

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

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proprietors to proceed as provided in this chapter. R. S., c. 29, § 37.

Penalty if fence viewers neglect their duty.

R. S., c. 29, § 38.

Fees for services.

Penalty for neglect of payment. R. S., c. 29, § 39.

shall be the same as are provided when a field is so inclosed by the consent of all the proprietors; and the proprietors shall be entitled to all the privileges, and subject to all the duties, before provided with respect to the proprietors of fields inclosed by consent.

SEC. 38. Any fence viewer, who, when requested, unreasonably neglects to view any fence, or to perform any other duties herein required of him, shall forfeit three dollars to any person suing therefor, within forty days after such neglect. He shall also be liable for all damages to the party injured.

SEC. 39. Each fence viewer shall be paid by the person employing him at the rate of one dollar a day for the time he is so employed. If the party liable neglects to pay the same for thirty days after demand, each of such fence viewers may recover double the amount in an action on the case, and be mutually witnesses for or against each other.

CHAPTER 23.

POUNDS, AND IMPOUNDING BEASTS.

- SEC. 1. Each town to keep a pound. Forfeiture for neglect, how expended.
2. Penalty for beasts going at large. May be impounded.
3. Penalty for ungelded horses and rams going at large.
4. Towns may permit neat beasts to go at large. May pass by-laws.
5. Persons injured by beasts may sue for damages and distrain. Lien on beasts.
6. Pound-keepers to be chosen for each pound. Towns responsible for doings of pound-keepers, and pound-keepers required to be sworn and to give bond.
7. Pound-keepers to keep book of records. Fees.
8. To restrain beasts impounded.
9. Impounder to furnish certificate of the cause of impounding. Form.
10. Pound-keeper not to deliver beasts till damages and costs are paid.
11. Proceedings if claimant object to amount demanded. Form.
12. Proceedings when beasts are taken up as estrays. Penalty for not delivering stray to pound-keeper.
13. Pound-keeper to advertise, in what manner.
14. If the owner does not redeem, and the beasts are not replevied in ten days, pound-keeper to advertise for sale. Fees.
15. Sale to be postponed, if owner does not live in town, or the beasts have strayed from a drove, and notice to be published.
16. When damages are claimed, pound-keeper to have an appraisal.
17. Disposal of proceeds of sale.
18. Owner may redeem at any time before sale.
19. Replevin of beasts impounded. Proceedings.
20. Rescue and punishment thereof.
21. Pound breach and punishment thereof. Masters and parents liable for minors.
22. Restriction as to defence in such cases.
23. Limitations of actions for forfeitures.
24. Pound-keeper's fees.
25. Compensation to impounder.
26. Expense of keeping beasts impounded, how regulated.

Each town to keep a pound. Forfeiture for

SEC. 1. Each town shall constantly keep and maintain in such place as the inhabitants direct, one or more sufficient pounds

for the reception of beasts liable by law to be impounded; and for six months neglect to do so, shall forfeit not less than fifty dollars, to be expended by an agent appointed by the court to build or maintain such pound or pounds.

SEC. 2. The owner of every horse, horse kind, ass, mule, swine or neat beast found at large without a keeper in the highways, town ways, or commons of the town, shall forfeit seventy-five cents for each, twenty-five cents for each goat, and ten cents for each sheep so found, recoverable in action of debt; or the beasts may be impounded till such forfeiture, with the charges of impounding and keeping them, and all fees, are paid by the owner or claimant.

SEC. 3. If such horse is an ungelded male of one year old or upwards, his owner shall forfeit a further sum of four dollars. If any ram or he-goat is found going at large out of the owner's inclosure, between the tenth day of August and the twentieth day of November, his owner shall forfeit a further sum of five dollars.

SEC. 4. But a town may, by vote at its annual meeting, permit cows and any other neat beasts to go at large in the whole or a specified part of the town, at any time during one year from the meeting; and may pass by-laws to regulate the going at large of cattle and swine therein, consistent with the laws of the state, and enforce them by penalties.

SEC. 5. Any person injured in his land by sheep, swine, horses, asses, mules, goats, or neat cattle, in a common or general field, or in a close by itself, may recover his damages by distraining any of the beasts doing it, and proceeding as herein-after directed, or in an action of trespass against the person owning or having the possession of the beasts at the time of the damage, and there shall be a lien on said beasts, and they may be attached in such action and held to respond the judgment as in other cases, whether owned by the defendant or only in his possession. But if the beasts were lawfully on the adjoining lands, and escaped therefrom in consequence of the neglect of the person suffering the damage to maintain his part of the partition fence, their owner shall not be liable therefor.

SEC. 6. Each town shall annually choose a pound keeper for each pound therein, who shall be sworn, and before he acts give bond with sureties satisfactory to the municipal officers, for the faithful discharge of his duties; and the town shall be responsible for all his illegal doings or defaults, to the party injured, in an action on the case.

SEC. 7. Each pound keeper, in a book to be provided at the expense of the town, shall record at length all the certificates received from persons committing beasts to the pound, or finding stray beasts, and a single copy of all advertisements by him posted or published; and shall note therein when a beast was impounded, and when, and by whom taken away, and all his proceedings in the impounding and sale specified in section fourteen, the price for which said beast was sold, the name of the purchaser, and the disposal of the proceeds of sale; and a copy

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neglect, how expended.
R. S., c. 30,
§ 1, 2.

Penalty for beasts going at large.
May be impounded.

17 Maine, 187.
R. S., c. 30,
§ 3.
1853, c. 17, § 3.

Penalty for ungelded horses and rams going at large.
R. S., c. 30, § 4.

Towns may permit neat beasts to go at large. May pass by-laws.
R. S., c. 30, § 5.
1855, c. 149, § 4.

Persons injured by beasts, damages how recovered. Beasts may be distrained. Lien for damages.
2 Greenl. 72,
408.
5 Greenl. 356.
13 Maine, 371.
14 Maine, 419.
15 Maine, 237.
29 Maine, 282.
35 Maine, 26.
R. S., c. 30, § 6.
1856, c. 252.

Pound keepers to be chosen, sworn and give bond. Towns responsible.

33 Maine, 586.
R. S., c. 30, § 7.
1853, c. 17, § 4.

Pound keepers to keep book of records.
R. S., c. 30, § 8.
1853, c. 17, § 1.

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of said record duly attested by him or his successor shall be evidence for the purchaser of his title to said beast, and of the truth of all the facts thus recorded; and for making such record, and for each copy thereof, the pound keeper shall be entitled to twenty-five cents; and said book shall be delivered to his successor in office, and shall be open to inspection of all persons interested therein.

To restrain
beasts im-
pounded.

R. S., c. 30, § 9.

SEC. 8. The pound keeper shall restrain the beasts impounded in the town pound, or such other place, after the first day, as is more for their comfort, or their safety, and for giving them food and drink; which shall be furnished by him at the expense of the impounder. Unless payment is made in advance, or sufficient security therefor tendered, he need not receive such beasts into pound.

Impounder to
furnish certi-
ficate of the
cause of im-
pounding.

SEC. 9. Before the pound keeper shall receive any beast into pound, the impounder shall furnish him with a certificate under his hand, briefly describing the beast, the cause of impounding, the amount of damages or forfeiture claimed, and charges of impounding then accrued, of the following purport:

"To the pound keeper of ———

Form.

17 Maine, 239.
18 Maine, 247.
28 Maine, 481.
R. S., c. 30,
§ 10.

"The undersigned A. B. of B. herewith commits to pound (a horse or cow, as the case may be, with a short description of the beast), taken up (in the highway or inclosure of said A. B. in B. as the case may be), and the said A. B. demands ——— dollars and ——— cents, for (damages or forfeiture as the case may be), and the unpaid charges for impounding the same.

"Witness my hand, A. B. of B. (date) 18—."

Pound keeper
not to deliver
beasts till
damages and
costs are paid.
R. S., c. 30,
§ 11.

SEC. 10. The pound keeper shall not be liable to any action for receiving or detaining any beast so committed, till the sums claimed by such certificate, and all other due expenses, costs and fees are paid to him, except as provided in the next section.

Proceedings, if
claimant ob-
ject to amount
demanded.

SEC. 11. If the claimant of such beast objects to the amount stated as damages, or if no claimant appears, the pound keeper shall, within ten days and not afterwards, issue a warrant under his hand to two disinterested persons of said county to the following purport:

Form.
R. S. c. 30,
§ 12.

"P., ss: To E. F. and G. H., two disinterested persons of said county: Greeting:

"You are hereby appointed to view and estimate, upon oath, according to your best judgment, the damages done to A. B. by the (horse or oxen as the case may be), owned or claimed by (C. D. or by owner unknown), and make due return to me within twenty-four hours, with your doings therein; first giving the said A. B. reasonable notice of the time when you will view the place where the damages were done.

"Given under my hand this ——— day of ———, 18—.

"O. P., Pound keeper."

Return of the Appraisers.

"Pursuant to this warrant, the undersigned, being first sworn to the faithful performance of the trust to which we were ap-

pointed, and having given said A. B. reasonable notice as required, do hereby certify that we have viewed and do estimate said damages at — dollars and — cents and no more.

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“E. F. }
“G. H. } Appraisers.

“B. (date) 18—.”

And said persons, being first sworn, shall give reasonable notice to the impounder, and the owner of such beast, if known and resident in the town, of the time appointed for the view, and proceed to estimate damages accordingly; and make return to the pound keeper of their doings in writing under their hands. The oath may be administered by said pound keeper, or a justice of the peace, and must be certified on the warrant.

SEC. 12. Whoever takes up, as an estray, in any public way or commons, or in his inclosure or possession, any such beast, shall within ten days, if no owner calls for him, commit him, with a certificate as described in section nine, to the pound keeper of his town, who shall carefully keep him till called for by owner, and all due charges paid, or he is disposed of as hereinafter provided; and whoever does not so commit such beast shall lose the expense of his keeping, and forfeit one per cent. on his value for each week, after the ten days, until he so commits him, or the forfeiture amounts to his value.

Proceedings when beasts are taken up as estrays.

Penalty for not delivering estray to pound keeper.
15 Maine, 237.
R. S., c. 30,
§ 13, 14.

SEC. 13. When a pound keeper has so received any beast, he shall forthwith post and keep posted for three days at his dwelling-house, and in two other public places in his town, advertisements by him signed, stating the name of the impounder or finder, the time and cause of impounding, and a brief description of the beast, and notify the owner to pay lawful damages and charges, and take the beast away; and shall give the like public notice by the town crier, if any in the town. If the value of the beast exceeds ten dollars, a copy of such advertisement shall be inserted in some newspaper, if any, printed in the county.

Pound keeper to advertise.
17 Maine, 239.
R. S., c. 30,
§ 15.

SEC. 14. When a beast is lawfully impounded as aforesaid, if the forfeiture, damages, and costs are not paid, or the beast replevied, in ten days after the notice, provided in the preceding section, is given, the pound keeper shall, without any other process, sell the beast at public auction, after having posted up in two public places in his town, at least forty-eight hours before the time of sale, notices of the time, and place and cause of sale, with a brief description of the beast; and for posting such notices and making such sale, he shall have the same fees as constables for similar services.

If the owner does not redeem and the beasts are not replevied in ten days, pound keeper to advertise for sale.
1853, c. 17, § 1.

SEC. 15. If the pound keeper is informed, or has reason to believe, that the beast impounded has strayed from a drove, or does not belong to an inhabitant of the town, he shall adjourn the sale thirty days, and shall publish notice thereof in such papers as in his opinion may give information to the owner, and he shall be allowed a reasonable sum therefor; and the proceeds of such sale shall be disposed of as hereinafter provided.

Sale to be postponed, if owner does not live in town, or the beasts have strayed from a drove, and notice to be published.
1853, c. 17, § 1.

SEC. 16. The pound keeper, before making such sale, shall cause the damages, if any are claimed, to be appraised as in

When damages are claimed, pound

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keeper to have an appraisal. 1853, c. 17, § 2. Disposal of proceeds of sale.

R. S., c. 30, § 18.

Owner may redeem at any time before sale.

R. S., c. 30, § 19.

Replevin of beasts impounded. Proceedings. Sale postponed.

R. S., c. 30, § 20, 21. 17 Maine, 187.

Rescue and punishment thereof.

34 Maine, 9. R. S. c. 30, § 22.

Pound breach and punishment thereof. R. S., c. 30, § 23, 24.

Restrictions as to defence in such cases.

R. S., c. 30, § 25.

Limitations of actions for forfeitures.

R. S., c. 30, § 26.

Pound keeper's fees.

R. S., c. 30, § 27.

section eleven within ten days after giving the notice required by section thirteen.

SEC. 17. The pound keeper shall retain his lawful charges and fees, and pay to others their lawful dues, and the balance to the treasurer of his county in thirty days. Such treasurer or his successor shall pay it over at any time within six years, on the written request of any person who proves that he was the owner of the property at the time of sale; and if he refuses to do so, the claimant may appeal to the county commissioners whose decision thereon shall be final. If such balance is not claimed in six years, it shall belong to the county.

SEC. 18. The owner of such beast, at any stage of the proceedings before sale, may redeem it on payment of all lawful claims thereon up to the time of his demand to redeem.

SEC. 19. An action to replevy such beasts shall be brought against the impounder or finder, and not against the pound keeper, but a copy of it shall be served on both; and in other respects the process shall be regulated by chapter ninety-six. If such action is brought after notice of sale and before sale, the sale shall be postponed till it is decided, and no such action can be sustained unless the writ is served before sale.

SEC. 20. Whoever, in order to prevent the impounding of any beast lawfully in possession of another, and taken for the causes herein mentioned, rescues him, or directly or indirectly causes his escape, shall forfeit not less than five, nor more than twenty dollars, and be liable in an action on the case to the party injured for the full damages, with charges and costs, which he might receive by impounding the beast.

SEC. 21. Whoever breaks a pound, or otherwise directly or indirectly delivers a beast from the place of his lawful restraint, shall forfeit to the use of the town not less than ten, nor more than fifty dollars; and be liable to the party injured or impounder, in an action on the case, for double the damage or forfeiture, which he might have received by impounding the beast; and when such acts are committed by a minor, or an apprentice, legally bound by deed, such action may be brought against the minor or apprentice, or against his parent or guardian, under whose care he then was.

SEC. 22. In an action for rescuing beasts distrained or impounded, the insufficiency of the fences, or other fact to show the distress or impounding illegal, shall not be given in defence, but the defendant may avail himself thereof in an action of replevin.

SEC. 23. Forfeitures mentioned in this chapter may be recovered in actions of debt to the use of the prosecutor, unless otherwise provided; and civil actions therefor must be commenced in ninety days after the forfeiture accrued, unless otherwise limited.

SEC. 24. The pound keeper's fees shall be twenty-five cents for impounding one or more beasts at one time; twelve cents for recording each certificate or advertisement; and the same for posting or publishing each advertisement, with four cents a mile for necessary travel.

SEC. 25. The pound keeper shall allow the impounder a reasonable sum for his trouble, not exceeding half the respective forfeitures mentioned in sections two and three, besides the forfeitures to which he is entitled under those sections.

SEC. 26. The pound keeper's price for keeping and feeding the beasts committed to pound or to his custody as aforesaid, shall be fixed by the municipal officers, and recorded on the town books by the town clerk, and be binding until altered by said officers.

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Compensation to impounder. R. S., c. 30, § 28.

Expense of keeping beasts impounded, how regulated. R. S., c. 30, § 29.

CHAPTER 24.

PAUPERS, THEIR SETTLEMENT AND SUPPORT.

- SEC. 1. Settlements, how acquired.
2. Remain till new ones acquired.
 3. Revision of laws does not affect settlements.
 4. Overseers chosen, money raised, poor relieved.
 5. Overseers' duties.
 6. Poor not sold at auction. Towns may contract for their support.
 7. Towns may unite to purchase a farm. Summons.
 8. Joint board to manage it; duties.
 9. Kindred liable for support of paupers.
 10. Court may assess them, on complaint.
 11. On complaint filed it may be amended.
 12. Assessment for future support, order with whom to live.
 13. Assessment may be altered; costs.
 14. Children of paupers may be bound, terms and time.
 15. Overseers to inquire respecting them, make complaint.
 16. Suits on bond, damages for benefit of child.
 17. Child when of age may sue master for damages.
 18. Child departing without leave, returned. Persons enticing liable.
 19. Child may be discharged on complaint of master.
 20. Persons of age may be bound for a year.
 21. Persons of age may complain to court.
 22. Persons of age and children in places not incorporated may be bound, and relief to them provided.
 23. Individuals may relieve sick and wounded in such places.
 24. Overseers to relieve those having no settlement in their town.
 25. Recovery against a town estops it to deny settlement.
 26. Overseers, where is a jail, duties.
 27. Notice of relief to towns liable, removal.
 28. Answer to be within two months.
 29. Notice and answer by mail sufficient.
 30. Persons removed, returning sent to house of correction.
 31. Paupers without settlement may be removed out of state.
 32. Towns liable to individuals for supplies after notice.
 33. Complaint against paupers intemperate.
 34. Towns may sue paupers for support.
 35. Overseers may take possession of property of deceased paupers.
 36. Overseers may prosecute and defend.
 37. Plantations may raise and expend money for support of poor.
 38. Penalty for bringing paupers into a town.
 39. Masters of vessels not to land passengers without consent.
 40. Penalty for violation; lien on vessel.
 41. Towns may appoint visiting officers to prevent landing.