

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

COMPILED BY
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the owner shall have authority to remove the same, doing as little damage to the fences, trees, or other property, as possible; and any person who shall attempt to prevent the owner of any logs, or his agent, taking said logs, shall be liable to a fine of not more than five dollars, for every such offense.

(17.) SEC. XVII. When saw-logs, or timber, shall have lodged, or stopped, on the premises of any person in this territory, and no person shall appear to claim the same for the space of two years, the owner, or occupant of said land may convert the said logs, or timber, to his own use.

Where logs are not claimed for two years, owner of land may use the same.

(18.) SEC. XVIII. Any person who shall willfully cut, split, or otherwise injure any saw-log that is marked, or branded, or shall willfully drive any saw-logs into any slough, or on any island, or bottom land, with a view to secrete the same, shall be liable to pay double damages to the owner of such logs.

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An Act concerning Strays and lost Money and Goods. (a)

[Chapter 25, Revised Statutes.]

Who may take up strays.

(1.) SEC. I. No person shall take up any stray except horses and mules, unless such person shall be at the time a resident of the same county, wherein such stray shall be found, nor unless such stray be found upon the lands owned or occupied by the finder.

Within what time notice to be given to owner.

(2.) SEC. II. Any person taking up a stray shall within seven days thereafter, notify the owner thereof, if to him known, and request such owner to pay all reasonable charges, and to take such stray away.

How notice is to be given, if owner is unknown.

(3.) SEC. III. If the owner of any stray be unknown, the finder shall within ten days after taking up the same, file a notice thereof, with the clerk of the board of county commissioners, and if the stray or strays so taken up are of the value of less than five dollars, he shall also post up notices of the taking up of such stray, in two or more public places in such county; but if the stray or strays so taken up, are of the value of more than five dollars, he shall cause such notice to be published in some newspaper of the county, for four weeks successively, if one be printed therein; if there be none, then by posting up written notices in three of the most public places in the county; all said notices shall contain a brief description of the stray, describing the same by giving marks, natural and artificial, and 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.

When value of stray is ten dollars, appraisal to be made and filed.

(4.) SEC. IV. Every finder of a stray or strays, which, when taken up are of the value of ten dollars or more, shall within one month after taking up the same, procure an appraisal thereof by a justice of the peace of his county, which appraisal shall be certified to by such justice, and, within the time before mentioned, filed in the office of the clerk of the board of county commissioners; and he shall pay to such justice fifty cents for each appraisal and certificate, and six cents for every mile necessarily traveled in such service.

Owner may have stray restored within one year.

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

If the owner and finder cannot agree upon charges, justice may settle the same.

(6.) SEC. VI. If the owner and the finder of any stray cannot agree upon the amount of such charges, or for the use of any such stray, either party may make application to any justice of the peace of the county where such stray 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 stray, the same shall be a lien on said stray until paid by the owner; and the costs of such adjudication shall abide the decision of the justice.

When strays to be property of finder without sale.

(7.) SEC. VII. If the owner, or person entitled to the possession of any stray, shall not appear and make out his title thereto, and pay the charges thereon, within one year from the time the notice is filed with the

(a) This act from the revised statutes is, to a considerable extent, embodied in the act of August 7, 1858, which follows; and it will be best to proceed under the latter act.

county clerk, as aforesaid, and if such stray shall not have been appraised at a greater value than ten dollars, as provided in the fourth section of this chapter, such stray shall be sold at the request of the finder, by any constable of the precinct, 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 precinct, 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 upon a sale on an execution, one-half of the remaining proceeds of such sale shall be deposited in the treasury of the county, to be disposed of in such manner as the county commissioners may direct, and the other half shall belong to the finder.

When stray to be sold.

(8.) SEC. VIII. If any person shall, without the consent of the finder, take away any stray, taken up pursuant to the provisions of this chapter, without first paying all the lawful charges incurred in relation to the same, he shall be liable to the finder for the value of such stray.

Penalty for taking away stray without consent of finder.

(9.) SEC. IX. If the finder of any stray shall neglect to cause the same to be advertised, or a notice thereof to be posted up, or if he shall neglect to procure the appraisal of any stray, which shall be of the value of ten dollars, or more, or if he shall neglect to perform any of the duties required of him in this chapter, he shall be precluded from acquiring any right of property in such stray, by the provisions of this chapter, or receiving any damages, or charges, for keeping the same.

Penalty for neglect of finder to advertise, &c.

(10.) SEC. X. If any person shall find any money, or goods, of the value of three dollars, or more, and if the owner thereof be unknown, such person shall, within five days after finding such money, or goods, give notice thereof, in writing, to the register of deeds of the county in which such property was found; and shall also, within said five days, cause a notice thereof to be posted up in two public places in said county.

When and how finder of money or goods to give notice thereof.

(11.) SEC. XI. Every finder of lost goods, of the value of ten dollars, or more, shall, in addition to the requirements in the preceding section, within fifteen days after finding the same, cause notice thereof to be published in a newspaper printed in the county, if there be one published therein; and if there be none, then such notice shall be posted up in three of the most public places in the county; and if no person shall appear to claim the same who may be entitled thereto, he shall, within two months after finding such goods, and before using the same to their injury, procure an appraisal thereof, by a justice of the peace of his county, which appraisal shall be certified to by such justice, and filed in the office of the register of deeds of such county.

When notice to be published and appraisal made.

(12.) SEC. XII. If the owner of such lost money, or goods, shall appear within one year after notice given to the clerk, as aforesaid, and shall make out his right thereto, he shall have restitution of the same, or the value thereof, upon his paying all the costs and charges thereon, including a reasonable compensation to the finder, for his trouble.

When and how owner to have restitution.

(13.) SEC. XIII. If no owner shall appear within one year, then the finder of such lost money, or goods, shall pay one half of the value thereof, after deducting all legal charges, to the treasurer of the county; and in case such finder shall neglect to pay the same, on demand, after the expiration of the time aforesaid, the same may be sued for and recovered by the said treasurer, in the name of the county.

If owner do not appear, finder to pay one-half into the county treasury.

(14.) SEC. XIV. If any finder of lost money, or goods, of the value of three dollars, or upwards, shall neglect to give notice of the same, and otherwise to comply with the provisions of this chapter, he shall be liable for the full value of such money, or goods; one-half to the use of the

Penalty if finder neglect to give notice.

county, and the other half to the person who shall sue for the same, and shall also be responsible to the owner for such lost money or goods.

An Act regulating Estrays and Articles Adrift.

[Passed August 7, 1858.]

Public notice of estrays taken up.

(15.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That any person who shall take up an estray horse, mule, ass, sheep, hog, cattle, or goat, or any other article of value adrift, shall, within five days thereafter advertise the same in writing in three of the most public places in the township where such property is taken up, stating the time of taking up and giving a particular description of the property.

Report to justice of the peace; appraisal.

(16.) SEC. II. If within fifteen days after taking up, the owner shall not have claimed such estray property, the taker-up shall report the same to some justice of the peace in the township, who shall issue his warrant to three householders of the neighborhood not of kin to the taker-up (unless they cannot otherwise be procured), directing any two of them to appraise such property, whose duty it shall be to appraise the same and make report to such justice, clearly describing the property and the valuation thereof, and shall, under oath, declare that said appraisal and description were made without partiality, favor, or affection.

Oath of taker-up.

Description of property to be transmitted to clerk of district.

(17.) SEC. III. The taker-up shall, at the time of making such report, make oath before such justice that the marks, brands, or appearance of such property have not been altered by him, nor by any other person to his knowledge, since the same became astray or adrift, other than may in his written report have been stated.

(18.) SEC. IV. Any justice to whom estray property may have been reported shall, within ten days, transmit to the clerk of the district court a copy of the description and valuation thereof, with the fees as hereinafter provided, and said clerk shall enter such description and appraisal in a book to be kept for that purpose.

Advertisement in newspaper, if exceeding ten dollars in value.

(19.) SEC. V. Estray property exceeding in value ten dollars, and property adrift exceeding in value ten dollars, shall be advertised in some newspaper of the county, if there be one; if not, in the paper in the state nearest thereto; and the clerk shall forward to the printer a copy of the registry thereof, marked outside "Estray papers," together with a fee of one dollar and fifty cents, out of which the printer shall pay the postage.

Property adrift, unclaimed; ownership.

(20.) SEC. VI. In all cases in which the provisions of this act shall have been complied with, property adrift not exceeding in value twelve dollars, unclaimed or unproven by the owner within ninety days after taking up, and other estray not exceeding in value ten dollars, and unclaimed or unproven by the owner within one year after taking up, shall vest in the taker-up.

Time for redemption; if unclaimed, notice to justice.

(21.) SEC. VII. Property taken up adrift, the appraised value of which exceeds twelve dollars, not claimed and proven within ninety days after taking up, or animals astray other than horses, mules and asses, the appraised value of which exceeds ten dollars, not claimed and proven within six months after taken up, shall be reported by the taker-up to some justice of the peace of the township within five days after the expiration of the time specified.

Sale at public auction; disposition of proceeds.

(22.) SEC. VIII. Such justice shall issue his warrant to some constable to sell the same at auction, giving ten days' notice in writing of the time and place of sale, describing the property to be sold; and such constable shall, within five days after such sale, return such order and the proceedings of sale to said justice, retaining one dollar for his services

therein ; and said justice shall immediately pay over to the county treasurer the proceeds of sale, after deducting the proper amount to be paid to the taker-up, as aforesaid in this act, and seventy-five cents for his fees, and shall take from the treasurer a duplicate receipt, which he shall file in the office of the clerk of the district court.

(23.) SEC. IX. Any horse, mule or ass taken up under the provisions of this act, the appraised value of which exceeds twenty dollars, and which shall remain unclaimed or unproven at the expiration of one year from the time of taking up, shall be by the taker-up delivered to any constable of the town, to be sold by him at the most public place in the town ; and after retaining one dollar for his services and paying to the taker-up his charges as provided in this act, said constable shall pay the proceeds of such sale to the treasurer of the county within five days thereafter, taking from the treasurer a duplicate receipt, and file it in the clerk's office.

Horses, mules and asses worth more than twenty dollars, how disposed of.

(24.) SEC. X. All sums paid to the county treasurer under the provisions of this act, shall be by him entered to the credit of the county, under the head of estray fund.

Payments to county treasurer.

(25.) SEC. XI. The taker-up shall be entitled for taking up each horse, mule or ass, one dollar ; each head of neat cattle, fifty cents ; each sheep, goat or hog, above six months old, twenty-five cents ; but when the owner reclaims or proves his property before the same is posted, the taker-up shall only be allowed half the above reward.

Fees for taker-up.

(26.) SEC. XII. The taker-up of property adrift shall be allowed a reasonable sum to be determined by some justice of the peace of the township, but either the claimant or the taker-up thereof may, if they choose, have a jury to determine what amount shall be just and reasonable for taking up and taking care of such property ; the justice, constable and jury shall be allowed the same fees as in other cases.

Property adrift ; compensation for taking up, how decided.

(27.) SEC. XIII. The taker-up of property exceeding three dollars in value, shall pay to the justice at the time of reporting, fifty cents for the justice, fifty cents for the clerk, and one dollar and fifty cents for the printer, where printing is required, but if under three dollars, the justice shall make no return to the clerk, and his fees shall be fifty cents only.

Fees to be paid on reporting to justice.

(28.) SEC. XIV. The clerk shall keep a register of estrays ; where several estrays or articles adrift are taken up by one person, there shall be only one entry and one advertisement, one fee of the clerk and one of the justice.

Register of estrays.

(29.) SEC. XV. Upon property sold or reclaimed, the taker-up shall be allowed such compensation for keeping such property as shall be by the justice, before whom the proper proceedings are held, deemed just and reasonable ; and such taker-up shall keep account of the time an estray animal is kept by him, and make oath to the same.

Compensation for keeping estrayed property.

(30.) SEC. XVI. If any animal is taken up under the provisions of this act, and worked by the taker-up, a reasonable compensation shall be allowed for the services of said animal, to be deducted from the keeping ; the taker-up if required, shall verify under oath the time he has worked the said animal.

Deduction for work performed.

(31.) SEC. XVII. At any time before the sale, the owner may have his property, by proving the same before the justice of the township where taken up, and paying charges. And at any time within two years after sale, but not later, he may reclaim the money paid into the treasury, by proper proof before the county auditor.

Claim of property before sale, or funds after sale.

(32.) SEC. XVIII. No person shall take up any horse or stock except at his place of residence, or drive the same out of the woods, or common and take them up, nor shall any animal be taken up between the first day

Restrictions.

of April and the first day of November, unless the same be found in the enclosure of the taker-up: *provided, however*, that when any animal may be in the act of escaping from the owner it may be taken up at any time wherever found.

Estrays how not to be taken out of county.

(33.) SEC. XIX. The taker-up, until he becomes owner, shall not take or suffer to be taken out of the county, any property taken up for more than three days at any one time.

Fatted hogs, provision for killing.

(34.) SEC. XX. Fatted hogs taken up may, at the option of the taker-up, be killed one month after posting; but in case [such] the taker-up shall with, after killing the same, pay the appraised value, deducting costs and charges, (to be liquidated as in other cases) to the county treasurer for the use of the owner.

Stock hogs, provision for purchasing at appraised value.

(35.) SEC. XXI. Stock hogs taken up may, at the option of the taker-up, be by him paid for six months after posting, at their appraised value, deducting costs and reward for taking up, but no allowance for keeping the same.

Reclaiming of property adrift.

(36.) SEC. XXII. Whenever upon any navigable waters within or bordering on the state, the cargo of which may have been shipped as freight or the baggage of passengers or part thereof, of any vessels may be cast adrift, afloat or ashore by any wreck, accident or mischance of such vessel, such cargo, or part thereof, as may have been taken up and secured by any person, may be reclaimed by the captain, clerk or officers navigating such vessels, the supercargo, owner, or agent of the owner of such cargo or baggage who may be the claimant thereof.

Compensation for taking up and surrender.

(37.) SEC. XXIII. Such property shall be surrendered to such claimant, upon proof or circumstances satisfactory to the taker-up of the property of the right of such claimant, having a general or special property, agency or control therein, upon the payment by such claimant of reasonable compensation for securing, or expenses in the taking and preserving such property.

Summary proceeding for recovery.

(38.) SEC. XXIV. Should such person, or the person having possession of the property, refuse to restore to the claimant, or claim unreasonable compensation for the services and expenses in its taking up and preservation, the claimant *may* have a *summary proceeding* before any disinterested justice of the peace for the recovery of such property.

Affidavits to be filed.

(39.) SEC. XXV. The claimant must file before the justice, an affidavit of the facts attending the wreck or accident, enumerating as nearly as possible the articles or packages withheld [and of] his right to receive the same, and thereupon the justice shall summon the person taking up, or in possession of such property, to appear before him at a place and at the earliest practicable period not more than three days, to be designated in the writ.

Duties of justice.

(40.) SEC. XXVI. Such justice shall hear and determine the matters in controversy in the most speedy manner practicable, as other proceedings are had before him, and may fix the amount of compensation to be paid by such claimant, and award a writ or writs for the delivery of the same forthwith to such claimant upon the payment of such compensation.

Proceedings; appeals.

(41.) SEC. XXVII. Such trial shall be governed by the usual rules of procedure before justices, except as to continuances, and appeals may be taken by either party upon the same terms and under the same regulations as appeals in other cases are taken.

Provision as to sections prior to the 23d.

(42.) SEC. XXVIII. The provisions of the sections of this chapter, prior to section twenty-three, relative to articles adrift, shall not apply to the cases contemplated in said section twenty-three.

Advertisement of property taken adrift.

(43.) SEC. XXIX. If any of the property referred to in section

twenty-three be not claimed within seven days after the same has been taken up, then the taker up of such property shall advertise the same as required in other cases of articles adrift.

(44.) SEC. XXX. That any person or persons taking up any property and willfully neglecting to comply with the provisions of this act, shall forfeit and pay to the injured party not less than two-thirds of the actual value of said property so taken up and detained. Willful neglect to comply with provisions of this act.

(45.) SEC. XXXI. That this act shall not be so construed as to apply to logs or lumber floating upon any of the waters of this state, or lying on or between the banks of any river of this state. Act not to apply to logs and lumber afloat.

(46.) SEC. XXXII. All acts and parts of acts coming within the provisions of this act, are hereby repealed. Repeal of previous acts.

(47.) SEC. XXXIII. This act to take effect and be in force from and after its passage.

An Act concerning the disposition of Unclaimed Property.

[Chapter 26, Revised Statutes.]

(48.) SEC. I. Whenever any personal property shall be consigned to, or deposited with any forwarding merchant, wharf-keeper, warehouse-keeper, tavern-keeper, or the keeper of any depot for the reception and storage of trunks, baggage, merchandize, or other personal property, such consignee or bailee shall immediately cause to be entered in a book kept by him, a description of such property with the date of the reception thereof. Description of property received by consignees or bailees to be entered in a book.

(49.) SEC. II. If such property shall not have been left with such consignee or bailee, for the purpose of being forwarded or disposed of according to directions received of such consignee or bailee, at or before the time of the reception thereof, and if the name and residence of the owner of such property be known to the person having such property in his possession, he shall immediately notify the owner by letter, directed to him, and deposited in a post-office, of the reception of such property. When and how owner to be notified of reception of property.

(50.) SEC. III. If any such property shall not be claimed and taken away within one year after the time it shall have been so received, the person having possession thereof, may at any time thereafter, proceed to sell the same in the manner provided in this chapter. If property not claimed and taken away in one year may be sold.

(51.) SEC. IV. Before any such property shall be sold, if the name and residence of the owner thereof be known, at least sixty days' notice of such sale shall be given him, either personally or by mail, or by leaving a notice at his residence or place of doing business; but if the name and residence of the owner be not known, the person having the possession of such property, shall cause a notice to be published, containing a description of the property, for the space of six weeks successively, in a newspaper if there be one published in the same county; if there be no newspaper published in the same county, then said notice shall be published in a newspaper nearest thereto, in an adjoining county; the last publication of such notice shall be at least eighteen days previous to the time of sale. Notice of sale, how to be given..

(52.) SEC. V. If the owner or person entitled to such property, shall not take the same away and pay the charges thereon, after sixty days' notice shall have been given, it shall be the duty of the person having possession thereof, his agent or attorney, to make and deliver to a justice of the peace of the same county an affidavit setting forth a description of the property remaining unclaimed, the time of its reception, the publication of the notice, and whether the owner of such property be known or unknown. Proceeding if owner do not appear and take away property upon notice.

Inventory to be made, and justice to order property sold.

(53.) SEC. VI. Upon the delivery to him of such affidavit, the justice shall cause such property to be opened and examined in his presence, and a true inventory thereof to be made, and shall annex to such inventory an order under his hand, that the property therein described, be sold by any constable of the precinct where the same shall be, at public auction.

Constable to give notice, and sell property at auction.

(54.) SEC. VII. It shall be the duty of the constable receiving such inventory and order, to give ten days' notice of the sale, by posting up written notices thereof in three or more places in such precinct, and to sell such property at public auction to the highest bidder, in the same manner as provided by law for sales under executions from justices' courts.

Constable to make return to justice.

(55.) SEC. VIII. Upon completing the sale, the constable making the same shall indorse upon the order aforesaid, a return of his proceedings thereon, and return the same to the justice, together with the inventory, and the proceeds of the sale after deducting his fees.

Justice to pay charges and balance to county treasurer, with statement, &c.

(56.) SEC. IX. From the proceeds of such sale, the justice shall pay all legal charges that have been incurred in relation to such property, or a ratable proportion of each charge, if the proceeds of said sale shall not be sufficient to pay all the charges; and the balance, if any there be, he shall immediately pay over to the treasurer of the county in which the same shall be sold, and deliver a statement therewith, containing a description of the property sold, the gross amount of such sale and the amount of costs, charges and expenses paid to each person.

Treasurer to enter amount received, and file statement.

(57.) SEC. X. The county treasurer shall make an entry of the amount received by him and the time when received, and shall file in his office such statement so delivered to him by the justice.

Owner may receive amount deposited within five years.

(58.) SEC. XI. If the owner of the property sold, or his legal representatives, shall at any time within five years after such money shall have been deposited in the county treasury, furnish satisfactory evidence to the treasurer of the ownership of such property, he or they shall be entitled to receive from such treasurer the amount so deposited with him.

After five years to belong to county.

(59.) SEC. XII. If the amount so deposited with any county treasurer, shall not be claimed by the owner thereof or his legal representative, within the said five years, the same shall belong to the county, and may be disposed of as the board of county commissioners may direct.

When and how perishable property may be sold.

(60.) SEC. XIII. Property of a perishable kind and subject to decay, by keeping, consigned or left in the manner before mentioned, if not taken away within thirty days after it shall be left, may be sold by giving ten days' notice thereof: the sale to be conducted, and the proceeds of the same to be applied in the manner before provided in this chapter: *provided*, that any property in a state of decay, or that is manifestly liable immediately to become decayed, may be summarily sold by order of a justice of the peace after inspection thereof, as provided in section six of this chapter.

Fees of justices and constables under this chapter.

(61.) SEC. XIV. The fees allowed to any justice of the peace under the provisions of this chapter, shall be one dollar for each day's service, and to any constable the same fees as are allowed by law for sales upon an execution, and ten cents per folio for making an inventory of property.