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THE

Poundmaster's Manual

FOR THE

STATE OF MINNESOTA.

A COMPLETE GUIDE FOR POUNDMASTERS IN THEIR DUTIES UNDER THE GENERAL STATUTES AND SPECIAL HERD LAWS OF THE STATE.

BY WALTER S. BOOTH,

Author of the "Justice's Manual," the "Constable's Manual," the "Highway Manual," and the "Township Manual;" also the "Dakota Township Manual" and the "Dakota Highway Manual."

SECOND EDITION.

MINNEAPOLIS, MINN.:
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WALTER S. BOOTH.

LAWS OF MINNESOTA,

RELATING TO FENCES AND BEASTS DOING DAMAGE, THE
HERD LAWS AND THE POWERS AND DUTIES OF
POUNDMASTERS ACTING THEREUNDER.

INTRODUCTORY CHAPTER.

POUNDS AND POUNDMASTERS.

§ 1. POUNDS AND POUNDMASTERS DEFINED.—A pound is an inclosure, erected by authority, in which cattle or other beasts are confined when taken in trespassing, or going at large in violation of law. To impound an animal is to put, shut or confine it in a pound or close pen. A poundmaster is one who has the care of, and is the lawful keeper of the public pound.

§ 2. HOW AND WHEN ELECTED IN TOWNSHIPS.—The electors of each town have power at their annual town meetings to determine the number of poundmasters and the location of pounds.—*G. S. 170, § 16.* Whenever the electors of any town determine at their annual meeting to erect one or more pounds therein, the same shall be under the care and direction of such poundmasters as are chosen or appointed for that purpose.—*G. S. 181, § 102.*

§ 3. HOW CHOSEN IN CITIES AND VILLAGES.—In cities and villages the poundmaster is sometimes appointed by the council under the authority derived from the charter, but in most cases the marshal or constable or other police officer has the custody of the public pound and is the poundmaster in fact, by virtue of his office under the authority given by the charter. His powers and duties as poundmaster arise from cattle or other animals trespassing against the ordinances, resolutions or by-laws of the corporation, or against the general statutes or special herd laws given in the following chapter.

§ 4. WHEN TO BE ELECTED IN TOWNSHIPS.—The proper time during the annual town meeting for the poundmaster to be chosen is at the hour when the general business of the town is in order, and when the subject of the "number of poundmasters and the location of pounds," is to be considered and determined on. They are to be chosen by ayes and noes, or by a division, as the electors may determine. They are not required to file any oath or bond, only a notice of acceptance is required.

§ 5. POUNDMASTER TO FILE ACCEPTANCE.—Every person elected or appointed to the office of poundmaster, before he enters on the duties of his office, and within ten days after he is notified of his election or appointment, shall file in the office of the town clerk, a notice signifying his acceptance of such office. A neglect to file such notice shall be deemed a refusal to serve.—*G. S. 172, § 39.*

§ 6. FORM OF ACCEPTANCE.—The notice of acceptance might

be made out, signed and filed with the town clerk at the town meeting, and might be in the following form :

"To —, town clerk of the town of —, county of — and state of Minnesota :

SIR :—Having been elected poundmaster in and for said town, on the — day of —, 189 , I hereby notify you that I accept said office. (Dated and signed by the newly elected poundmaster.)

If the person elected poundmaster fails or neglects to file this notice of acceptance within the ten days required by law, the office is vacant and the board of appointment should fill the vacancy.

§ 7. POUNDS IN CITIES AND VILLAGES.—The common council of all incorporated cities have authority by ordinance, resolution or by-law to establish and construct public pounds, and restrain the running at large of cattle, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinance.—*G. S. 193, 194, § 164.* The village council of all incorporated villages have full power and authority to enact, adopt, modify and enforce all ordinances, rules and by-laws to restrain the running at large of cattle, horses, mules, sheep, swine, poultry and other animals, and to authorize the distraining, impounding and sale of the same.—*G. L. 1885, 154, 155, Sec. 21.*

§ 8. POUNDS IN TOWNSHIPS.—The electors of each town have power, at their annual town meeting, to determine the number of poundmasters, and the location of pounds. Also, to make all rules and regulations for ascertaining the sufficiency of fences in such towns, and for impounding animals. They also may, at any annual town meeting, discontinue any pounds therein.—*G. S. 170. § 16; Id. 181, § 103.*

§ 9. COMMON AND STATUTE LAW AGAINST TRESPASSING ANIMALS.—The common law on the subject of trespassing animals which prevails in all cities and villages and in the older and more populous districts of the state, is, that every man is bound to keep his animals on his own land, and if he suffers them to escape and go at large upon the land of another he is a trespasser. But in most of the newer and more sparsely settled portions of the state the statute allows the electors at their annual town meeting to determine the time and manner in which cattle, horses, mules, asses and sheep are permitted to go at large; provided, that no cattle, horses, mules nor asses be allowed to go at large between the fifteenth of October and the first of April; to make all rules and regulations for ascertaining the sufficiency of fences in such towns, and for impounding animals, and to impose such penalties on persons offending against any rule or regulation established by said town, except such as relate to the keeping and maintaining of fences, as they think proper, not exceeding ten dollars for each offense, and to apply such penalties, when collected, in such manner as they deem most conducive to the interests of the town.—*G. S. 170, § 16, as amended, G. L. 1887, 79.*

§ 10. ALL VOTES RESTRAINING CATTLE TO BE BY BALLOT.—All votes regulating the time and manner of running at large of cattle, horses, mules, asses and sheep, within the several towns of the state of Minnesota, shall be by ballot, either printed or written, or partly printed or partly written, and shall be in these words: "In favor of restraining cattle," or "Against restraining cattle," and shall be placed in the same ballot-box with the votes cast for town officers, and be canvassed and returned in the same manner in which other ballots are now required to be canvassed and returned.—*G. S. 171, § 27.*

§ 11. BY-LAWS, WHEN TO TAKE EFFECT.—No by-law made by any town shall take effect before the same is published by posting up copies thereof in three of the most public places in the town; and such by-laws, duly made and so published, are binding upon all persons coming within the limits of the town, as well as upon the inhabitants thereof, and shall remain in force until altered or repealed at some subsequent town meeting.—*G. S. 169, § 12.*

§ 12. BY-LAW, WHAT IT MAY CONTAIN.—A by-law is an ordinance adopted by resolution at the annual town meeting, providing rules and regulations, among other matters, for impounding animals, and imposing penalties for offending against such rules and regulations. For instance, it may provide that when animals are found running at large contrary to law, that it shall be the duty of the poundmaster to cause them to be taken and placed in the public pound, and that it shall be lawful for any person to take such animals to the pound and cause them to be impounded, such animals to be thereafter disposed of according to law.

§ 13. BY-LAWS TO BE POSTED UP.—The town clerk shall post in three of the most public places in his town, copies of all by-laws made by such town, and shall make an entry in the town records of the time when, and the place where, such by-laws were posted.—*G. S. 177, § 73.*

§ 14. PROPER SUBJECTS FOR THE POUND.—In many counties and parts of counties (enumerated in next chapter), the electors are not permitted by law to vote on the subject of cattle running at large. In many others where they are so permitted to vote, the electors have determined that cattle and other animals can not run at large. Even in towns voting that cattle and other animals may run at large at certain times, and not having strictly complied with the statute authorizing them to so determine the question, they can not lawfully run at large. As for instance, voting on the subject by acclamation instead of by ballot,—or the town clerk neglecting to post up the by-law permitting them to run at large. So that in a large portion of this state, cattle and other animals running at large without a keeper or herdman, are trespassers, and proper subjects for the public pound.

§ 15. LEGAL FENCES DEFINED.—In determining proper subjects for the public pound the sufficiency of fences is often involved. The statutes define a legal fence as follows: All fences four and a half feet high and in good repair, consisting of rails, timber, boards or stone walls, or any combination thereof, and all brooks, rivers, ponds, creeks, ditches and hedges, or other things which shall be equivalent thereto in the judgment of the fence viewers within whose jurisdiction the same may be, or any such fences as the parties interested may agree upon, shall be deemed legal and sufficient fences.—*G. S. 291, § 1.*

§ 16. WIRE FENCES LEGAL.—In all cases where any law of this state requires to be erected or maintained any fence or fences for any purpose whatever, it shall be sufficient, and a compliance with such law, if there shall be erected and maintained a barbed wire fence consisting of two barbed wires and one smooth wire, with at least forty barbs to the rod, the wire to be firmly fastened to posts not more than two rods apart, with one stay between the posts, the top wire to be not more than fifty-two inches high or less than forty-eight, and the bottom wire not less than sixteen inches from the ground; or four smooth wires, with posts not more than two rods apart, and with good stays not to exceed eight feet apart, the top wire to be not more than fifty-six inches high nor less than forty-eight, and the bottom wire not less than sixteen inches nor

more than twenty inches from the ground; *provided*, that five smooth wires shall be required to constitute a legal partition fence: *provided*, that any other fence authorized by law shall also be held a legal fence.—*G. S. 291, § 2.*

§ 17. CONSTRUCTION AND LOCATION OF PUBLIC POUNDS.—The statutes do not prescribe as to the sufficiency of public pounds, but leave the details of their construction to the council in the case of cities and villages, and in townships give the electors power at their annual town meeting "to make all rules and regulations for impounding animals." The statute also authorizes them "to determine the location of pounds." It seems to be the policy of the law that pounds should have a fixed and known locality, so that all parties interested may take notice of where to apply in case of animals impounded. If no public pound has been erected, they might designate any particular inclosure named, as a pound for the time being, and, doubtless, might designate the private inclosure of the poundmaster as the public pound.

§ 18. REMEDIES AGAINST TRESPASSING ANIMALS.—When the owner or occupant of lands finds animals trespassing upon his premises, destroying or injuring his crops, or in any way doing damage, he has the following remedies by law :

1. He may distrain the beasts doing damage, or,
2. He may maintain an action at law against the owner, or,
3. He may take them up as estrays, if he does not wish to distrain or sue at law, and does not at the time know who is the owner, or,
4. He may take them to the public pound, to be impounded and disposed of according to statute, or the ordinance of the city or village, or the by-laws of the town.

§ 19. PROCEEDINGS BY DISTRAINT.—In case he distrains the beasts doing damage, he must capture and detain the animals while doing the damage and before they escape from his premises. He can not recapture and detain them if they once escape, nor can he distrain one animal for damage done by another, though at the same time and place and belonging to the same person, nor for a former damage done by the same animal. If it be in those districts where cattle have been permitted by due course of law to run at large in the day-time during summer, he can only distrain them doing damage in the night-time, unless his lands are inclosed by a lawful fence. If it be in those districts where the common law prevails, he can distrain them day or night, and at all seasons of the year, without regard to the sufficiency of fences thereon.

§ 20. POWERS AND DUTIES OF POUNDMASTERS.—The powers and duties of poundmasters arise from animals trespassing against the ordinances of cities and villages, or against the by-laws, rules and regulations of townships, or against the general herd laws or the special herd laws of the state as given in the following chapter. The duties of poundmasters in each particular case is definitely pointed out by statute, and directions for their proceedings thereunder given in full. The following chapters are taken entire from the new township manual of 1890, and for convenience in reference the numbering of the chapters, pages and sections remain the same as in the new township manual.

CHAPTER VII.—ESTRAY AND HERD LAWS.

I.—ESTRAYS.

§ 1. WHO MAY TAKE UP ESTRAYS.—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.—*G. S. 295, § 1.*

§ 2. NOTICE TO THE OWNER.—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.—*Id. § 2.*

§ 3. WHEN OWNER IS UNKNOWN.—If the owner of any estray be unknown (a), 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 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.—*Id. § 3.*

§ 4. APPRAISEMENT, RECORD, HOW MADE.—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 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

(a) To be an "estrays" under our statutes the animal must be found wandering, and its owner must be at the time unknown to the person taking it up. If the owner becomes known to the taker-up within seven days then he must be notified according to § 2. If the owner be unknown at the expiration of seven days then notice must be filed within ten days according to § 3 and proceedings had according to the various sections of the estray law. But cattle escaping from premises of their owner and found on adjacent premises, and taken up by a person knowing at the time who is their owner, are not "estrays" within the meaning of the statute. His remedy is under another statute.

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 "Estray 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.—*G. S. 295, 296, § 4.*

§ 5. CHARGES TO BE PAID BEFORE RESTORATION.—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.—*Id. 296, § 5.*

§ 6. ADJUSTMENT OF CHARGES.—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 cost of the justice, be a lien on such estray until paid by the owner.—*Id. § 6.*

§ 7. TITLE TO ESTRAY, TO BE SOLD WHEN.—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 [the] 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 bid therefor, at such sale; and after deducting all the lawful charges of the finder as aforesaid, [and] the fees of the constable, which shall be the same as on 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.—*Id. § 7.*

§ 8. ESTRAY MONEYS, HOW DISPOSED OF.—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.—*Id. § 8.*

§ 9. PENALTY FOR DRIVING AWAY ESTRAY.—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 juris-

diction, shall be fined double the sum of said charges, damages and costs, and imprisoned in the county jail not less than ten nor more than thirty days.—*G. S. 296, 297, § 9.*

§ 10. **ESTRAY PENALTIES.**—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.—*Id. 297, § 10.*

II.—THE GENERAL HERD LAW OF 1874.

§ 11. **WHO MAY DISTRAIN, APPRAISEMENT OF DAMAGES.**—(a) The owner or occupant of lands may distrain (b) all beasts doing damage upon his lands, 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 Saturday or Sunday, in which case, before the Tuesday morning thereafter, he shall apply to the nearest justice of the peace in the county, who shall appoint three disinterested inhabitants of such town to appraise the damages. 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 where 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.—*G. S. 299, § 28, as amended, G. L. 1885, 101, 102.*

§ 12. **DISTRESS, WHEN TO BE MADE.**—Such distress may be made at any time before such beasts doing damage, as aforesaid, escape from said lands, and without regard to the sufficiency of the fences thereon.—*Id. § 29.*

§ 13. **POWER AND DUTY OF APPRAISERS.**—The appraisers shall, immediately after their appointment, be duly sworn, and repair to

(a) This section was first amended to read as above in 1874, and practically extends the common law to all the counties and townships in the state except those exempted in the three last provisos of § 20, p. 104. This common law is: "That every man is bound to keep his animals on his own land, and if he suffers them to escape and goupon the land of another, he is a trespasser." Previous to this amendment of 1874, the electors of each town in the whole state had power at their annual town meeting to determine the time and manner in which cattle, horses, mules, asses, and sheep were permitted to go at large in accordance with subdivision sixth, section fifteen, general laws of 1866. *G. L. 1866, 140, 141, Sec. 15, Subd. 6, Id. 220, Sec. 29.* Since this amendment of 1874, the common law has been extended, from time to time, by special acts and fewer exceptions to the general act, to all of the older and more populous counties of the state, narrowing the territory, year by year, in which cattle may be allowed to run at large. Even in the counties and parts of counties that are permitted to vote on the subject, unless the statute be strictly followed in the manner of voting, the canvass, the final passage, and duly posting up copies and recording the by-laws allowing stock to run at large, the common law will still prevail in such localities.

(b) Distraining beasts doing damage is the taking and holding without process until payment is made, animals found and captured doing damage on one's lands. They must be distrained while on the lands, and if they escape therefrom they can not be recaptured and distrained. One animal cannot be distrained for damage done by another at the same time though in the same field and belonging to the same person. An appraisement of damages done by cattle distrained while doing damage must not include damage previously done. A party failing or neglecting to distrain beasts doing damage may maintain an action at law for such damages under § 20, pp. 103, 104, hereafter.

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: *provided*, the owner of such animals, or his agent, at any time before proceedings have been commenced to appraise such damages under the provisions of this act, or before suit in any court shall have been commenced to recover said damages from such owner or agent, may tender (a) the amount of such damage to the person aggrieved by any depredation, of such amounts as said owner may think has been suffered thereby; and if said tender is accepted, no other damages can be recovered in any manner; and if said tender is not accepted, and other proceedings are had under the provisions of this act, or otherwise, and the person aggrieved by such depredations fails to substantiate or recover any greater sum as damages than such amount tendered by the said owner, no costs shall be collected or taxed against such owner, and said owner's costs and disbursements shall be paid by said complaining party, to be taxed against him as in like actions and proceedings.—*G. S. 299, § 30, as amended, G. L. 1879, 26, 27.*

§ 14. TO CERTIFY DAMAGE AND FEES.—The appraisers shall ascertain and certify under their hands the amount of such damage, with fees for their services not exceeding one dollar per day.—*Id. § 31.*

§ 15. BEASTS DISTRAINED MAY BE IMPOUNDED UNTIL FEES ARE PAID.—Within twenty-four hours, Sunday excepted, after the damages are so appraised, unless the amount so ascertained, and the fees of the appraisers, and fifty cents justice's fees are paid, the distrainer shall cause the beasts distrained to be put in the nearest pound in the same town, or in the nearest pound in any adjoining town or city within the same county, 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 so certified, and the fees of the appraisers and justices, and costs of keeping such 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.—*Id. § 32, as amended, G. L. 1885, 111.*

§ 16. DUTY OF POUNDMASTER, SALE.—The poundmaster 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.—*Id. 299, 300, § 33.*

§ 17. SALE IN TOWNS HAVING NO POUND, REDEMPTION, NOTICE TO OWNER.—If there is no pound within the town where such beasts are distrained, and the same are kept in an inclosure 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

(a) To "tender" is to offer a sum of money in satisfaction of a claim, by producing and showing the amount to the party claiming, and expressing a willingness to pay it.

the county, after the like notice as is required in the case of constables' 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 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: *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 within the same town, but in the same or adjoining county, then within three days after such distraining, Sundays 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 were distrained for doing damage.—*G. S. 300, § 34.*

§ 18. FEES OF DISTRAINERS AND OTHERS.—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 distrainer the damages so certified, with fees of the 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.—*Id. § 35.*

§ 19. OWNER TO RECEIVE SURPLUS.—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.—*Id. § 36.*

§ 20. OWNER OF BEASTS LIABLE AT LAW, TOWNS VOTING CATTLE TO RUN AT LARGE.—In case the owner or occupant of lands shall not distrain the beasts doing damage as provided herein, the owner of such beasts shall be liable, in an action at law, for all damages done by such beasts, without regard to the sufficiency of the fences on the lands on which damage is done: *provided, however*, that in all cases arising under the provisions of this act, or the statutes to which this act is amendatory in towns where a majority of the voters at any town or special town meeting called for the purpose shall determine, by by-law of such town, that horses, cattle, mules and asses shall be permitted to run at large, in accordance with subdivision sixth, section fifteen, general statutes of 1866, no damage shall be recovered by the owner of any lands for damage committed thereon by any such beasts during the day time, until it shall be proved that said lands were inclosed by a lawful fence; and every three-rail fence, four feet high, constructed of such materials, and in such manner as to constitute a good and sufficient fence as against cattle, horses, asses and mules, one or more years old, that are not breachy, or any fence equal thereto in sufficiency, shall, 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, McLeod, Steele, Lac qui Parle, Martin, Yellow Medicine, Lyon, Polk county, except that portion of territory organized as the town of Fossum, the seventh senatorial district (Winona county), and Goodhue county; nor in the county of Kandiyohi,

save and except in the towns of Norway Lake, Colfax, Burbank, Roseville, and Lake Lillian in said (a) county, Brown, Dakota, and the north half of the town of Pilot Mound, Fillmore county, the towns of Cokato and Stockholm in Wright county, and the town of Chanhassan in the county of Carver, and the townships in ranges 22 and 23, in Freeborn county: *provided* (1), that the townships of Marshan, Ravenna, and Hastings, in the county of Dakota, shall not be affected by this act: *provided* (2), that the provisions of this act shall not apply to the thirtieth, thirty-first, thirty-fifth (b), thirty-ninth, except Stevens county, forty-first, except Otter Tail county, Wilkin county and Polk (c) county, twenty-eighth, twenty-ninth, and twenty-seventh senatorial districts (d): *and provided, further* (3), that nothing contained in this act shall apply to the townships of Deerfield, Medford, and Aurora, in the county of Steele.—*G. S. 300, 301, § 37, as amended, G. L. 1881, 43, 92; G. L. 1881, ex. sess. 45; G. L. 1887, 126; G. L. 1889, 192, 202.*

(a) This amendment is found in sec. 1, chap. 24, G. L. 1881, 43. Section 2 of the same chapter provides that the voters at the next annual town meeting to be held in Kandiyohi county (except the towns of Burbank, Colfax, Lake Lillian, Norway Lake and Roseville, mentioned above), may determine by ballot whether horses, mules, asses, cattle and swine shall be permitted to run at large or not in said county; but no official report of any such vote has ever been made.

(b) By the act of March 2, 1876, the thirty-fifth senatorial district (Meeker county), was excepted from this proviso. In pursuance of the same act the majority of the voters of the townships of Meeker county, at the general election held in November, 1876, determined the question by ballot as follows: The townships of Collinwood, Danielson, Darwin, Dassel, Ellsworth, Forest City, Forest Prairie, Greenleaf, Kingston, Litchfield, Manannah, and Union Grove voted "In favor of the running at large of horses, cattle, mules and asses," and the townships of Acton, Cedar Mills, Cosmos, Harvey and Swede Grove voted "Against the running at large of horses, cattle, mules and asses." Subsequent acts make it unlawful for horses, cattle, etc., to run at large in the towns of Collinwood, Darwin, Litchfield and Kingston.—(Sp. L. 1881, ex. sess., 198; 1883, 401; 1885, 522; 1887, 900.)

(c) Chapter 346, Sp. L. 1879, 455, provides "that township 145, range 44; township 145, range 43; and township 146, range 43, be excepted from the operation and effect of the general herd law now in force in the county of Polk, state of Minnesota." These townships are now in Norman county, which has been since formed out of the four southern tier of townships of Polk county, viz.: 143, 144, 145 and 146.

(d) The senatorial districts excepted in this proviso, as they existed under the apportionment of 1871, are: 27, Part of Hennepin county*; 28, Atkin, Chisago, Kanabec, Pine; 29, Carlton, Cass*, Itasca, Lake, St. Louis; 30, Benton, Crow Wing, Mille Lacs, Morrison, Sherburne; 31, Stearns; 35, Meeker*; 39, Big Stone, Douglas*, Grant*, Lac qui Parle*, Pope*, Stevens*; 41, Becker, Beltrami, Clay*, Otter Tail*, Pembina* (now Kittson), Polk*, Todd, Traverse*, Wadena, Wilkin*. The counties marked with a * are either released by the act, or, in whole or in part, by special herd laws, elsewhere given, and thus restored to the common law.

In the following counties and townships a majority of the voters are permitted to determine by ballot at the annual town meeting whether cattle, horses, mules, asses and sheep shall be permitted to run at large between the 1st of April and the 15th of October. If they do not so determine in strict accordance with the statute, then the common law is in full force at all times of the day and night and seasons of the year: Atkin, Becker, Beltrami, Benton, Big Stone, Carlton and the townships of Molund and Tansum in Clay county; Cook, Crow Wing, except the townships of Crow Wing, Daggett Brook and Oak Lawn; the townships of Belle River, Brandon, Carlos, Evansville, Holmes City, Le Grand, Lund, Moe, Orange and Spruce Hill, in Douglas county; Hubbard, Itasca, Kanabec, Lake; the townships of Danielson, Dassel, Ellsworth, Forest City, Forest Prairie, Greenleaf, Manannah and Union Grove, in Meeker county; Mille Lacs, Morrison; township 145, ranges 43 and 44, and township 146, range 43, in Norman county; Pine; the townships of Blue Mounds, Chippewa Falls, Gilchrist, Glenwood, Lake Johanna, Levan, New Prairie, Nora, Reno and Rolling Fork, in Pope county; St. Louis, Sherburne, Stearns; the townships of Aurora, Deerfield and Medford, in Steele county; Todd, Wadena, Wilkin, except the 1st and 2d commissioner districts, and townships 133, 134, range 45, and townships 135, 136, range 46; and the townships of Cokato and Stockholm, in Wright county.

§ 21. PENALTY FOR TAKING AWAY BEASTS DISTRAINED.—If any person, without the 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.—*G. S. 301, § 38.*

III.—STALLIONS, BULLS, BOARS AND BREACHY CATTLE.

§ 22. PENALTY FOR ALLOWING MALE BEASTS TO RUN AT LARGE.—If the owner or owners of any stallion over the age of one year, or bull over the age of nine months, or boar over the age of three months, or ram over the age of three months, or any breachy cattle, shall suffer the same to run at large, he shall forfeit to the town in which the animal shall be so at large the sum of five dollars for each and every day such animal shall be so at large; and it shall be the duty of the chairman of the board of supervisors, and he is hereby authorized and required, to sue for and collect, in his name of office, such forfeitures in any court having jurisdiction of such action; and all moneys collected for such forfeiture, after deducting the expenses of such suit, shall be paid into the town treasury, for the use of the road and bridge fund of said town where such animals are so found running at large.—*Id. § 39.*

§ 23. NOTICE TO OWNER AND SUIT BY SUPERVISOR.—And the chairman, when notified by any person that such stallions, bulls, boars, rams or breachy cattle are running at large, he shall, within twenty-four hours after such notice, give notice to the owner or owners of such stallion, bull, boar, ram or breachy cattle; and if the owner or owners of such stallion, bull, boar, ram or breachy cattle does not inclose the same, the chairman shall immediately cause a suit to be brought against such owner or owners; and any suit so commenced shall constitute and be a lien upon the animals therein described in favor of the plaintiff to the extent of the defendants' titles or interest therein.—*Id. § 40.*

§ 24. CASTRATION AFTER NOTICE.—If the owner or owners of any such stallion, bull, boar or ram, shall, after receiving the notice specified in section two [§ 23] of this act, permit any such stallion, bull, boar or ram to continue or again run at large, it shall be the duty of such chairman, when again notified by any person that such stallion, bull, boar or ram is still or again running at large, to cause such animal to be taken up immediately and castrated in the usual manner, and so as to endanger the life of such animal as little as possible, for which he shall recover the sum of three dollars from the owner by civil action before a justice of the peace, and he shall have a lien on such animal for said amount: *provided*, if any ram shall be found going at large, off the premises and out of the inclosure or control of its owner or keeper, at any time, he may be taken up by any person on whose premises or among whose sheep he may be found, and may be castrated by such person, who shall not thereby be liable for any damages.—*Id. 301, 302, § 41.*

§ 25. IMPOUNDING AND SALE WHEN OWNER NOT FOUND.—If the chairman of the board is unable to find the owner of such animals, he shall cause the same to be impounded for the term of three days; and if such animal is not claimed, he shall proceed to sell the

same at public auction by first giving five days' notice by posting up written notices in three of the most public places in said town, and after the sale deduct the forfeiture and expenses from the amount, and place the balance in the hands of the town treasurer. *G. S. 302, § 42.*

§ 26. OWNER MAY CLAIM PURCHASE MONEY, WHEN.—If the owner of such animal so sold shall prove to the chairman of the town board, within one year from the date of said sale, that it was his animal, the chairman shall give to such owner or owners an order on the treasurer for the amount of said money deposited by him.—*Id. § 43.*

§ 27. PENALTY FOR CHAIRMAN'S NEGLIGENCE.—If the chairman of said board of supervisors shall refuse or neglect to perform any of the duties required in this act, he shall be liable to a fine of twenty-five dollars for each and every refusal or neglect, and the person making the complaint may sue for the fine in any court having jurisdiction, for his own benefit.—*Id. § 44.*

IV.—GENERAL HERD LAW PREVIOUS TO 1874 (a).¹

(General Statutes 1866, Title III, Chapter 19.)

SECTION 1. The owner or occupant of lands may distrain all beasts doing damage upon his lands during the night time, from eight o'clock in the evening until sunrise, 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 damages. 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 on oath and made a part of the returns of said appraisers. No damage shall be recovered by the owner of any lands for damage committed thereon by any beasts during the day time, until it shall be proved that said lands were protected on the side where the breach or entry was made by a lawful fence; every three rail fence, four feet high, constructed of such materials and in such a manner as to constitute a good and sufficient fence as against cattle, horses, asses, and mules, two or more years old, that are not breachy, or any fence equal thereto in efficiency, shall for all purposes of this title be deemed a lawful fence; but it is not intended that the word "cattle," as used in this section, shall be so construed as to include either sheep or swine, or any other domestic animals not exceeding the same in size.—*G. S. 1866, 220, Sec. 29, as amended, G. L. 1870, 95, 96.*

SEC. 2. Such distress may be made at any time before such beasts doing damage as aforesaid, escape from said lands, and without regard to the sufficiency of the fences thereon.—*Id. Sec. 30.*

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.—*Id. Sec. 31.*

SEC. 4. The appraisers shall ascertain and certify under their hands the amount of such damage, with fees for their services not exceeding one dollar per day.—*Id. Sec. 32.*

SEC. 5. Within twenty-four hours, Sunday excepted, after the damages are so appraised, unless the amount so ascertained and the fees of the appraisers, and fifty cents justices' 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

(a) The provisions of the act under title "II, The General Herd Law of 1874," embracing §§ 11 to 20, pages 101 to 105, heretofore given, the statute says shall not apply to the townships, counties and districts enumerated in the last three provisos of § 20, p. 104. The act which applies to them, and which gives the mode of procedure in cases of beasts doing damage in the counties and parts of counties enumerated in the second paragraph of note (d), page 104, is given in the above sections of the general herd law in force previous to 1874.

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 so certified, and the fees of the appraisers and justices, and costs of keeping such 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.—*G. S.* 1866, 220, *Sec.* 33.

SECS. 6, 7, 8, 9 are precisely the same as §§ 16, 17, 18, 19, pages 102, 103, heretofore given.

SEC. 10. In case the owner or occupant of lands shall not distrain the beasts doing damage as provided herein, 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 on which the damage is done.—*Id.* 221, *Sec.* 38.

SEC. 11 is the same as § 21, page 105.

V.—SPECIAL HERD LAWS.

HERD LAW FOR BIG STONE COUNTY.

§ 1. Cattle, horses and mules may run at large during all seasons of the year, in the county of Big Stone, in said state, but the owners of the animals so permitted to run at large, shall be liable for any damage done by such animals, although the land on which the damage is done is not inclosed with fences.—*Special Laws*, 1877, 285.

HERD LAW FOR PART OF BLUE EARTH COUNTY (a).

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, mules, asses, sheep or swine, [or other domestic animals] owned by them, or of which they may have possession or control, to run at large upon the public highways or upon the lands [owned by or in possession] of any other person, during any season of the year, unless properly [and carefully] herded.—*Sp. L.* 1881, *extra session*, 201, *Sec.* 1, and *Sp. L.* 1889, 1146, *Sec.* 1.

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act, shall be liable [in an action at law] for all damages that may occur in consequence of the trespass of such animal or animals.—*Id.* *Sec.* 2.

§ 3. The provisions of this act shall apply only to the [township of South Bend] whole of the town of Le Ray, in Blue Earth county, state of Minnesota, the same being town numbered 108, of range numbered 25.—*Id.* *Sec.* 3.

HERD LAW FOR PART OF CARVER COUNTY.

§ 1. Unless otherwise ordered by the board of supervisors of the town of Chaska in the county of Carver, it shall be unlawful for cattle, horses, sheep or other domestic animals, to run at large in that portion of the town of Chaska, which is overflowed by water from the Minnesota River at the ordinary high-water stage of said river: *provided*, that this act shall not apply to any part of said town included within the limits of the village of Chaska.—*Sp. L.* 1881, *extra session*, 199.

HERD LAW FOR PART OF CASS COUNTY.

§ 1. It shall be unlawful for any person or persons to allow cattle, horses, mules, sheep or swine, owned by such person or persons, or of which such person or persons have control, to run at large upon any highway or upon the lands of any other person or persons, in township number one hundred and thirty-three, of range twenty-nine, in the county of Cass, state of Minnesota, during the months of April, May, June, July, August, September and October in any year, unless they are properly herded.—*Sp. L.* 1887, 901, *Sec.* 1.

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act, shall be liable for all damages that may be caused in consequence of the trespass of such animal or animals.—*Id.* *Sec.* 2.

§ 3. The owner or occupant of any land or lands in said township may distrain all beasts doing damage thereon without regard to the sufficiency of the fences thereon. And when any such distress shall be made, the damages may be appraised and the beast or beasts disposed of and such action in the premises taken as is provided in the general statutes for distraining beasts doing damage.—*Id.* *Sec.* 3.

HERD LAW FOR CHIPPEWA COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, sheep, swine or other domestic animals, owned by such person or persons, or of which such person or persons have control or may be in possession, to run at large upon any public highway, or upon the lands of any other person

(a) Two separate acts are included under this title, very similar to each other, the only difference being the additional words contained in brackets [], which belongs exclusively to the township of South Bend.

or persons, in the county of Chippewa, in this state, during any season of the year, unless such animal or animals are carefully herded.—*Sp. L. 1878, 477, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect to comply with the provisions of the foregoing section, shall be liable for all damages that may ensue in consequence of the trespass of such animal or animals.—*Id. Sec. 2.*

HERD LAW FOR CHISAGO COUNTY.

§ 1. All horses, cattle, mules and asses shall have the privilege and be allowed to run at large in the county of Chisago during the period between April first and October first of any year, subject to the provisions of title three of chapter nineteen of the general statutes of one thousand eight hundred and sixty-six, except as hereinafter provided.—*Sp. L. 1878, 478, Sec. 1.*

§ 2. During the period between October first and April first of any year, said horses, cattle, mules and asses, shall have the privilege and be allowed to run at large on condition that the owners of all such animals shall be liable for all damage caused by any of said designated animals during both day and night time: *provided*, that for the distraint of all animals doing such damage, the owners of such animals shall be liable to all the provisions of title three of chapter nineteen of the general statutes, one thousand eight hundred and sixty-six, as to the manner of proceeding and the remedy at law more specifically set forth herein: *provided, further*, in case the owner or occupant of the lands shall not distrain the beasts doing such damage, the owner of such beasts shall be liable in an action at law for all damages done by such beasts, without regard to any fence or the sufficiency of any fence or fences on the lands on which the damage is done.—*Id. Sec. 2.*

HERD LAW FOR CLAY COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, mules, sheep, or swine owned by such person or persons, or of which such person or persons have control or may be in possession, to run at large upon any public highway, or upon the lands of any other person or persons in the county of Clay, state of Minnesota, during any season of the year, unless they are carefully herded.—*Sp. L. 1881, 888, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act, shall be liable for all damages that may occur in consequence of the trespass of such animal or animals: *provided*, nothing herein contained shall apply to the towns of Moland and Tansem, in said county.—*Id. Sec. 2, as amended, Sp. L. 1883, 398; Sp. L. 1885, 259.*

HERD LAW FOR PART OF CROW WING COUNTY (a).

§ 1. That it shall be unlawful for any person or persons to allow any cattle, horses, mules, asses, sheep or swine owned by them, or of which they may have possession or control, to run at large upon the public highways, or upon the land of any other person, during any season of the year, in the towns of Crow Wing, Daggett Brook and Oak Lawn, in the county of Crow Wing, unless carefully herded.—*Sp. L. 1887, 902; Sp. L. 1889, 1147, 1149, 1150, Sec. 1.*

§ 2. The owner or occupant of any lands in said towns may distrain any and all beasts doing damage thereon, without regard to the sufficiency of the fences thereon, or the existence of any fence whatever. And when any such distress shall be made, the damages may be appraised, and the beast or beasts disposed of, and such action taken in the premises as is provided in the general statutes for distraining beasts doing damage.—*Id. Sec. 2.*

§ 3. In case the owner or occupant of lands shall not distrain the beast or beasts doing damage, as provided herein, the owner of such beast or beasts shall be liable, in an action at law, to the party injured, for all damages done by said beasts, without regard to the condition of the fences on such land, or the existence of any fence whatever.—*Id. Sec. 3.*

HERD LAW FOR PART OF DAKOTA COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, mules, asses, sheep or swine, owned by them, or of which they may have possession or control, to run at large upon the public highways or upon the lands of any other person during any season of the year in the town of Marshan, county of Dakota.—*Sp. L. 1879, 387, Sec. 1.*

§ 2. The owner or occupant of lands in [said town of Marshan (b) and in] sections number 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32 and 33, in town of Ravenna, county of Dakota, may distrain any and all beasts doing damage upon lands in

(a) Three separate acts, precisely alike as to their provisions, one each for Crow Wing, Daggett Brook, and Oak Lawn, are here consolidated under this title.

(b) §§ 2 and 3 as here given are the same in substance as Secs. 2 and 3 of the act of 1879 (substituting the town of Marshan in the same), and hence Secs. 2 and 3 of the act of 1879 are not repeated here.

above named sections, so owned or occupied by him, without regard to the sufficiency of the fences or the existence of any fence thereon. And when any such distress shall be made, as provided herein, the damages so done shall be appraised, and the beast or beasts so distrained shall be disposed of, and such action in the premises taken, as provided in the general statutes for distraining beasts doing damage.—*Sp. L. 1879, 387, Sec. 2, and Sp. L. 1878, 477, Sec. 1.*

§ 3. In case the owner or occupant of lands shall not distrain the beasts doing damage as provided herein, the owner of such beasts shall be liable in an action at law for all damage done by such beasts, without regard to the sufficiency of the fences or existence of any fences on lands on which the damage was done.—*Id. 478, Sec. 2.*

HERD LAW FOR DODGE, GOODHUE AND OTHER COUNTIES.

§ 1. It shall be unlawful for any person or persons to allow 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 land 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, Watonwan, Martin, and Murray; *provided, further*, that a majority of the legal voters at any annual town meeting in the counties of Watonwan and Murray may, by resolution, allow such animals to run at large in their respective towns: *provided*, that in the town of Bowling Green, in Martin county, the legal voters thereof may, at any annual town meeting in said town, by a majority vote determine, that cattle, horses, and other domestic animals may run at large in said town from the 1st day of April to the 15th of May, and from December 1st to December 31st, in any year.—*Sp. L. 1874, 320, Sec. 1, as amended, Sp. L. 1877, 285; Sp. L. 1878, 465, and as modified by Sp. L. 1879, 388, and Sp. L. 1881, 883; Sp. L. 1883, 402.*

§ 2. The owners or occupants of lands may distrain all beasts doing damage upon his lands, lying and being in the counties and districts 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.—*Id. 321, Sec. 2.*

§ 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.—*Id. Sec. 3.*

§ 4. Within twenty-four hours, Sunday 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.—*Id. Sec. 4.*

§ 5. The poundmaster 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.—*Id. Sec. 5.*

§ 6. If there be no pound within the town where such beasts are distrained, and the same are kept in an inclosure 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 constables' 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 within 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.—*Sp. L. 1874, 321, 322, Sec. 6.*

§ 7. From the proceeds of such sales the person making the same shall retain sufficient to pay the amount of his fees, the cost 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.—*Id. 322, Sec. 7.*

§ 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.—*Id. Sec. 8.*

§ 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.—*Id. Sec. 9.*

HERD LAW FOR DOUGLAS AND POPE COUNTIES.

§ 1. Chapter 180, Special Laws 1881, extra session, page 198, provides that in the "counties of Douglas and Pope a majority of the legal voters in each town may determine by ballot, at the next annual town meeting, whether horses, mules, cattle, sheep and hogs, shall be permitted to run at large in such town." And if a majority of the voters in any town shall so vote for the running at large of the aforesaid animals, then they may run at large, subject to the provisions of the general laws of the state relating to animals doing damage; but if a majority of the voters in any town shall vote against the running at large of such animals, in that case they shall not run at large in such towns. In accordance with the act the voters in each county determined the question at the next annual town meeting as follows:

DOUGLAS COUNTY, "Against:" The towns of Alexandria, Hudson, Ida, Lake Mary, Miltona, Osakis, Solum, Urness. "In favor of horses, cattle, and mules:" Belle River, Brandon, Carlos, Evansville, Holmes City, Le Grand, Lund, Orange, Spruce Hill.

POPE COUNTY, "Against": The towns of Barsness, Ben Wade, Grove Lake, Hoff, Langhei, Walden, Westport. "In favor of horses and cattle:" Blue Mounds, Chippewa Falls, Gilchrist, Glenwood, Lake Johanna, Levan, New Prairie, Nora, Reno, Rolling Fork.

HERD LAW FOR FILLMORE COUNTY.

§ 1. It shall be unlawful for any person or persons to allow cattle, horses, mules, sheep, swine or other domestic animals owned by such person or persons having control of, or who may be in possession of the same, to run at large upon any of the public highways or upon the lands of any other person or persons, in the county of Fillmore, in the state of Minnesota, during any season of the year, unless they are carefully herded.—*Sp. L. 1881, extra session, 201, Sec. 1.*

§ 2. The owner or owners or any person or persons having control or being in possession of any cattle, horses, mules, sheep, swine, or other domestic animals as aforesaid, shall be liable in an action at law for all damages done by such animals as aforesaid, without regard to any fence or the sufficiency of any fence or fences on the lands on which the damage is done.—*Id. Sec. 2.*

§ 3. Any person being the owner or occupant of any lands or a poundmaster of any town or incorporated city or village in said Fillmore county, may take up and detain and be known as the distrainer of any cattle, horses, mules, sheep, swine or other domestic animals found running at large contrary to the provisions of this act: *provided*, that the person making distraint shall be at the time a resident of the town or adjoining town when such distraint is made, and the distrainer shall within twenty-four hours (Sundays excepted) after such distraint, cause the animals distrained to be impounded in the nearest pound either in the same or adjoining town, city or village, if there is one, and if none, then in some other pound within the county of Fillmore, and

upon the delivery of such animals to the poundmaster or other person receiving such animals into such pound, the distrainer shall make out and deliver to such poundmaster or other person acting as such, a certificate containing a brief description of the animals to be impounded, giving marks natural and artificial as near as practicable; the name and residence of the distrainer, and as near as may be the time when the animals were distrained, and the value thereof, also the name of the owner of said animals if known to the distrainer; the amount of the distrainer's fees for distraining and delivering said animals to the poundmaster, which fees are as follows, viz.: For cattle, horses and mules, ten cents each; for sheep, swine or other domestic animals, five cents each, and the poundmaster's shall be as follows: For impounding and discharging cattle, horses and mules, twenty-five cents each; and for sheep, swine or other domestic animals, ten cents each; and for care and feed of animals while impounded, to commence twelve hours after entering into or being impounded, twenty-five cents each per day for cattle, horses and mules, and ten cents each per day for each sheep, swine or other domestic animal; and the distrainer may in case damage is done by animals distrained, within twenty-four hours (Sundays excepted) apply to a justice of the peace of the town or adjoining town, city or village, who shall appoint three disinterested inhabitants of such town where distraint is made to appraise the damages; such appraisers shall receive as compensation for their services one dollar per day or fifty cents for each half day actually consumed in making the appraisal, and six cents per mile as mileage in going to and returning from the place where the damages are done, to be paid in the first instance by the distrainer. The appraisers after their appointment shall 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 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 witness. The appraisers shall ascertain and certify under their hands the amount of such damages and their fees for their services, not exceeding one dollar per day, and deliver the same to the distrainer or poundmaster, which fees with those of the justice shall be a lien on said distrained animals until the same are paid; and if the owner or person controlling or in possession of any animals at the time they were distrained and impounded under the provisions of this act, shall appear and pay to the poundmaster all fees and charges against the same, within five days after said animals are impounded, then the poundmaster shall deliver over such animals to such owner or person having control of the same; but if no such owner or person shall so appear, then it shall be the duty of the poundmaster to keep and hold such animals subject to such further fees, costs and charges as may be incurred by reason of further proceedings in pursuance of the requirements of this act. And the poundmaster shall then, within ten days, after the expiration of the five days hereinbefore named, for the appearance of the owner or person controlling or entitled to possession of the same, proceed to give notice of the distraining or impounding of such animals by publication of such notice in some weekly newspaper published at the county seat of said county, for three weeks successively; the cost of such publication shall be added to the charges against such animals, and if at the expiration of such notice, (which notice shall embrace the certificate as required in the third section of this act, to be delivered by the distrainer to the poundmaster) If the owner or person entitled to the possession of any animal so impounded, has not appeared within two days after the expiration of the giving of said notice as heretofore provided, and paid all proper charges and costs against the same, it is hereby made the duty of the poundmaster to cause such animals then remaining in the pound, to be appraised by a justice of the peace of his town or adjoining town, city or village, which appraisal shall be certified to by such justice and within three days thereafter be filed in the town clerk's office of such town, and the distrainer shall pay to such justice of the peace 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 Fillmore county, a certified copy of the published notice and description of the distrained animals 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 distraining said animals, together with the fee of fifty cents, which fee shall be forwarded by the town clerk to the register of deeds, with the notice aforesaid, and upon 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 "estrav book." *Provided*, the register of deeds shall not be entitled to more than fifty cents for recording any estrav notice or description, whether it 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.—*Sp. L. 1881, extra session, 201, 202, 203, Sec. 3.*

§ 4. If the owner or person entitled to the possession of any distrained animal under the provisions of this act, shall appear at any time within one

year after the notice is filed with the town clerk as aforesaid and make out his right thereto, he shall have such distrained animal or animals restored to him upon paying all lawful charges which have been incurred in relation to the same, including keeping by the distrainer.—*Sp. L. 1881, extra session, 203, Sec. 4.*

§ 5. If the owner or person entitled to the possession of any distrained animal under the provisions of this act, does not appear within two days after the filing of the notice and certificate of the justice of the peace, with the town clerk, the poundmaster shall deliver to the distrainer all animals impounded by said distrainer, taking his receipt for the same and a bond with sureties to be approved by said poundmaster, in double the amount of the value of said distrained animals; conditioned that said distrainer shall faithfully comply with all of the conditions of this act.—*Id. Sec. 5.*

§ 6. If the owner or person entitled to the possession of any impounded animal under the provisions of this act, cannot agree with the impounder upon the amount of charges for the keeping or for the care of such animals, either party may make application to any justice of the peace of the town or adjoining town, city or village, where such animals were impounded, 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 impounder by said justice over the value for the use of such animals, the same shall, together with the costs of the justice, be a lien on such animals until paid by the owner or person entitled to the possession of the same.—*Id. 204, Sec. 6.*

§ 7. If the owner or person entitled to the possession of any animal or animals impounded under the provisions of this act, 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 animal or animals shall not have been appraised at a greater value than ten dollars, the impounder shall have a perfect title to the same; but if the appraisal of such impounded animal or animals shall have been adjudged to be more than ten dollars, such animals shall be sold at the request of the impounder of said animals, by any constable of the town or adjoining town, city or village 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 impounder may bid therefor at such sale; and after deducting all lawful fees and charges of the impounder as aforesaid, and the fees of the constable, which shall be the same as a sale on execution, the impounder shall deposit the remainder of the money with the treasurer of Fillmore county, taking a receipt therefor, which shall be a legal discharge of the impounder from all liability therefor.—*Id. Sec. 7.*

§ 8. If the money be not claimed within one year after the sale by the former owner of said impounded animals, after the same was sold under the provisions of this act, the surplus shall be paid by the county treasurer to the school fund of said Fillmore county.—*Id. Sec. 8.*

§ 9. Any person claiming the ownership of any animal impounded under the provisions of this act, when the provisions of said act have been complied with, drives away any such animals or causes the same to be driven away from the place where the same is kept, without paying all legal charges and costs, shall be guilty of a misdemeanor, and, upon conviction before any justice of the peace having jurisdiction, shall be fined in double the sum of said charges and costs, and imprisoned in the county jail not less than ten nor more than thirty days.—*Id. Sec. 9.*

§ 10. Any person impounding any animals under the provisions of this act, who willfully fails or willfully neglects to comply with the provisions of this act, shall be subject to a fine of not less than ten or more than one hundred dollars, and imprisonment in the county jail not less than five or more than thirty days, and shall be precluded from all claims to compensation for keeping or fees under the provisions of this act, and the town clerk and register of deeds shall be subject to a like fine for refusal or neglect to comply with their duties, under the provisions of this act.—*Id. 204, 205, Sec. 10.*

GOODHUE COUNTY—See Dodge County, pp. 109, 110.

HERD LAW FOR GRANT COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, mules, asses, sheep or swine, owned by them, or of which they may have possession or control, to run at large upon the public highways, or upon the lands of any other person, during any season of the year, unless properly herded.—*Sp. L. 1881, 887, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act, shall be liable for all damages that may occur in consequence of the trespass of such animal or animals.—*Id. Sec. 2.*

§ 3. The provisions of this act shall apply to the whole of Grant County.—*Id. Sec. 3.*

HERD LAW FOR HENNEPIN COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, sheep, swine, or other domestic animals, owned by such person or persons, or of which such person or persons have control, or may be in possession, to run at large upon any public highway, or upon the lands of any other person or persons in the county of Hennepin, state of Minnesota, during any season of the year, unless such animal or animals are properly herded.—*Sp. L. 1881, 886, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect to comply with the provisions of the foregoing section, shall be liable for all damages that may occur in consequence of the trespass of such animal or animals, and be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace having jurisdiction, shall pay a fine of not less than two dollars, nor more than ten dollars.—*Id. Sec. 2, as amended, Sp. L. 1883, 399, 400.*

HERD LAW FOR PART OF HOUSTON COUNTY.

§ 1. It shall be unlawful for any person or persons to allow cattle, horses, sheep, swine, or other domestic animals, owned by such person or persons, or of which such person or persons have control, or who may be in the possession of the same, to run at large upon any of the public highways, or upon the lands of any other person or persons, in the county of Houston, in the state of Minnesota, during any season of the year, unless they are carefully herded.—*Sp. L. 1881, 885, Sec. 1.*

§ 2. The owner or owners, or any person or persons having control or having in possession, of any cattle, horses, sheep, swine, or other domestic animals, as aforesaid, shall be liable in an action at law for all damages done by such animals, without regard to any fence, or the sufficiency of any fence or fences on the lands on which the damage is done. The provisions of this act shall apply only to the township of Blackhammer of said Houston county.—*Id. Sec. 2.*

HERD LAW FOR JACKSON COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle or other domestic animals, owned or controlled by him or them, to go upon the lands of any other person or persons, within the county of Jackson in this state, without lawful authority from the owner or person in possession of such land.—*Sp. L. 1879, 391, 392.*

HERD LAW FOR PART OF KANDIYOH! COUNTY (a).

§ 1. It shall be unlawful for any person or persons to allow cattle, horses, mules, sheep or swine, owned by such person or persons, or of which such person or persons have control, to run at large upon any highway or upon the lands of any other person or persons, in township one hundred and twenty-two north, of range thirty-six west, in the county of Kandiyohi, state of Minnesota, during the months of May, June, July, August, September and October in any year.—*Sp. L. 1889, 1147, 1148, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect the provisions of section one of this act, shall be liable for all damages that may be caused in consequence of the trespass of such animal or animals.—*Id. 1148, Sec. 2.*

§ 3. The owner or occupant of any land or lands in said township may distress all beasts doing damage thereon without regard to the sufficiency of the fences thereon; and when any such distress shall be made, the damages may be appraised and the beast or beasts disposed of and such action in the premises taken as is provided in the general statutes for distraining beasts doing damage.—*Id. Sec. 2.*

KITTSO! COUNTY.—See Marshall County, p. 110d.

LAC QUI PARLE COUNTY.—See Lyon County, p. 110d.

HERD LAW FOR PART OF LE SUEUR COUNTY.

§ 1. It shall be unlawful for any person or persons to allow cattle, horses, sheep, swine, or other domestic animals, owned by such person or persons, or of which such person or persons have control, or may be in possession, to run at large upon any highway, or upon the lands of any other person or persons, in that portion of the town of Waterville lying south of Lake Sakatah, the Cannon River, and Lake Tetonka, in the county of Le Sueur and state of Minnesota, during any season of the year, unless they are properly herded.—*Sp. L. 1883, 399, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act shall be liable for all damages that may be caused in consequence of the trespass of such animal or animals.—*Id. Sec. 2.*

(a) This act is to be submitted to the legal voters of said town for rejection or approval at the next annual town meeting after the passage of this act.—*Sp. L. 1889, 1148, Sec. 4.*

HERD LAW FOR LYON, REDWOOD, AND OTHER COUNTIES.

§ 1. It shall be unlawful for any person or persons to allow any horses, cattle or sheep by him or them owned, or which may be in his or their possession, or under his or their control, to run at large upon the public highways, or upon the lands of any other person, at any season of the year, within the counties of Lyon, Redwood, Martin, Yellow Medicine and Lac qui Parle.—*Sp. L. 1874, 323, Sec. 1.*

§ 2. Whoever willfully or negligently permits any bull, ox, steer, cow, heifer, calf, horse, sheep or lamb, which may be in his possession or under his control, or which he may own, to run at large upon any public highway, or upon any land occupied or improved, within either of the counties mentioned in the preceding section, shall be guilty of misdemeanor, and upon conviction thereof shall pay a fine of not less than one dollar and not to exceed the sum of five dollars for each offense.—*Id. Sec. 2.*

§ 3. Each day upon which any animals in the preceding section mentioned, is permitted to run at large in the places, and under circumstances in said section enumerated, shall constitute a distinct and separate offense within the meaning of this act.—*Id. Sec. 3.*

HERD LAW FOR MACLEOD COUNTY.

§ 1. That it shall be unlawful for any person or persons to allow any cattle, horses, mules, asses, sheep or swine, owned by them or of which they may have possession or control, to run at large upon the public highways, or upon the lands of any other person, during any season of the year, in the county of McLeod, unless carefully herded.—*Sp. L. 1885, 537, Sec. 1.*

§ 2. The owner or occupant of any land or lands in said county may distrain any and all beasts doing damage thereon, without regard to the sufficiency of the fences thereon, or the existence of any fence whatever; and when any such distress shall be made, the damages may be appraised and the beast or beasts disposed of, and such action in the premises taken as is provided in the general statutes for distraining beasts doing damage.—*Id. Sec. 2.*

§ 3. In case the owner or occupant of lands shall not distrain the beast or beasts doing damage, as provided herein, the owner of said beast or beasts shall be liable in an action at law to the party injured for all damages done by said beasts, without regard to the condition of the fences on said lands, or the existence of any fence whatever.—*Id. Sec. 3.*

HERD LAW FOR MARSHALL AND KITTSOON COUNTIES.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, mules, sheep or swine, owned by such person or persons, or of which such person or persons have control or may be in possession, to run at large upon any public highway, or upon the lands of any other person or persons in the counties of Marshall or Kittson, in this state, during any season of the year, unless they are carefully herded.—*Sp. L. 1879, 387, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act shall be liable for all damages that may occur in consequence of the trespass of such animal or animals.—*Id. Sec. 2.*

MARTIN COUNTY.—See Dodge and Lyon counties, pp. 109, 110*d*.

HERD LAW FOR MEEKER COUNTY.—See note *b*, page 104.

HERD LAW FOR MOWER COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, sheep, swine or other domestic animals larger than sheep, owned by such person or persons, or of which such person or persons have control or may be in possession, to run at large upon any public highway or upon the lands of any other person or persons, in the county of Mower (a), state of Minnesota.—*Sp. L. 1876, 241, Sec. 1.*

§ 2. Any person or persons who shall violate the provisions of the above section of this act shall be liable for all damages that may ensue in consequence of the trespass of such animal or animals, and the owner or occupant of land in said Mower county may distrain all animals doing damage upon his land in said county, and when any such distress is made, the distrainer shall keep such animals in some secure place other than the public pound until his damages are appraised, and within twenty-four hours after such distress is made, unless the same is made on Saturday or Sunday, in which case before the

(a) G. L. 1875, 153, Secs. 1, 2, prohibit the running at large of cattle, etc., in Mower county (except in the town of Lansing). The legislature of 1876 passed an act March 2, 1876, (Special Laws 1876, 243), amending section two of G. L. 1875, 153. On the 4th day of March, 1876, the legislature passed another act amending both the acts of 1875, and that of March 2, 1876, so as to make sections one and two read as above given, and adding the seven additional sections also here given.

Tuesday morning thereafter, he shall apply to a justice of the peace of the town where such distress is made, who shall immediately appoint three disinterested inhabitants of such town to appraise the damages; 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 where 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 to said justice of the peace.—*Sp. L. 1876, 241, Sec. 2.*

§ 3. Such distress may be made at any time before such animals doing damage as aforesaid escape from said land and without regard to the sufficiency of the fences thereon.—*Id. Sec. 3.*

§ 4. 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, and the appraisers shall ascertain and certify to said justice under their hand the amount of such damage, together with their fees for said services.—*Id. Sec. 4.*

§ 5. Within twenty-four hours, Sunday 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 animals 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 same [some] inclosure within the county, there to remain until the same are sold as hereinafter directed, or until the damages so certified and the fees of the appraisers and justice and costs of keeping such animals are paid; and if such animals are put in any pound, the distrainer shall deliver a copy duly certified by said justice, of the certificate of the appraisers to the keeper of such pound.—*Id. 242, Sec. 5.*

§ 6. The poundmaster shall receive and keep the animals so delivered to him in the public pound, shall furnish them with sufficient and appropriate food and drink, and take good care of such animals, and shall receive a reasonable compensation therefor from the distrainer in the first instance, who shall charge the same as part of the fees and costs against said animals, and said distrainer shall cause said animals so distrained to be sold at public vendue by the sheriff or any constable of the county as soon as practicable after giving like notice as is required in the case of constable sales of goods and chattels taken by execution: *provided*, that the owner of such animals may redeem said animals from such sale within two months from the day of such sale by paying the purchaser the price he paid for the same at such sale, and twelve per cent interest per annum thereon and the reasonable expense of keeping such animals since the said sale.—*Id. Sec. 6.*

§ 7. From the proceeds of such sale the sheriff or constable making the same, shall retain sufficient to pay the amount of his fees, and shall pay to the distrainer the damages so certified, with fees of the appraisers, and of the justice, the cost of keeping such animals, fees of the poundmaster, and such other expenses and costs which the distrainer may be entitled to, and if there is any surplus, the same shall be paid to the owner of such animals, 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 by the sheriff or constable to the treasurer of the county in which such sale is made.—*Id. Sec. 7.*

§ 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 animals; if not claimed within that time to the school fund of that town in which the animals were distrained.—*Id. Sec. 8.*

§ 9. If any person without the authority of law and without first paying all the damages and costs as above provided, take such animals 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 in the county jail not exceeding three months, and shall also be liable in double the amount of damages committed by such animals to the persons injured thereby; *provided*, nothing herein contained shall apply to the towns of Lansing and Leroy, in said county of Mower (a).—*Id. Sec. 9.*

(a) The legislature of 1879 passed an act amending section 2, chapter 171, Sp. Laws 1876, passed March 2, 1876, which had been repealed by the act of March 4, 1876, referred to in note (a) page 110d of this manual. The section as amended reads: "Any person or persons who shall violate or neglect the provisions of the first section of the general laws of 1875, chapter 124 shall be liable for all damages that may ensue in consequence of the trespass of such animal or animals.—*Sp. L. 1879, 392.* An act passed, also, Feb. 8, 1879, to amend sec. 2, chap. 162, special laws 1876—a chapter which does not relate to the same subject matter.—*Sp. L. 1879, 389.*

MURRAY COUNTY—See Dodge County, pp. 109, 110.

HERD LAW FOR NICOLLET COUNTY.

§ 1. It shall be unlawful for any person or persons to allow cattle, horses, sheep, swine or other domestic animals, owned by such person or persons, or of which such person or persons have control, or may be in possession, to run at large upon any highway, or upon the lands of any other person or persons in the county of Nicollet, in the state of Minnesota, during any season of the year, unless they are carefully herded.—*Sp. L. 1879, 389, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act, shall be liable for all damages that may ensue in consequence of the trespass of such animal or animals.—*Id. Sec. 2.*

HERD LAW FOR OLMSTED COUNTY.

§ 1. It shall be unlawful for any person or persons to allow cattle, horses, sheep, swine or other stock owned by such person or persons, or of which they have control, to run at large upon the public highways, or upon the lands of any other person, during any season of the year, in the county of Olmsted, state of Minnesota, unless carefully herded.—*Sp. L. 1879, 388, Sec. 1.*

§ 2. It shall be lawful for any freholder or farm tenant in said county finding such cattle, horses, sheep, swine or other stock, running at large in violation of any of the provisions of this act, to immediately take the same to the nearest public pound, where they shall be impounded, subject to all the proceedings now provided by law.—*Id. Sec. 2.*

§ 3. Any person or persons violating any of the provisions of the first section of this act, shall be subject to a fine not exceeding five dollars, and all reasonable damages, as provided by law.—*Id. Sec. 3.*

HERD LAW FOR OTTER TAIL COUNTY.

§ 1. It shall be unlawful for any persons to allow 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 land 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 county of Otter Tail; and all former acts concerning the herd law of Otter Tail county be hereby repealed: *provided, further*, that the provisions of this act shall not apply to any township in said county which has already elected or hereafter shall elect, at any town meeting, to permit cattle to run at large; and any township which shall have so elected, may rescind such action by a majority vote of the electors of such township present and voting at any town meeting held therein, and such township shall thereafter be governed by the provisions of this act, and until otherwise determined by a subsequent election.—*G. L. 1889, 1030, Sec. 1.*

§ 2. The owners or occupants of lands may distrain all beasts doing damage upon his lands lying and being in the county of Otter Tail, without regard to any fence or the sufficiency of any fence or fences on the lands on which the damage is done; 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.—*Id. Sec. 2.*

§ 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.—*Id. Sec. 3.*

§ 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.—*Id. 1030, 1031, Sec. 4.*

§ 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 pound master 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.—*G. L. 1889, 1031, Sec. 5.*

§ 6. If there be no pound within the town where such beasts are distrained and the same are kept in an inclosure 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 constables' 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 ten 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 within the same town but in the same or adjoining county, then within three days after such distraining, Sundays always excepted, such notice shall specify the time and place where such beasts are distrained, the number of such beasts, and that the same are distrained for doing damage.—*Id. Sec. 6.*

§ 7. From the proceeds of such sales, the person making the same shall retain sufficient to pay the amount of his fees, the cost 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.—*Id. Sec. 7.*

§ 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.—*Id. 1031, 1032, Sec. 8.*

§ 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.—*Id. Sec. 9.*

POPE COUNTY—See Douglas County, p. 110.

REDWOOD COUNTY—See Lyon County, p. 110d.

HERD LAW FOR RENVILLE COUNTY.

§ 1. It shall be unlawful for any person or persons to allow cattle, horses, sheep, swine or other domestic animals, owned by such person or persons, or of which such person or persons have control, or may be in possession, to run at large upon any public highway, or upon the lands of any other person or persons, in the county of Renville, in the state of Minnesota, during any season of the year, unless they are carefully herded.—*Sp. L. 1878, 480, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act, shall be liable for all damages that may ensue in consequence of the trespass of such animal or animals.—*Id. Sec. 2.*

HERD LAW FOR RICE COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, mules, asses, sheep or swine, owned by such person or persons, or of which such person or persons have control or may be in possession, to run at large upon any public highway, or upon the lands of any other person or persons, in the county of Rice, state of Minnesota, during any season of the year.—*Sp. L. 1878, 476, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act, shall be liable for all damages that may occur in consequence of the trespass of such animal or animals: *provided*, nothing herein contained shall apply to cattle in that part of the township of Morristown lying north of the Cannon River, in said county of Rice.—*Id. Sec. 2, as amended, Sp. L. 1879, 385.*

HERD LAW FOR SIBLEY COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, mules, asses, sheep or swine, owned by such person or persons, or of which such person or persons have control or may be in possession, to run at large upon any public highway or upon the lands of any other person or persons, in the county of Sibley, state of Minnesota, during any season of the year, unless they are carefully herded.—*Sp. L. 1877, 286, Sec. 1, as amended, Sp. L. 1878, 481, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act, shall be liable for all damages that may occur in consequence of the trespass of such animal or animals: *provided*, that the provisions of this act shall apply to the county of Sibley, in the state of Minnesota, only.—*Id. 482, Sec. 2.*

HERD LAW FOR STEVENS COUNTY.

§ 1. Each and every town in Stevens county, Minnesota, is authorized, in the manner hereinafter provided, to determine when cattle, horses, mules, asses, swine and sheep shall be permitted to go at large.—*Sp. L. 1889, 916, Sec. 1.*

§ 2. Upon the filing with the clerk of any of said towns a petition of any ten persons residing in any of said towns, asking that a special meeting of the legal voters of such town shall be called for the purpose of determining the time during each year when cattle, horses, mules, asses, swine and sheep shall be permitted to run at large in such town, or that such question be considered at the next general election thereafter, the clerk of such town shall fix a time within thirty days after the filing of such petition, when a special election will be held to consider the subject of said petition, and shall at least ten days before the time set for such special election, and, in case of a general election, ten days before that, give notice of such election by posting one copy thereof in at least three public places in such town; which notice shall set forth the fact that the question of fixing the time when cattle, horses, mules, asses, swine and sheep shall be permitted to run at large in such town, and the time when and place where such election shall be held; and the vote shall be taken in the same manner that other votes are taken at town elections.—*Id. Sec. 2.*

§ 3. A majority of those exercising the right of franchise at any such election held of any said towns shall determine when the cattle, horses, mules, asses, swine and sheep shall be permitted to run at large in said town; and the decision arrived at by such majority, shall thereafter, until changed in like manner as created, be the law in such town.—*Id. Sec. 3.*

HERD LAW FOR SWIFT COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, asses, mules, sheep or swine owned by such person or persons, or of which such person or persons have control, or may be in possession of, to run at large on any public highway or upon the lands of any other person or persons in the county of Swift, state of Minnesota, during any season of the year, unless such animal or animals are carefully herded.—*Sp. L. 1878, 479, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act, shall be liable for all damages that may occur in consequence of such animal or animals.—*Id. Sec. 2.*

Sec. 3 provides that this act shall take effect January 1st, 1879, providing, however, that the voters should at the general election in November, 1878, vote in favor of the foregoing act. At that election the proposition prohibiting animals running at large received a majority of 377 votes in its favor.—(See *Sp. L. 1879, 391; 1881, 886; 1883, 403; 1885, 477; 1887, 960*)

HERD LAW FOR TRAVERSE COUNTY.

§ 1. It shall be unlawful for any person or persons to allow cattle, horses, sheep, swine, or other domestic animals, owned by such person or persons, or of which such person or persons have control, or may be in possession, to run at large upon any highway, or upon the lands of any other person or persons in the county of Traverse, in the state of Minnesota, during any season of the year, unless they are carefully herded.—*Sp. L. 1881, 882, Sec. 1.*

§ 2. Any person or persons who shall violate or neglect the provisions of the first section of this act, shall be liable for all damages that may ensue in consequence of the trespass of such animal or animals.—*Id. Sec. 2.*

HERD LAW FOR WASHINGTON COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, mules, sheep or swine, or other domestic animals, of which they are the owners, or of which they have the control, to run at large upon any public highway, or upon the lands of another within the county of Washington, in this state. Such running at large shall be and constitute a trespass, and such running at large of each and every of said animals shall be and constitute a distinct and separate trespass, and a distinct and separate offense under this act.—*Sp. L. 1885, 519, 520, Sec. 1.*

§ 2. Every such trespass and each and every violation of any of the provisions of this act, shall be and constitute a misdemeanor, and, upon conviction thereof, the person so offending shall be punished by fine not exceeding one hundred dollars.—*Sp. L. 1885, 520, Sec. 2.*

§ 3. Any person may, and every sheriff, constable and police officer shall, distrain and impound all such animals so running at large, and when so impounded, such proceedings shall be had therein as are provided by the general laws of this state, save as herein provided.—*Id. Sec. 3.*

§ 4. The owner or occupant of any property may distrain all beasts doing damage upon such property, and 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 Saturday or Sunday, in which case before the Tuesday morning thereafter, he shall apply to a judge of the municipal court or a justice of the peace of any town in the county aforesaid, who shall appoint three disinterested inhabitants of such town, city, or village, where the distress is made, to appraise the damages; 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 where 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 part of the returns of said appraisers.—*Id. Sec. 4.*

§ 5. 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 damages, for which purpose the appraisers or either of them, are authorized to administer an oath to every such witness.—*Id. Sec. 5.*

§ 6. The appraisers shall ascertain and certify, under their hands, the amount of such damages, with fees for their services not exceeding one dollar per day.—*Id. Sec. 6.*

§ 7. Within twenty-four hours, Sunday 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 so 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 other inclosure within the county, there to remain until the same are sold as hereinafter directed, or until the damages so certified and the fees of the appraisers and justice fees and costs of keeping such 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.—*Id. Sec. 7.*

§ 8. The poundmaster 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 in said town, when and where such sale is to be made; *provided*, that the poundmaster, or the person keeping such beasts, shall furnish them 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.—*Id. 520, 521, Sec. 8.*

§ 9. If there is no pound within the town, city or village where such beasts are distrained, and the same are kept in an inclosure 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 police officer or constable of the county, after the like notice [as] is required in the case of sheriffs' 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 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 ten per cent per annum.—*Id. 521, Sec. 9.*

§ 10. 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 distrainer the damages so certified, with the fees of the appraisers and of the court, and if there is any surplus, the same shall be paid to the owner of the 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.—*Id. Sec. 10.*

§ 11. 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 owners of such beasts; if not claimed within that time, to the school fund of that town in which the beasts were distrained.—*Id. Sec. 11.*

§ 12. In case the owner or occupant of land shall not distrain the beasts

doing damage, as provided herein, the owner of such beasts shall be liable in an action at law for all damages done by such beasts.—*Sp. L. 1885, 521, Sec. 12.*

§ 13. If any person or persons, without the 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 a 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. This act shall not apply to the town of Forest Lake (a) in said county.—*Id. Sec. 13, as amended, Sp. L. 1889, 1149.*

HERD LAW FOR PART OF WILKIN COUNTY.

§ 1. It shall be unlawful for any person or persons to allow any cattle, horses, mules, sheep or swine owned by such person or persons, or of which such person or persons have control or may be in possession, to run at large upon public highways, or upon the lands of any other person or persons in the first and second commissioner districts, and townships 133 and 134, of range 45, and townships 135 and 136, of range 46, in the county of Wilkin, state of Minnesota, during any season of the year, unless they are carefully herded.—*Sp. L. 1879, 386, Sec. 1, as amended, Sp. L. 1879, 385.*

WATONWAN COUNTY.—See Dodge County, pp. 110, 111.

HERD LAW FOR WINONA COUNTY.

§ 1. It shall be unlawful for any person or persons, partnership or corporation, to allow any cattle, horses, mules, asses, sheep or swine, owned by them, or of which they have the charge, custody or control, to run at large upon the public highways or upon the lands of any other person or persons in the county of Winona. All acts and parts of acts, special or general, inconsistent with this act are hereby repealed.—*Sp. L. 1881, 883, 884.*

YELLOW MEDICINE COUNTY.—See Lyon County, p. 110d.

VII.—POUNDMASTERS' DUTIES AND RESPONSIBILITIES.

§ 28. POUNDMASTERS' FEES.—The poundmaster is allowed the fees, to-wit: For taking into pound, and discharging therefrom, any horse, ass, or mule, and all neat cattle, ten cents each. For every sheep or lamb, three cents each; and for every hog, large or small, five cents; and twenty cents for keeping each head twenty-four hours in pound. And the poundmaster has a lien on all such animals for the full amount of his legal charges and expenses, and shall be entitled to the possession of such animals until the same are paid; and if the same are not paid, and said animals removed, within four days after they are so impounded, the said poundmaster shall give notice, by posting the same in three of the most public places in said town, that said animals (describing them) are impounded, and that, unless the same are taken away and fees paid within fifteen days after the date of such notice, he will sell the same at public vendue, at the place where the town meetings of said town are usually held; and on the day designated in such notice the said poundmaster shall expose the said animals for sale, and sell the same to the highest bidder in cash, for which services he shall receive two per cent of the purchase money for each animal. Out of the money realized from said sale, the said poundmaster shall deduct all his legal fees and charges, and pay the balance, if any, to the chairman of the town supervisors, at the same time giving to said supervisors an accurate description of the animals sold, and the amount received by him for each animal, and shall take a receipt and duplicate therefor, and file one of them with the town clerk: *provided*, that the said supervisors shall at any time within six months, upon sufficient proof from the owner of any animal so sold, pay to said owner the balance due as received

(a) The act passed March 1, 1889, exempted Forest Lake and Marine from the provisions of this act, but a later act of April 3, 1889, restores the town of Marine to the full force and effect of the foregoing herd law.

from the said poundmaster; but if said money is not claimed within that time, then the sum so received shall be retained for the use of said town.—*G. S. 178, 179, § 87.*

§ 29. RESPONSIBILITY OF POUNDMASTER.—The responsibility of a poundmaster or keeper of a public pound is similar to that of a sheriff or a constable, having the custody of animals under a legal process. He is not an insurer of the property in his custody, and is only liable if they are killed or injured through his neglect. He is not liable if they are stolen from him. But he must exercise good faith and reasonable diligence in the care of them. He is responsible for gross negligence and fraud, and as he is a bailee for compensation it may be thought that he is bound by the common law rule in such cases to "ordinary diligence," that is "the care which every person of common prudence, and capable of governing a family takes of his own concerns."

§ 30. POUNDMASTER'S DUTIES.—Under some of the foregoing statutes, the poundmaster is merely the keeper of the animals given into his custody until delivered to some other officer to be sold. See § 17, pp. 102, 103; § 25, p. 105; § 6, p. 110e. But usually he is to proceed to sell them at public vendue himself, after giving the proper notice as required by law. But in all cases after receiving beasts into his custody, he must "furnish them with sufficient and appropriate food and take good care of such beasts."—§ 16, p. 102; § 5, p. 109; § 6, p. 110e. The penal code declares that "a person who, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water, is guilty of a misdemeanor."—*Sec. 494.*

§ 31. POUNDMASTER'S SALES.—The poundmaster must strictly comply with all the requirements of the statute as to the time and manner of sale. The law governing sheriffs and constables in making public sales of personal property, applies to poundmasters also, and is in substance as follows: The sale must be made by auction, between nine o'clock in the morning and sunset, within the township, and the property must be within view of those who attend the sale. The animals should be sold separately and in such order as are likely to bring the highest price, and after a sufficient number have been sold to satisfy the damages and expenses, no more should be sold.

§ 32. POUNDMASTER'S DUTIES AFTER SALE.—The above applies to all sales of beasts impounded, whether made by the poundmaster or by any other officer, as a sheriff, or constable, or marshal, or police officer of a city or village, acting under authority. After sale the officer must dispose of the proceeds according to the provisions of the statute under which he acts. See § 18, p. 103; § 7, p. 110; § 7, p. 110e. He ought, also, to make out a full return of his doings, and file with the justice under whom the certificate of appraisal was made. Forms for the use of poundmasters and others under the estray or herd laws, will be found in the next chapter.

CHAPTER VIII.—ESTRAY AND CATTLE FORMS.

115.—FORM OF ESTRAY NOTICE.

Estray Notice.

STRAYED upon lands owned (or occupied) by me in the town of _____, county of _____, and state of Minnesota, where I reside, one yoke of working oxen (a), about eight years old, of a dark red color, with a white spot in the forehead of each, and the left hind foot of each white; having brass buttons on their horns, and a notch cut out of the right ear of one. They were found and taken up as estrays by me, on or about the _____ day of _____, 189____, and are of the value of forty dollars each, and the owner thereof is unknown to me. (Dated and signed.)

P. F., residing on Sec. 20, in said town.

116.—CERTIFICATE OF APPRAISAL BY JUSTICE.

(Venue.)

Whereas, P. F., a resident of said town, has made application to the undersigned, a justice of the peace of said town, to appraise one yoke of dark red oxen, about eight years old, found and taken up by him as estrays; Now, therefore, I hereby certify that having viewed the said oxen, I do appraise them to be of the value of forty dollars each.

Fee, for certificate of appraisment.....	.50
Travel ten miles.....	.60

Received of P. F., in full of my fees.....\$1.10
(Dated and signed officially by the justice.)

117.—NOTICE OF SETTLEMENT OF ESTRAY CHARGES. (b)

(Venue.)

To P. F. :

Take notice, that I have applied to S. L. S., a justice of the peace of said town, to settle and fix the amount due to you (me), by reason of the keeping and use of the estrays taken up by you (me) about the _____ day of _____, 189____, and claimed by me (you); and that said justice will hear and decide upon said matter at his office in said town, on the _____ day of _____, 189____, at _____ o'clock M., where you can be present and be heard in the premises. (Dated and signed by the party making the application.)

118.—JUSTICE'S SETTLEMENT OF ESTRAY CHARGES.

(Venue.)

Whereas, a disagreement has arisen between J. S. and P. F., concerning the reasonable and lawful charges incurred in relation to the keeping and use of the following estrays: (describing them) found and taken up by the said P. F., on or about _____, 189____, and kept by said P. F., from said time, and which are now claimed by the said J. S. :

(a) Horses and mules may be taken up found anywhere in the town, even by a non-resident, but proceedings must be had as in other cases.

(b) This notice might be a verbal one, but had better be in writing. Unless the opposite party appears, the justice ought to require proof that the party had been duly notified, or postpone the hearing until he has been so notified, before hearing and deciding the matter.

Now therefore, I, the undersigned, a justice of the peace of the said town, do hereby certify that I have ascertained and do hereby settle and fix the amount due to the said P. F. over the value of the use of such estrays, to be (eighteen) dollars, together with my costs amounting to (one dollar and fifty cents). (Dated and signed officially by the justice.)

119.—CONSTABLE'S NOTICE OF SALE OF UNCLAIMED ESTRAY.

Notice of Estray Sale.

(Venue.)

Whereas, on or about the day of , 189 , P. F., a resident of said town, did find and take up on lands owned (or occupied) by him, the following estrays, viz.: (describing them as in the notice filed with the clerk), which said estrays were, on the day of , 189 , by J. P., a justice of the peace of said town, appraised at more than ten dollars, to-wit: (name the sum), and more than one year having elapsed since the filing of the estray notice, and said estray not having been redeemed by the owner thereof: Now therefore, notice is hereby given, that in pursuance of the statute in such case made and provided, and at the request of said P. F., I shall expose the same for sale at public auction to the highest bidder, on the day of , 189 , at o'clock M., at in said town of . (Dated and signed officially by the constable.) (a)

120.—STATEMENT OF CHARGES BY FINDER. (b)

(Venue.)

P. F., of the town of in said county, being duly sworn, on oath says that the following is a true statement of the lawful charges by him incurred in relation to a certain yoke of oxen (describing them), found and duly taken up by him as estrays, on the day of , 189 , to-wit:

For keeping said oxen months,	-	-	-	\$
For filing notice with town clerk and posting same,	-	-	-	-
For justice's fees on appraisement,	-	-	-	-
For town clerk's fees,	-	-	-	-
For register of deeds' fees,	-	-	-	-
Constable's fees on making sale,	-	-	-	-
(Other items, specifying.)	-	-	-	-
Total,	-	-	-	\$—

(Jurat.)

P. F.

121.—CONSTABLE'S RETURN OF ESTRAY SALE. (b)

(Venue.)

I hereby certify that on the day of , 189 , I gave public notice in writing that the estray described in the annexed notice would be sold at public auction, by posting up in three of the most public places in said town of , three notices describing said estray , and giving notice of the time and place when and where the same would be exposed for sale; that at the time so appointed, viz.: (state the day and hour), I attended at the place mentioned in said notice, viz.: (name the place where), and then and there exposed the said estray to sale at public auction to the highest bidder; and sold the said estray to (name the purchaser), for \$

(a) The sale must be made between nine o'clock in the morning and sunset, within the county and within view of the property, and be sold in such parcels as are likely to bring the highest price. The constable's fees are: posting each notice, fifteen cents; necessary travel to post up notices, ten cents per mile each way; on all sums made from sale and paid over, five per cent fees.

(b) The constable's notice of sale (No. 119) and his return thereof (No. 121), and this statement (No. 120), should be filed with the county treasurer by the finder, at the time he deposits the remainder of the money with him, and he should take the county treasurer's receipt therefor.

(giving the price paid for such estray), he being the highest bidder therefor; that I have retained \$, my fees and disbursements from said amount, and have paid over \$, the remainder of the money to P. F., the finder of said estray. (Dated and signed officially by the constable.)

122.—NOTICE TO OWNER OF BEASTS DOING DAMAGE.

(Venue.) To C. E. N.:

SIR.—Take notice, that on the day of , 189 , at my residence (on the east half of the southwest quarter of section) in said town, the following beasts owned by you (describing them and giving their number), were distrained by me for doing damage upon my lands (or lands occupied by me) in the section and town aforesaid, and are now detained and kept at (state where). (Dated and signed.)

123.—APPLICATION TO JUSTICE TO APPOINT APPRAISERS.

(Venue.)

To J. V. L., a justice of the peace of said town:

The undersigned, H. G., of said town, hereby makes application to you to appoint three disinterested inhabitants of said town to appraise the damages done by (four) cows (describing them), upon my lands (or lands occupied by me, describing them); the said cows being distrained by me (a) within twenty-four hours of the date of this application, and are now kept by me in a secure place (on my premises, on section , in said town). (Dated, etc.)

H. G.

124.—APPOINTMENT OF APPRAISERS.

(Venue.)

To C. S., H. W. and J. R., of said town:

You are hereby appointed appraisers to appraise the damages sustained by H. G. by reason of four cows (b) doing damage, on the day of , 189 , upon his lands (or lands occupied by him), (on the east half of the southwest quarter of section), in said town; and upon first being duly sworn, you are to immediately repair to the place stated in the annexed application of H. G., and view the damages done, and you may take the evidence of any competent witness of the facts and circumstances necessary to enable you to ascertain the extent of such damage, and for which purpose you are authorized by law to administer an oath to every such witness, and ascertain and certify under your hands the amount of such damage, with fees for your services, not exceeding one dollar per day. (Given under my hand, etc.) (Dated and signed officially by the justice).

125.—OATH TO APPRAISERS.

(Indorse on the back of the order of appointment of appraisers, or attach to it the following):

(Venue.)

I do solemnly swear (or affirm) that I will faithfully and fairly ascertain and appraise the damages sustained by H. G., by beasts doing damage upon his lands on the day of , 189 , and make a just and true certificate thereof according to the best of my understanding and ability, so help me God. (Signed by the appraisers). (Jurat.)

(a) In case the distraining is made in those counties or parts of counties that may by resolution or by-law allow beasts to run at large in the daytime, between April 1st and October 15th, the following words should be inserted at (a) in form 123, "doing damage on my said lands in the night time, to-wit: between the hours of eight o'clock in the evening of the day of , 189 , and sunrise of the next morning, and" (concluding as in form 123).

(b) In cases arising in those counties mentioned in note (a), above, the fact of their being distrained in the night time should be inserted in this and in form No. 126 also.

126.—CERTIFICATE OF APPRAISERS.

(Venue.)

We, the appraisers duly appointed by J. V. L., a justice of the peace of said town, to appraise the damages done by four cows (describing them), upon the day of , 189 , on the lands of H. G. (on the east half of the southwest quarter of section , etc.), in said town, do hereby certify that immediately after our said appointment, upon first being duly sworn, we repaired to the place aforesaid, and after viewing the said damages done on the lands of the said H. G. (and taking the evidence of J. E.), we do hereby certify that the amount of said damage is the sum of.....\$

Our fees, (two) days and mileage.....\$

Total.....\$

(Dated, etc.) (Signed by all the appraisers.)

127.—SALE OF BEASTS BY POUNDMASTER.

Poundmaster's Sale.

(Venue.)

Take notice, that on the day of , 189 , at the public pound in the said town of , in the county of , and state of Minnesota, at o'clock in the noon, I will sell at public vendue (describe the beasts), or so many of them as may be necessary, to pay the damages certified to have been done by said beasts, on the lands of H. G., upon the day of , 189 , together with the fees and costs authorized by law. (Dated and signed officially by the poundmaster.)

128.—SALE OF BEASTS BY SHERIFF OR CONSTABLE.

Sheriff's (Constable's) Sale

(Venue.)

Take notice, that on the day of , 189 , at (naming the place) in the said town of , county of , and state of Minnesota, at o'clock in the noon, I will sell at public vendue (describe the beasts), or so many of them as may be necessary to pay the damages certified to have been done by said beasts, together with the fees and costs authorized by law; subject to redemption by the owner at any time within two months from the day of sale as provided by law. (Dated and signed officially by the sheriff or constable making the sale.)

129.—RETURN OF SALE BY POUNDMASTER, SHERIFF OR CONSTABLE.

(Venue.)

I hereby certify, that pursuant to the annexed notice, copies of which were duly posted at three of the most public places (and at the public pound) within said town, at least ten (three) days before the day of the sale named therein, I did, on the said day of , 189 , at o'clock M., at the place in said notice mentioned, sell the said beasts at public vendue to the highest bidder, for the following price, viz.: giving the price paid for each animal), making in all the sum of \$; that I have retained the sum of \$ for my fees, the cost of keeping said beasts, and the charges of such sale; and have paid to H. G., the distrainer of said beasts, his damages as certified, with the fees of the appraisers, and of the justice (and poundmaster), amounting in all to \$; and the surplus, \$, I have paid to (S. B., the owner of said beasts who appeared and claimed such surplus), (or to the county treasurer of the county aforesaid). (Dated and signed by the poundmaster or officer making the sale.)

130.—POUNDMASTER'S SALE. (Under § 28, p. 110j.)

Poundmaster's Sale.

(Venue.)

Take notice, that, by virtue of the statute in such case made and provided, I did, on the day of , 189 , impound the following described animals (describing them); and that unless the said animals are taken away and the fees paid within fifteen days from the date of this notice, I shall, on the day of , 189 , at (naming the place where the town meetings are usually held), at o'clock in the noon, expose for sale and sell (at public vendue to the highest bidder in cash, the above described animals or so many of them as shall at that time remain in pound. (Dated and signed officially by the poundmaster.)

131.—POUNDMASTER'S REPORT OF SALE.

(Venue.)

To the Supervisors of the town of :

The following is an accurate description of the animals duly sold by me, as provided by law, at public vendue in the town of , in said county, on the day of , 189 , and the amount received by me for each animal sold, namely:

One gray mare, about six years old, etc., sold for, - \$60
 One black yearling heifer, with white spot, etc., sold for 10

Total,	-	-	-	-	-	-	\$70
Deduct two per cent of purchase money,	-	-	-	-	-	-	\$1.40
Fees, taking into and discharging from pound,	-	-	-	-	-	-	0.20
Keeping of animals (<i>twenty-one</i>) days,	-	-	-	-	-	-	8.40
							<u>\$10</u>

Balance in my hands, - - - - - \$60
 Dated this day of , 189 . Poundmaster.

132.—RECEIPT TO POUNDMASTER IN DUPLICATE.

\$60.

Received from , poundmaster of the town of , the sum of sixty dollars, being amount realized from the sale of impounded animals by him made on the day of , 189 , after deducting fees and charges. For an accurate description of animals sold, the sum received for each, and the fees, etc., reference is made to the said poundmaster's report of sale, dated , and duly filed with the town clerk. (Dated and signed officially by chairman of supervisors.)

C

BOOTH'S
+
Poundmaster's Manual.

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