shall be incapable of serving on any jury in this Territory; but he may decline to answer, in which case he shall be discharged by the Court from all further attendance as a jurymen.

Persons unlawfully engaged in the traffic not to sit on juries

Sec. 10. All cases arising under this act, whether by action, indictment, or complaint, which shall come before a superior court, either by appeal or certiorari, shall take precedence in said court of all other business, except those criminal cases in which the parties are actually under arrest awaiting a trial, and the court and prosecuting officer shall not have authority to enter a nolle prosequi, or to grant a continuance in any case arising under this act, either before or after the verdict, except where the purposes of justice will require it.

Cases how disposed of

Sec. 11. If any three persons, voters in the county where the complaint shall be made, shall before any justice's court, make complaint under oath or affirmation, that they have reason to believe, and do believe, that spirituous or intoxicating liquors are kept or deposited, and intended for sale, by any person not authorized to sell the same in said county, under the provisions of this act, in any store, shop, warehouse or other building, or place, in said county, said justice or judge shall issue his warrant of search to any sheriff or constable, who shall proceed to search the premises described in said warrant, and if any spirituous or intoxicating liquors are found therein, he shall seize the same and convey them to some proper place of security, where he shall keep them until final action is had thereon. But no dwelling house in which, or in part of which a shop is not kept, shall be searched unless at least one of said complainants shall testify to some act of sale of intoxicating liquor therein, by the occupant thereof, or by his consent or permission, within one month of the time of making said complaint. And the owner or keeper of said liquors seized as aforesaid, if he shall be known to the officer seizing the same, shall be summoned forthwith before the justice or judge by whose warrant the liquors were seized, and if he fail to appear, or unless he can show by positive proof that such liquors are not kept for the purposes of sale, but only in reasonable quantities for medicinal purposes, they shall be declared forfeited, and shall be destroyed by authority of the written order to that effect, of said justice or judge, and in his presence, or in the presence of some person appointed by him to witness the destruction thereof, and who shall join with the officer by whom they have been destroyed, in attesting the fact upon the back of the order, by authority of which it was done; and the owner, or keeper of such liquors, shall pay a fine of twenty dollars and costs, or stand committed for thirty days in default of payment, if in the opinion of the court, said liquors shall have been kept or deposited for the purposes of sale.

Complaint, how made.

Sec. 12. If the owner, keeper or possessor of liquors seized under the provisions of this act, shall be unknown to the officer seizing the same, they shall not be condemned and destroyed un-

Liquors seized to be advertised.

they have been advertised, with the number and description of the packages as near as may be, for two weeks, by posting up a written description of the same in some public place, that if such liquors are actually the property of any county in the territory, and were so at the time of the seizure, purchased for sale by the agent of said county, for medicinal and mechanical purposes only, in pursuance of the provisions of this act, they may not be destroyed, but upon satisfactory proof of such ownership, within said two weeks, before the judge or justice by whose authority said liquors were seized, said justice or judge shall deliver to the agent of said county, an order to the officer having said liquors in custody, whereupon said officer shall deliver them to said agent, taking his receipt therefor, upon the back of said order, which shall be returned to said justice or judge.

Bond for appeal.

SEC. 13. If any person claiming any liquors seized as aforesaid, shall appeal from the judgment of any justice or judge, by whose authority the seizure was made, to the district or supreme court, before his appeal shall be allowed, he shall give a bond in the sum of two hundred dollars, with two good and sufficient sureties, to prosecute his appeal, and to pay all fines and costs which may be awarded against him, and in the case of any such appeal, where the quantity of liquors so seized shall exceed five gallons, and if the final decision shall be against the appellant, that such liquors were intended by him for sale, he shall be adjudged by the court a common seller of intoxicating liquors, and shall be subject to the penalties provided for in section eighth, of this act; and said liquors shall be destroyed as provided for in section eleven. But nothing in this act shall be construed to prevent any chemist, artist or manufacturer, in whose art or trade they may be necessary, from keeping at his place of business such reasonable and proper quantity of distilled liquors as he may have occasion to use in his art or trade.

Liquors when to be seized and destroyed.

SEC. 14. It shall be the duty of any sheriff or constable, if he shall have information that any intoxicating liquors are kept or sold on any boat, scow, raft or canoe, on any river within the limits of this territory, or in any tent, shanty, hut or other place of any kind, for selling refreshments in any public place on or near the ground of any cattle show, agricultural exhibition, military muster, or public occasion of any kind, to search such suspected place, and if such officer shall find upon the premises, any intoxicating drinks, he shall seize them and arrest the keeper or keepers of such place, and take them forthwith, or as soon as may be, before some justice or judge of a district court, with the liquors so found and seized, and upon proof that such liquors are intoxicating, that they were found in possession of the accused, in a boat, tent, shanty or place as aforesaid, he or they shall be sentenced to imprisonment in the county jail for thirty days, and the liquors so seized, shall be destroyed by order of said justice or judge.

Bond for appeal.

SEC. 15. If any person arrested under the preceding section, and sentenced as aforesaid, shall claim an appeal, before his appeal shall be allowed, he shall give a bond in the sum of one hundred dollars, with two good and sufficient sureties that he will prosecute his appeal, and pay all fines, costs and penalties that may be awarded against him; and if on appeal, the verdict of the jury shall be against him, he shall, in addition to the penalty awarded by the lower court, pay a fine of twenty dollars. In all cases of appeal under this act, from the judgment of a justice or judge of any district court to the

district or supreme court, where the proceeding is by civil action, they shall be conducted in said district or supreme court, by the district attorney of the county, and said officer shall be entitled to receive all costs taxable to the county in all criminal proceedings under this act, in addition to the salary or compensation allowed to such officer by law; but no costs in such cases shall be remitted or reduced by the prosecuting officer or the court. In any suit, complaint, indictment or other proceeding against any person for a violation of any of the provisions of this act, other than for the first offence, it shall not be requisite to set forth particularly the record of a former conviction, but it shall be sufficient to allege briefly that such person has been convicted of a violation of the fourth section of this act, or as a common seller, or as the case may be, and such allegation in any civil or criminal process in any stage of the proceedings before final judgment, may be amended without terms, and as a matter of right.

Sec. 16. All payments or compensations for liquors sold in violation of law, whether in money, labor or other property, either real or personal, shall be held and considered to have been received in violation of law, and without consideration, and against law, equity, and a good conscience, and all sales, transfers, and conveyances, mortgages, liens, attachments, pledges and securities of every kind, which either in whole or in part, shall have been for or on account of spiritous or intoxicating liquors, shall be utterly null and void against all persons and in all cases, and no rights of any kind shall be acquired thereby; and in any action, either at law or equity, touching such real or personal estate, the purchaser of such liquors may be a witness for either party.

Liquor contract
void.

Sec. 17. Each person appointed to sell liquors, as provided in section second, shall keep an accurate account in writing, of all the liquors bought or manufactured by him, specifying the quantity of each kind purchased or manufactured, the price of that purchased, the names of the persons from whom it was purchased, and the date of the purchase, the quantity of each kind sold, and the date of the sale, its price, the name, residence, and occupation of the person to whom it was sold, and the purpose for which it was purchased by him. He shall once in each quarter, on a day and at a place to be appointed by said county commissioners, whereof public notice shall be given in one or more newspapers printed in the territory, exhibit upon his oath or solemn affirmation, the book or books in which said account and specifications are kept, to the said county commissioners, together with a balance sheet showing the quantity of each kind of liquor bought and sold by him during the quarter, and the aggregate cost and proceeds thereof. If it shall appear to the said county commissioners, that the profits of said business amount to more than would be a fair and just compensation to such persons for transacting the same, they shall fix the amount to be retained by him for such compensation, and shall require him to pay the surplus to the treasurer of the county, for the support of schools as hereinbefore provided.

Report of agents
to sell.

Sec. 18. Any person who shall oppose an officer, or any person acting under the direction of an officer, when endeavoring to carry out the provisions of this act, either by threats, the exhibition or use of weapons, or in any other way, shall be guilty of a high misdemeanor; and upon conviction thereof before any court having jurisdiction in criminal cases in this territory, shall for the first offence,

Penalty for resisting.

be fined not less than five dollars, or more than twenty dollars and costs, and shall be imprisoned not less than five days, or more than twenty days; and for the second and all subsequent offences, shall be fined not less than twenty dollars, or more than one hundred dollars and costs, and imprisoned not less than twenty days, or more than one hundred days; and in all cases to stand committed until all fines and costs are paid.

Liquor election.

Sec. 19. All the provisions of this act relating to counties, shall be applicable in cities and towns; and those relating to county commissioners, shall also be applied to the mayor and aldermen of cities, and the president and council of towns. This act to take effect from and after the first Monday of May next: *Provided*, That a special election be held throughout the territory, on the first Monday of April next, at which election, the provisions of this act shall be submitted to the voters of the territory; which election shall be held at the places, and by the officers now provided by law for holding general elections. The voters at said election shall vote by ballot, and all the ballots at said election, having the word "yes" written or printed thereon, shall be counted as voting for the adoption of this act, and those having written or printed thereon, the word "no," shall be counted as voting against the adoption of this act. The returns of said election shall be made to the register of deeds of the several counties, in the manner now required for making election returns, who shall proceed to canvass the votes in the manner that they are now required to canvass the votes of a general election, and immediately make and transmit to the secretary of the territory, a certified statement of the number of votes cast, for and against the adoption of this act. The governor and secretary of the territory shall, immediately upon the receipt of the returns from the several organized counties, proceed to canvass the returns, and on or before the first Monday in May next, the governor shall make proclamation of the result. If from the returns, said election shall show that a majority of the votes cast, were for the provisions of this act, then, and in that case, this act shall fully and to all intents and purposes, take effect and be enforced according to the provisions of the same; but if a majority of the votes cast shall be against the provisions of this act, then the same shall be null and void, and of no effect.

Sec. 20. All acts and parts of acts now in existence for regulating the sale of spirituous liquors, and for granting licenses for the sale thereof, are hereby repealed.

Sec. 21. The county commissioners from and after the approval of this act, shall not grant any license to sell or retail spirituous liquors for a longer time than the first Monday in May next.

J. D. LUDDEN,

Speaker of the House of Representatives.

WM. HENRY FORBES,

President of the Council.

APPROVED—March sixth, one thousand eight hundred and fifty-two.

ALEX. RAMSEY.

SECRETARY'S OFFICE,
St. Paul, June 30, 1852. }

I hereby certify the foregoing to be a true copy of the original on file in this office.

ALEX. WILKIN,

Secretary of the Territory of Minnesota.