

office for the term of three years, two members for the term of two years, and two members for the term of one year. The lots shall be drawn by the members, who shall for that purpose assemble at the city hall or at the place of meeting of the city council in said cities, and they shall cause the result thereof to be certified to the mayor and filed in the office of the city clerk.

§ 4. ELECTIONS, HOW CONDUCTED.] All elections under the provisions of this act shall be called, conducted, canvassed and returned in the same manner as is now provided by law for general city elections.

§ 5. ELIGIBILITY OF MEMBER OF SCHOOL BOARD.] No son, wife or daughter of any member of the school board shall be eligible to a position as teacher in schools of the district which said member represents.

§ 6. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 7. EMERGENCY.] An emergency exists in this, that in order to make this act operative for the ensuing year, it will be necessary that the election provided for by Section 3 be had; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 24, 1890.

ESTRAYS.

CHAPTER 66.

[H. F. 28.]

PROVIDING MANNER OF TAKING UP AND ADVERTISING ESTRAYS.

AN ACT Providing for the Retention and Disposal of Estrays.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ESTRAYS, WHO MAY TAKE UP.] No person shall take up an estray animal except in the county wherein he or she resides, and is a householder or holds a claim under the pre-emption or homestead laws, nor unless the same be found in the vicinity of his or her claim or place of residence.

§ 2. WHEN ESTRAYS MAY BE TAKEN UP.] No person shall take up an estray animal mentioned in the next section between the

first day of November and thirty-first day of March inclusive, unless the same be found trespassing upon the premises or within the enclosure of the person taking up the same.

§ 3. NOTICE OF TAKING UP ESTRAY.] Every person who shall take up any estray horse, mare, colt, mule, ass or any head of neat cattle, sheep, hog or goat, shall within fifteen days thereafter give notice of the finding and taking up of such animal, by publishing three times in a weekly newspaper, if there be such paper published in the county in which the estray is taken up; if not, in the nearest newspaper, which advertisement shall give a description of said estray, and the marks and brands thereon. Any person or persons taking up property as herein described and failing to advertise shall be guilty of a misdemeanor.

§ 4. OFFICIAL ESTRAY PAPER OF THE STATE.] It shall be the duty of such newspaper to transmit, if said property is uncalled for while being published in a local paper the third insertion of such advertisement to such newspaper published weekly in the State of North Dakota as the Governor shall designate as the official newspaper, in which all the estray notices of North Dakota shall be published once, and any failure on the part of the proprietor of such local paper shall be a misdemeanor.

§ 5. COUNTY AUDITORS TO KEEP ESTRAY PAPER ON FILE.] It shall be the duty of the official estray paper to transmit one copy weekly to the office of the county auditor of each county in North Dakota, and the county auditor shall keep on file all copies of such official estray paper.

§ 6. FEE FOR ESTRAY PAPER.] The board of county commissioners of each county in the State of North Dakota shall on the first Monday in January of each year appropriate the sum of five (5) dollars to pay the official estray paper for such service.

§ 7. OWNER MAY TAKE ESTRAY BY PAYING COSTS.] Whenever any person shall appear and make claim to any estray so taken up such claimant and the person taking up such estray may go before a justice of the peace in the county, and such claimant shall make affidavit in writing subscribed by him, setting forth his name and place of residence, and that he is the actual owner of such estray, describing it, etc., and thereupon the person taking up such estray shall be authorized to deliver the same to such claimant, on payment of all fees advanced by him and the actual cost of caring for and keeping such estray.

§ 8. ARBITRATION IN CASE OF DISPUTE.] If the parties cannot agree as to the amount of such charges the owner of the stock and party taking up estray each choose one disinterested person as arbitrators, freeholders, and the two so chosen shall choose a third party living in the vicinity where the estray was taken up. The amount assessed by such arbitrators shall be final.

§ 9. WHEN TITLE OF ESTRAY VESTS IN FINDER.] If such estray shall not be claimed and taken away within one year after advertisement thereof, then if the person taking up such estray shall

have caused the same to be duly advertised, as herein provided and shall not in other respects have violated the provisions of this act, the property therein shall immediately vest in the person taking the same up; *Provided*, That the appraised value of such estray shall not exceed fifty (50) dollars.

§ 10. APPRAISAL.] The person taking up such estray shall notify the board of county commissioners to appraise or appoint some suitable person or persons whose duty it shall be to appraise the value of said estray.

§ 11. FEES FOR KEEPING ESTRAYS.] Any person taking up estrays may charge for actual time employed, and for actual damage done there to crops. They shall also be allowed actual cost of feeding and stabling, providing they have fed and stabled the same.

§ 12. IN CASE OF TWO OR MORE ANIMALS.] If two or more animals are taken up at the same time by the same person, both and all thereof shall be numbered in the same advertisement, and the same fees are allowed as for the advertisement or appraisement of one estray.

§ 13. IN CASE VALUE OF ESTRAYS EXCEED \$50.] If the appraised value of any estray exceeds fifty (50) dollars, and the same is not called for within one year after the advertisement in the official estray paper thereof, the person taking up such estray shall notify some justice of the peace of the county, and such justice shall appoint a day and place for the sale thereof, and cause notices of such sale to be posted in three public places in the county at least twenty-two days before such day so appointed, or shall cause such notice of such sale to be published three times in a weekly newspaper, if there is one published in the county, and on the appointed day the person taking up such estray shall have the same present at the place fixed by the justice, and the justice shall proceed to sell such estray at public auction, for cash, and after paying the proper fees and charges for taking up such estray, and caring for and keeping the same, to be fixed by such justice, and the fees advanced for the appraisement and advertisement of such estray, as herein provided, and after deducting the fees allowed such justice for such sale and the advertisement thereof, the residue of the proceeds of such sale shall be paid to the county treasurer, who shall receipt to the justice therefor.

§ 14. COUNTY TREASURER CUSTODIAN OF FUNDS.] All monies so deposited with the county treasurer shall by him be retained in the treasury for six months thereafter, separate and apart from all other monies, and if the owner of any such estray so sold as aforesaid shall, within such period, appear before the board of county commissioners and establish his title to such estray, such board of county commissioners shall order the amount so paid into the treasury to be refunded to such owner; if no such owner appear within six months after the deposit of any such sum of

money as herein provided, the same shall be passed to the school fund of the county and shall be accounted for and expended as other school monies are.

§ 15. RECORD OF SOLD ESTRAY.] Whenever any sum of money is paid into the county treasury by virtue of Section 14, the justice paying the same shall deliver to the treasurer a certificate setting forth a description of the estray from the sale of which the same was obtained, and the marks and brands on such estray and the name of the person by whom such animal was delivered to him to be sold; and such certificate shall by the treasurer be filed and preserved in his office, to the end that the right of the owner of such estray to receive such sum of money may be readily established.

§ 16. FEES, HOW PAID AND COLLECTED.] The fees of justices of the peace, advertising and appraisers shall be paid by the person taking up the estray, but the same shall constitute a first lien upon the estray, and shall be paid by the owner before he shall be entitled to take away such estray.

§ 17. PENALTY FOR VIOLATION OF THIS ACT.] If any person not authorized so to do shall take up any estray or lost goods, or if any person taking up any such estray or lost goods, shall willfully neglect to cause the same to be advertised as herein provided, or shall fail to sufficiently feed and properly care for the same, every such person so offending shall be liable for actual damage to the owner thereof, to be recovered by action of debt before any justice of the peace.

§ 18. LIABILITY IN CASE OF DEATH OF ESTRAY.] If any estray after being duly advertised as herein provided, shall without fault of the person taking up the same, die or be stolen, or escape and wander away, the person taking up the same shall not be responsible therefor.

§ 19. OTHER PERSONAL PROPERTY GOVERNED BY THIS ACT.] The manner of taking up, appraising, advertising and disposing of any lost goods or personal property, which may be found upon the highways, or in any other place shall be the same as herein provided for estrays.

§ 20. EMERGENCY.] Whereas, an emergency exists in that this act will expedite the finding of estrays; therefore, this act shall take effect and be in force immediately from and after its passage and approval.

Approved March 7, 1890.

CHAPTER 67.

[H. F. 141.]

CERTAIN ANIMALS RESTRAINED FROM RUNNING AT LARGE.

AN ACT Restraining Certain Male Animals From Running at Large.

Be it Enacted by the Legislative Assembly of the State of North Dakota :

§ 1. WHEN CERTAIN ANIMALS PROHIBITED FROM RUNNING AT LARGE.] No stallion or jack over the age of one year, nor any bull over the age of eight months shall be permitted to run at large in this State, no ram shall be permitted to run at large during the months of September, October and November of each year; *Provided*, That no animal kept in a herd shall be regarded as running at large.

§ 2. PENALTY.] The owner or persons in charge of such animal or animals that are prohibited from running at large by this act who shall permit such animal or animals to run at large may be fined for each offense not less than ten (10) nor more than fifty (50) dollars, and shall also be liable in addition to such fine for all damages resulting from the running at large of such animal or animals, both fine and damages together with costs of suit to be collected through any court of competent jurisdiction.

§ 3. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 18, 1890.