

Monday of each month for the amount of salary due for the previous month from such county to the judge of the superior court thereof, and said warrant shall be paid by said treasurer out of the salary fund of said county.

Emergency.

SEC. 3. Whereas, the act of which this act is amendatory, unjustly discriminates against the judges of the superior courts of this state as to the manner of the payment of their salaries, and has the effect of practically depriving said judges of a part of their salaries in many of the counties; therefore, an emergency for the immediate passage of this act is declared to exist, and the same shall take effect and be in force from and after its passage and approval by the governor.

Approved February 27, 1893.

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## CHAPTER XXXI.

[H. B. No. 62.]

### DAMAGES DONE BY DOMESTIC ANIMALS.

AN ACT for the detention of domestic animals doing damages, and giving a lien for damages upon such animals.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. Any person suffering damage done by any horses, mares, mules, asses, cattle, goats, sheep, swine or any such animals, which shall trespass upon any cultivated land, enclosed by lawful fence, may retain and keep in custody such offending animals until the owner of such animals shall pay such damage and costs, or until good and sufficient security be given for the same.

Notice of restraint.

SEC. 2. Whenever any animals are restrained as provided in section 1 of this act, the person restraining such animals shall within twenty-four hours thereafter notify in writing the owner, or person in whose custody the same was at the time the trespass was committed, of the seizure of such animals, and the probable amount of the damages

Damages.

sustained: *Provided*, He knows to whom such animals belong.

SEC. 3. If the owner or the person having in charge or possession of such animals is unknown to the person sustaining the damage, the notice provided in section 2 of this act shall be given by posting three notices, in three public places in the neighborhood where the animals are restrained, for ten days. Posting notices.

SEC. 4. If the owner or person having such animals in charge fails or refuses to pay the damages done by such animals, or give satisfactory security for the same within twenty-four hours from the time the notice was served, if served personally, and within ten days from the date of posting of the notice as provided in section 3, the person damaged may commence a suit, before any court having jurisdiction thereof, against the owner of such animals, or against the persons having the same in charge, or possession, when the trespass was committed, if known; and if unknown, the defendant shall be designated as John Doe, and the proceedings shall be the same in all respects as in other civil actions, except as herein modified. Suit for damages.

SEC. 5. Upon the trial of an action as herein provided the plaintiff shall prove the amount of damages sustained and the amount of expenses incurred for keeping the offending animals, and any judgment rendered for damages, costs, and expenses against the defendant shall be a lien upon such animals committing the damage, and the same may be sold and the proceeds shall be applied in full satisfaction of the judgment as in other cases of sale of personal property on execution: *Provided*, That no judgment shall be continued against the defendant for any deficiency over the amount realized on the sale of such animals, if it shall appear upon the trial that no damage was sustained, or that a tender was made and paid into court of an amount equal to the damage and costs, then judgment shall be rendered against the plaintiff for costs of suit and damage sustained by defendant. Sale of animals to satisfy judgment.

SEC. 6. If upon the trial it appears that the defendant is not the owner or person in charge of such offending animals, the case shall be continued, and proceedings had as

in the next section provided, if the proper defendant be unknown to plaintiff.

Unknown owner.

SEC. 7. If the owner or keeper of such offending animals is unknown to plaintiff at the commencement of the action, or if on the trial it appears that the defendant is not the proper party, defendant, and the proper party is unknown, service of the summons or notice shall be made by publication, by publishing a copy of the summons or notice, with a notice attached, stating the object of the action and giving a description of the animals seized, in a weekly newspaper published nearest to the residence of the plaintiff, if there be one published in the county; and if not, by posting said summons or notice with said notice attached in three public places in the county, in either case not less than ten days previous to the day of trial.

Publication of notices.

Disposal of funds arising from sale.

SEC. 8. If when such animals are sold, there remains a surplus of money, over the amount of the judgment and costs, it shall be deposited with the county treasurer, by the officer making the sale, and if the owner of such animals does not appear and call for the same, within six months from the day of sale, it shall be paid into the school fund, for the use of the public schools of said county.

Jurisdiction.

SEC. 9. Justices of the peace shall have exclusive jurisdiction of all actions and proceedings under this act when the damages claimed do not exceed one hundred dollars: *Provided, however,* That any party considering himself aggrieved shall have the right of appeal to the superior court as in other cases.

Appeal.

Approved February 27, 1893.