

When to take
effect.

Sec. 93. This act shall take effect and be in force from and after the first day of February, A. D. 1866.

Approved, January 12th 1866.

SHEEP AND SWINE.

CHAPTER 32.

An Act to Prohibit Sheep and Swine from running at Large.

Be it enacted by the Legislative Assembly of the Territory of Dakota:

Sheep or swine
not allowed to
run at large,
where.

Section 1. That no sheep or swine shall be permitted to run at large within either of the following named counties of this territory, to wit: Union and Clay.

When found
running at large

First of April.

Sec. 2. Any sheep or swine found running at large, within either of the counties named in section one, on and after the first day of April, in the year of our Lord one thousand eight hundred and sixty-six, may be taken up and secured by any resident of the county where such sheep or swine are thus found, and the person so taking up and securing such sheep or swine shall proceed as hereinafter provided by this act.

Person taking
up sheep or
swine to give
notice, how.

Sec. 3. The person taking up and securing sheep or swine, under the provisions of section two, shall within three days after such taking up, give notice thereof by posting up written or printed notices in three of the most public places in the election precinct where such sheep or swine have been taken up, and within five days after posting up such notices, the person taking up such sheep or swine shall deliver a copy of said notice to a justice of the peace of the county where such sheep or swine are secured, and shall state under oath that the paper delivered is a true copy of the notices posted up by him according to law. Whereupon the justice shall file such copy and preserve the same in his office for future reference.

Shall deliver
copy of notice
to justice of
peace

Shall make oath
as to correct-
ness of copy.

Sec. 4. And it is hereby made the duty of such justice, immediately after filing such copy, to make out a written appointment of three disinterested electors of said county, commanding them to proceed within three days thereafter, to appraise the sheep or swine mentioned in the notice, and, if such sheep or swine have damaged the property of the person having them in charge, to estimate the amount thereof, and return make, under oath of their finding in the premises.

Duty of justice.

Sec. 5. The appointment mentioned in section four shall be delivered by the justice, to the person filing the notice who shall serve or cause to be served, the appointment upon each of the persons therein named.

Appointment served on persons named.

Sec. 6. It shall be the duty of such appraisers, after being notified of their appointment, as provided in section five, immediately to proceed to the place where such sheep or swine are secured, and after a view, to appraise the same, and after they have fully examined into the matter if a majority of them are of opinion that said sheep or swine have committed any damage upon the property of the person having them in charge, the appraisers shall agree upon the amount of such damage.

Duty of appraisers.

Sec. 7. The appraisers shall without delay make return, under oath, of their finding in the case to the justice by whom they were appointed. The justice shall file the written estimate returned by the appraisers, in his office, and on demand shall deliver a copy thereof to the person having in custody such sheep or swine.

Appraisers to make return under oath.

Justice to file estimate.

Shall furnish copy to whom.

Sec. 8. After the expiration of ten days after posting up the notices required by section three, the person having in custody such sheep or swine shall advertise the same for sale by posting up written or printed notices of such sale in three public places of the election precinct where such sheep or swine are secured. Such notices shall describe the sheep or swine to be sold, and name the day and place of sale; *Provided*, That the sale shall not take place sooner than five days after posting up the notices of such sale.

When person having custody to advertise for sale.

manner of advertising.

Provide.

Sec. 9. On the day named for such sale, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, such sheep or swine shall be offered for sale at public auction, and shall be sold to the highest bidder for cash in

When and how sheep or swine offered for sale.

When do not
bring appraised
value.

hand ; *Provided, however,* That if the highest bid received for such sheep or swine does not come up to the appraised value of such sheep or swine, the person taking them up shall be permitted to bid in such sheep or swine at their appraised value.

Written return
of notice and
sale to be made.

Sec. 10. A written return of such sale, together with a copy of the notice of sale, shall be delivered under oath, by the person for whose benefit such sale took place, to the justice of the peace having appointed the appraisers, which statement and notice shall be filed and preserved in the office of said justice.

Justice to file
same.

How proceeds
of sale applied.

Sec. 11. The proceeds of such sale shall be applied as follows: after paying the costs, and the expense of keeping such sheep or swine and the amount of damage, if any, adjudged by the appraisers, the residue, if any there be, shall upon demand be paid to the former owner of such sheep or swine.

When person
entitled does not
call for residue
in ninety days.

Sec. 12. If the person or persons entitled to such residue does not call for the same within ninety days after such sale, the person having such residue money shall pay the same into the county treasury of such county for the use of the common school fund of said county.

Prior to sale
owner may re-
ceive sheep or
swine by paying
costs and dama-
ges.

Sec. 13. At any time prior to the sale of such sheep or swine, the owner thereof may receive the same by paying all costs and the reasonable expense of keeping, and the amount of damages, if any, adjudged by the appraisers of such sheep or swine.

Complete owner-
ship to vest in
purchaser.

Sec. 14. The full and complete ownership in and to such sheep or swine sold by virtue of this act, shall vest in the purchaser thereof, and if the person lawfully entitled to the residue of such sale does not lawfully demand such residue within the time provided by section twelve, he shall forfeit all his right and claim to the same or any part thereof.

Residue not
called for in
time specified.

Form of notice.

Sec. 15. The notice of taking up sheep or swine required by section three may be in the following form :

Notice is hereby given that (here mention the place where such sheep or swine were taken up) in the county of _____, Territory of Dakota, on the _____ day of _____, I did take up and secure the following described sheep (or swine, as the case may be) which I found running at large contrary to law, to-wit, (here describe such sheep or swine) and the owner thereof is hereby

notified to claim his property and to pay costs, charges and damages.

This day of A. D., 18 .

Signed, A. B.,

Sec. 16. The appointment of praisers, required by section four, may be in the following form : Form of appointment of appraisers.

Territory of Dakota }
County of } ss :

To (here give the appraisers names) you are hereby commanded to appraise the following described sheep (or swine) which have been taken up by (give the name of the taker up) at (here mention the place) in the county and territory aforesaid, and if damage has been committed by said sheep (or swine) upon the property of the person taking them up, to estimate the amount thereof, and true return make without delay as required by law.

This day of A. D., 186 .

C. D., Justice of the peace.

Sec. 17. The notice of sale may be in the following form : Form of notice of sale.

Notice is hereby given that on the day of A. D. 18 , between the hours of ten o'clock A. M. and four o'clock P. M. at (here give the place of sale) in the county of and territory of Dakota, I will offer to the highest bidder for cash in hand, at public auction the following described sheep (or swine) to wit, (here describe the sheep or swine) which I found running at large, and took up and secured according to law, this day of A. D., 18 .

Signed E. F. ,

Sec. 18. That all the provisions of this act as far as it relates to swine shall apply to the town of Yankton in the county of Yankton as bounded by the act incorporating said town in chapter twenty five of the private laws of 1862. Provisions of act to apply to town of Yankton

Sec. 19. All acts and parts of acts, conflicting with the provisions of this act, are hereby repealed. Acts repealed.

Sec. 20. This act shall take effect from and after its passage and approval. When to take effect.

Approved, January 11th, 1866.