

MAINE STATE LEGISLATURE

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FIFTH REVISION.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



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CHAPTER 100.

PERSONAL PROPERTY FORFEITED. LOST GOODS AND STRAY BEASTS;
PROCEEDINGS THEREON.

SEC. 1. When personal property is forfeited for an offense, and no special mode is prescribed for recovering it, any person entitled to the whole or part thereof, may seize and keep it until final judgment, unless restored on the bond as herein provided. (a)

Seizure of forfeited personal property.
R. S., c. 98, § 1.

SEC. 2. If the person claiming it for himself or another, gives bond to the party seizing, with sufficient surety, to pay the appraised value when it is decreed forfeited, it shall be restored to him.

Restored to claimant, on giving bond.
R. S., c. 98, § 2.

SEC. 3. The value shall be ascertained by the appraisal of three disinterested men mutually chosen by the parties; or if they cannot agree by a justice of the peace in the county.

Appraisal.
R. S., c. 98, § 3.

SEC. 4. If no person claims the property after such seizure, the party seizing shall cause an inventory and appraisal thereof to be made by three disinterested persons, under oath, appointed by a justice of the peace in the county; which shall be the rule for deciding in what court the libel shall be filed.

Inventory and appraisal, if no claimant.
R. S., c. 98, § 4.

SEC. 5. If the value of the property seized exceeds twenty dollars, the party seizing, within twenty days, shall file a libel in the clerk's office of the supreme judicial or superior court in the county where the offense was committed, stating the cause of seizure, and praying for a decree of forfeiture. The clerk shall thereupon make out a notice to all persons to appear at such court at the time appointed, to show cause why such decree should not be passed, which notice shall be published in some newspaper printed in the county, if any, if not, in the state paper, at least fourteen days before the time of trial.

If the value exceeds \$20, libel to be filed in supreme or superior court.
R. S., c. 98, § 5.
62 Me., 37.

—notice of libel.

SEC. 6. When there is a claimant, the court may order the party seizing to give bond to him with sufficient surety for the safe keeping of the property seized, compliance with the decree of court for restoration, and the payment of costs and damages, if not forfeited, and may hear and determine the cause by a jury, or without, if the parties agree, and may allow costs against the claimant; if there is no claimant, the court shall decree the forfeiture and disposal of the property according to law, and a sale and distribution of the proceeds, after deducting all proper charges.

Court may order party seizing to give bond.
R. S., c. 98, § 6.

—proceedings, and decree thereon.

SEC. 7. If the libel is not supported, or is discontinued, the court shall decree a restoration of the property, with costs. If the jury or court finds the seizure without probable cause, reasonable damages shall be decreed for the claimant.

If libel is not supported, property restored with damages.
R. S., c. 98, § 7.

SEC. 8. When the value of the property seized does not exceed twenty dollars, the libel shall be filed before a trial justice or municipal or police court, of the county where the offense was committed; and after notice as aforesaid has been posted at two or more public places in the county, seven days at least before the day of trial, such justice or the judge of such court shall try and decide the cause, and make such decree therein as law requires.

If the value is less than \$20, libel must be filed before trial justice.
R. S., c. 98, § 8.

SEC. 9. Either party may appeal to the next supreme judicial or superior court in the county recognizing as in other cases of appeal; if the

Appeal; if not prosecuted, decree shall be affirmed.
R. S., c. 98, § 9.

(a) See c. 4, § 69; c. 28, § 20, c. 41, §§ 23, 48; c. 42, §§ 2, 4, 15, 17, 20, 21, 25; c. 127, § 11.

CHAP. 100.

appeal is not prosecuted, the court, on complaint, may affirm the decree appealed from, with costs.

LOST GOODS AND STRAY BEASTS.

Duty of finder of money, or goods worth three dollars or more.
R. S., c. 98, § 10.
1903, c. 36, § 1.

SEC. 10. Whoever finds lost money or goods of the value of three dollars or more, shall, if the owner is unknown, within seven days give notice thereof in writing to the clerk of the town where they are found and post a notification thereof in some public place in said town. If the value is ten dollars or more, the finder in addition to the notice to the town clerk and the notification to be posted as aforesaid, shall, within one month after finding, publish a notice thereof in some newspaper published in the town, if any, otherwise in some newspaper published in the county.

Notice to be given when stray beasts are taken up.
1903, c. 36, § 2.

SEC. 11. Whoever takes up a stray beast shall, within seven days give notice thereof in writing, containing a description of its color, and its natural and artificial marks, to the clerk of the town where such beast is taken, and shall cause a notice thereof, containing a like description of the beast to be posted and, if such beast is of the value of ten dollars or more, published, in the manner provided in the preceding section; otherwise he shall not be entitled to compensation for any expenses which he may incur relative thereto.

Appraisal, if value is ten dollars or more.
R. S., c. 98, § 11.
1903, c. 36, § 3.

SEC. 12. Every finder of lost goods or stray beasts of the value of ten dollars or more, shall, within two months after finding, and before using them to their disadvantage, procure a warrant from the town clerk or a justice of the peace, directed to two persons, appointed by said clerk or justice, not interested except as inhabitants of the town, returnable at said clerk's office, within seven days from its date, to appraise said goods under oath.

Proceedings, if owner appears.
R. S., c. 98, § 12.
1903, c. 36, § 4.

SEC. 13. If the owner of such lost money or goods appears within six months, and if the owner of such stray beasts appears within two months after said notice to the town clerk, and gives reasonable evidence of his ownership to the finder, he shall have restitution of them or the value of the money or goods, paying all necessary charges and reasonable compensation to the finder for keeping, to be adjudged by a justice of the peace of the county, if the owner and finder cannot agree.

Proceedings, if no owner of money or goods appears.
R. S., c. 98, § 13.
1903, c. 36, § 5.

SEC. 14. If no owner appears within six months, such money or lost goods shall belong to the finder, by paying one-half their value after deducting all necessary charges, to the treasurer of said town; but if he neglects to pay it on demand, it may be recovered in an action brought by said treasurer in the name of the town.

Sale of strays, if owner does not appear.
1903, c. 36, § 6.

SEC. 15. If the owner does not appear and prove his title to the beasts within said two months, the finder may sell them at public auction, first giving notice of such sale at least four days before the time of sale, in two public places in the town in which the beasts were taken up; and the proceeds of the sale after deducting all lawful charges, shall be deposited in the town treasury.

Proceedings, if owner of strays appears.
1903, c. 36, § 7.

SEC. 16. If such owner appears within six months after such notice is filed with the town clerk, and proves his title to the beasts, he shall, if they have not been sold, have restitution of the same, after paying the charges arising thereon as provided in section thirteen; and if the beasts have been sold, he shall be entitled to receive the money so deposited in the treasury from the proceeds of the sale. If no owner appears within six months, the beasts or the value or price thereof, after deducting said charges, shall, as prescribed in section fourteen be equally divided between the finder and the town.

CHAP. 101.

SEC. 17. If the finder of lost money or goods, of the value of three dollars or more, or if the person taking up such stray beast, neglects to give notice to the town clerk and to cause them to be advertised as herein provided, he forfeits to the owner the full value thereof, unless he delivers or accounts therefor to the owner, in which case he shall forfeit not more than twenty dollars, half to the town, and half to the prosecutor.

Penalty, if finder neglects to give notice.
R. S., c. 98, § 14.
1903, c. 36, § 8.

SEC. 18. Whoever takes away a beast held as a stray, without paying all lawful charges incurred in relation to the same, shall forfeit to the finder double the amount of said charges, not exceeding the value of the beast, and in addition thereto shall be liable for any trespass committed by him in so doing.

Penalty for taking away strays without paying charges.
1903, c. 36, § 9.

SEC. 19. 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 taking up any of the beasts doing it, and giving the notice provided in section eleven, or in an action of trespass against the person owning or having 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 to 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. (a)

Damages, how recovered by sufferers.
R. S., c. 23, § 4.
1903, c. 36, § 10.

—beasts may be taken up.

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CHAPTER 101.

HABEAS CORPUS.

SEC. 1. Every person unlawfully deprived of his personal liberty by the act of another, except in the cases hereinafter mentioned, shall of right have a writ of habeas corpus according to the provisions herein contained.

Right to the writ.
R. S., c. 99, § 1.
48 Me., 127.
72 Me., 202.

SEC. 2. A minor enlisted within the state into the army or navy of the United States, without the written consent of his parent, guardian or master, shall have all the benefits of this chapter on the application of himself, parent, guardian or master.

Minors enlisted into the army or navy, are entitled to writ.
R. S., c. 99, § 2.

SEC. 3. The parent, master or guardian of any minor, imprisoned or restrained of his liberty, shall be entitled to the writ of habeas corpus for him, if he would be entitled to it on his own application.

Parent, master or guardian of minor.
R. S., c. 99, § 3.

SEC. 4. The supreme judicial court, or either of the superior courts, or any of the justices thereof, on application of any person, may issue the writ of habeas corpus to bring before them any party alleged to be imprisoned or restrained of his liberty, who would be entitled to it on his own application, when from any cause he is incapable of making it.

Courts may grant writ on application in behalf of one incapable of applying.
R. S., c. 99, § 4.

SEC. 5. The following persons shall not of right have such writ:

Who are not entitled of right.
R. S., c. 99, § 5.
95 Me., 453.

I. Persons committed to and confined in prison for treason, felony or suspicion thereof, or as accessories before the fact to a felony, when the same is plainly and specially expressed in the warrant of commitment.

II. Persons convicted, or in execution upon legal process, criminal or civil.

(a) 2 Me., 74, 409; 5 Me., 360; 13 Me., 376; 14 Me., 420; 15 Me., 241; 29 Me., 286; 35 Me., 28; 48 Me., 375; 59 Me., 456; 63 Me., 89, 155; 86 Me., 342.