

roads; and the aldermen of the cities of Minneapolis and St. Paul, and the town and city supervisors of the towns, cities and counties through which said roads pass, shall cause the same to be opened and made in good condition for travel on or before the first day of December, A. D. 1874.

SEC. 9. This act shall be in force from and after its passage.

Approved March 5, 1874.

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### CHAPTER XCVIII.

AN ACT TO AMEND AN ACT ENTITLED AN ACT TO PREVENT THE RUNNING AT LARGE OF CATTLE AND OTHER DOMESTIC ANIMALS WITHIN THE COUNTIES OF DODGE, OL MSTED, GOODHUE AND MARTIN, AND THE SEVENTH SENATORIAL DISTRICT OF WINONA COUNTY, APPROVED MARCH TENTH, EIGHTEEN HUNDRED AND SEVENTY-THREE.

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

SECTION 1. That chapter sixty-six of the special laws of eighteen hundred and seventy-three be amended so as to read as follows:

Sec. 1. That it shall be unlawful for any person or persons to allow any cattle, horses, or other domestic animals, owned by them, or of which they may be in possession, or have control, to run at large upon the public highways, or upon the lands of any other person or persons, during any season of the year, unless properly herded. *Provided*, That the provisions of this section shall not apply to any portion of the state of Minnesota except the counties of Dodge, Goodhue, Olmsted and Martin, and the seventh senatorial district of Winona county. *Provided further*, That a majority of the legal voters at any annual town meeting in the county of Olmsted may by resolution allow such animals to run at large in their respective towns.

SEC. 2. The owners or occupants of lands may distrain all beasts doing damage upon his lands, lying and being in the counties and district aforesaid, and when any such distress is made, the distrainer shall keep such beasts in some secure place, other than the public pound, until his damages are appraised, and within twenty-

four hours after such distress, unless the same is 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 damage. Such appraisers shall receive, as compensation for their services, one dollar per day for every day actually consumed in making the appraisal, and six cents per mile as mileage in going to and returning from the place whence the damages are done, to be paid in the first instance by the distrainer, distance traveled and time spent to be certified to and made a part of the returns of said appraisers.

SEC. 3. The appraisers shall, immediately after their appointment, be duly sworn, and 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.

SEC. 4. Within twenty-four hours Sundays excepted, after the damages are so appraised, unless the amount so ascertained and the fees of the appraisers, and fifty cents justice fees are paid the distrainer shall cause the beasts distrained to be put in the nearest pound in the same town, if there is one, and if there is no pound within the town, then in some inclosure within the county, there to remain until the same are sold as hereinafter directed, or until the damages are certified, and the fees of the appraisers and justice and costs of keeping the beasts are paid, and if such beasts are put in any pound, the distrainer shall deliver the certificate of the appraisers, to the keeper of such pound.

SEC. 5. The pound master shall receive and keep the beasts so delivered to him in the public pound, and shall within five days sell such beasts, or so many of them as are necessary, at public vendue giving at least three days' notice of such sale, by posting up the same at such pound and at three of the most public places within the town, when and where such sale is to be made; *Provided*, 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. 6. If there be no pound within the town where such beasts are distrained, and the same are kept in an enclosure other than the public pound, such beasts or so many of them as are necessary to pay all damages done by said beasts together with all costs authorized by this chapter, 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 like notice as is required in the case of constable sales of goods and chattels taken by execution; *Provided*, That

any person who purchases any animal so sold shall keep the same for the period of two months, and any person who owns said animal, may redeem the same within 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; *Provided further*, That if the owner of such beasts is known to the person distraining, he shall notify the owner within twenty-four hours after such distraining, if such owner resides within the same town, and if such owner does not reside with the same town but in the same or adjoining county, then within three days after such distraining, Sunday always excepted, such notice shall specify the time when and place where such beasts are distrained, the number of such beasts, and that the same are distrained for doing damage.

SEC. 7. From the proceeds of such sales the person making the same shall retain sufficient to pay the amount of his fees, the costs of keeping such beasts, and the charge of such sale, and he shall pay to the distrainer the damages so certified, with fees of appraisers and of the justice, and if there is any surplus, the same shall be paid to the owner of such beasts if known. If no owner appears at the time of such sale, or within one week thereafter, and claims such surplus, the same shall be paid to the treasurer of the county in which such sale is made.

SEC. 8. 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.

SEC. 9. If any person without authority of law, and without first paying the damages and costs, takes 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 his 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 also be liable in double the amount of damages committed by such beasts, to the person injured thereby.

SEC. 10. This act shall take effect and be in force from and after its passage.

Approved March 2, 1874.