

CHAPTER LXII.

An Act regulating Estrays and Articles Adrift.

- SECTION 1. Advertisement of estrays taken up, within five days thereafter.
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 3. Oath of taker-up of stray property.
 4. Description of estray to be transmitted to Clerk of District Court by Justice.
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 24. Summary proceeding for recovery of property wrongfully detained.
 25. Filing of affidavit by claimant.
 26. Duties of Justice on cases brought before him.
 27. Rules governing action before Justice.
 28. Provisions of this chapter prior to Section 23 inapplicable to subsequent sections.
 29. Advertisement of property adrift, to be made within seven days.
 30. Penalty for neglect to comply with provisions of this Act.
 31. Act not to apply to logs or lumber afloat or ashore.
 32. Repeal of acts contravening provisions of this Act.
 33. Act takes effect on passage.

Be it enacted by the Legislature of the State of Minnesota :

Public notice of
estrays taken up

SECTION 1. That any person who shall take up an stray horse, mule, ass, sheep, hog, cattle or goat, or any other article of value adrift, shall, within five days thereafter advertise the same in writing in three of the most public places in the township where such property is taken up, stating the time of taking up and giving a particular description of the property.

Report to Justice
of the peace—ap-
praisal

SEC. 2. If within fifteen days after taking up, the owner shall not have claimed such stray property, the taker-up shall report the same to some Justice of the Peace in the township, who shall issue his warrant to three householders of the neighborhood not of kin to the taker-up (unless they cannot otherwise be procured), directing any two of them to appraise such property,—whose duty it shall be to appraise the same and make report to such Justice, clearly describing the

property and the valuation thereof, and shall, under oath, declare that said appraisement and description were made without partiality, favor or affection.

Oath of taker up

SEC. 3. The taker-up shall, at the time of making such report, make oath before such Justice that the marks, brands or appearance of such property have not been altered by him, nor by any other person to his knowledge, since the same became astray or adrift, other than may in his written report have been stated.

Description of property, to be transmitted to clerk of district

SEC. 4. Any Justice to whom estray property may have been reported shall, within ten days, transmit to the Clerk of the District Court a copy of the description and valuation thereof, with the fees as hereinafter provided, and said Clerk shall enter such description and appraisement in a book to be kept for that purpose.

SEC. 5. Estray property exceeding in value ten dollars, and property adrift exceeding in value ten dollars, shall be advertised in some newspaper of the county, if there be one; if not, in the paper in the State nearest thereto; and the Clerk shall forward to the printer a copy of the registry thereof, marked outside "Estray papers," together with a fee of one dollar and fifty cents, out of which the printer shall pay the postage.

Advertisement in newspaper, if exceeding ten dollars in value.

SEC. 6. In all cases in which the provisions of this Act shall have been complied with, property adrift not exceeding in value twelve dollars, unclaimed or unproven by the owner within ninety days after taking up, and other estray not exceeding in value ten dollars, and unclaimed or unproven by the owner within one year after taking up, shall vest in the taker-up.

Property adrift, unclaimed—owner hlp.

SEC. 7. Property taken up adrift, the appraised value of which exceeds twelve dollars, not claimed and proven within ninety days after taking up, or animals astray other than horses, mules and asses, the appraised value of which exceeds ten dollars, not claimed and proven within six months after taken up, shall be reported by the taker-up to some Justice of the Peace of the township within five days after the expiration of the time specified.

Time for redemption—if unclaimed, notice to Justice.

SEC. 8. Such Justice shall issue his warrant to some constable to sell the same at auction, giving ten days' notice in writing of the time and place of sale, describing the property to be sold; and such constable shall, within five days after such sale, return such order and the proceedings of sale to said Justice, retaining one dollar for his services therein; and said Justice shall immediately pay over to the County Treasurer the proceeds of sale, after deducting the proper amount to be paid to the taker-up, as aforesaid in this Act, and seventy-five cents for his fees, and shall take from the Treasurer a duplicate receipt, which he shall file in the office of the Clerk of the District Court.

Sale at public auction—disposition of proceeds.

SEC. 9. Any horse, mule or ass taken up under the pro-

visions of this Act, the appraised value of which exceeds twenty dollars, and which shall remain unclaimed or unproven at the expiration of one year from the time of taking up, shall be by the taker-up delivered to any constable of the town, to be sold by him at the most public place in the town; and after retaining one dollar for his services and paying to the taker up his charges as provided in this Act, said constable shall pay the proceeds of such sale to the Treasurer of the county within five days thereafter, taking from the Treasurer a duplicate receipt, and file it in the Clerk's office.

Payments to County Treasurer. SEC. 10. All sums paid to the county treasurer under the provisions of this Act, shall be by him entered to the credit of the county, under the head of stray fund.

Fees for taker up. SEC. 11. The taker up shall be entitled for taking up each horse, mule or ass, one dollar; each head of neat cattle, fifty cents; each sheep, goat or hog, above six months old, twenty-five cents; but when the owner reclaims or proves his property before the same is posted, the taker up shall only be allowed half the above reward.

Property adrift—compensation for taking up, how decided. SEC. 12. The taker up of property adrift shall be allowed a reasonable sum to be determined by some Justice of the Peace of the township, but either the claimant or the taker up thereof may, if they choose, have a jury to determine what amount shall be just and reasonable for taking up and taking care of such property; the Justice, constable and jury shall be allowed the same fees as in other cases.

Fees to be paid on reporting to justice. SEC. 13. The taker up of property exceeding three dollars in value, shall pay to the Justice at the time of reporting, fifty cents for the Justice, fifty cents for the clerk, and one dollar and fifty cents for the printer, where printing is required, but if under three dollars, the Justice shall make no return to the clerk, and his fees shall be fifty cents only.

Register of estrays. SEC. 14. The clerk shall keep a register of estrays; where several estrays or articles adrift are taken up by one person, there shall be only one entry and one advertisement, one fee of the clerk and one of the Justice.

Compensation for keeping estrayed property. SEC. 15. Upon property sold or reclaimed, the taker up shall be allowed such compensation for keeping such property as shall be by the Justice, before whom the proper proceedings are held, deemed just and reasonable; and such taker up shall keep account of the time an stray animal is kept by him, and make oath to the same.

Deduction for work performed. SEC. 16. If any animal is taken up under the provisions of this Act, and worked by the taker up, a reasonable compensation shall be allowed for the services of said animal, to be deducted from the keeping; the taker up if required, shall verify under oath the time he has worked the said animal.

Claim of property before sale, or funds after sale. SEC. 17. At any time before the sale, the owner may have his property, by proving the same before the Justice of the township where taken up, and paying charges. And

at any time within two years after sale, but not later, he may reclaim the money paid into the treasury, by proper proof before the county auditor.

Sec. 18. No person shall take up any horse or stock except at his place of residence, or drive the same out of the woods or common and take them up, nor shall any animal be taken up between the first day of April and the first day of November, unless the same be found in the enclosure of the taker up. *Provided, however,* That when any animal may be in the act of escaping from the owner it may be taken up at any time wherever found. Restrictions.

Sec. 19. The taker up, until he becomes owner, shall not take or suffer to be taken out of the county, any property taken up for more than three days at any one time.

Sec. 20. Fatted hogs taken up may, at the option of the taker up, be killed one month after posting; but in case the taker up shall forthwith, after killing the same, pay the appraised value, deducting costs and charges, (to be liquidated as in other cases) to the county treasurer for the use of the owner. Fatted hogs, provision for killing

Sec. 21. Stock hogs taken up may, at the option of the taker up, be by him paid for six months after posting, at their appraised value, deducting costs and reward for taking up, but no allowance for keeping the same. Stock hogs, provision for purchasing at appraised value

Sec. 22. Whenever upon any navigable waters within or bordering on the State, the cargo of which may have been shipped as freight or the baggage of passengers or part thereof, of any vessels may be cast adrift, afloat or ashore by any wreck, accident or mischance of such vessel, such cargo, or part thereof, as may have been taken up and secured by any person, may be reclaimed by the captain, clerk or officers navigating such vessels, the supercargo, owner, or agent of the owner of such cargo or baggage who may be the claimant thereof. Reclaiming of property adrift

Sec. 23. Such property shall be surrendered to such claimant, upon proof or circumstances satisfactory to the taker up of the property of the right of such claimant, having a general or special property, agency or control therein, upon the payment by such claimant of reasonable compensation for securing, or expenses in the taking and preserving such property. Compensation for taking up and surrender.

Sec. 24. Should such person, or the person having possession of the property, refuse to restore to the claimant, or claim unreasonable compensation for the services and expenses in its taking up and preservation, the claimant may have a summary proceeding before any disinterested Justice of the Peace for the recovery of such property. Summary proceeding for recovery

Sec. 25. The claimant must file before the Justice, an affidavit of the facts attending the wreck or accident, enumerating as nearly as possible the articles or packages withheld his right to receive the same, and thereupon the Justice Affidavits to be filed

shall summon the person taking up, or in possession of such property, to appear before him at a place and at the earliest practicable period not more than three days, to be designated in the writ.

Duties of Justice

SEC. 26. Such Justice shall hear and determine the matters in controversy in the most speedy manner practicable, as other proceedings are had before him, and may fix the amount of compensation to be paid by such claimant, and award a writ or writs for the delivery of the same forthwith to such claimant upon the payment of such compensation.

SEC. 27. Such trial shall be governed by the usual rules of procedure before Justices, except as to continuances, and appeals may be taken by either party upon the same terms and under the same regulations as appeals in other cases are taken.

Provision as to sections prior to the 23d

SEC. 28. The provisions of the sections of this chapter, prior to section twenty-three, relative to articles adrift, shall not apply to the cases contemplated in said section twenty-three.

Advertisement of property taken adrift

SEC. 29. If any of the property referred to in section twenty-three be not claimed within seven days after the same has been taken up, then the taker up of such property shall advertise the same as required in other cases of articles adrift.

Wilful neglect to comply with provisions of this act

SEC. 30. That any person or persons taking up any property and wilfully neglecting to comply with the provisions of this Act, shall forfeit and pay to the injured party not less than two-thirds of the actual value of said property so taken up and detained.

Act not to apply to logs and lumber afloat

SEC. 31. That this Act shall not be so construed as to apply to logs or lumber floating upon any of the waters of this State, or lying on or between the banks of any river of this State.

Repeal of previous acts

SEC. 32. All acts and parts of acts coming within the provisions of this Act, are hereby repealed.

SEC. 33. This Act to take effect and be in force from and after its passage.

GEORGE BRADLEY,

Speaker of the House of Representatives.

WILLIAM HOLCOMBE,

President of the Senate.

APPROVED—August seventh, one thousand eight hundred and fifty-eight.

HENRY H. SIBLEY.

SECRETARY'S OFFICE, Minnesota, }
August 7, 1858. }

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

FRANCIS BAASEN, Secretary of State.