

## CHAPTER 178.

[Published March 27, 1874.]

AN ACT relating to the court house fund of the county of Milwaukee.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :*

SECTION 1. That all moneys heretofore raised in the county of Milwaukee under and in pursuance of chapter four hundred and eighty-eight of the private and local laws of 1870, and of chapter four hundred of the private and local laws of 1871, as amended by chapter forty of the private and local laws of 1872, entitled "acts to empower the county of Milwaukee to raise money to build a court house," or either of said acts, and not expended, be and the same is hereby turned over to the general fund of the treasury of said county, and made part thereof; and that the treasurer and his sureties be and they are hereby made liable for said money the same as any other money in said fund.

Balance of  
court house  
fund to be turned  
over to general  
fund.

SECTION 2. All acts and parts of acts contravening this act, are hereby repealed.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 7, 1874.

## CHAPTER 179.

[Published March 10, 1874.]

AN ACT to consolidate and codify the various laws of our state relating to excise and the sale of intoxicating liquors.

*The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows :*

SECTION 1. The board of supervisors of the several towns, and the aldermen of any incorporated city, and the board of trustees of any incorporated village within this state may, at any regular or special meeting of the board, grant license to as many persons as they may deem proper, to keep groceries, saloons, shops or places of any name whatever within the limits of their respective towns, cities or villages, for the sale of

Authority to  
grant retail li-  
censes.

**Cost of retail licenses.** strong, spirituous, malt, ardent or intoxicating liquors to be drank on the premises, in a quantity less than one gallon. The sum to be paid for such license by the persons applying therefor, shall not be less than twenty-five nor more than one hundred and fifty dollars, at the discretion of the board granting such license, and the license so granted shall remain and be in force for the residue of the term of office of the board which shall grant such license, unless sooner revoked by the board granting such license.

**Authority to grant whole-sale licenses.**

**Cost of whole-sale licenses.**

**Sealing and delivery of licenses.**

**Amount of bonds to be given.**

**Conditions of the bond.**

**SECTION 2.** The board of supervisors, board of aldermen, or board of trustees may also grant licenses to as many persons as they may deem proper within the limits of their respective towns, cities or villages, to sell strong, spirituous, ardent, malt or intoxicating drinks or liquors not to be drank within their houses or on their premises. The sum to be paid for such license for wholesaling spirituous or intoxicating liquors or drinks by the person applying therefor, shall not be less than ten nor more than forty dollars, at the discretion of the board granting such license, and such license shall be in force for the residue of the term of office of the board which shall grant such license, unless sooner revoked by the board granting the same.

**SECTION 3.** The said license shall be sealed and attested by the town clerk, or the clerk of the board of aldermen, or the clerk of the board of trustees (as the case may be) granting the same; but it shall in no case be issued to the applicant until such applicant shall produce to the said clerk proper evidence by receipt or otherwise, that he has paid into the town, city or village treasury the sum of money hereinbefore fixed and required to be paid therefor.

**SECTION 4.** No license shall be granted under the provisions of this chapter until the person applying therefor shall have produced and filed with the said town, city or village clerk, a bond running to the state of Wisconsin in the penal sum of five hundred dollars, with at least two good and sufficient sureties, to be approved by the authorities granting the license, who shall be freeholders and residents of the county in which said license is granted, and who shall severally justify upon the bond their responsibility for such sum over and above all liabilities and exemptions, conditioned that such applicant will, during the continuance of his license, keep and maintain an orderly and well regulated house; that he will permit no gambling with cards, dice or any device or implement for that purpose within his grocery, saloon, shop or building, of

any name whatsoever, kept by him or within any out-house, yard or shed appertaining to the same; that he will not sell or give away any intoxicating liquor to minors, having good reason to believe them to be such, unless upon the written order of the parents or guardians, or to persons intoxicated, or bordering on a state of intoxication, or known to be habitual drunkards; and that he will pay all damages which may be recovered by any person pursuant to the provisions of section 16 of this chapter, and that he will observe and obey all requirements of the board of supervisors or board of aldermen or board of trustees or any member thereof, made in pursuance of law. In case of breach of any of the conditions of said bond, an action thereon may be brought in the name of the state of Wisconsin and judgment shall be entered against the principal and sureties therein named for the full penalty thereof, and execution may issue thereupon by order of the court therefor, to satisfy any judgment which may have been recovered against the principal named in said bond by reason of any breach in the conditions thereof, or for any penalties or forfeitures incurred under this act. If more than one judgment shall have been recovered, the court in its discretion may apply the proceeds of said bond towards the satisfaction of said several judgments, in whole or in part, in such manner as it may see fit.

Breach of bond,  
how prosecuted

SECTION 5. If any person shall vend, sell, deal or traffic in, or for the purpose of evading this chapter, give away any spirituous, ardent or intoxicating liquors or drinks, in any quantity whatever, without first having obtained license therefor, according to the provisions of this chapter, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished therefor by a fine of not less than ten nor more than forty dollars, besides the cost of suit; or in lieu of such fine, by imprisonment in the county jail of the proper county, not to exceed sixty days, nor less than twenty (20) days; and in case of punishment by fine as above provided, such person shall, unless the fine and costs be paid forthwith, be committed to the county jail of the proper county until such fine and all costs are paid, or until discharged by due course of law; and in case of a second or any subsequent conviction of the same person during any one year, the punishment may be by both fine and imprisonment, in the discretion of the court.

Penalty for vending without license.

SECTION 6. Justices of the peace shall have power to hold a court to hear, try and determine all offenses

Proceedings on complaint.

against or growing out of the provisions of this chapter, and arising within their respective counties: *provided*, that the accused party shall not be deprived of a jury trial, nor of his right of appeal, as in any other cases of tort.

SECTION 7. Upon complaint made to any justice of the peace by any person, that he knows, or has good reason to believe, that an offense against this chapter, or any violation thereof, has been committed, he shall examine the complainant upon oath, and he shall reduce such complaint to writing, and cause the same to be subscribed by the person complaining. And if it shall appear to such justice that there is reasonable cause to believe that such offense has been committed, he shall immediately issue his warrant, reciting therein the substance of such complaint, and requiring the officer to whom such warrant shall be directed, forthwith to arrest the accused and bring him before such justice, to be dealt with according to law; and the same warrant may require the officer to summon such persons as shall be therein named, to appear at the trial to give evidence.

Duty of district attorney to conduct prosecutions.

SECTION 8. It shall be the duty of the district attorney of the proper county, on notice given to him by the justice of the peace, before whom any such complaint shall be made, to attend the trial before such justice, and to conduct the same on behalf of the state.

Who officially bound to report all suspected violations of the law.

SECTION 9. It shall be the duty of each member of the board of supervisors of the town, and of every member of the board of aldermen, and of every member of the board of trustees, as also of every justice of the peace, marshal, deputy marshal and constable of any town, ward or village, who shall know of his own knowledge, or be credibly informed, that any offense has been committed against the provisions of this chapter, to report and make complaint against the person so violating any of the provisions thereof, within their respective towns, wards or villages, before some justice of the peace of their county, city or village, and if any such supervisor, alderman, justice of the peace, trustee, constable, marshal or deputy marshal, shall neglect or refuse to report and make complaint of any violation or offense against this chapter, of which he shall have knowledge as aforesaid, he shall be punished by a fine in the sum of twenty-five dollars for each such neglect or refusal, to be collected in an action to be commenced by the town treasurer of the town, or the treasurer of the board of aldermen, village or city against him therefor.

Penalty for neglecting to do so.

SECTION 10. When any person shall, by excessive drinking of spirituous, ardent or intoxicating liquors or drinks, so misspend, waste or lessen his estate or property, as thereby either to expose himself or his family to want or indigence, or the town, city, ward or village to which he belongs, to the expense for the maintenance of himself or his family, or shall so habitually indulge himself in the use of spirituous, intoxicating or ardent liquors or drinks, as thereby to injure his health, or endanger the loss thereof, or to endanger the personal safety and comfort of his family, or any member thereof, the board of supervisors of the town in which such spendthrift lives, or any member thereof, or the board of aldermen of the city in which he lives, or any member thereof, or the board of trustees of any village, or any member thereof, shall, in writing, and under his or their hands, forbid all persons, licensed under this chapter, to sell or give away to him any ardent, spirituous or intoxicating liquors or drinks of any kind, for the space of one year, and such boards, or any member thereof, may, in like manner, forbid the selling of any such liquors or drinks to said spendthrift, by any licensed person of any other town, or ward, or city, or village, to which the spendthrift may resort for the same.

"Spend thrift,"  
—who may for-  
bid dealers to  
furnish them li-  
quor.

SECTION 11. The said board of supervisors or board of aldermen, or trustees or any member of such boards, shall in the same manner, from year to year, renew such prohibition as to all such persons as have not, in their or his opinion, reformed within the year: and if any person licensed under the provisions of this chapter shall, during such prohibitions, sell or give away to any such prohibited person any ardent, spirituous or intoxicating liquors or drinks of any kind whatsoever, he shall forfeit for each offense the sum of fifty dollars, to be collected in an action by the town, village or city treasurer against such licensed person, and an action may also be instituted on his bond.

Such prohibi-  
tions may be  
renewed yearly.

SECTION 12. When the sale or giving away of spirituous, intoxicating or ardent liquors or drinks shall have been prohibited to any such spendthrift in pursuance of this chapter, if any person shall, with a knowledge of said prohibition, give, sell, purchase or procure for or in behalf of such prohibited person, or for his use, any such liquors or drinks, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding fifty dollars, or in default of immediate payment of such

Penalty for  
furnishing li-  
quors to  
"spendthrifts"

fine, when legally imposed, by imprisonment in the county jail not exceeding thirty days, unless sooner discharged by payment of such fine, and all costs and fees up to the date his discharge.

Penalty for evasion or violation of this law.

SECTION 13. Any keeper of any saloon, shop or place of any name whatsoever, in this state for the sale of strong, spirituous, or malt liquors, to be drank on the premises, in any quantity less than one gallon, who shall vend, sell or in any way deal or traffic in, or for the purpose of evading this chapter, give away any spirituous, ardent or intoxicating or malt liquors, or drinks, in any quantity whatsoever, to or with a minor, having good reason to believe him to be such, or to a person intoxicated, or bordering on a state of intoxication, or to any other prohibited person, before mentioned, shall be deemed guilty of a misdemeanor; nor shall any person sell, or in any way deal or traffic in, or for the purpose of evading this chapter, give away any spirituous, ardent, intoxicating, or malt liquors, or drinks, in any quantity whatsoever, within one mile of the Wisconsin Hospital for the Insane, and any person who shall so sell or give away any such liquors or drinks, shall be deemed guilty of a misdemeanor.

Summons to show cause why license should not be revoked.

SECTION 14. Upon any complaint made in writing under oath, by any one respectable person, resident of the town, village or ward in which any licensed person may keep his shop, grocery, saloon or place for the sale of any liquors or drinks under the provisions of this chapter, and upon the filing of the same with the clerk of the town, city or village, setting forth therein that any such licensed person keeps or maintains a disorderly, riotous, indecent or improper house, or that he suffers, allows or permits gambling in his house with cards, dice or any device or implements, or in any manner whatever, or that he has sold or given away any intoxicating liquors to minors, having good reason to believe him to be such, without the written order of their parents or guardians, or to persons intoxicated or bordering on a state of intoxication, or known to be habitual drunkards, the board of supervisors, or the board of aldermen, or the board of trustees (as the case may be) shall issue their summons under the hand of their clerk, directed to any constable of the town, city or village, commanding the person so complained of to be and appear before such board, on a certain day to be therein named, which day shall not be less than three nor more than ten days from the date of said citation, to show cause why his license shall not be immediately revoked and cancelled.

SECTION 15. If such person shall not appear, as required by the summons mentioned in the foregoing section, to show cause in answer to such complaint, the board issuing the same shall take such complaint and the charges therein made to be true, and if they shall deem the allegations contained in said complaint to be sufficient, they shall immediately cause said license by them before granted to be wholly revoked and annulled, which action of the board shall be entered by their clerk on the books or journal of the board, and they shall cause proper notice to be given to the person whose license shall be so revoked; but if such person shall appear, he shall be allowed a traverse and deny the matters charged in such complaint, and upon such issue made, each party shall be allowed to produce witnesses as in other cases, and to be heard by counsel. If upon such hearing the board shall find the complaint to be true, they shall immediately revoke the license theretofore granted to the accused party; but if they shall find the same not to be true, after proofs adduced, they shall discharge the person complained of free of costs, and the costs shall be paid by the person making such complaint, if malicious and without probable cause for the payment of which costs, said board may take good and sufficient security of a complainant before issuing their summons as aforesaid: *provided*, that in no case where such license shall be revoked and taken away from any person shall it be lawful for such board to grant another license to the same person within the time of twelve months from the date of such revocation; *and provided, further*, that no part of the money paid by such person for the license so revoked shall be refunded to him.

Failure to answer summons shall revoke forfeiture of license.

Forfeited licenses shall not be reviewed within one year.

SECTION 16. Any person or persons, who shall be injured in person, property or means of support by or in consequence of the intoxication of any minor or habitual drunkard, shall have a right of action severally or jointly in his, her or their name against any person or persons who have been notified or requested in writing by the authorities designated in section 10 of this act, the husband, wife, parents, relatives, guardians or persons having the care or custody of such minor or habitual drunkard, not to part with liquor or other intoxicating drinks to them, and who, notwithstanding such notice and request, or shall knowingly sell or give away intoxicating liquors, thereby causing the intoxication of such minor or drunkard, and shall be liable for all damages resulting therefrom. A married woman shall have the same right to bring suit and to con-

Injured persons shall have rights of action.

Rights of married women.

trol the same as a feme sole, and all damages recovered by a minor under this act shall be paid either to such minor or to his or her parents, guardian or next friend, as the court shall direct, and all suits for damages may be by any appropriate action in any of the courts of this state, having competent jurisdiction.

**Punishment  
for drunken-  
ness.**

SECTION 17. Any person found in or upon any public street or highway or other public place, in such a state of intoxication as to disturb others, or unable by reason of his or her condition, to care for his or her own safety, or the safety of others, shall on conviction thereof be punished by a fine not exceeding ten dollars and the costs of the prosecution, or by imprisonment in the county jail for a period not exceeding five days, or by both such fine and imprisonment: *provided, however,* that the provisions of this section shall not abridge the power of incorporated cities and villages to provide for a different mode of punishment in such cases, if deemed expedient.

**License moneys  
how disposed  
of.**

SECTION 18. All moneys derived from licenses granted under the provisions of this chapter shall be kept separate and distinct from other moneys, by the town, city or village treasurer, and the same shall be applied solely for the purpose of defraying the pauper expenses of such town, city or village, unless the amount received shall exceed the sum required for such objects; in which case the remainder shall be placed in the general treasury of the city, town or village, and appropriated in the same manner as other moneys, and in counties where the county system of supporting paupers has been adopted, all moneys derived from licenses shall be paid by the treasurers of said towns, cities or villages into the treasury of the county semi-annually, and shall be applied solely for the purpose of defraying the pauper expenses of said counties.

**Defining com-  
mon nuisances.**

SECTION 19. All places where intoxicating liquors are sold in violation of law shall be taken, held and declared to be common nuisances, and all rooms, taverns, bazaars, saloons, restaurants, groceries, drug stores, coffee houses, cellars, and other places of public resort, where intoxicating liquors are sold in violation of law, shall be shut up and abated as public nuisances, upon the conviction of the keeper thereof.

**Giving away  
liquor forbid-  
den.**

SECTION 20. The giving away of intoxicating liquors, or other shift or device to evade the provisions of this act, shall be deemed and held to be an unlawful selling within the provisions of this act.

SECTION 21. In all cases not above specially pro-

vided for, any person or persons convicted of any misdemeanor under the provisions of this act shall be punished, for each and every offense, by a fine, not less than ten, nor more than fifty dollars, and costs of suit, and in default of payment thereof, shall be imprisoned in the county jail of the proper county, not exceeding thirty days, unless he or she shall be sooner discharged therefrom by the payment of the aforesaid fine and all costs occasioned by his or her prosecution and imprisonment.

SECTION 22. Chapter 35 of the revised statutes, entitled "of excise," and the several acts amendatory thereof; chapter 127, laws of 1872, entitled "an act to provide against the evils resulting from the sale of intoxicating liquors," and chapter 230, laws of 1873, amending the same, and any laws conflicting with the provisions of this act are hereby repealed. Nothing in this act contained shall be construed as repealing or in manner interfering with any of the provisions of chapter 115 of the general laws of 1859, or chapter 278 of the general laws of 1861, but the said chapters shall remain in full force and effect.

SECTION 23. The provisions of this law shall apply to the whole state and every part thereof: *provided, however,* that the board of supervisors, common council or village board of trustees may provide by ordinance or resolution for disposing of the license money, in a different mode from that hereinbefore stated, if they should deem proper so to do; *and provided, further,* that sections one and two of this act, so far as they fix the term for which any license shall be granted, shall not in any way interfere with or change the provisions of any city or village charter in that behalf, nor shall any of the provisions of this act in any way interfere with or change the jurisdiction of any municipal or police court in any incorporated city or village in this state.

Provisions of  
this law, where  
applicable.

SECTION 24. This act shall take effect and be in force from and after its passage and publication.

Approved March 9, 1874.