

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

PASSED BY THE

## FORTY-FIRST LEGISLATURE

OF THE

### STATE OF MAINE.

1862.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820,  
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PUBLIC LAWS

OF THE

STATE OF MAINE.

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building, or the logs or lumber, on which the labor was performed, have been or shall be attached, the proceedings shall be deemed sufficient to effectuate the lien, if the writ, officer's return of attachment, and the judgment recovered in the suit are, or shall be in the usual and common forms of the common law, as heretofore understood and practiced in all other actions of assumpsit, the declaration disclosing that the suit is brought to enforce the lien.

[Approved March 19, 1862.]

CHAP. 132.

Writ, &c., to be sufficient if in common form.

### Chapter 132.

An act concerning contagious diseases among cattle.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :*

SECT. 1. The selectmen of towns and the mayor and aldermen of cities in case of the existence in this state of the disease called lung murrain or pleuro pneumonia, or any other contagious disease among cattle, shall cause the cattle in their respective towns and cities which are infected, or which have been exposed to infection, to be secured or collected in some suitable place or places, within such city or town, and kept isolated; and when taken from the possession of their owners, to be maintained, one-fifth of the expense thereof to be paid by the town or city wherein the animal is kept, and four-fifths at the expense of the state, such isolation to continue so long as the existence of such disease or other circumstances renders the same necessary; or they may, at their discretion direct the owners thereof to isolate such cattle upon their own premises, and any damage or loss sustained thereby shall be paid as aforesaid.

Cattle infected by contagious disease to be isolated by city and town officers.

—maintenance, when paid.

Owners may be directed to isolate their cattle.

—damage or loss, how paid.

SECT. 2. The selectmen of towns and mayor and aldermen of cities, shall within twenty-four hours after they have notice of the existence of such disease, or have reason to believe that it exists, cause the suspected animals to be examined by a veterinary surgeon or physician, by them selected, and if the same be adjudged to be diseased, they may at their discretion order such diseased animals to be forthwith killed and buried at the expense of such town or city.

Animals to be examined.

—to be killed if necessary.

SECT. 3. Such selectmen, mayor and aldermen shall cause all cattle which they shall so order to be killed, to be appraised by three competent and disinterested men, under oath, at the value thereof at the time of the appraisal, and the amount of the appraisal shall be paid as provided in the first section.

Cattle killed to be appraised.

## CHAP. 132.

Further powers  
to city and  
town officers.

Passage of  
animals, how  
regulated.

Regulations to  
be recorded  
and published.

Sales of infected  
animals pro-  
hibited.

Penalty.

Disobedience of  
orders of select-  
men and mayor  
and aldermen.

—how pun-  
ished.

Knowledge or  
suspicion of  
disease to be  
reported.

Failure, how  
punished.

Neglect or  
refusal of town  
or city officers  
to comply.

—penalty for

appraisals,  
how made.

—to whom  
certified.

SECT. 4. Said selectmen and mayor and aldermen are hereby authorized to prohibit the departure of cattle from any enclosure, or to exclude cattle therefrom.

SECT. 5. Said selectmen and mayor and aldermen may make regulations in writing to regulate or prohibit the passage from to or through their respective towns or cities or from place to place within the same, of any neat cattle, and may arrest and detain, at the cost of the owners thereof, all cattle found passing in violation of such regulations, and may take all other necessary measures for the enforcement of such prohibition, and also for preventing the spread of any such disease among the cattle in their respective towns and cities, and the immediate vicinity thereof.

SECT. 6. The regulations made by selectmen and mayor and aldermen in pursuance of the foregoing section shall be recorded upon the records of their towns and cities respectively, and shall be published in such towns and cities in such manner as may be provided in such regulations.

SECT. 7. Any person who shall sell or dispose of any animal which is infected or known to have been exposed to infection within one year after such exposure without the knowledge and consent of said selectmen or mayor and aldermen, shall be punished by fine not exceeding five hundred dollars or by imprisonment not exceeding one year.

SECT. 8. Any person disobeying the orders of the selectmen or mayor and aldermen, made in conformity with the fourth section of this act or driving or transporting any neat cattle contrary to the regulations made, recorded and published as aforesaid, shall be punished by fine not exceeding five hundred dollars or by imprisonment not exceeding one year.

SECT. 9. Whoever knows or has reason to suspect the existence of any fatal, contagious disease among the cattle in his possession or under his care shall forthwith give notice to the selectmen of the town or mayor and aldermen of the city where such cattle may be kept, and for failure so to do, shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year.

SECT. 10. Any town or city whose officers shall neglect or refuse to carry into effect the provisions of sections one, two, three, four, five, six and seven, shall forfeit a sum not exceeding five hundred dollars for each day's neglect.

SECT. 11. All appraisals made under the provisions of this act shall be in writing and signed by the appraisers, and the same shall be certified to the governor and council and to the treasurer of the several towns and cities wherein the cattle appraised belong, by the selectmen and mayors and aldermen respectively.

## CHAP. 132.

SECT. 12. The selectmen of the towns and mayor and aldermen of the cities are hereby authorized, when in their judgment it shall be necessary to carry into effect the purposes of this act, to take and hold possession for a term not exceeding one year within their respective towns and cities of any land without buildings other than barns thereon, upon which it may be necessary to enclose and isolate any cattle, and they shall cause the damages sustained by the owners in consequence of such taking and holding, to be appraised by the assessors of the town or city wherein the land so taken are situated, and they shall further cause a description of such land setting forth the boundaries thereof, and the area as nearly as may be estimated, together with said appraisal by the assessors, to be entered upon the records of the town or city. The amount of said appraisal shall be paid as provided in the first section, in such sums and at such times as the selectmen or mayor and aldermen respectively may order. If the owner of any land so taken shall be dissatisfied with the appraisal of said assessors, he may by action of contract, recover of the town or city wherein the lands lie, a fair compensation for the damages sustained by him; but no costs shall be taxed, unless the damages recovered in such action, exclusive of interest, exceed the appraisal of the assessors. And the state shall reimburse any town or city four-fifths of any sum recovered of such town or city in any such action.

Further powers of city and town authorities.

Damage to owners to be appraised.

Description of land and appraisal to be recorded.

Amount of appraisal, how paid.

Owner dissatisfied, may maintain action.

Amount to be reimbursed.

SECT. 13. Whenever such disease shall exist in any town or city in this state it shall be the duty of the selectmen of such town or mayor and aldermen of such city, forthwith to give notice thereof to the governor and secretary of the board of agriculture; *provided however*, that if commissioners shall have been appointed as hereinafter provided, such notice shall be given forthwith to said commissioners.

Notice to governor and secretary of board of agriculture.

—to commissioners in certain cases.

SECT. 14. The governor is hereby authorized, whenever in his opinion the public good requires, to appoint commissioners who shall have full power to make all necessary regulations, and to issue summary orders relative thereto, for the treatment and extirpation of any contagious disease among cattle, and may direct the selectmen of towns, and mayor and aldermen of cities to enforce and carry into effect all such regulations as may from time to time be made for that end; and any such officer or other person refusing or neglecting to enforce, carry out and comply with any regulation of the commissioners shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding one year for every such offence.

Commissioners may be appointed.

—powers of.

—neglect or refusal to obey.

—how punished.

SECT. 15. When said commissioners shall make and publish any regulations concerning the extirpation or treatment of cattle in-

Regulations made by com-

## CHAP. 133.

Commissioners to supersede all others.

Town authorities to enforce directions of commissioners.

Losses and damages, how ascertained.

—how paid.

Commissioners to keep record and make return thereof to legislature.

Record to be printed.

Commission terminated by governor and council.

fectured with, or which have been exposed to, the disease known as lung murrain or pleuro pneumonia, or other contagious disease, such regulations shall supersede the regulations made by the selectmen of towns and mayors and aldermen of cities, upon the same subject matter, and the operation of the regulations made by such selectmen and mayors and aldermen shall be suspended during the time those made by the commissioners, as aforesaid, shall be in force. And said selectmen and mayors and aldermen shall carry out and enforce all orders and directions of said commissioners to them directed as they shall from time to time issue.

SECT. 16. All losses and damages sustained in consequence of the execution of the orders of said commissioners, shall be appraised as provided in the third section of this act, and paid as provided in the first section, and such necessary expenses as may be incurred by reason of said orders shall be paid in the same manner.

SECT. 17. The commissioners shall keep a full record of their doings, and make report of the same to the next annual session of the legislature, on or before the tenth day of January, unless sooner required by the governor; and the said record, or an abstract of the same shall be printed in the annual volume of transactions of the state board of agriculture.

SECT. 18. The governor with the advice and consent of the council shall have power to terminate the commission whenever in his judgment the public safety may permit.

[Approved March 19, 1862.]

### Chapter 133.

An act relating to reviews.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

Review in certain cases.

Where there has been or may be judgment in default of the defendant, in any case where a material amendment of the declaration was made after the entry of the action in court, without any actual notice of such amendment to the defendant, a review of the action, may, at the discretion of the court, be granted at any time before execution of final process in the action, or within three years thereafter.

When granted.

[Approved March 19, 1862.]