

MAINE STATE LEGISLATURE

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EIGHTY-FIFTH LEGISLATURE

Legislative Document

No. 149

H. P. 5

House of Representatives, Jan. 27, 1931.

Referred to Committee on Agriculture. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Perham of Paris.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTY-ONE

AN ACT Relating to Payment of Damages Done by Dogs or
Wild Animals.

Be it enacted by the People of the State of Maine, as follows:

Section one hundred sixty-six of chapter five is hereby repealed and the following sections are substituted in place thereof:

‘Sect. 166. Owner of domestic animals damaged by dogs or wild animals may complain. Whenever any sheep, lambs, or other domestic animals, poultry not included, owned by a resident of this state, are killed or injured by dogs or wild animals, such owner may make complaint thereof to the mayor of the city or to one of the municipal officers of the town or plantation where such damage was done, within twenty-four hours after he has knowledge of the same, presenting therewith his written claim for damages, estimated in the manner hereafter mentioned, and stating thereon all information that might tend to substantiate such claim.

If the sheep, lambs or other domestic animals are damaged in an unincorporated place, the owner may make complaint to the municipal officers of the oldest incorporated adjoining town, or the nearest incorporated town where there are none adjoining, who shall investigate the complaint as set forth below.

Sect. 166A. Municipal officers to estimate damage. Thereupon the municipal officers shall investigate the claim, and if satisfied that the damage was committed by dogs or wild animals within the limits of their city, town or plantation, they shall estimate the damage thereof according to the full value for which they are kept, whether as breeders or for other purposes, stating the estimated number of animals injured, the estimated damage according to actual value, and in the case of sheep adding thereto twenty-five per cent to cover the damage to the rest of the flock.

Sect. 166B. Report made to commissioner of agriculture. The municipal officers shall within ten days from the receipt of the original claim make return of their findings to the commissioner of agriculture, forwarding therewith the original claim, and their recommendation approving, disapproving or notifying the same.

Sect. 166C. Commissioner to approve or notify owner of award; evidence to be considered. Within thirty days after the receipt of the findings of the municipal officers, the commissioner of agriculture shall either certify to the state auditor his approval of the original claim for payment, or notify in writing the owner of the amount awarded by the commissioner on the basis set forth in section one hundred sixty-six A. In fixing such award the commissioner may take into consideration the finding of the municipal officers supplemented by information obtained after such investigation as he thinks advisable.

Sect. 166D. Award is final unless owner acts within fifteen days. Unless within fifteen days after the receipt by the owner of the commissioner's award such owner notifies the commissioner in writing of his disapproval thereof, and names a referee, the commissioner's award is final, and shall be forthwith certified by him to the state auditor for payment.

Sect. 166E. Referees; how and when to be selected; when to report; expenses. The commissioner shall within fifteen days after receipt of such disapproval appoint a referee, and the two referees shall within fifteen days after the appointment of the commissioner's referee appoint a third referee, the three referees to determine and certify in triplicate, one copy to the owner, one to the commissioner and one to the state auditor, within thirty days from the appointment of the third

referee, the amount of the damage to be paid in accordance with the basis set forth in section one hundred sixty-six A. Their report shall be final, and their expenses shall be divided equally between the owner and the state.

Sect. 166F. Procedure when referees are not named as per preceding section. On the failure of the commissioner to name a referee within the time limited in section one hundred sixty-six E, the owner shall notify the state auditor of the original amount of his claim, and this shall be the amount to be paid. On the failure of the two referees to agree upon a third referee within the time limited in section one hundred sixty-six E, the third referee shall within fifteen days thereafter be named by the county commissioners of the county where the damage occurred.

Sect. 166G. Fund from which claims are to be paid. The claim as certified to the state auditor shall be paid by the state to the person sustaining the damage and shall be a proper charge to and shall be paid out of any funds received by the state under section one hundred fifty-nine.

Sect. 166H. Statement from owner may be demanded; contents. Whenever the municipal officers, the commissioner of agriculture, or the referees selected to pass on a claim, determine that insufficient evidence has been shown to substantiate a claim for damage to sheep, any one or all of them may demand a true business statement from the owner of the animals, for the period of one year preceding the date of the claim, this statement to contain such information concerning the owners' sheep business as may be required by a form of claimant's certificate to be drawn up by the commissioner of agriculture. Such certificate among other data, may require the owner to set forth in detail the number of his sheep and lambs at various dates, the additions thereto and sales and losses therefrom, the cost thereof, and the sale prices received.

Sect. 166I. Commissioner may appoint agent. Any of the duties of the commissioner of agriculture under the preceding seven sections may be performed by his duly appointed agent.

Sect. 166J. Effect of failure to file certificate. The filing of a claimant's certificate by the owner, when so requested, signed and sworn to by the owner, shall constitute a condition precedent to his recovery of any damage. Failure on his part to file such completed report within thirty days from his re-

ceipt of demand therefor from the commissioner of agriculture shall bar his claim for damage. The referee's award and final payment of claim shall be withheld until such certificate, if requested, is filed.

Sect. 166K. State may recover damages from owner or keeper of dog. The state may maintain an action on the case against the owner or keeper of the dogs to recover the amount paid, not to exceed the actual damage suffered; except that in the case of sheep, twenty-five per cent additional, and the costs of investigation and reference may be recovered.

Sect. 166L. Penalty for keeping dog that injures sheep. Any person who keeps a dog that kills or injures sheep or lambs shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and costs, unless before the final disposition of the case the owner or keeper of said dog produces satisfactory evidence that the dog has been killed.

Sect. 166M. Funds from which expenses are to be paid. The necessary expenses of investigation, including a part of the compensation of the commissioner of agriculture or his duly appointed agent, and one-half the expenses of the referees in the case of a reference shall be charged to and paid out of the funds received by the state under section one hundred fifty-nine.'