

Take effect,
when.

SECT. 25. This act shall take effect from and after its passage and approval.

Approved May 15, 1862.

W. JAYNE, *Governor*.

ESTRAYS.

CHAPTER 35.

AN ACT TO PROVIDE FOR AN ESTRAY LAW.

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

Freeholder may
take what ani-
mals, and when.

SECTION 1. That any freeholder may take up any stray horse, mule, neat-cattle, sheep, or swine, found within his inclosed premises, at any season of the year. Any estray found around the premises of any freeholder, between the first of November and the first day of April, may be taken up by such freeholder; and any horse or mule, with any portion of harness attached to them, and any oxen with yoke on, that are believed to have strayed away from their owner, may be taken up by any person at any time.

Duty of taker
up to give no-
tice.

SECT. 2. It shall be the duty of any person taking up an estray, to send a description of the same to the county clerk, within two weeks after taking it up; and the county clerk shall immediately record the same in a book kept for that purpose. The taker up of any estray shall, within two weeks thereafter, procure the publication of the description of such animal in any one newspaper published within the county.

Three weeks'
notice.

SECT. 3. The proprietor of such newspaper shall publish said description at least three consecutive weeks, and shall receive a reasonable compensation therefor.

Owner may
reclaim estray,
how.

SECT. 4. The owner of an estray may, at any time previous to its sale, reclaim the same, on proving property, by oath

or otherwise, and paying for the advertisement and a reasonable compensation for the necessary expense incurred by the person taking it up.

SECT. 5. When an estray has not been reclaimed within nine months from the time it was advertised, if it be a sheep, swine, or calf, under the age of one year, it shall be the property of the person taking it up. When the animal is a horse, mule, bull, steer, or cow, the person taking it up shall notify a justice of the peace residing within the county, who shall appoint two persons to appraise the animal at what they consider its cash value; a day of sale shall be fixed, and notice of such sale shall be advertised for ten successive weeks, in any newspaper published in the county. If there be no newspaper in the county, then the notice of sale shall be posted in at least three conspicuous places within the county, for at least three weeks before the sale. And on the day appointed, the animals shall be sold to the highest and best bidder.

If not reclaimed within nine months.

SECT. 6. The place of sale shall be at the county seat.

Sale at county seat.

SECT. 7. When any estray is sold, it must bring at least two thirds of the appraised value. In case it does not, the animal shall be re-appraised, and again offered for sale one week from the day appointed for the first sale, without advertisement.

Must bring two thirds appraised value. If it does not.

SECT. 8. If, upon examination of said sale, the said animal will not bring enough to defray the entire expense, the taker up of said animal may, on payment of the same, be the owner thereof.

If sale will not pay expenses.

SECT. 9. After all expenses have been paid, the balance, if any, shall be paid into the school fund.

Balance remaining to go to school fund.

SECT. 10. The appraisers of estrays shall estimate the value of the labor, trouble, and expense of the person in taking up and keeping an estray, taking into consideration the services rendered by the animals.

What appraisers shall consider.

SECT. 11. The appraisers of estrays shall receive fifty cents each for each appraisement; but when more than one animal is taken up at the same time, by one man, they shall all be appraised at once, and the appraisers shall be entitled to compensation for but one appraisement. The justice of the peace shall receive for his services fifty cents.

Compensation of appraisers.

Of justice.

SECT. 12. Should any animal, taken up as an estray, die

If animal dies.

while in possession of the taker up, he shall not be liable for the loss, unless its death was the result of mistreatment or wilful neglect.

Take effect,
when.

SECT. 13. This act shall take effect from the date of its passage.

Approved, April 26, 1862.

W. JAYNE, *Governor.*

CHAPTER 36.

AN ACT CONCERNING HORSES AND OTHER ANIMALS.

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

Stallion or ass
over two years,
not allowed to
run at large.
Owners liable
to fine.

SECTION 1. That no stallion or ass, over the age of two years, shall be allowed to run at large; and the owners of such animal found running at large shall be liable to a fine of five dollars for the first offence, and ten dollars for any subsequent offence, to be recovered by an action of debt before any justice of the peace in the county. Such fine or fines, when collected by any justice of the peace, shall be paid into the county treasury of the county where the same shall have been collected, and the same shall be appropriated for the benefit of common schools.

Fines appropri-
ated to common
schools.

When animal
may be castrated.

SECT. 2. Any person finding such animal running at large, may take up and secure the same, and shall give public notice of such taking up; and if the animal, so taken up, be not claimed within five days, and the fines and costs of taking up and keeping paid, may castrate the same: *Provided*, The usual precaution be used, that the life of the animal be not endangered thereby more than is usual, and shall be entitled to recover from the owner of any such animal for castrating the same, the sum of five dollars in addition to a reasonable compensation for taking up and keeping, and shall have a lien upon said animal for the payment of the same.

Proviso.

Owners respon-
sible for further
damage done.

SECT. 3. The owner or owners of any such stallion or ass, who shall suffer or permit the same to run at large, contrary to the provisions of this act, shall be further liable for and pay

all damages which any person may sustain in consequence of such horse or ass running at large.

SECT. 4. This act shall take effect and be in force from ^{Take effect, when.} and after its passage.

Approved May 15, 1862.

W. JAYNE, *Governor.*

EXEMPTION.

CHAPTER 37.

AN ACT EXEMPTING PROPERTY FROM EXECUTION, WRIT OF ATTACHMENT, OR ANY OTHER FINAL PROCESS OF A COURT.

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

SECTION 1. That a homestead, belonging to any man or woman resident in this territory, consisting of not more than eighty acres of land, and the dwelling-house and other improvements and appurtenances situated thereon convenient for a homestead, to be selected by the owner thereof, and not included within any incorporated city or village, or instead thereof, at the option of the owner, a quantity of land not exceeding in amount one acre, being within an incorporated city, town, or village, and the dwelling-house thereon and its appurtenances, shall not be subject to attachment or mesne process, or [levy], or sale upon execution, or any other process issuing from any court within this territory. This section shall be construed to exempt such homestead in the manner aforesaid, during the time it shall be owned or occupied by the widow or minor child or children of any deceased person, who was, when living, entitled to the benefit of this act.

SECT. 2. Such exemption shall not extend to any mort- ^{Such exemp- tion does not ex-}