

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1835.

AUGUSTA:
WILLIAM J. CONDON,.....PRINTER.

1835.

FIFTEENTH LEGISLATURE.

NO. 17.

SENATE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND THIRTY-FIVE.

AN ACT ADDITIONAL, concerning pounds,
beasts impounded and stray beasts.

SECTION 1. *Be it enacted by the Senate and
2 House of Representatives, in Legislature as-
3 sembled, That if any ram or he-goat shall be
4 found going at large, without a keeper, in any
5 place out of the owner's inclosure, between the
6 tenth day of August, and the twentieth day of
7 November, the owner thereof shall forfeit and
8 pay two dollars, for each time any such ram or
9 he-goat shall be so found going at large, which*

10 may be sued for and recovered by action of debt
11 to the use of the prosecutor, in any Court pro-
12 per to try the same; but no action shall be
13 brought for the recovery thereof, after the lapse
14 of ninety days from the time the same accrued.

SECT. 2. *Be it further enacted,* That in all
2 cases in which beasts may be impounded, or
3 committed to a pound keeper as astrays, he shall,
4 if the owner thereof be known to said pound
5 keeper, or his name be given him, by the per-
6 son impounding, or committing said beast to his
7 custody, within twenty-four hours after said im-
8 pounding, or commitment to him, give to said
9 owner written notice thereof, by delivering the
10 same to him personally, or by leaving it at his
11 last and usual place of abode; which notice
12 shall state the name of the impounder or finder,
13 the time and cause of committing the same to
14 his custody, and shall also contain a description
15 of the beasts, and a request to the owner to pay
16 what may be legally and justly demandable and
17 take the same away. But if the owner thereof
18 shall be unknown to said pound keeper, and his
19 name and place of residence be not given him

20 in writing, by the person committing the beasts
21 to his custody, he shall, within twenty-four hours
22 after said impounding or committing to him,
23 post an advertisement thereof, containing the
24 particulars required in said notice, at or in his
25 house, and in two other conspicuous and public
26 places in the same town, and cause the same to
27 be cried on three several days, if there be a
28 town crier; and if the owner thereof, shall not
29 within *two* days after said personal notice is
30 given, and within *seven* days after the posting
31 of the advertisements as is aforesaid, appear
32 and claim such beasts, and pay what is legally
33 and justly demandable, including charges, fees
34 and costs, then shall the pound keeper, if said
35 personal notice has been given, forthwith, and
36 not after three days from said impounding, or
37 commitment to the pound keeper, proceed, and
38 if said advertisements have been posted, as is
39 aforesaid, within eight days after posting of said
40 advertisements, and not after, proceed to libel
41 the same, in the name of the impounder or
42 finder, by filing a libel with the Treasurer of
43 said town, of the following purport:

To — Treasurer of the Town of — in the County of —

The libel and complaint of A B. of — in the County of —, by C D., a pound keeper in said —, humbly shows, that he, the said A B.; at —, on —, impounded or found (as the case may be) the following beasts, (as the fact may be) to wit, (here describe them) doing damage in his inclosure, going at large, or found, (here describe the place) and that notice thereof has been given, to the owner, or the same have been advertised (as the fact may be) as the law directs; and no person has appeared and made claim thereto, and paid the demands for which the same is holden and detained; wherefore your libellant prays you to decree a sale thereof, and a distribution of the proceeds, as the law directs.

E. (date)

A B. by C D. pound keeper.

44 Whereupon the said Treasurer shall make out
 45 a notification to all persons to appear at a time
 46 and at a place in said town, to be specified
 47 therein, to show cause, if any they have, why
 48 a decree of sale of said beasts, and distribution
 49 of the proceeds, as prayed for in said libel,
 50 should not be made; which notification shall
 51 contain a copy, in substance, of said libel, and
 52 a copy of said notification shall be posted by
 53 said pound keeper, on the same or the next
 54 day, in two conspicuous and public places, in
 55 said town, seven days at least, before the day
 56 named therein, for showing cause, and on that
 57 day, or on such other, as the proceedings may
 58 be continued to, it shall be the duty of said
 59 Treasurer, after proof of the posting of said

60 notification, as is aforesaid, if no person appears
61 to claim said beasts and object thereto, to de-
62 cree a sale thereof, and a distribution of the
63 proceeds according to law; but if any person
64 shall then make said claim, and object to said
65 sale, said Treasurer shall proceed to hear and
66 try the cause upon such evidence as would be
67 admissible, on a trial before a Justice of the
68 Peace; and to decree a sale of said beasts and
69 distribution of the proceeds as aforesaid, or a
70 restitution of the same to the claimant, as the
71 law and justice may require; and in case of
72 restitution to said claimant, to award him his
73 costs against the person delivering said beasts,
74 to said pound keeper, and issue execution under
75 his hand and seal therefor, in the form used by
76 Justices of the Peace, which shall be served by
77 the same officers, and executed and returned in
78 the same way and manner that an execution for
79 a like amount of cost, from a Justice of the
80 Peace, may be served by, executed and return-
81 ed; and in case said Treasurer shall decree a
82 sale of said beasts, a writ or precept shall be
83 issued by him, under his hand and seal, for the
84 execution of such decree, and for his costs in

85 said proceedings, which shall be awarded him
 86 by said Treasurer, and taxed in the same man-
 87 ner it is for the plaintiff, who is the prevailing
 88 party, in a suit before a Justice of the Peace,
 89 and said writ or precept, for the execution of
 90 said decree, shall be in substance as follows:

STATE OF MAINE.

W—, ss. To the Sheriff of our County of W—, or
 his Deputy, or any Constable of the town of —, in said
 County, Greeting.

[L. S.] WHEREAS A B. of — within the County of —
 through his Agent, C D. pound keeper, by the consideration
 of —, Treasurer of the town of —, in said County, at a
 trial had before him, at —, on —, in the County of —,
 obtained a decree for the sale of the following (here insert a
 description of the property as in the libel) with cost taxed at
 — as to us appears, whereof execution remains to be done;
 We command you therefore, to make sale of the same in man-
 ner prescribed by law, for the sale of goods and chattels in
 satisfaction of executions; and after deducting your lawful
 fees, you will pay over the residue to said pound keeper and
 take his receipt hereon for the same. Hereof fail not, and
 make due return therein within ten days.

Witness—(close like other executions).

91 And the pound keeper shall retain sufficient to
 92 remunerate himself his lawful charges and fees,
 93 pay to others interested, their lawful dues re-
 94 spectively, and deliver over the balance to the
 95 County Treasurer of the same County, within
 96 thirty days; which balance the latter shall pay
 97 over, at any time within six years, to such one,
 98 on his written request, as shall, satisfactorily

99 to the County Treasurer, for the time being,
100 make out his right thereto, as having been the
101 true owner of the property at the time it was
102 sold; but if the County Treasurer shall refuse
103 to pay the same to the claimant, the claimant
104 may appeal to the next Court of County
105 Commissioners, whose decision shall be final
106 and conclusive in the case. If said County
107 Treasurer shall not so pay over the same to
108 a claimant, within six years, he shall, imme-
109 diately after the expiration of that period, pass
110 the same to the credit of the County. *Pro-*
111 *vided always*, that the owner of such beasts
112 aforementioned, shall, at any stage of the pro-
113 ceedings, before final decree therein, (and not
114 afterwards) have the same delivered to him on
115 his payment of all lawful dues and claims
116 thereon, up to the time of demand; and said
117 town Treasurer may, from time to time, con-
118 tinue the proceedings before him, in any such
119 trial, as justice may require; he shall keep a
120 record of his proceedings, administer all oaths
121 necessary in said trial, and be entitled to re-
122 ceive of the person delivering said beasts to
123 said pound keeper, the like fees to which a

124 Justice of the Peace is entitled for similar
125 services by, or proceedings before him, in a
126 civil action, which shall be refunded him out
127 of the proceeds of said sale, and said claimant
128 and libellant, shall have a right to appeal from
129 said decree of said Treasurer, to the next
130 Court of Common Pleas, to be begun and
131 holden within and for the County where said
132 Treasurer resides; but before said appeal is
133 allowed, the party appealing shall recognise
134 before said Treasurer, which recognisance he
135 shall have a right to take, to prosecute the
136 same as is required of appellants from a judg-
137 ment of a Justice of the Peace, in a civil ac-
138 tion before him, and each of said parties, and
139 said Treasurer shall have all the same rights
140 and powers, and be subject to, and perform all
141 the same duties and acts which, in said appeals
142 from said judgment of a Justice of the Peace,
143 the parties thereto and Justice of the Peace,
144 by law respectively have, are subject to, or
145 must perform.

SECT. 3. *Be it further enacted,* That the
2 warrant named in the fifth Section of the Act
3 to which this is additional, which the pound

4 keeper may issue to appraisers, for the purpose
5 there named, shall be issued within days
6 after the day on which said beasts may be im-
7 pounded and not afterwards.

SECT. 4. *Be it further enacted*, That the
2 annual meeting named in the *Proviso*, contain-
3 ed in the second section of the act to which
4 this is additional, shall be taken and construed
5 to be and mean the annual town meeting for
6 the choice of town officers.

SECT. 5. *Be it further enacted*, That so
2 much of the first section of the Act, to which
3 this is additional, as imposes a fine of five dol-
4 lars on the owner of any ram or he-goat, found
5 going at large, as is there named; and so much
6 of the fifth section of said Act as is inconsistent
7 with the third section hereof, and the whole of
8 the seventh section of said Act, be, and the
9 same are hereby repealed, excepting as to all
10 suits now pending or proceeding commenced
11 under said Act.

STATE OF MAINE.

In SENATE, February 12, 1835.

ORDERED, that three hundred and fifty copies of the foregoing
Bill be printed for the use of the Legislature.

(Extract from Journal.)

(Attest,) WILLIAM TRAFTON, *Secretary*.

WM. J. CONDON....PRINTER TO THE STATE.
