

# MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE  
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

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BY THE AUTHORITY OF THE LEGISLATURE.



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## CHAPTER 23.

## POUNDS AND IMPOUNDING BEASTS.

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 2. Penalty for beasts going at large. Beasts may be impounded.  
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 22. Limitation of actions for forfeitures.  
 23. Pound-keeper's fees.  
 24. Compensation to impounder.  
 25. Expense of keeping beasts impounded, how regulated.

SEC. 1. Each town shall constantly keep and maintain in such place as the inhabitants direct, one or more sufficient pounds for the reception of beasts liable by law to be impounded; and for six months' neglect so to do, forfeits not less than fifty dollars, to be expended by an agent appointed by the court to build or maintain such pounds.

Each town to keep a pound.—forfeiture for neglect, how expended. R. S., c. 23, § 1. 63 Me., 88.

SEC. 2. For every horse, horse kind, ass, mule, swine or neat beast found at large without a keeper in the highways, town ways, or commons of the town, the owner forfeits seventy-five cents, twenty-five cents for each goat, and ten cents for each sheep so found, recoverable in an action of debt; or the beasts may be impounded until such forfeiture, with the charges of impounding and keeping them, and all fees, are paid by the owner or claimant.

Penalty for beasts going at large.—may be impounded. R. S., c. 23, § 2. 17 Me., 189. 63 Me., 155. 468.

SEC. 3. If such horse is an ungelded male one year old or upwards, his owner forfeits a further sum of four dollars. If any ram or he-goat is found going at large out of the owner's inclosure, between the tenth day of August and the twentieth day of November, his owner forfeits a further sum of five dollars.

Penalty for ungelded horses and rams going at large. R. S., c. 23, § 3.

SEC. 4. 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

Damages, how recovered by sufferers.

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—beasts may  
be distrained.  
R.S., c. 23, § 4.

—lien.  
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.

Pound-  
keepers.  
—bond.  
—towns  
responsible.  
R.S., c. 23, § 5.  
38 Me., 588.  
46 Me., 543.  
63 Me., 88.

Pound-  
keeper to  
keep book  
of records.  
R.S., c. 23, § 6.

To restrain  
beasts  
impounded.  
R.S., c. 23, § 7.

Impounder  
to furnish  
certificate of  
the cause of  
impounding.  
R.S., c. 23, § 8.

—form of  
certificate.  
17 Me., 242.  
13 Me., 248.  
28 Me., 490.

by itself, may recover his damages by distraining any of the beasts doing it, and proceeding as hereinafter directed, 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. But 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.

SEC. 5. Each town shall annually choose a pound-keeper for each pound therein, who shall be sworn, and before he acts, shall give bond with sureties satisfactory to the municipal officers, for the faithful discharge of his duties; and the town shall be responsible for all his illegal doings or defaults, to the party injured, in an action on the case.

SEC. 6. Each pound-keeper, in a book provided by the town, shall record at length all certificates received from persons committing beasts to the pound, or finding stray beasts, and a single copy of all advertisements by him posted or published; and shall note therein when a beast was impounded, and when and by whom taken away, and all his proceedings in the impounding and sale specified in section thirteen, the price for which said beast was sold, the name of the purchaser, and the disposal of the proceeds of sale; a copy of said record attested by him or his successor shall be evidence for the purchaser of his title to said beast, and of the truth of all the facts thus recorded; for making such record, and for each copy thereof, the pound-keeper shall receive twenty-five cents; and said book shall be delivered to his successor in office, and be open to the inspection of all persons interested.

SEC. 7. The pound-keeper shall restrain the beasts impounded in the town pound, or after the first day, in such other place as is more comfortable, or safe, and more convenient for food and drink; which shall be furnished them by him at the expense of the impounder. Unless payment is made in advance, or sufficient security therefor rendered, he need not receive such beasts into pound.

SEC. 8. Before the pound-keeper receives any beast into pound, the impounder shall furnish him with a certificate under his hand, briefly describing the beast, the cause of impounding, the amount of damages or forfeiture claimed, and charges of impounding then accrued, of the following purport:

“To the pound-keeper of ——— :

The undersigned, A. B. of C., herewith commits to pound a horse” (or cow, as the case may be, with a short description of the beast), “taken up in the highway” (or inclosure of said A. B., as the case may be), “in C., and the said A. B. demands ——— dollars and ——— cents, for damages” (or forfeiture as the case may be), “and the unpaid charges for impounding the same.

Witness my hand at C., this ——— day of ———, 18—.

A. B.”

SEC. 9. The pound-keeper shall not be liable to an action for receiving or detaining any beast so committed, until the sums claimed by such certificate, and all other due expenses, costs and fees are paid to him, except as provided in the next section.

SEC. 10. If the claimant of such beast objects to the amount stated as damages, or if no claimant appears, the pound-keeper shall, within ten days and not afterwards, issue under his hand, to two disinterested persons of said county, a warrant of the following purport:

"D., ss: To E. F. and G. H., two disinterested persons of said county: Greeting:

You are hereby appointed to view and estimate, upon oath, according to your best judgment, the damages done to A. B. by the horse" (or oxen as the case may be), "owned or claimed by I. K.," (or, by owner unknown), "and to make due return to me within twenty-four hours, with your doings therein; first giving said A. B. reasonable notice of the time when you will view the place where the damages were done.

Given under my hand at C., this — day of —, 18—.

L. M., Pound-keeper."

*Return of the Appraisers.*

"Pursuant to this warrant, the undersigned, being first sworn to the faithful performance of the trust to which we were appointed, and having given said A. B. reasonable notice as required, hereby certify that we have viewed and estimate said damages at — dollars and — cents, and no more.

E. F. } Appraisers.  
G. H. }

C., — —, 18—."

And said persons, being first sworn, shall give reasonable notice to the impounder, and to the owner of such beast, if known and resident in the town, of the time appointed for the view, and proceed to estimate damages accordingly; and make return to the pound-keeper of their doings in writing under their hands. The oath may be administered by said pound-keeper, or by a justice of the peace, and must be certified on the warrant.

SEC. 11. Whoever takes up, as an estray, in any public way or commons, or in his inclosure or possession, any such beast, shall within ten days, if no owner calls for him, commit him, with a certificate as described in section eight, to the pound-keeper of his town, who shall carefully keep him until called for by his owner, and until all due charges are paid, or he shall be disposed of as hereinafter provided; and whoever does not so commit such beast shall lose the expense of his keeping, and forfeit one per cent. on his value for each week, after the ten days, until he so commits him, or the forfeiture amounts to his value.

SEC. 12. When a pound-keeper has so received any beast, he shall forthwith post and keep posted for three days at his dwelling-house, and in two other public places in his town, advertisements by him signed, stating the name of the impounder or finder, the time and cause of impounding, and a brief description of the beast, and shall notify the owner to

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Beasts not to be delivered until damages and costs are paid.  
R.S., c. 23, § 9.  
Proceedings, if claimant objects to amount demanded.

—form of warrant.  
R.S., c. 23, § 10.

—form of return.

—notice.

—oath.

Proceedings, when beasts are taken up as estrays.  
R.S., c. 23, § 11.  
59 Me., 456.  
63 Me., 89, 156.

—penalty for not delivering estray to pound-keeper.

Pound-keeper to advertise.  
R.S., c. 23, § 12.  
17 Me., 242.

**CHAP. 23.** pay lawful damages and charges, and take the beast away; and shall give like public notice by the town crier, if there is any in the town. If the value of the beast exceeds ten dollars, a copy of such advertisement shall be inserted in some newspaper, if any, printed in the county.

If owner does not redeem, and beasts are not replevied in ten days, pound-keeper to advertise.  
R.S., c. 23, § 13.

**SEC. 13.** When a beast is lawfully impounded as aforesaid, if the forfeiture, damages, and costs are not paid, or the beast replevied, in ten days after the notice, provided in the preceding section, is given, the pound-keeper shall, without other process, sell the beast at public auction, after having posted in two public places in his town, at least forty-eight hours before the time of sale, notices of the time, place, and cause of sale, with a brief description of the beast; and for posting such notices and making such sale, he shall have the same fees as constables for similar services.

Sale postponed and advertised, if owner does not live in town, or the beasts have strayed from a drove.  
R.S., c. 23, § 14.

**SEC. 14.** If the pound-keeper is informed, or has reason to believe, that the beast impounded has strayed from a drove, or does not belong to an inhabitant of the town, he shall adjourn the sale thirty days, and publish notice thereof in such papers as in his opinion may give information to the owner, and shall be allowed a reasonable sum therefor; and the proceeds of such sale shall be disposed of as hereinafter provided.

When damages are claimed, appraisal.  
R.S., c. 23, § 15.  
Disposal of proceeds of sale.  
R.S., c. 23, § 16.

**SEC. 15.** The pound-keeper, before making such sale, shall cause the damages, if any are claimed, to be appraised as in section ten, within ten days after giving the notice required by section twelve.

**SEC. 16.** The pound-keeper shall retain his lawful charges and fees, and pay to others their lawful dues, and the balance to the treasurer of his county within thirty days. Such treasurer or his successor shall pay it over at any time within six years, on the written request of any person who proves that he was the owner of the property at the time of sale; and if he refuses so to do, the claimant may appeal to the county commissioners, whose decision thereon shall be final. If such balance is not claimed in six years, it shall belong to the county.

Owner may redeem before sale.  
R.S., c. 23, § 17.

**SEC. 17.** The owner of such beast, at any stage of the proceedings before sale, may redeem it on payment of all lawful claims thereon up to the time of his demand to redeem.

Replevin of beasts impounded.—proceedings.—sale postponed.  
R.S., c. 23, § 18.  
17 Me., 188.  
Sec c. 96, §§ 1-7.

**SEC. 18.** An action to replevy such beasts shall be brought against the impounder or finder, and not against the pound-keeper, but a copy of it shall be served on both; and in other respects the process shall be regulated by chapter ninety-six. If such action is brought after notice of sale and before sale, the sale shall be postponed until it is decided, and no such action can be sustained unless the writ is served before sale.

Rescue and punishment thereof.  
R.S., c. 23, § 19.  
34 Me., 13.

**SEC. 19.** Whoever, in order to prevent the impounding of any beast lawfully in possession of another, and taken for the causes herein mentioned, rescues him, or directly or indirectly causes his escape, forfeits not less than five, nor more than twenty dollars, and is liable in an action on the case to the party injured for the full damages, with charges and costs, which he might receive by impounding the beast.

Pound breach and punishment thereof.  
R.S., c. 23, § 20.

**SEC. 20.** Whoever breaks a pound, or otherwise directly or indirectly delivers a beast from the place of his lawful restraint, forfeits to the town not less than ten, nor more than fifty dollars; and is liable to the party

injured or the impounder, in an action on the case, for double the damage or forfeiture, which he might have received by impounding the beast; and when such acts are committed by a minor, or an apprentice, legally bound by deed, such action may be brought against the minor or apprentice, or against his parent or guardian, under whose care he then was.

SEC. 21. In an action for rescuing beasts distrained or impounded, the insufficiency of the fences, or other fact to show the distress or impounding illegal, shall not be given in defence; but to avail himself of such illegalities, the party relying thereon must proceed in replevin.

SEC. 22. Forfeitures mentioned in this chapter may be recovered by the prosecutor in actions of debt, unless otherwise provided; and civil actions therefor must be commenced within ninety days after the forfeiture accrued, unless otherwise limited.

SEC. 23. The pound-keeper's fees shall be twenty-five cents for impounding one or more beasts at one time; twelve cents for recording each certificate or advertisement; and the same for posting or publishing each advertisement, with four cents a mile for necessary travel.

SEC. 24. The pound-keeper shall allow the impounder a reasonable sum for his trouble, not exceeding half the respective forfeitures mentioned in sections two and three, besides the forfeitures to which he is entitled under those sections.

SEC. 25. The pound-keeper's price for keeping and feeding the beasts committed to pound or to his custody as aforesaid, shall be fixed by the municipal officers, and recorded on the town books by the town clerk, and be binding until altered by said officers.

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Restrictions  
as to defence  
in such cases.  
R.S., c. 23, § 21.  
See § 18.

Limitation  
of actions for  
forfeitures.  
R.S., c. 23, § 22.

Pound-  
keeper's fees.  
R.S., c. 23, § 23.

Compensa-  
tion to  
impounder.  
R.S., c. 23, § 24.

Expense of  
keeping  
beasts  
impounded,  
regulated.  
R.S., c. 23, § 25.

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## CHAPTER 24.

### PAUPERS, THEIR SETTLEMENT AND SUPPORT.

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3. Settlements remain until new ones are acquired.
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6. Towns furnishing relief to former inmates, when to be re-imbursed by state.
7. Children at Bath Asylum acquire no settlement there.
8. Disabled U. S. soldiers, although dependent on town, are not paupers.
9. Revision of laws does not affect settlements.
10. Overseers to be chosen, money raised, and poor relieved.
11. Overseers' duties.
12. When overseers of poor shall be designated by governor to take charge of local immigration.
13. Poor not to be sold at auction. Town may contract for their support.
14. Towns may unite to purchase a farm. Joint commission therefor.
15. Joint board to manage it; duties.
16. Kindred liable for support of paupers.
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18. Complaint may be amended after filing.