

IMPORTANT LAWS.

ESTRAYS AND TRESPASSING ANIMALS.

An act providing for the disposal of estrays and trespassing animals.

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

ESTRAYS.

SECTION 1. The constable in each precinct in this State is hereby made ex-officio the poundkeeper in such precinct and is entitled to and is hereby made the custodian of all brand books and brand sheets pertaining thereto, which shall, at all reasonable hours, and without charge, be open to the inspection of the public.

Sec. 2. All horses, asses, mules and neat cattle of the age of one year, or upwards, found running at large and upon which there is no brand, except sucking animals running with their mothers and all such animals that are branded, the owner of which cannot, after reasonable search, be found, and which have been running at large on any range within the State for two years or more, and all hogs found running at large upon the premises of any person other than their owner, are hereby declared to be estrays and forfeited to the State.

Sec. 3. It is hereby made the duty of the poundkeeper of each precinct to obtain and take into his possession and impound all estrays running within his precinct and to dispose of the same as hereinafter provided. He shall, in person or by deputy, attend all general roundups in his precinct and take into his possession all estrays found thereat, and dispose of the same in the manner provided for the disposal of estrays in other cases.

Sec. 4. As soon as any estrays come into the possession of the poundkeeper he shall immediately advertise the same by posting notices for a period of ten days in three of the most public places in the precinct, one of which places shall be at or near the post-office if there be one in the precinct. He shall also immediately deliver a copy of said notice to the county clerk, or mail the same by registered letter, postage prepaid. The county clerk shall, upon receipt of said notice, file and preserve the same in his office for a period of six months thereafter, and shall immediately post a copy thereof at the front door of the county court house. The notice so filed with the clerk shall be open during reasonable hours for inspection by the public free of charge. The notice herein provided for shall contain a description of the animals, including all marks and brands, when taken, and the day, hour and place of sale, and may be substantially in the following form:

ESTRAY NOTICE:

State of Utah, } ss.
County of _____

In the _____ precinct of said county. I have in my possession the following described estray animals, which if not claimed and taken away, will be sold at public auction to the highest cash bidder at _____ in _____ precinct on _____, the _____ day of _____, 189—, at the hour of _____.

(Description of animal.)

Said estrays were taken up by me in

said precinct on the _____ day of _____ 189—.

Poundkeeper for _____ Precinct.

Sec. 5. If, at any time before the sale of any estrays, such animals shall be claimed, identified and proven as the property of any person, the poundkeeper shall deliver them to the owner, upon receiving from him the cost of impounding, keeping and advertising the same. If the animals are not so claimed and taken away, he shall, at the time and place mentioned in the notice, proceed to sell the same, one at a time, to the highest cash bidder, and shall execute and deliver a bill of sale, transferring said animals to the purchaser or purchasers thereof, which shall be substantially in the following form, filling in the spaces as may be necessary:

I hereby certify that in pursuance of an act entitled "An act regulating the disposal of estrays and trespassing animals," I have this day sold to _____ for the sum of \$ _____ he being the highest bidder, _____ head of _____, branded with the State estray brand and otherwise described as follows, to wit:

Witness my hand this _____ day of _____ 189—.

Poundkeeper of _____ precinct,
_____ County, State of Utah.

The poundkeeper shall immediately file a copy of such bill of sale with the county clerk, or mail the same by registered letter, postage prepaid. The copy so filed with the clerk shall be preserved for a period of two years and shall be open to inspection during all reasonable hours free of charge. Such bill of sale shall transfer and vest in such purchaser the full title to the animals thus transferred.

Sec. 6. The poundkeeper shall keep an accurate record of all estrays received by him, their age, color, sex, marks and brands, the time and place of taking, and expenses of keeping and selling the same, all animals claimed and taken away, all animals sold and to whom so sold, and the amount paid, all moneys paid to owners after sale, all moneys paid into the county treasury, and all other matters necessary to a compliance with the provisions of this act. Such record shall be open to the inspection of the public at all reasonable hours.

TRESPASSING ANIMALS.

Sec. 7. Any county or precinct thereof in the State may, at any general or special election called for that purpose by the board of county commissioners, by a two-thirds vote of all the legal voters of such county or precinct, declare in favor of fencing their farms and allowing their animals to run at large; and in such cases the provisions of this act authorizing the detention and sale of animals for damages shall be inoperative.

Sec. 8. It shall be the duty of the board of county commissioners, immediately after the passage of this act, to declare by ordinance what shall constitute a lawful fence for that county, and the fence viewers for that county shall be governed thereby.

Sec. 9. If any neat cattle, horses, asses, mules, sheep, goats or swine shall trespass or do damage upon the premises of any other person, except in cases where such places are not enclosed by a lawful fence, in counties

where a fence is required by law, the party aggrieved, whether he be the owner or occupant of such premises, may recover damages by an action at law against the owner of the trespassing animals, or by distraining and impounding said animals in the manner provided herein; provided, that in cases where an action is brought for the recovery of such damages none of the animals trespassing shall be exempt from execution; and provided further, that the fees in such cases shall be but one half the fees in other civil cases.

Sec. 10. The owner or occupant of any property may restrain all of said animals trespassing or doing damage thereon. He shall, within twenty-four hours thereafter, deliver said animals to the poundkeeper of the precinct, together with a certificate of the appraisalment of the damage done by said animals. Such appraisalment must be made by some disinterested male citizen, a free holder over twenty-one years of age. It must state the amount of the damage, the time when committed, the name of the person damaged, the name of the owner of the animals, if known, and if not known it must state that fact, together with a description of the animals, including all visible marks and brands. If the animals appear to be owned by different parties, a separate appraisalment shall be made of the damage done by the lot or group of animals which appear to belong to each of the different owners, and a separate certificate of appraisalment shall be made out for each appraisalment. In such cases the owners shall be notified separately and each lot or group of animals shall be advertised and sold separately in the same manner as though the damage had been done by different animals at different times.

Sec. 11. The person distraining the animals must, if the owner of the same be known to him, and if he resides within ten miles of the place of the trespass, immediately deliver to such owner, or leave at his place of residence, if he cannot be found, a copy of such certificate of appraisalment; but if the owner does not live within ten miles of the place of trespass, the party distraining the animals may, at his option, deliver a copy of such certificate to the owner in person or deposit the same in the nearest postoffice in a registered letter addressed to said owner. He shall be entitled to charge ten cents a mile one way for the first ten miles necessarily traveled in delivering such certificates, and five cents for each additional mile, to be taxed as costs against the animals.

Sec. 12. If the party distraining any animals shall fail to deliver them or the certificate of appraisalment to the poundkeeper within forty-eight or shall fail to deliver to the owner of the animals, if known, a copy of the certificate of appraisalment within twenty-four hours after he receives same or to deposit the same in the postoffice as herein provided, he shall not be entitled to recover damage under the provisions of this section.

Sec. 13. Whenever any animals are delivered to the poundkeeper, and the certificate of appraisalment filed with him as herein provided, and such certificate states that the owner is unknown, the poundkeeper shall im-