THE ESTRAY LAW.

New Method of Dealing with Estray Animals and Collecting Damages.

ACTION IN JUSTICE'S COURTS.

Appeals of Damages.—Service of Summons.—Proceedings in Court.—Sale and Redemption of Animals.

The following is a compilation of all the provisions of law now in force relative to the disposal of estray animals and trespass and damage done by them. An act upon this subject was passed in 1892, consisting of fourteen sections, and at the last Legislature another act was passed, which is entitled: "An Act to amend an act entitled An Act providing for the disposal of estray animals and for trespass and damage, approved March 16, 1892, and to repeal sections 4 to 14, inclusive, of said act." There is nothing in the text of the last named act which states that it is intended to supersede the sections of the act of 1892 which it repeals, but it is here assumed that such was the intention of the Legislature. It is too bad that the matter has been left open to doubt, as a judicial decision will be required to settle it. The NEWS called attention to the omission soon after the bill was introduced, but no heed was paid to the suggestion, and a serious ambiguity is the result.

The first five sections of the act of 1892, are, for the purposes of this compilation, assumed to be still in force, and it is further assumed that the act of 1894, which was approved March 8th, and the title of which is given above, was intended to take the place of the sections of the act of 1892.

It will be noticed that some of the sections after section 5 have double numbers, but that this double numbering is not continued throughout. It was probably the intention that the section numbered "section 1.—Sec. 6" was to take the place of section 6 of the act of 1892, so it is the first section of the act of 1894, and so on; but why the double numbering was not continued the present writer is not able to state, unless the failure to do so was an oversight on the part of the author of the latter bill, or of the engrossing clerk. It is also here assumed that all laws upon this subject, enacted prior to 1892, have been repealed. A short bill was passed at the session of 1893, substituting for the word "premises," in section 5 of the act of 1892, the words "improved real property;" and section 13 of the act of 1894 gives the wording of section 5 of the act of 1892, which changes its form twice.

With this explanation the compilation is submitted. Pains have been taken to make it correct and reliable, because of the large number of people in the Territory who are interested in it.

FIRST FIVE SECTIONS OF THE ACT OF 1892.

Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:

SECTION 1.—That any pound, or pounds in any county may at any general or special election, called for that purpose by the county court thereof, by a vote of a majority of the taxpayers of said precinct, decide in favor of issuing their farms and allowing their animals to run at large; and in such case the provisions of this act authorizing the detention and sale of animals for damage shall be inoperative.

SEC. 2.—It shall be the duty of the county court of each county, at its June session in the year 1892, or some time thereafter as may be practicable, to declare what shall constitute a lawful fence for that county and the boundaries of said county shall be governed thereby.

SEC. 3.—[As amended by section 13 of the act of 1894.] All horses, mules and neat cattle, not running at large, on which there is no brand, earmark or note running at large on the premises of any person not the owner, are hereby declared to be estrays.

SEC. 4.—It is hereby made the duty of the constable of any precinct in any county in this Territory to take up any estrays in said precinct, and, after advertising them by posting notices in three of the most public places in said precinct (giving a general description thereof) for ten days, shall sell the same at public auction, to the highest bidder for cash, and after deducting costs and expenses of keeping and sale, shall deposit the balance of the proceeds of the sale with the justice of the peace for said precinct, and he, and not precinct, to be by him disposed of as in the case of balance of sale of animals for damage as hereinafter provided. PROVIDED, That the constable shall have the power to pay estrays at "general roundups" or drives, and shall therefore not be bound to do so but a period of 5 days, during regular business hours, in order that those having a general roundup in any county, may be shall have an opportunity to recover Fifteen per cent of the proceeds of such sales.

SEC. 5.—If any neat cattle, horses, mules, asses, sheep, goats or hogs shall trespass or do damage upon the improved real property of any person, except in cases where said fences are not enclosed by a lawful fence in addition where a fence is required by law, the party aggrieved may receive damages by an action at law against the owner of the trespassing animal, and no animals trespassing shall be exempt from execution. PROVIDED, The fees in such cases shall be but one half the fees in civil cases.

THE WHOLE OF THE ACT OF 1894.

Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:

SECTION 1.—Sec. 6. The owner of enclosed and improved contiguous real estate or animals doing damage on such property and have taken up such estrays and property case before the same, or twenty-four hours after the notice of such seizure, he shall cause said damage to be appraised within twenty-four hours after the time shall have been made, by some disinterested person to be selected by the parties, who shall certify to the same in writing, and which certificate of appraisement may be substantially in the following form, to wit:

Territory of Utah, County of ——, } ss.

Present

This certificate that, at the request of ——, I have this day appraised certain damage done by the ——, the property upon which damage is claimed to have been done by said ——, and have appraised the same at ——, and have done the damage, and have given the name of the owner of the animals, and a description of the same, and have given the name of the owner of the premises upon which the damage was done, and have given the name of the person with whom the animals were left, and have given the name of the person to whom the damage was done. In witness whereof I have hereunto set my hand this —— day of ——, 18—.

Dated at ——, this —— day of ——, 18—.

——, Appraiser.

The appraiser shall survey and make affidavit in supplemental to the person damaged, who shall accompany the same, and shall use any diligence in the case to secure the appraisement, and if the owner of said animals is known, and a resident of the county, and within twenty miles of the place of the injury, the person thus injured, shall, within twenty-four hours after the delivery of said affidavit, deliver or cause to be delivered a copy of the certificate of appraisement, and demand of the owner of said animals, a full settlement for said damage, in money or in kind, at the option of the owner of said animals, at the place of residence of the owner, or at the place of injury, in the discretion of the owner of said animals, and if the owner of said animals is not a resident of the county, then by depositing in the postoffice, postage prepaid and addressed, a letter containing a copy of said appraisement, and a demand for the payment of said damage, at the place of residence of the owner, if known, and if not known, then at the place of injury, and if the owner of said animals is a resident of the county, then by delivering to the owner of said animals, or by leaving at the usual place of residence with some person over the age of fourteen years, a copy of said appraisement, and a demand for the payment of said damage, at the place of residence of the owner, or at the place of injury, in the discretion of the person injured; and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have a day of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have two days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have three days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have four days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have five days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have six days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have seven days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have eight days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have nine days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have ten days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have eleven days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have twelve days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have thirteen days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have fourteen days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have fifteen days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have sixteen days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have seventeen days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have eighteen days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have nineteen days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have twenty days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have twenty-one days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of 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said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have seventy-one days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have seventy-two days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have seventy-three days of said service, to collect the damage upon the premises of the 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the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have ninety days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have ninety-one days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have ninety-two days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion 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resident of the county, and within twenty miles of the place of injury, the person injured shall have ninety-six days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have ninety-seven days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have ninety-eight days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have ninety-nine days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and one days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and two days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and three days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and four days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and five days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and six days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and seven days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and eight days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and nine days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and ten days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and eleven days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and twelve days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and thirteen days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and fourteen days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and fifteen days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and sixteen days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and seventy days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and eighty days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and ninety days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and ninety-one days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner 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the county, and within twenty miles of the place of injury, the person injured shall have one hundred and ninety-eight days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and ninety-nine days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and two days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and three days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and four days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, the person injured shall have one hundred and five days of said service, to collect the damage upon the premises of the owner of said animals, or at the place of injury, in the discretion of the person injured, and if the owner of said animals is a resident of the county, and within twenty miles of the place of injury, 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