

for the purpose of this act be deemed a lawful fence, but the word "cattle," as used in the act, shall not be so construed as to include either sheep or swine, or any other domestic animal not exceeding the size of sheep or swine; *Provided, further,* That the foregoing proviso shall not apply to or be in force in the counties of Wabasha, Dodge, Steele, Lac qui Parle, Martin, Yellow Medicine, Lyon, the Seventh Senatorial District (Winona county), and Goodhue county. *Provided,* That the provisions of this act shall not apply to the thirtieth, thirty-first, thirty-second, thirty-fifth, thirty-ninth, except Stevens county, fortieth, forty-first, twenty-eighth, twenty-ninth, thirty sixth and twenty-seventh districts.

District not applicable.

[SEC. 3. This act shall take effect and be in force from and after its passage.]

When act to take effect.

Approved March 9, 1874.

CHAPTER LIV.

AN ACT RELATING TO ESTRAY.

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

SECTION 1. No person shall take up any estray except horses and mules, unless such person shall be at the time a resident of the same town wherever such estray shall be found nor unless such estray shall be found upon the lands owned or occupied by the finder.

Who authorized to take up estrays.

SEC. 2. Any person taking up an estray, shall, within seven days thereafter, notify the owner, if to him known, and request such owner to pay all reasonable charges and take such estray away.

Notice to be given.

SEC. 3. If the owner of any estray be unknown, the finder shall, within ten days after taking up the same, file a notice thereof with the town clerk, and if the estray or estrays so taken up are of the value of less than five dollars, he shall also post up notices of the taking up of such estray in two or more public places in such town; but if the estray or estrays so taken up are of the value of more than five dollars, the town clerk shall transmit to the

If owner be unknown, duty of finder.

county register a copy of the notice filed by the taker up in said town clerk's office, to be by the county register filed in a book kept by him for that purpose. Such notice shall contain a brief description of the estray, describing the same by giving marks natural and artificial, as near as practicable, the name and residence of the finder and as near as may be, the time at which the same was taken up, and the value of said estray or estrays. For making such entry the clerk shall receive from the taker up of any estrays ten cents each for all horses, mules, asses and meat [neat] cattle, and five cents each for all hogs, sheep and goats described in said notice.

Notice to be sent to register of deeds for record—fees.

SEC. 4. Every finder of any estray or estrays, which, when taken up are of the value of ten dollars or more, shall, within one month after taking up of the same, procure an appraisement thereof by a justice of the peace of his town, which appraisal shall be certified to by such justice, and within the time before mentioned filed in the office of the town clerk of such town, and he shall pay to such justice fifty cents for such appraisement [and certificate,] and six cents for every mile necessarily traveled in such service. The town clerk shall transmit by mail or otherwise forthwith to the register of deeds of the county where such estray is detained, a certified copy of the notice and description of the estray on file in his office, for which certificate the town clerk shall receive the sum of twenty five cents to be advanced by the person detaining such estray, together with the fee of fifty cents, which fee shall be forwarded by the town clerk to the register of deeds with the notice; and upon the receipt of said notice and description, with the fee accompanying it, the register of deeds shall cause the notice and description to be recorded in a book in his office kept for that purpose, designated "estrays book." *Provided*, The register of deeds shall not be entitled to more than the sum of fifty cents for recording any estray notice and description, whether said notice includes a description of one or more animals. It shall be the duty of said register to answer all letters of inquiry addressed to him, provided such letters contain a postage stamp to pay postage on said answer.

All charges to be paid before restoration.

SEC. 5. If the owner or person entitled to the possession of any estray, shall appear at any time within one year after the notice is filed with the town clerk of the aforesaid town and make out his right thereto, he shall have such estray restored to him upon paying all lawful charges which have been incurred in relation to the same.

SEC. 6. If the owner and the finder cannot agree upon the amount of such charges, or for the use of such estray, either party may make application to any justice of the peace of the town, or adjoining town, where such estray was taken up to settle the same, and the party making such application shall give notice thereof to the other party, and if any amount shall be found due to the finder by the said justice over the value of the use of such estray, the same shall, together with the costs of the justice, be a lien on such estray until paid by the owner.

In case finder and owner do not agree on charges, how adjusted.

SEC. 7. If the owner, or person entitled to the possession of any estray, shall not appear and make out his right thereto and pay the charges thereon; within one year from the time the notice is filed with the town clerk as aforesaid, and if such estray shall not have been appraised at a greater value than ten dollars, the finder shall have a perfect title to the same; but if the appraisal of such estray shall have been adjudged to be more than ten dollars, as provided in fourth section of this chapter, such estray shall be sold at the request of the finder by any constable of the town, at public auction, upon first giving public notice thereof in writing, by posting up the same in three of the most public places in said town at least ten days before such sale, and the finder may therefor at such sale, and after deducting all the lawful charges of the finder as aforesaid, the fees of the constable, which shall be the same as upon a sale on an execution, the finder shall deposit the remainder of the money with the treasurer of the county where such estray was kept, taking a receipt therefor, which shall be a legal discharge of the finder of such estray from all liability therefor.

When finder to have perfect title in estray.

SEC. 8. If the money be not claimed within one year after the sale by the former owner of the estray after the same was sold under the provisions of this act, the surplus money shall be paid by the county treasurer to the school fund of the county in which such estray was found.

Money received for estray, how disposed of.

SEC. 9. If any person, claiming the ownership of an estray when the taker up has complied with the provisions of this chapter, drives away such estray or causes to be driven away from the place where the same is kept without first paying all charges and damages and costs against such estray as provided herein, he shall be guilty of a misdemeanor, and upon conviction before any justice of the peace having jurisdiction, shall be fined double

Penalty for driving away estray.

the sum of said charges, damages and costs, and imprisoned in the county jail not less than ten nor more than thirty days.

Penalty for failure to comply with provisions of this chapter.

SEC. 10. Any person taking or detaining any estray who willfully fails or neglects to comply with the provisions of this chapter, 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 nor more than three months, and shall be precluded from all claims to damages or compensation for keeping such estray, 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.

Repeal of former act.

SEC. 11. Chapter nineteen, title one of the general laws, revision of 1866, and all amendments thereto, be and the same are hereby repealed.

When act to take effect.

SEC. 12. This act shall take effect and be in force from and after its passage.

Approved March 9, 1874.

CHAPTER LV.

AN ACT TO AMEND SECTION SIXTY-FIVE OF CHAPTER FIVE OF THE GENERAL LAWS OF THE STATE OF MINNESOTA FOR THE YEAR ONE THOUSAND EIGHT HUNDRED AND SEVENTY-THREE, RELATING TO HIGHWAYS.

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

SECTION 1. That section sixty-five of chapter five of the general laws of the state of Minnesota for the year one thousand eight hundred and seventy-three (1873) be and [is] hereby are amended so as to read as follows:

Penalty for obstruction of a public highway.

SEC. 2. Whoever at any time obstructs any of the public highways in this state in any manner with intent to prevent the free use thereof by the public, or any person who shall do or cause to be done any plowing thereon except by permission of the overseers of said highways with the same intent, shall be subject to a fine of not less than five nor more than twenty-five dollars, together with all costs attending such conviction.