

21079
65

GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
THE STATUTES OF THE STATE, BY ACT OF THE
LEGISLATURE, PASSED FEBRUARY 17, 1863.

ONE HUNDRED COPIES ORDERED PRINTED.



SAINT PAUL:

FREDERICK DRISCOLL, STATE PRINTER.

(PRESS PRINTING COMPANY.)

1865.

27

D

CHAPTER XIX.

ESTRAYS, UNCLAIMED PROPERTY AND BEASTS
DOING DAMAGE.

TITLE I.

ESTRAYS.

c13

1863—p. 51, Sect. 1.

1 SECTION 1. Any person who takes up any stray horse,
2 mule, ass, neat cattle, hog, sheep or goat, or who has at any
3 time upon his enclosed land, an stray horse, mule, ass, neat
4 cattle, hog, sheep or goat, shall within five days thereafter
5 post up a written notice up in three of the most public places
6 in the town where such stray was taken up or found, giving
7 a particular description of such stray, its age, color and
8 marks, natural and artificial, as near as may be, together
9 with his own name and place of residence.

c13

1863—p. 51, Sect. 2.

1 SECT. 2. If within ten days after the posting of such
2 notice, the owner does not claim such stray, and pay all
3 reasonable charges and damages which the taker up has
4 sustained by reason of any depredations committed by such
5 stray, on the enclosed land of the taker up, the latter shall
6 file with the clerk of the town where such stray was taken
7 up or found, a notice in writing, containing his name and
8 place of abode, and the age, color, and marks, natural and
9 artificial, of such stray, as near as may be.

c13

1863—p. 52, Sect. 3.

1 SECT. 3. The town clerk shall enter said notice at large
2 in a book to be provided by him for that purpose, for which
3 entry he shall receive ten cents each, for all horses, mules,
4 asses, and neat cattle, and five cents each for all hogs,
5 sheep, and goats, to be paid by the person delivering the
6 notice.

c13

1863—p. 52, Sect. 4.
Amended.

1 SECT. 4. The taker up shall within ten days after the
2 taking up or finding such stray, notify two of the fence
3 viewers of the town wherein such stray was taken up or
4 found, who shall immediately proceed to the place where
5 such stray is kept, and appraise the value of such stray,
6 and also all damages which the taker up has sustained by
7 reason of depredations committed by such stray, and shall
8 certify the same in writing to the taker up.

1 SECT. 5. The person delivering the notice shall receive

CHAP. XIX.] ESTRAYS, UNCLAIMED PROPERTY, ETC. 241

2 therefor, ten cents each for all horses, mules, asses, or neat
 3 cattle, and five cents each for all hogs, sheep, or goats, 1863—p. 52, Sect. 6.
 4 described therein, and he may detain such estray until the
 5 owner thereof appears and pays such fees, together with the
 6 fees paid or due the clerk, or which he may have paid or
 7 which may be due the fence viewers or supervisors, and all
 8 damages and reasonable compensation for keeping such
 9 estray.

C 13

1 SECT. 6. When the value of such estray exceeds the
 2 sum of ten dollars, the town clerk shall transmit by mail or
 3 otherwise, forthwith, to the register of deeds of the county
 4 where such estray is detained, a certified copy of the notice
 5 and description of the estray on file in his office. For
 6 which certificate the town clerk shall receive the sum of
 7 twenty-five cents, to be advanced by the person detaining
 8 such estray, together with the fee of fifty cents; which fee
 9 shall be forwarded by the town clerk to the register of
 10 deeds with the notice; and upon the receipt of said notice
 11 and description, with the fee accompanying it, the register
 12 of deeds shall cause the notice and description, to be re-
 13 corded and put on file in his office in a book kept for that
 14 purpose, to be designated "Estray Book;" *Provided*, The
 15 register of deeds shall not be entitled to more than the sum
 16 of fifty cents for recording any estray notice and descrip-
 17 tion, whether said notice includes a description of one or
 18 more animals. 1865—p. 103, Sect. 1.

C 49

1 SECT. 7. If no owner appears and claims such estray,
 2 and pays charges and expenses, as provided for herein, the
 3 person detaining such estray may proceed to sell the same
 4 at public auction, to the highest bidder, by posting notices
 5 in three of the most public places in the town, at least
 6 twenty days previous to such sale. *Provided*; That if the
 7 value of such estray is less than twenty-five dollars, the es-
 8 tray shall be sold within three months from the date of
 9 filing the notice with the town clerk; and if the value is
 10 twenty-five dollars or upwards, then such estray shall be
 11 sold after the expiration of six months from the date of the
 12 filing of the notice with the register of deeds. 1865—p. 104, Sect. 2.
 Amended.

C 49

1 SECT. 8. Whenever notice of sale is given, the taker up,
 2 if he has complied with all the provisions of this chapter,
 3 and such estray is not meantime claimed and redeemed,
 4 shall, within the twenty days allowed for notice of sale, no-
 5 tify the fence viewers who shall ascertain and fix the value
 6 of the expense of keeping such estray up to and including
 7 the day of sale and give a certificate thereof to the person
 8 applying for the same. 1863—p. 53, Sect. 9.
 Amended.

C 13

MINNESOTA STATUTES 1863

242 ESTRAYS, UNCLAIMED PROPERTY, ETC. [CHAP. XIX.

C13

1863—p. 63, Sect. 10.

1 SECT. 9. Each supervisor or fence viewer shall receive
2 six cents for every mile he is obliged to travel from his
3 house to the place where such estray is kept, and twenty-
4 five cents for the certificate of the charges and damages, and
5 twenty-five cents for a certificate of appraisal, as ascertain-
6 ed or appraised by him, such fees to be paid by the owner
7 of the estray.

C13

1863—p. 54, Sect. 12.
Amended.

1 SECT. 10. Upon sale of the estray as provided herein,
2 the taker up shall retain out of the moneys arising these-
3 from for his own use, the sums charged on such estray, ac-
4 cording to the provisions of this chapter, and the expenses
5 of sale which shall be the same as on sales under execution
6 issued by a justice. He shall pay the residue of said mon-
7 ey, on demand, to the owner of the estray, if he appears
8 and demands the same.

C13

1863—p. 54, Sect. 13.

1 SECT. 11. If the owner does not appear, and demand
2 the residue of such money at the time of such sale, he shall
3 deposit the same with the treasurer of the town where such
4 estray was kept, taking a receipt therefor, which shall be a
5 legal discharge to the keeper of such estray.

C13

1863—p. 54, Sect. 14.

1 SECT. 12. If the owner does not within six months after
2 the deposit of the residue of the money, appear and claim
3 the same, he shall be forever precluded from recovering
4 any part of said money, and such money shall thereafter
5 belong to the town, to be used as the supervisors direct.

changed

C13

1863—p. 53, Sect. 8.

1 SECT. 13. If any person claiming the ownership of
2 an estray, when the taker up has complied with the provi-
3 sions of this chapter, drives away such estray, or causes it
4 to be driven away from the place where the same is kept,
5 without first paying all charges and damages against such
6 estray as provided herein, he shall be guilty of a misde-
7 meanor, and upon conviction before any justice of the peace
8 having jurisdiction, shall be fined double the sum of said
9 charges and damages, and imprisoned in the county jail not
10 less than ten nor more than thirty days.

C49

1865—p. 104, Sect. 3.
Amended.

1 SECT. 14. Any person taking or detaining any estray,
2 who fails or neglects to comply with the provisions of this
3 chapter, shall be subject to a fine of not less than ten or
4 more than one hundred dollars, or be imprisoned in the
5 county jail not less than ten days or more than three months,
6 and shall be precluded from all claim to damages or com-
7 pensation for keeping such estray, and the town clerk and
8 register of deeds shall be subject to a like fine for a refusal
9 or neglect to comply with their duties.

TITLE II.

UNCLAIMED PROPERTY.

1 SECT. 15. Whenever any personal property is consign-
 2 ed to, or deposited with any forwarding merchant, wharf-
 3 keeper, warehouse-keeper, tavern-keeper, express compa-
 4 ny, or the keeper of any depot for the reception and storage
 5 of trunks, baggage, merchandise, or other personal prop-
 6 erty, such consignee or bailee shall immediately cause to be
 7 entered in a book kept by him, a description of such prop-
 8 erty, with the date of the reception thereof.

C. S. p. 205, Sect. 48.
Amended.

c/3

1 SECT. 16. If such property is not left with such con-
 2 signee or bailee, for the purpose of being forwarded or dis-
 3 posed of according to directions received by such consignee
 4 or bailee, at or before the time of the reception thereof,
 5 and if the name and residence of the owner of such property
 6 are known to the consignee or bailee, he shall immediately
 7 notify the owner by letter, directed to him, and deposited
 8 in the post office, of the reception of such property.

C. S. p. 205, Sect. 49.

c/3

1 SECT. 17. If any such property is not claimed and
 2 taken away within one year after the time it is so received,
 3 the consignee or bailee may at any time thereafter proceed
 4 to sell the same in the manner provided in this chapter.

C. S. p. 205, Sect. 50.

c/3

1 SECT. 18. Before any such property is sold, if the name
 2 and residence of the owner thereof are known, at least six-
 3 ty days' notice of such sale shall be given him, either per-
 4 sonally or by mail, or by leaving a notice at his residence
 5 or place of doing business; but if the name and residence
 6 of the owner are not known, the person having the posses-
 7 sion of such property shall cause a notice to be published,
 8 containing a description of the property, for the space of
 9 six weeks successively, in a newspaper, if there is one
 10 printed and published in the same county; if there is no
 11 such newspaper, then said notice shall be published in a
 12 newspaper printed and published at the capital of the state;
 13 the last publication of such notice shall be at least eighteen
 14 days previous to the time of sale.

C. S. p. 205, Sect. 51.
Amended.

c/3

1 SECT. 19. If the owner or person entitled to such prop-
 2 erty does not take the same away and pay the charges
 3 thereon, after sixty days' notice have been given, the con-
 4 signee or bailee, his agent or attorney, shall make and de-
 5 liver to a justice of the peace of the same county an affida-
 6 vit setting forth a description of the property remaining un-
 7 claimed, the time of its reception, the publication of the
 8 notice, and whether the owner of such property is known
 9 or unknown.

C. S. p. 205, Sect. 52.

c/3

MINNESOTA STATUTES 1863

244 ESTRAYS, UNCLAIMED PROPERTY, ETC. [CHAP. XIX.

C13

C. S. p. 266, Sect. 53.

1 SECT. 20. Upon the delivery to him of such affidavit,
2 the justice shall cause such property to be opened and ex-
3 amined in his presence, and a true inventory thereof to be
4 made, and shall annex to such inventory an order under
5 his hand, that the property therein described shall be sold
6 by any constable of the county, at public auction.

C13

C. S. p. 266, Sect. 54.

1 SECT. 21. The constable receiving such inventory and
2 order, shall give ten-days' notice of the sale, by posting up
3 written notices thereof in three or more places in such
4 county, and shall sell such property at public auction to the
5 highest bidder, in the same manner as provided by law for
6 sales under executions from justices' courts.

C13

C. S. p. 266, Sect. 55.

1 SECT. 22. Upon completing the sale, the constable shall
2 indorse upon the order aforesaid, a return of his proceedings
3 thereon, and return the same to the justice, together with the
4 inventory, and the proceeds of the sale after deducting his
5 fees.

C13

C. S. p. 266, Sect. 56.

1 SECT. 23. From the proceeds of such sale, the justice
2 shall pay all legal charges incurred in relation to such prop-
3 erty, or a ratable proportion of each charge, if the proceeds
4 of said sale are not sufficient to pay all the charges; and
5 the balance, if any, he shall immediately pay over to the
6 treasurer of the county in which the same is sold, and de-
7 liver a statement therewith, containing a description of the
8 property sold, the gross amount of such sale and the amount
9 of costs, charges and expenses paid to each person.

C13

C. S. p. 266, Sect. 57.

1 SECT. 24. The county treasurer shall make an entry of
2 the amount received by him and the time when received,
3 and shall file in his office such statement so delivered to him
4 by the justice.

C13

C. S. p. 266, Sect. 58.

1 SECT. 25. If the owner of the property sold, or his legal
2 representatives, shall at any time within five years after
3 such money is deposited in the county treasury, furnish sat-
4 isfactory evidence to the treasurer of the ownership of such
5 property, he shall receive from such treasurer the amount
6 so deposited with him.

C13

C. S. p. 266, Sect. 59.

1 SECT. 26. If the amount so deposited with any county
2 treasurer, is not claimed by the owner thereof or his legal
3 representatives, within the said five years, the same shall
4 belong to the county, and may be disposed of as the board
5 of county commissioners direct.

1 SECT. 27. Property of a perishable kind and subject to
2 decay by keeping, consigned or left in the manner before

CHAP. XIX.] ESTRAYS, UNCLAIMED PROPERTY, ETC. 245

3 mentioned, if not taken away within thirty days after it is
 4 left, may be sold by giving ten days' notice thereof; the C. S. p. 268, Sect. 60. c 13
 5 sale to be conducted, and the proceeds of the same to be
 6 applied in the manner before provided in this chapter; *Pro-*
 7 *vided*, That any property in a state of decay, or that is
 8 manifestly liable immediately to become decayed, may be
 9 summarily sold by order of a justice of the peace after in-
 10 spection thereof, as provided in section twenty of this
 11 chapter.

1 SECT. 28. The fees allowed to any justice of the peace
 2 under the provisions of this chapter, shall be one dollar for C. S. p. 268, Sect. 61. c 13
 3 each days' service, and to any constable the same fees as
 4 are allowed by law for sale upon an execution, and ten cents
 5 per folio for making an inventory of property.

TITLE III.

DISTRAINING BEASTS DOING DAMAGE DURING THE NIGHT TIME.

1 SECT. 29. The owner or occupant of lands may destrain
 2 all beasts doing damage upon his lands during the night 1865—p. 106, Sect. 1. c 50
 3 time, from eight o'clock in the evening until sunrise; and
 4 when any such distress is made, the distrainer shall keep such
 5 beasts in some secure place, other than the public pound,
 6 until his damages are appraised, and within twenty-four hours
 7 after such distress, unless the same is made on Sunday, in
 8 which case before the Tuesday morning thereafter, he shall
 9 apply to a justice of the peace of the town, who shall ap-
 10 point three disinterested inhabitants of such town to ap-
 11 praise the damages.

1 SECT. 30. Such distress may be made at any time be-
 2 fore such beasts doing damage as aforesaid escape from 1865—p. 106, Sect. 2. c 50
 3 said lands, and without regard to the sufficiency of the
 4 fences thereon.

1 SECT. 31. The appraisers shall immediately after their
 2 appointment repair to the place and view the damages done, 1865—p. 106, Sect. 3. c 50
 3 and they may take the evidence of any person of the facts
 4 and circumstances necessary to enable them to ascertain the
 5 extent of such damage, for which purpose the appraisers,
 6 or either of them, are authorized to administer an oath to
 7 every such witness.

1 SECT. 32. The appraisers shall ascertain and certify 1865—p. 106, Sect. 4. c 50
 2 under their hands the amount of such damage, with fees for
 3 their services not exceeding one dollar per day.

c 50

1863—p. 106, Sect. 5.

1 SECT. 33. Within twenty-four hours, Sundays except-
 2 ed, after the damages are so appraised, unless the amount
 3 so ascertained and the fees of the appraisers, and fifty cents
 4 justice's fees are paid, the distrainer shall cause the beasts
 5 distrained to be put in the nearest pound in the same town,
 6 if there is one, and if there is no pound within the town, then
 7 in some enclosure within the county, there to remain until
 8 the same are sold as hereinafter directed, or until the dam-
 9 ages so certified, and the fees of the appraisers and justices,
 10 and costs of keeping such beasts are paid, and if such beasts
 11 are put in any pound the distrainer shall deliver the certi-
 12 ficate of the appraisers to the keeper of such pound.

c 50

1863—p. 106, Sect. 6.

1 SECT. 34. The poundmaster shall receive and keep the
 2 beasts so delivered to him in the public pound, and shall,
 3 as soon as practicable, sell such beasts, or so many of them
 4 as are necessary, at public vendue, giving at least three days'
 5 notice of such sale, by posting up the same at such pound and
 6 at three of the most public places within the town, when
 7 and where such sale is to be made. *Provided*, That the
 8 poundmaster or the person keeping such beasts, shall furn-
 9 ish them with sufficient and appropriate food, and take
 10 good care of such beasts, and shall be paid therefor as part
 11 of the fees and costs in such cases.

c 50

1863—p. 107, Sect. 7.

1 SECT. 35. If there is no pound within the town where
 2 such beasts are distrained, and the same are kept in an en-
 3 closure other than the public pound, such beasts, or so many
 4 of them as are necessary to pay all damages done by said beasts
 5 together with all costs authorized by this chapter, shall be
 6 sold as soon as practicable at public vendue, by or under
 7 the direction of the sheriff or any constable of the county,
 8 after the like notice as is required in the case of constables'
 9 sales of goods and chattels taken by execution. *Provided*,
 10 That any person who purchases any animal so sold, shall keep
 11 the same for the period of two months, and any person who
 12 owns said animal, may redeem the same within the said two
 13 months, by paying all costs and charges and the price at
 14 which such animal was sold, and interest at the rate of
 15 twelve per cent. per annum. *Provided further*, That if
 16 owner of such beasts is known to the person distraining, he
 17 shall notify the owner, within twenty-four hours after such
 18 distraining, if such owner resides within the same town,
 19 and if such owner does not reside within the same town,
 20 but in the same or an adjoining county, then within three days
 21 after such distraining, Sundays always excepted; such no-
 22 tice shall specify the time when and place where such beasts
 23 are distrained, the number of such beasts, and that the same
 24 were distrained for doing damage.

1 SECT. 36. From the proceeds of such sale, the person
 2 making the same shall retain sufficient to pay the amount of ^{1865—p. 107, Sect. 8.}
 3 his fees, the cost of keeping such beasts, and the charges of
 4 such sale; and he shall pay to the distrainer the damages
 5 so certified, with fees of the appraisers and of the justice,
 6 and if there is any surplus, the same shall be paid to the
 7 owner of such beasts, if known. If no owner appears at
 8 the time of such sale, or within one week thereafter, and
 9 claim such surplus, the same shall be paid to the treasurer
 10 of the county in which such sale is made.

c 50

1 SECT. 37. The county treasurer shall, after deducting
 2 two per cent. for his fees, pay such surplus money, if claim- ^{1865—p. 108, Sect. 9}
 3 ed within one year after the distress, to the owner of such
 4 beasts, if not claimed within that time, to the school fund
 5 of that town in which the beasts were distrained.

c 50

1 SECT. 38. In case the owner or occupant of lands shall
 2 not distrain the beasts doing damage as provided herein, the ^{1865—p. 108, Sect. 10.}
 3 owner of such beasts shall be liable in an action at law for
 4 all damages done by such beasts during the night time, with-
 5 out regard to the sufficiency of the fences on the lands in
 6 which damage is done.

c 50

1 SECT. 39. If any person, without the authority of law,
 2 and without first paying the damages and costs, takes such ^{1865—p. 108, Sect. 11.}
 3 beasts after being distrained, out of the possession of the
 4 person making distress, or out of the possession of the sher-
 5 iff, constable, or pound master, as the case may be, without
 6 his consent, then such person shall be deemed to have com-
 7 mitted a misdemeanor, and shall be punished therefor by
 8 fine, not exceeding one hundred dollars, or by imprison-
 9 ment not exceeding three months, and shall also be liable
 10 in double the amount of damages committed by such beasts
 11 to the person injured thereby.

c 50

CHAPTER XX.

PRESERVATION OF GAME.

1 SECTION 1. Whoever kills or pursues with intent to
 2 kill, any elk, deer or fawn, between the first day of Janua-
 3 ry and the first day of August in each year, or exposes for ^{1864—p. 112, Sect. 1.}
 4 sale, or has in his possession, any green elk, deer or fawn
 5 skin, or fresh venison, at any time between the fifteenth
 6 day of February, and the first day of August, shall be fined

c 60