

FOUND IN THE ARCHIVES, no. 9 – June 2015
Fairfax Circuit Court Historic Records Center



Happy June! In this installment of *Found in the Archives*, we are going to look at the unique records of estrays here in Fairfax County.

An **estray** is essentially what it sounds like – a stray animal, usually livestock, which shows up on one’s property, unclaimed.¹ In the 18th and 19th centuries, estrays were a pretty common problem here in Fairfax County, and the courts (both colonial and state) passed legislation to handle the issue of wandering livestock.

In the state of Virginia, if an estray appeared on one’s land, and the owner could not be immediately identified, certain legal steps had to be followed in order for the property owner to claim ownership of the animal. All sorts of animals were claimed as estrays – horses, pigs, sheep, hogs, and cows. The landowner who found the animal had to notify the local justice of the peace of his claim, who would then order three local landowners to appraise the value of the animal and report back to the court. The clerk then recorded the valuation in an estray book, and he also posted the claim to the front of the courthouse for residents to view.

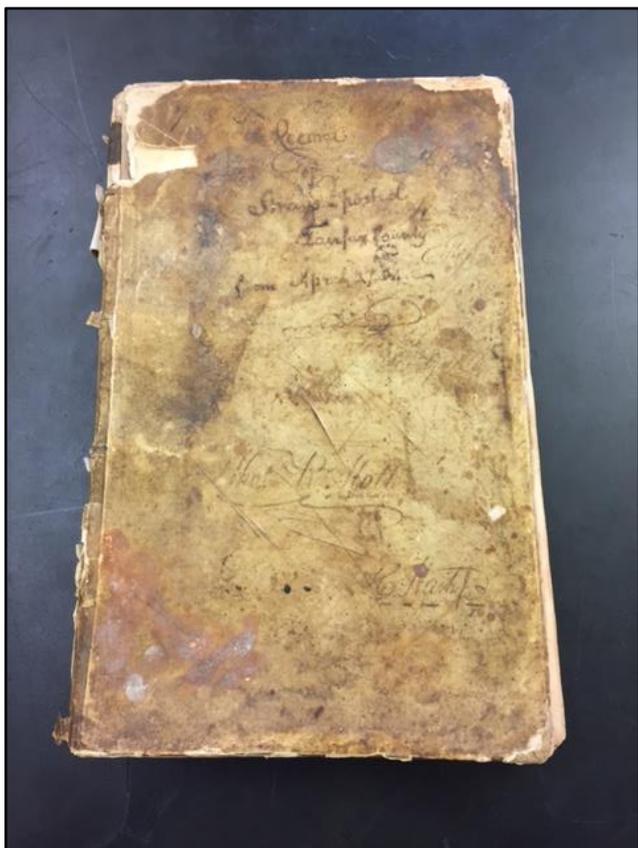
If the value of the animal was less than \$3.30, the landowner only had to wait until the estray notice had been published twice to certify his claim. If the value was more than \$3.30, the notice of the found animal had to be published three times and the previous owner (if there was one) had one year and one day to reclaim his animal. If the animal died while in the custody of the new owner or otherwise escaped, and the previous owner made claim, the new owner could not be held liable as long as the death or escape was through no fault of his own.

The Fairfax Circuit Court is custodian of an *Estray Book*, dating from 1784 until 1869. Each entry contains the name of the property owner upon whose land the estray appeared; a “particular description of the kind, marks, brand, stature, colour [sic] and age” of the animal; and its valuation.²

You can see a photograph of our *Estray Book* below:

¹ Estrays can also include boats or other adrift vessels, but the Fairfax Circuit Court has no vessels recorded as estrays in the historic records.

² “Estrays,” *Code of Virginia*, Chapter 112, page 445, 1820.



Our stray book is in poor shape, sadly, and that is partly due to the fact that the book is wrapped in vellum, which is dried animal skin. Vellum was commonly used as a paper cover in the 18th century, but over time, it tends to deteriorate if the environment it is kept in isn't just right. Extreme dry, cold, or wetness can cause cracking, splitting, and warping in the vellum, of which you can see examples in this image. It is possible to make out the title of the book at the top of the front cover – “Strays posted, Fairfax County, from April 1784.”

While examining the book in the process of writing this issue, we at the HRC discovered the beautiful watermarks and countermarks that can be seen within the paper with the help of an outside light source. The two watermarks below – “Britannia,” sitting on a throne with a scepter and crown; and the Crown GR mark – indicate that this paper was made in England and shipped to Virginia, most likely through the port of Alexandria. The exquisite detail of the watermarks, seen especially in the crowns, indicates that the papermaker was highly skilled, and as such, the paper would have been expensive.



Below, you can see the first page of entries in the *Estray Book*, from April 1784. You'll notice that the valuation is in English currency, as (what became) the United States did not change to the dollar until 1793.

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Strays, from 1784

Taken up by William Jenkins the 10th day of April 1784. a small Dark Mare about twelve hands high some saddle spots on her back about fifteen years old has no perceivable brand posted and appraised to ^{two} pounds five shillings current Money ~ ~ ~ ~ ~

2^d Taken up by John Jones the 27th day of March 1784. a bright bay Horse, thirteen hands and an half high with a hanging Main and a long thick tail, a small star in his forehead, trots and paces no apparent brand, and appears to be about ten years old this ensuing spring and has lost one eye. posted and appraised to six pounds

7^d Current Money ~ ~ ~ ~ ~

Taken up by William Rogers the fourth day of May 1784. a black roan coloured Mare thirteen hands and an half high, branded on the near buttock with a heart, paces and trots and appears to be eight or nine years old. posted

7^d and appraised to seven pound Current Money ~

Taken up by William Edwards the fourth day of May 1784. a black Mare about fourteen hands high without any perceivable brand has marks of the Collar and Traces, and some saddle spots she appears to be about ten or Eleven years old. posted and appraised

7^d to six pounds ten shilling Virginia Currency ~

Taken up by Lewis Pittell the tenth day of May 1784. a dark bay Mare with a star in her forehead two

While looking through the estrays, it is clear that some people made claim to lost livestock over and over. One of these men was Richard "Hard" Chichester, an early resident of Mount Air. Between 1787 and 1792, he made five separate claims to animals on his property. Here are some examples below:

Taken up by Richard Chichester in Fairfax County on the 23rd day of July 1785. a Sorrel Coloured Mare, she has a very long and thick ~~off~~ hanging Mane, a short switch Tail both mixed with white Hairs, a star in her forehead her off hind foot of a whitish colour, appears to be a natural pacer some saddle spots on both sides of her Back, something like a wart on the near side of her neck near her head a small

Estray Book, page 10

Taken up by Richard Chichester the 26th day of April 1787. two stray Cattle One a cow about nine years old cut on the right horn thus  and marked with a swallow fork in each Ear and under heel in the right and of a pale red and white colour with a star in

Estray Book, page 16

Taken up by Richard Chichester on the 12th day of November 1787. a small dark red coloured cow with crumpled horns marked with a crop and slit in the left Ear and an over-heel in the right and appears to be about 12 years old. Valued  and appraised to three pounds ~ ~ ~ ~ ~

Estray Book, page 19

While most of the estrays claimed consisted of one or two animals, we do have one entry where a man named Henry S. Halley claimed what amounts to be a whole flock of sheep – 11 animals! Clearly, that flock had lost its shepherd.

11
 Thomas Mops Gentleman returned to my Office the
 20th day of February 1891 a warrant and certificate of
 appraisment dated the 23rd day of December 1890 for
 which it appears that Henry S. Halley hath taken
 taken eleven stray Sheep to wit. One white ewe and
 Lamb marked with a crop and stit and an under
 bit in the left and a swallow-fork in the right
 ear and appraised to one dollar and fifty cents –
 One ditto D^o marked crop in the left ear one dollar
 and fifty cents – One D^o D^o marked crop in the
 left ear and under bit in the right one dollar and
 fifty cents – One white old ewe with but one ear
 that on the right side of the head twenty five cents
 One white ewe marked swallow fork in the
 right one dollar twenty five cents – One white
 ditto marked crop and under ~~bit~~ in the left
 swallow fork in the right one dollar twenty five
 cents – One horn white ewe marked crop and
 hole in the right and under bit in the left one
 dollar and twenty five cents – One white Ram

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150.
 Lamb crop off the left ear and stit in the
 right twenty five cents – One white ewe
 swallow fork in the right ear twenty five cents –
 One white ewe marked crop and a stit and
 under bit in the left and swallow fork in
 the right one dollar. One ditto ditto marked
 crop and a stit and under bit in the left
 and swallow fork in the right one dollar
 and twenty five cents –

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Unfortunately, the *Estray Book* does not tell us whether the original owner of the livestock made a claim on the property, but there is important information that can be gleaned from this recording – the most interesting of which may be information on the types of brands used in the county, the value of livestock in the 18th and 19th centuries, as well as the individuals who made the claims.

Believe it or not, estrays are still part of Code of Virginia! Livestock and vessels may be claimed as estrays under Chapter 11, Section 55, 202-210.

The Fairfax Circuit Court Historic Records Center would like to thank one of its interns, Janie Stallings, for recently indexing the Estray Book, helping to make the research for this issue much easier!

For more information about this and other Fairfax Circuit Court historic records, please visit:
http://www.fairfaxcounty.gov/courts/circuit/historical_records.htm