

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES
OF THE
SIXTIETH LEGISLATURE

OF THE
STATE OF MAINE.

1881.

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1881.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1881.

An act authorizing the improvement of Marshes, Meadows and Swamps.

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

Lands owned by several proprietors may be improved by commissioners.

SECT. 1. When any meadow, swamp, marsh, beach or other low land is held by several proprietors, and it is necessary or useful to drain or flow the same, or remove obstructions in rivers or streams leading therefrom, such improvements may be effected under the direction of commissioners in the manner herein provided.

Proprietors may apply to S. J. court and notice shall be given.

SECT. 2. Such proprietors, or a majority of them in interest, may apply by petition to the supreme judicial court sitting in the county where the lands or any part of them lie, setting forth the proposed improvements and the reasons therefor ; and the court shall cause notice of the petition to be given in such manner as it may judge proper, to any proprietors who have not joined in the petition, that they may appear and answer thereto.

Court may appoint commissioners.

SECT. 3. If upon hearing the parties, it appears that the improvements proposed will be for the general advantage of the proprietors, the court may appoint three suitable persons as commissioners, who shall be sworn to the faithful discharge of their duties ; shall view the premises, notify parties concerned, hear them as to the best manner of making the improvements, and prescribe the measures to be adopted for that purpose.

Commissioners shall make improvements according to tenor of petition and order of court.

SECT. 4. They shall, according to the tenor of the petition and order of court, cause dams or dikes to be erected on the premises, at such places and in such manner as they shall direct ; may order the land to be flowed thereby for such periods of each year as they shall deem most beneficial ; and cause ditches to be opened on the premises, and obstructions in any rivers or streams leading therefrom to be removed ; and they shall meet from time to time, as may be necessary, to cause the works to be completed according to their directions.

May employ workmen, unless proprietors do the work.

SECT. 5. They may employ suitable persons to erect the dams or dikes, or perform the other work, under their direction, for such reasonable wages as they may agree upon ; unless the proprietors do the same in such time and manner as the commissioners shall direct.

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SECT. 6. They shall apportion the whole charge and expense of the improvements, and of executing the commission, among the proprietors of the lands, having regard to the quantity, quality, and situation of each proprietor's part thereof, and the benefit that he will derive from the improvements, and shall assess the same upon the proprietors.

Expense to be apportioned among proprietors.

SECT. 7. They may appoint a collector of the moneys assessed, and shall give him a warrant to collect, pay over, and account for the same, to such person as they may appoint. The collector shall have the same power, and proceed in like manner in collecting the assessment, as provided for collecting town taxes.

Collector may be appointed.

—duties and powers.

SECT. 8. If the collector neglects for twenty days after being thereto required by the commissioners to account for, and pay over the money he has collected, he shall be liable to pay to the commissioners the whole amount committed to him for collection, to be recovered by them in an action therefor; and the money so recovered, after deducting the expense of recovery, shall be applied and accounted for by the commissioners as if it had been collected and paid over by the collector, pursuant to his warrant.

Liability of collectors.

SECT. 9. The collector shall be allowed such compensation for his services as may be agreed upon between him and the commissioners; and the commissioners shall be allowed such compensation for their services as may be ordered by the court.

Compensation for services of collector.

SECT. 10. The commissioners shall, as soon as may be after the completion of the business, make a return to the court of their doings under the commission, including an account of all money assessed and collected by their order, and of the disbursement thereof.

Commissioners to make return to court.

SECT. 11. When it appears to the commissioners, that part of the land is held by a tenant for life, or years, they shall determine how much of the sum apportioned on that part of the premises shall be paid by such tenant, and how much by the landlord or reversioner; and shall assess the same accordingly, unless the parties concerned agree to an apportionment; and every such tenant, landlord and reversioner shall be considered a proprietor.

Commissioners to determine the amount to be paid by life tenant and by landlord, unless parties agree to an apportionment.

SECT. 12. If any part of the land is mortgaged, the mortgagor or mortgagee, in possession, shall be considered

Parties in possession of mortgaged property considered proprietors.

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as the proprietor; and all sums paid by the mortgagee by order of the commissioners, shall be allowed to him as sums paid by him for improvements, are by law to be allowed.

Commissioners authorized to enter upon premises of persons not parties to proceedings.

SECT. 13. When the commissioners find it necessary or expedient to reduce or raise the water, for the purpose of obtaining a view of the premises, or for more convenient or expeditious removal of obstructions, they may open the flood-gates of a mill, or make other needful passages through or around the dam thereof, or erect a temporary dam on the land of any person not a party to the proceedings, and may maintain such dam or passages for the water as long as may be necessary for the purposes aforesaid.

Damages, how determined and paid.

SECT. 14. All damages thus occasioned shall be estimated and determined by the commissioners, unless agreed upon between them and the parties concerned; and shall be paid by the commissioners out of the money to be assessed and collected by them as before provided.

Persons aggrieved by doings of commissioners, may appeal to court.

SECT. 15. If any person, whether a party to the proceedings or otherwise interested therein or affected thereby, is aggrieved by the doings of the commissioners, he may appeal to the court at any time after their appointment, and before the end of the term next following that, at which the return is made.

Court may affirm, reverse or alter any adjudication of commissioners.

SECT. 16. The court, upon such appeal, may affirm, reverse or alter any adjudication or order of the commissioners, and make such order therein as law and justice require. All questions of fact arising upon the hearing of the appeal, shall, on motion of either party, be tried by a jury in such manner as the court shall direct.

Questions of fact shall on motion be tried by jury.

Notice to be given before entering upon premises of a person not party to the proceedings, and hearing on appeal.

SECT. 17. The commissioners, before proceeding to open flood-gates, or make other passages for water through or around any dam, or to erect a dam on the land of any person not a party to the proceedings, shall give him seasonable notice in writing of their intention, to enable him to appear before them and object thereto; and if he appeals from their determination, and gives notice in writing of his appeal to the commissioners or any of them, they shall suspend all proceedings upon his land until the appeal is determined; *provided*, that the appeal be entered at the court held next after the expiration of seven days from the time of claiming the same.

SECT. 18. Any person aggrieved by any opinion, direction or judgment of the court in any matter of law, may allege exceptions thereto, which shall be reduced to writing; and when found to be true and not deemed frivolous, shall be signed by the presiding judge, and thereupon the questions of law arising therein shall be determined, as in other actions.

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Persons aggrieved by opinion or judgment of court may allege exceptions thereto.

SECT. 19. After dams, dikes and removal of obstructions shall have been completed in pursuance to the provisions of this act, repairs thereon may be made on petition, and similar proceedings required for the construction of the original improvements, but such repairs shall be made at the expense of such proprietors only as occupy their lands, take crops therefrom, and are actually benefitted by such improvements.

After completion of improvements repairs may be made on petition at expense of proprietors who occupy lands.

Approved March 16, 1881.

Chapter 75.

An act relating to the original jurisdiction of the Superior Court for the County of Kennebec.

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

SECT. 1. The jurisdiction in all criminal matters conferred upon the superior court, within and for the county of Kennebec, by the provisions of chapter ten of the public laws of the year eighteen hundred and seventy-eight is hereby restored, and said superior court on and after the passage of this act shall have and exercise jurisdiction in all criminal matters in said county of Kennebec.

Jurisdiction in criminal matters conferred by ch. 10, public laws 1878, restored.

SECT. 2. All acts and parts of acts inconsistent herewith are hereby repealed.

Inconsistent acts repealed.

SECT. 3. This act shall take effect when approved.

Approved March 16, 1881.