

SEC. 15. He may make the necessary repairs to buildings, but shall make no alteration in the form, or structure thereof. Repairs to buildings.

SEC. 16. He may use and improve the lands, in the ordinary course of husbandry, and shall be entitled to the crops growing thereon at the expiration of his said right of possession. Use of lands, and right to crops.

SEC. 17. He may apply any wood, or timber, on such lands, to the necessary repair of fences, and, if said premises be actually occupied by him, he may take the necessary fire wood for the use of his family. Timber, fences and fire wood.

SEC. 18. If, however, in either of the cases mentioned, in the three last sections, he should employ timber, of a quality vastly superior to that required by the occasion, he shall be deemed to have committed waste. Quality of timber, and its application.

APPROVED, January 21, 1839.

WATER CRAFTS, LOST GOODS, AND ESTRAYS.

AN ACT concerning water crafts found adrift, lost goods, and estray animals.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That if any person, or persons, shall hereafter stop, or take up, any keel, or flat boat, ferry flat, batteau, pierogue, canoe, or other vessel, or water craft, found adrift, on any water course within the limits, or upon the borders of this Territory, and the same shall be of the value of five dollars, or upwards, including her cargo, tackle, rigging, and other appendages, it shall be the duty of such person, or persons, within five days thereafter, (provided the same shall not have been previously proven and restored to the owner), to go before some justice of the peace, of the proper county, and make affidavit, in writing, setting forth the exact description of such vessel, or water craft, where, and when the same was found, whether any, and if so, what cargo, tackle, rigging, or other appendages, was found on board, or attached thereto, and that the same has not been altered, or defaced, either in the whole, or in part, since the taking up, either by him, her, or them, or by any other person, or persons, to his, her, or their knowledge, and the

Drifting water craft, where taken up

Value \$5 00.

Affidavit, before whom made, and what shall be set forth therein.

Justice shall issue his warrant, to whom, and its requirements. said justice shall, thereupon, issue his warrant, directed to some constable of his township, or district, commanding him forthwith to summon three respectable householders of the neighborhood, if they cannot otherwise be had, whose duty it shall be to proceed, without delay, to examine and appraise such boat, or vessel, her cargo, or tackle, rigging, and all other appendages, as aforesaid, and to make report thereof, under their hands and seals, to the justice issuing such warrant, as aforesaid, who shall enter the same, together with the affidavit of the taker up, at large, in his estray book, and it shall be the further duty of such justice, within ten days after the said proceedings shall have been entered on his estray book, aforesaid, to transmit a certified copy thereof to the clerk of the board of county commissioners, of the proper county, to be by him recorded in his estray book, and file the same in his office.

Appraisal, and report. SEC. 2. In all cases, where the appraisement of any such boat, or vessel, including her cargo, tackle, rigging, and other appendages, as aforesaid, shall not exceed the sum of twenty dollars, the taker up shall advertise the same on the door of the court house, or in three other of the most public places in the county, within ten days after the justice's said certificate shall have been entered on the records of the board of county commissioners' court, and if no person shall appear to claim and prove such boat, or vessel, within six months from the time of the taking up as aforesaid, the property in the same shall vest in the taker up. But if the value thereof shall exceed the sum of twenty dollars, it shall be the duty of the clerk of the board of county commissioners' court, within twenty days from the time of the reception of the justice's said certificate, at his office, to cause an advertisement to be set up on the door of the court house, or at three other of the most public places in the county, and also a notice thereof to be published for three weeks successively in some public newspaper, printed in this Territory, and if the said boat, or vessel, be not claimed and proven within ninety days after the advertisement of the same as aforesaid, it shall be the duty of the taker up to deliver the same to the sheriff of the county, wherein such boat or vessel may have been so taken up, who shall thereupon proceed to sell the same at public auction, to the highest bidder, for ready money, having first given ten days' notice of the time and place of sale,

Copy of the proceedings, how, when, and to whom certified, and by whom recorded

When appraisement does not exceed \$20.

Advertisement within 10 days.

Limitation, six months, in making claim.

Where the value exceeds \$20 notice by whom, and how given.

Limitation 90 days.

Duty of the taker up, and the sheriff. Notice and terms of sale, and proceeds, where paid.

and the proceeds of all such sales, after deducting the costs and other necessary expenses, shall be paid into the county treasury.

SEC. 3. If any person shall hereafter find any lost goods, money, bank notes, or other choses in action, of any description whatever, of the value of five dollars and upwards, it shall be the duty of such person, or persons, to inform the owner thereof, if known, and to make restitution of the same, without any compensation whatever, except the same be voluntarily given on the part of the owner, but if the owner be unknown, such person, or persons, shall, within five days after such finding, as aforesaid, take such goods, money, bank notes, or other choses in action, before some justice of the peace of the proper county, and make affidavit of the description thereof, the time and place when and where the same was found, that no alterations had been made in the appearance thereof, since the finding of the same; whereupon the justice shall enter a description of the property thus found, and the value thereof, as near as he can ascertain, in his estray book, together with the affidavit of the finder, to be taken as aforesaid, and shall also, within ten days after said proceeding shall have been entered on his estray book, as aforesaid, transmit to the clerk of the board of county commissioners, a certified copy thereof, to be by him recorded in his estray book, and file the same in his office.

Bank notes, &c of what value, and to whom restored.

Compensation

Where owner is not known, duty of finder.

Affidavit, and its contents.

Duty of the justice herein.

Certificate, and transmission, of record.

SEC. 4. In all cases, where such lost goods, money, bank notes, or other choses in action, shall not exceed the sum of ten dollars in value, it shall be the duty of the finder, to advertise the same on the door of the court house, or in three other of the most public places in the county, and if no person shall appear to claim and prove such money, goods, bank notes, or other choses in action, within twelve months from the time of such advertisement, the right to such property, when the same shall consist in goods, money, or bank notes, shall be vested in the finder: But if the value thereof shall exceed the sum of ten dollars, it shall be the duty of the clerk of the board of county commissioners, within twenty days from the time of the reception of the justice's said certificate at his office, to cause an advertisement to be set up on the court house door, or three other of the most public places in the county, and also a notice thereof to be published, for three weeks successively, in some

Where the value does not exceed \$10, duty of finder, as to notice.

Limitation, 12 months.

Where the value exceeds \$10.

Duty of the clerk, as to notice.

- Limitation, six months. public newspaper, printed in this Territory, and if the said goods, money, bank notes, or other choses in action, be not reclaimed within six months after the advertisement as aforesaid, it shall be the duty of the finder, if the property shall consist in money, or bank notes, to deliver the same to the county treasurer, after deducting the necessary expenses hereinafter provided for, if in bank bills, notes of hand, patents, deeds, patents mortgages, &c.. deeds of conveyance, articles of apprenticeship, mortgages, or other instruments of value, the same shall be delivered to the clerk of the board of county commissioners, to be preserved in his office, for the benefit of the owner, whenever legal application shall be made therefor. If in goods, wares, or merchandise, the same shall be delivered to the sheriff of the county, who shall thereupon proceed to sell the same at public auction to the highest bidder, for ready money, having first given ten days' notice of the time and place of such sale, and the proceeds of all such sales, after deducting the cost and other expenses, shall be paid into the county treasury.
- Deeds, patents mortgages, &c.. to whom delivered.
- Goods, wares, &c., to whom delivered, by whom sold, and notice of sale, &c.
- Proceeds where paid.
- Where the value is less than \$5, duty of the finder, and when the title may vest in him
- SEC. 5. In all cases where any vessel or water craft shall be taken up, or any goods, money, or bank notes, shall be found, as aforesaid, which shall be of a value less than five dollars, it shall be his duty to advertise the same by setting up three advertisements, in the most public places in the neighborhood, but in such cases the taker up, or finder, shall be required to keep and preserve the same in his or her possession, and shall make restitution thereof to the owner, without fee or reward, except the same be given voluntarily, whenever legal application shall be made for the same: *Provided*, It shall be done within three months from the time of such taking up, or finding, but if no owner shall appear to claim such property, within the time aforesaid, the exclusive right to the same shall be vested in the finder, or taker up.
- Horses, mares, &c.
- When, and by whom, stray horses, &c., may be taken before a justice of the peace.
- Affidavit, and what it shall contain.
- SEC. 6. Every person, being a householder, who shall take up any stray horse, gelding, mare, colt, mule, or ass, shall, within five days thereafter, take the same before some justice of the peace of the county, wherein such stray shall have been taken up: *Provided*, The same shall not have been previously proven by the proper owner, or owners, and a tender made for the compensation herein provided for, and make oath, before such justice, that the same was taken up at his or her plantation, or place

of residence, in said county, or otherwise, as the case may be, and that the marks, or brands, have not been altered by him, or her, or any other person, or persons, to his, or her knowledge, either before or after the same was taken up, the justice shall then issue his warrant, directed to a constable of his district, commanding him to summons three disinterested householders of the neighborhood, unless they can otherwise be had, to appraise such estray, and after they, or any two of them, have been sworn to appraise such estray, without partiality, favor, or affection, they shall forthwith proceed to appraise the same, and shall immediately make report thereof, in writing, under their hands and seals, to the said justice, in which they shall be required to set forth a description of the marks, natural and accidental, brands, color, and age of such horse, gelding, mare, colt, mule, or ass; and the said justice shall thereupon enter the same in his estray book, and transmit a certified copy thereof, under his hand and seal, together with the original return of the appraisers, to the clerk of the board of county commissioners of said county, within ten days thereafter, who shall enter the same in his estray book, and file the aforesaid transcript, and report of the appraisers, in his office, and the said clerk shall, within twenty days from the time of the reception of the justice's said transcript, cause an advertisement thereof to be set up on the door of the court house, or at three other of the most public places in the county, and also a notice to be published, for three weeks successively, in some public newspaper, printed in this Territory: *Provided*, The newspaper publication may be dispensed with in all cases, where the value of such estray shall not exceed the sum of fifteen dollars.

Warrant,

Appraisement,

And report.

Duty of justice.

Duty of clerk,
as to entry, and
notice.

Proviso.

SEC. 7. Any person being a householder who shall take up any head of neat cattle, sheep, goat, or hog, shall, within five days thereafter, cause the same to be advertised in three of the most public places in the neighborhood, or township, and shall also, within ten days thereafter, unless such stray or strays, shall have been previously reclaimed, by the owner, go before some justice of the peace of the proper county, and make oath, as required in the taking up of an estray horse, whereupon such justice shall take from such taker up, upon oath, a particular description of the marks, brands, color, and age of such neat cattle, sheep, goat, or hog, and said

Neat cattle, &c.

Advertisement.

Affidavit, and
description

Appraisalment.	justice shall also cause such stray, or estrays, last mentioned, as aforesaid, to be appraised, in like manner as is required to be done in the case of an estray horse, after which the same entries and proceedings shall be made as is required in the sixth section, except that it shall not be necessary to
Publication.	make publication, in a newspaper, where the valuation of the property shall not exceed the sum of fifteen dollars: <i>Provided</i> , That if two, or more, estrays, of the same species, are taken up, by the same person, at the same time, they shall, in all cases, be included in one entry, and in one advertisement, and in such cases the said justice, clerk, and appraisers, shall receive no more for their services than is allowed in cases where but one of the same
Proviso, as to number of estrays, and fees.	species is taken up: But, in all cases, where the value does not exceed the sum of five dollars, no further proceedings need be had, than for the justice to enter the same in his stray book, for which the justice shall be entitled to a fee of twenty-five cents; and when so posted and entered, the right, after the expiration of six months, shall vest absolutely in the taker up: But he shall be accountable for, and pay to each owner the appraised value of such animal, after deducting all lawful charges incident to taking up, and posting such stray, or estrays, and if the appraisement of an stray, or estrays, shall exceed five, and does not exceed ten dollars, the right therein shall be vested in the taker up, by his paying into the county treasury the appraised value thereof, at the expiration of six months, after the same shall be advertised.
Limitation, as to value,	
And as to time.	
Further, as to value, title and time.	
Horses, colts, &c., straying without the settlements, before whom taken,	SEC. 8. Any person, being a householder, finding any stray horse, gelding, mare, colt, mule, or ass, running at large, without any of the settlements in this Territory, may take up the same, and shall forthwith take such stray, or strays, before the nearest justice of the peace, and make oath as directed in the sixth section of this act, after which it shall be lawful for such persons, to post such stray, or strays, in manner and in form as in other cases: <i>Provided</i> , That nothing in this act contained shall be so construed as to authorize any person to take up, or stop, any stray animal, between the first day of May and the first day of November, unless the same be a work beast, and manifestly straying away from the owner.
And proceedings thereon.	
When estrays may not be taken up. Exception.	

SEC. 9. As a reward for taking up of all boats, and other vessels, and of estrays, and for finding of lost goods, money, bank notes, and other choses in action, there shall be paid by the owner, to the taker up, or finder, before restitution of the property, or proceeds thereof shall be made: For every horse, gelding, mare, colt, mule or ass, the sum of one dollar, except where the same may have been taken up out of the settlement, in which case the taker up shall be allowed the sum of three dollars; for each head of neat cattle, fifty cents, for every sheep, or goat, twenty-five cents; and for every hog, above six months old, the sum of ten cents; and, in all cases, where goods, money or bank notes, shall be found, the finder shall be entitled to ten per cent. upon the value thereof, in addition to which said allowance, the owner shall also be required to pay, to the taker up, or finder, all such costs, and charges, as may have been paid by him, or her, to the justice and clerk for their services, to be rendered as aforesaid, including the cost of publication, together with reasonable charges for keeping, and taking care of such property, which last mentioned charge, in case the taker up, or finder, and the owner cannot agree, shall be assessed by two disinterested householders of the neighborhood, to be appointed by some justice of the peace of the proper county, whose decision, when made, shall be binding and conclusive on all parties: But when the animal taken up is suitable for the harness, or saddle, no charge shall be allowed for keeping the same, but no such animal shall be kept out of the county, where the same shall have been taken up, more than one week at any one time.

SEC. 10. In all cases where any stray animal shall be taken, as aforesaid, and no owner shall apply, or prove his, or her property, within one year after advertisement shall be made, as aforesaid, and the valuation exceed the sum of ten dollars, and no owner appear within the time aforesaid, the property may be vested in the taker up, by his paying the appraisement value into the county treasury, after deducting all necessary expenses, as hereinafter provided; but if the taker up, or finder, shall fail to comply, as aforesaid, then it shall be his duty to deliver the same to the sheriff of the county, who shall thereupon proceed to sell such stray, or strays, at public auction, to the highest bidder, for ready money, having first given ten days' public notice of

Compensation to finders, or takers up, of horses, &c., within the settlements.

Out of the settlement. Neat cattle, sheep, hogs, &c.

Goods, money, &c.

Costs and charges, repaid to, and by whom.

Disagreements how determined.

Animals suitable for harness.

When, and how, the property may vest in the finder, or taker up.

Upon his failure to comply, the sheriff is authorized to sell, &c.

Proceeds of sale, where paid.

the time and place of sale, and the money arising from the sale thereof, after deducting the costs and charges paid by the taker up, and reasonable expenses for keeping the same, together with all other costs and charges which may be incident thereto,

Proviso, in favor of the taker up, or finder.

shall be paid into the county treasury: *Provided*, That the taker up, shall, in all cases, have the privilege at the expiration of the year, as aforesaid, to pay into the county treasury the aforesaid value of such estray, after deducting the costs and charges aforesaid, and by so doing, shall acquire an absolute right to the property in such estray: *And provided*, That the taker up and treasurer cannot agree on the charges for keeping, it shall be assessed, as aforesaid, by two disinterested freeholders, which decision shall be binding.

Proviso, as to charges.

The proceeds of sale, when forfeited to the county, and for what purpose.

SEC. 11. The net proceeds of all such sales as may, at any time be made by the sheriff, in pursuance of this act, and all such money, and bank notes, as may be paid over to the county treasurer, as directed in the tenth section, shall remain in the hands of the county treasurer, in trust for the owner, if any such shall apply within one year from the time the same shall have been paid over, but if no owner shall appear, within the time aforesaid, the said money shall be considered as forfeited, and the claim of the owner thereto forever barred, in which event the money shall remain in the county treasury, to be applied to the use of common schools, whenever applied for by law.

Unavoidable accidents, provided for.

SEC. 12. If the taker up of any stray animal, water craft, or lost goods, bank notes, or other choses in action, shall be faithful in taking care of the same, and any unavoidable accident shall happen thereto, without the fault or neglect of the finder, or taker up, before the owner shall have an opportunity of reclaiming the same, such taker up, or finder, shall not be accountable therefor: *Provided*, That in all cases of accident, as aforesaid, it shall be the duty of the taker up, or finder, within ten days thereafter to certify the same under his hand and seal, to the clerk of the board of county commissioners, who shall make an entry thereof in his estray book.

Notice of accidents by whom, when, and to whom, certified.

Forfeiture for removing property out of the Territory, that has been found, or taken up,

SEC. 13. If any person shall trade, sell, or carry out of the limits of this Territory, any such property as may, at any time, be taken up, or found, as aforesaid, except such animals as are suitable for the harness, or saddle, as aforesaid, before he, or she,

shall be vested with the right to the same agreeably to the provisions of this act, he, or she, so offending, shall forfeit and pay double the value thereof, to be recovered by any person who will sue for the same, in any court, or before any justice of the peace, having jurisdiction thereof, by action of debt, one half thereof shall go to the person suing, and the other half to the county, as aforesaid.

when, and in what cases incurred, and how recoverable.

SEC. 14. If any person shall take up any boat, or vessel, or any stray beast, or shall find any goods, money, bank notes, or other choses in action, and shall fail to comply with the requisitions of this act, every such person, so offending, shall forfeit and pay the sum of twenty dollars, to be recovered before any justice of the peace, by any person who will sue for the same, the one-half whereof shall be for the use of the person suing, and the other half to be deposited in the county treasury for the use of common schools: *Provided*, That nothing herein contained shall prevent the owner from having and maintaining his action against such person for the recovery of any damages he or she may sustain.

Forfeiture for failing to comply with this act, how recovered and applied.

Proviso, as to other damages.

SEC. 15. In all cases, where services shall be performed by any officer, or other person, under this act, the following fees or compensation shall be allowed, to wit: to the justice of the peace for administering the oath to the taker up, or finder, making an entry thereof, with the report of the appraisers, and making and transmitting a certificate thereof to the clerk of the board of county commissioners, fifty cents; to the clerk for taking proof of the ownership of the property, and granting a certificate of the same, twenty-five cents; for registering each certificate transmitted to him by the justice, as aforesaid, twelve and a half cents; for advertisements, including the newspaper publication, fifty cents; to the sheriff, on account of all sales made by him, in pursuance of this act, five per cent. on the amount; to the constable, for each warrant served on appraisers, twenty-five cents; to each appraiser, twenty-five cents; all which said costs and charges, with the exception of the justice's charge for granting a certificate of ownership, and the sheriff's commission, shall be paid by the taker up to the persons entitled thereto, whenever the services shall be performed: *Provided*, That in all cases, where it shall be necessary to make publication in a newspaper, the taker up, or finder, as the case may be, shall be required

Fees to officers.

To justices of the peace.

To the clerk of the board of commissioners.

To the sheriff.

To the constable and appraisers.

By, to whom, and when, paid.

Proviso, as to the publication of notice.

- By, when, and to whom costs and charges shall be reimbursed. same, previous to the publication thereof; all which costs and charges shall be reimbursed to the taker up, or finder, in all cases where restitution of the property shall be made to the owner, or the same shall be delivered to the sheriff, to be sold, or where money, or bank notes, shall be paid into the county treasury, in addition to the reward to which such person may be entitled, for such taking up or finding as aforesaid.
- Reward. same, previous to the publication thereof; all which costs and charges shall be reimbursed to the taker up, or finder, in all cases where restitution of the property shall be made to the owner, or the same shall be delivered to the sheriff, to be sold, or where money, or bank notes, shall be paid into the county treasury, in addition to the reward to which such person may be entitled, for such taking up or finding as aforesaid.
- Examination. of estray book without fee or charge. SEC. 16. For the more speedy recovery of estrays, and other lost property, it shall and may be lawful, at all times for any person interested, to search and examine the estray book of the clerk for any information he or she may want, in relation to any property which may at any time have strayed away, or been lost, by any such person as aforesaid, for which said clerk shall be entitled to no compensation.
- When this act shall be in force. SEC. 17. This act to take effect, from and after the first day of May next.

APPROVED, January 22, 1839.

WEIGHTS AND MEASURES.

AN ACT regulating weights and measures.

- Commissioners required to procure weights and measures, at the expense, and for the use of their respective counties. Description of measures. SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa.* That the several boards of county commissioners, within this Territory, be, and they are hereby authorized, and required, to procure, for their respective counties, and at the expense of the same, a set of the following weights and measures, for the use of their county, that is: one measure of one foot, or twelve inches, English measure, so called; also, one measure of three feet, or thirty-six inches, as aforesaid; also, one half bushel measure, for dry measure, which shall contain one thousand seventy-five and one-fifth solid inches; also, one gallon measure, which shall contain two hundred and thirty-one solid inches, which measures are to be of wood, or any metal the court may think proper; also, one set of weights, commonly called avoirdupois weight, and sealed with the name, or initial letters of the county inscribed thereon; which weights and measures shall be kept by the clerk of the said court, of each and
- Of weights.
- By whom kept, and for what purpose.