

MAINE STATE LEGISLATURE

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CHAPTER 165.

PERSONAL PROPERTY FORFEITED. LOST GOODS. STRAY BEASTS.

Sections 1-9 Personal Property Forfeited.
Sections 10-19 Lost Goods and Stray Beasts.

Personal Property Forfeited

Sec. 1. Seizure of forfeited personal property. R. S. c. 112, § 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.

See c. 85, § 42, re seizure of gunpowder etc. for violation of law; c. 33, § 95, re seizure of game for violation of law; c. 34, § 38, re seizure of weirs etc. for violation of law; c. 34, § 142, re seizure of lobsters for violation of law; c. 88, §§ 138, 140, 150, 152, 155, 156, 163, re seizure of wood, bark, lumber, etc. for violation of law; c. 120, § 20, re seizure of horses entered for premiums in violation of law.

Sec. 2. Restoration to claimant, on giving bond. R. S. c. 112, § 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.

Sec. 3. Appraisal. R. S. c. 112, § 3. The value shall be ascertained by the appraisement of 3 disinterested men mutually chosen by the parties; or, if they cannot agree, by a justice of the peace in the county.

Sec. 4. Inventory and appraisal, if no claimant. R. S. c. 112, § 4. If no person claims the property after such seizure, the party seizing shall cause an inventory and appraisement thereof to be made by 3 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.

Sec. 5. If the value exceeds \$20, libel to be filed in superior court; notice of libel. R. S. c. 112, § 5. If the value of the property seized exceeds \$20, the party seizing, within 20 days, shall file a libel in the clerk's office of the 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 14 days before the time of trial.

62 Me. 37.

Sec. 6. Court may order party seizing to give bond; proceedings, and decree thereon. R. S. c. 112, § 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.

Sec. 7. If libel is not supported, property restored with damages. R. S. c. 112, § 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.

Sec. 8. If value is less than \$20, libel to be filed before trial justice. R. S. c. 112, § 8. 1933, c. 118, § 1. When the value of the property seized does not exceed \$20, the libel shall be filed before a trial justice or municipal 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, 7 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.

Sec. 9. Appeal; if not prosecuted, decree to be affirmed. R. S. c. 112, § 9. Either party may appeal to the next superior court in the county recognizing as in other cases of appeal; if the appeal is not prosecuted, the court, on complaint, may affirm the decree appealed from, with costs.

Lost Goods and Stray Beasts

Sec. 10. Duty of finder of money, or goods worth \$3 or more. R. S. c. 112, § 10. Whoever finds lost money or goods of the value of \$3 or more shall, if the owner is unknown, within 7 days give notice thereof in writing to the clerk of the town where the money or goods are found and post a notification thereof in some public place in said town. If the value is \$10 or more, the finder, in addition to the notice to the town clerk and the notification to be posted as aforesaid, shall, within 1 month after finding, publish a notice thereof in some newspaper published in the town, if any, otherwise in some newspaper published in the county.

104 Me. 268.

Sec. 11. Notice to be given when stray beasts are taken up. R. S. c. 112, § 11. Whoever takes up a stray beast shall, within 7 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 \$10 or more, to be 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.

Sec. 12. Appraisal, if value is \$10 or more. R. S. c. 112, § 12. Every finder of lost goods or stray beasts of the value of \$10 or more shall, within 2 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 2 persons appointed by said clerk or justice, not interested except as inhabitants of the town, returnable at said clerk's office within 7 days from its date, to appraise said goods under oath.

Sec. 13. Proceedings, if owner appears. R. S. c. 112, § 13. If the owner of such lost money or goods appears within 6 months, and if the owner of such stray beasts appears within 2 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.

Sec. 14. Proceedings, if no owner of money or goods appears. R. S. c. 112, § 14. If no owner appears within 6 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.

Sec. 15. Sale of strays, if owner does not appear. R. S. c. 112, § 15. If the owner does not appear and prove his title to the beasts within said 2 months, the finder may sell them at public auction, first giving notice of such sale at least 4 days before the time of sale in 2 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.

Sec. 16. Proceedings, if owner of strays appears. R. S. c. 112, § 16. If such owner appears within 6 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 13; 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 6 months, the beasts or the value or price thereof after deducting said charges shall, as prescribed in section 14, be equally divided between the finder and the town.

Sec. 17. Penalty, if finder neglects to give notice. R. S. c. 112, § 17. If the finder of lost money or goods of the value of \$3 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 \$20, one-half to the town and one-half to the prosecutor.

Sec. 18. Penalty for taking away strays without paying charges. R. S. c. 112, § 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.

Sec. 19. Damages, how recovered by sufferers; beasts may be taken up; lien. R. S. c. 112, § 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 11, 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. 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.

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.