

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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# THE LEGISLATURE

OF THE

# STATE OF MAINE,

DURING ITS SESSION

**A. D. 1836.**

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*AUGUSTA:*  
SMITH & ROBINSON,.....PRINTERS.

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1836.

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SIXTEENTH LEGISLATURE.

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NO. 69.

HOUSE.

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STATE OF MAINE.

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

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**AN** Additional **ACT** respecting pounds, and impounding beasts, going at large, or damage feasant and stray beats.

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**SECT. 1.** *Be it enacted by the Senate and House of Representatives in Legislature assembled,* That an Act entitled "An Act concerning Pounds, Beasts impounded and stray Beasts," passed on the twelfth day of March, A. D. 1834, be and the same is hereby repealed, except so far as not to affect the rights of parties in suits and prosecutions now pending, and that the several Acts and parts of Acts repealed by

10 said Act, viz. an Act respecting pounds, and  
11 impounding beasts going at large or damage fea-  
12 sant, passed March 20, 1821, excepting the sixth  
13 and seventh sections thereof, also an Act ex-  
14 tending the powers of towns to restrain cattle  
15 running at large, passed June 27, 1820, also  
16 an Act respecting lost goods and stray beasts,  
17 passed January 27, 1821, also an Act, addi-  
18 tional to an Act, respecting pounds and im-  
19 pounding beasts going at large or damage fea-  
20 sant, passed February 27, 1826, be and the  
21 same are hereby revived and in full force, ex-  
22 cepting so far as the same may be altered by this  
23 Act, as hereinafter mentioned.

SECT. 2. *Be it further enacted,* That when  
2 any town shall be convicted, upon indictment,  
3 for not keeping and maintaining sufficient pound  
4 or pounds, such town shall forfeit and pay a sum  
5 not less than fifty dollars, nor more than one  
6 hundred dollars, for the use of said town to  
7 build or maintain such pound or pounds.

SECT. 3. *Be it further enacted,* That any  
2 person endamaged or injured in any of his lands,  
3 under improvement, that are enclosed with a le-

4 gal and sufficient fence, by any of the beasts  
5 mentioned in said Acts, may maintain an action  
6 of trespass against the owner of the beast for  
7 the damage done; or he may impound the beasts  
8 doing the damage, or some of them at his elec-  
9 tion, with or without the aid of a field driver,  
10 in one of the town pounds, or in some other  
11 place under his immediate care and inspection,  
12 as may be most convenient for relieving them,  
13 with suitable food and drink, which relief it shall  
14 be the duty of the person impounding to furnish,  
15 or cause it to be done, during their confinement,  
16 there to be retained till the damages, the char-  
17 ges for impounding and keeping them, and all  
18 fees shall be paid. But if such beast should  
19 break into a person's enclosure through such  
20 part of the fence as was not sufficient by law,  
21 being lawfully on the opposite side thereof, no  
22 such beast shall be impounded, nor action be  
23 maintained for a breach over or through such  
24 insufficient part; but should such beast either be  
25 clandestinely turned in, or being unlawfully on  
26 the opposite side of such insufficient part, should  
27 break through the same, or should break through  
28 such part as was sufficient by law, though other

29 parts of the fence around the same enclosure,  
30 were not by law sufficient, or being lawfully in  
31 an adjoining close, and that that part of the par-  
32 tition fence to be maintained by the person en-  
33 damaged, be legally sufficient, or where the di-  
34 viding line between the owners of land shall be  
35 a brook, river, pond or creek; then in either  
36 case the person endamaged or injured shall have  
37 a right to sue or impound at his election, as pre-  
38 viously provided in this section. And the ex-  
39 penses of impounding shall be deemed and ta-  
40 ken to be part of the damages which the person  
41 impounding may claim, when said beasts are  
42 impounded damage feasant.

SECT. 4. *Be it further enacted,* That when-  
2 ever any person shall replevy the beasts herein  
3 mentioned, he shall bring his action against the  
4 impounder or finder, and not against the pound  
5 keeper, though a copy of the writ shall be serv-  
6 ed on him as also on the defendant. And the  
7 process shall in other respects be regulated by  
8 “An Act directing the mode of process to be  
9 adopted in replevying of cattle or beasts dis-  
10 trained, and also of goods and chattels;” and  
11 if the plaintiff in replevin be absent when the

12 writ is sued out, it may be served, and his bonds-  
13 men in the replevin bond shall be holden in the  
14 same manner and to the same extent as though  
15 he had himself signed and sealed it, and he may  
16 add his seal and signature thereto, at any time  
17 before trial.

SECT. 5. *Be it further enacted*, That if any  
2 person shall attempt to rescue any beast or beasts,  
3 or attempt to make any pound breach, contrary to  
4 this Act or the Acts to which this is additional,  
5 he shall forfeit and pay a sum not exceeding fif-  
6 ty dollars to be recovered by indictment in any  
7 Court proper to try the same, to the use of the  
8 person driving said beast or beasts to pound or  
9 who has impounded the same.

**STATE OF MAINE.**

HOUSE OF REPRESENTATIVES, }  
MARCH 23, 1836. }

Read twice and 300 copies ordered to be printed for the use of the members.

[Extract from the Journal.]

ATTEST: JAMES L. CHILD, Clerk.