

## ARTICLE XXXVI.

**Estrays.**

12. Owner of cattle distrained, damage feasant, to tender compensation: distrainor may sell damages to be appraised.

1870, c. 403 adds the following:

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SEC. 12. If any cattle, hogs, horses or sheep, trespassing upon the enclosures of any person in this state, be distrained, *damage feasant*, the owner of which is known, and the owner or owners thereof do not tender compensation for the damage sustained by such person within five days next after such distress taken, and notice thereof given, with the cause of taking, to the owner or his agent, or left at his residence, in the event of his absence, and having no known agent, then the person so distraining may apply to a justice of the peace of the county, who, upon being satisfied that the notice hereinbefore directed has been given, shall order him to sell the same at public sale on ten days notice, to be set up at three of the most public places in the neighborhood, and if the said justice shall deem it proper, to be inserted in any newspaper published in such county; and such distrainor, upon such order, with the sheriff or constable of the county, shall cause the animals distrained to be appraised by two appraisers, to be sworn by such sheriff or constable, and may sell the same for the best price that can be gotten towards satisfaction of all charges arising from such distress, appraisement and sale, and also such damages as may have been sustained by such distrainor to be ascertained by the appraisers of the animals distrained at the time of the appraisement thereof, leaving the overplus, if any, in the hands of the sheriff or constable for the owner's use.

Distrainor may sell.

Damages to be appraised.

Approved and in force April 4, 1870.