

of this act, shall be subject to a fine of not less than ten or more than one hundred dollars or be imprisoned in the county jail not less than ten days or more than three months; and the town clerk and register of deeds shall be subject to a like fine for a refusal or neglect to comply with their duties.

Penalty for non-compliance with provisions of this act.

SEC. 4. All acts or parts of acts inconsistent with this act are hereby repealed.

Repeal of inconsistent acts.

SEC. 5. This act shall take effect and be in force in ninety days from and after its passage.

Approved March 2, 1865.

CHAPTER L.

An Act to provide for distraining beasts doing damage during the night time. March 2, 1865.

- SECTION 1. Distraining of beasts doing damage in the night time.
2. May do so at any time before such beast shall escape from said lands.
 3. Duty of appraiser appointed to assess damages.
 4. Appraisers to certify the amount of damages—fees.
 5. May cause beast to be put in the nearest pound until damages and fees be paid.
 6. Duty of poundmaster.
 7. Provision in case no public pound—when beast may be redeemed—if owner be known to be notified.
 8. Disposition of proceeds arising from such sale.
 9. Disposition of funds when not claimed by the owner.
 10. Owner liable in an action at law if beasts are not distrained.
 11. When owner of beast so distrained deemed guilty of a misdemeanor.
 12. Repeal of inconsistent acts.
 13. When act to take effect.

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

SECTION 1. It shall be lawful for the owner or occupant of lands to distrain all beasts doing damage upon his or her lands during the night time, from eight o'clock in the evening until sunrise; and when any such distress shall be made, the person distraining shall

Distraining of beasts doing damage in the night time.

keep such beasts in some secure place other than the public pound until his damages shall be appraised, and within twenty-four hours after such distress, unless the same shall be made on Sunday, in which case before the Tuesday morning thereafter, he shall apply to a justice of the peace of the town, who shall appoint three disinterested inhabitants of such town to appraise the damages.

May do so at any time before such beast shall escape from said lands.

SEC. 2. It shall be lawful to make such distress at any time before such beast doing damage as aforesaid shall have escaped from said lands, and without regard to the sufficiency of the fences on such lands.

Duty of appraiser of damages.

SEC. 3. The appraisers shall immediately after their appointment repair to the place and view the damages done, and they may take the evidence of any person of the facts and circumstances necessary to enable them to ascertain the extent of such damage, for which purpose the appraisers or either of them are authorized to administer an oath to every such witness.

To certify to the amount of damage—fees.

SEC. 4. The appraisers shall ascertain and certify under their hands the amount of such damage, with their fees for their services not exceeding one dollar per day.

May cause beast to be put in pound until fees be paid.

SEC. 5. Within twenty-four hours, Sundays excepted, after the damages shall be so appraised, unless the amount so ascertained and the fees of the appraisers and fifty cents justices' fees shall have been paid, the person making such distress shall cause the beasts distrained to be put in the nearest pound in the same town, if there be one, and if there be no pound within the town, then in some secure enclosure within the county, there to remain until the same shall be sold as hereinafter directed, or until the damages so certified and the fees of the appraisers and justice and costs of keeping such beasts be paid, and if such beasts be put in any pound the distrainer shall deliver the certificate of the appraisers to the keeper of such pound.

Duty of poundmaster.

SEC. 6. The poundmaster shall receive and keep the beasts so delivered to him in the public pound, and such poundmaster shall as soon as practicable sell such beasts, or so many of them as shall be necessary, at public vendue, giving at least three days' notice of such sale by posting up at such pound, and at three of the

most public places within the town when and where such sale is to be made: *Provided, always,* That the poundmaster or the person keeping such beasts shall furnish them with sufficient and appropriate food, and take good care of such beasts, and shall be paid therefor as part of the fees and costs in such cases.

SEC. 7. If there shall be no pound within the town where such beasts are distrained, and the same shall be kept in an inclosure other than the public pound, such beasts, or so many of them as shall be necessary to pay all damages done by said beasts together with all costs authorized by this act, shall be sold as soon as practicable, at public vendue, by or under the direction of the sheriff or any constable of the county after the like notice as is required in the case of constable's sales of goods and chattels taken by execution: *Provided,* That any person who shall purchase any animal so sold shall keep the same for the period of two months, and any person who may own said animal may redeem the same within the said two months, by paying all costs and charges, and the price at which such animal was sold and interest at the rate of twelve per cent. per annum: *And provided,* That if the owner of such beasts shall be known to the person distraining, it shall be his duty to notify the owner within twenty-four hours after such distraining, if such owner shall reside within the same town, and if such owner shall not reside within the same town, but in the same or an adjoining county, then within three days after such distraining, Sundays always excepted, such notice shall specify the time when and the place where such beasts were distrained, the number of such beasts, and that the same were distrained for doing damage.

Provision in case no public pound—when beast may be redeemed—if owner be known to be notified.

SEC. 8. From the proceeds of such sale the person making the same shall retain sufficient to pay the amount of his fees, the cost of keeping such beasts, and the charges of such sale; and he shall pay to the person distraining such beast the damages so certified with fees of the appraisers and of the justice, and if there be any surplus the same shall be paid to the owner of such beasts if known. If no owner appear at the time of such sale, or within one week thereafter, and claim such surplus, the same shall be paid to the treasurer of the county in which such sale is made.

Disposition of proceeds arising from such sale.

Funds not claimed
by the owner how
disposed of.

SEC. 9. The county treasurer shall, after deducting two per cent. for his fees, pay such surplus money, if claimed within one year after the distress, to the owner of such beasts, if not claimed within that time, to the school fund of that town in which the beasts were distrained.

When owner liable
to an action in law

SEC. 10. In case the owner or occupant of lands shall not distrain the beasts doing damage as provided in this act, then the owner of such beasts shall be liable in an action at law for all damages done by such beasts during the night time, without regard to the sufficiency of the fences on the lands in which damage is done.

When owner of
beast distrained
deemed guilty of
a misdemeanor.

SEC. 11. If any person, without the authority of law, and without first paying the damages and costs, shall take such beasts after being distrained, out of the possession of the person making distress, or out of the possession of the sheriff, constable, or poundmaster, as the case may be, without their consent, then such person shall be deemed to have committed a misdemeanor, and shall be punished therefor by fine not exceeding one hundred dollars or by imprisonment not exceeding three months, and shall besides be liable in double the amount of damages committed by such beasts to the person injured thereby.

Repeal of incon-
sistent acts.

SEC. 12. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 13. This act shall take effect and be in force on and after the first day of June, A. D. eighteen hundred and sixty-five.

Approved March 2, 1865.