

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.

BY THE AUTHORITY OF THE LEGISLATURE.



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CHAP. 15.

remedy for.
1874, c. 241.
See c. 18, § 8.
How private
cemetery
may become
public.
1881, c. 3.

—proviso.

Towns and
cemetery
corporations
may accept
title to land
for private
burying-
grounds.
1883, c. 117, § 1.
—lot and fix-
tures exempt
from liability
for debt.

—towns may
hold funds in
trust for
repair of
grounds.

Investment
of funds.
1883, c. 117, § 2.

Town's
acceptance,
where
recorded.
1883, c. 117, § 3.

may, on petition to the county commissioners, have them assessed in the manner provided respecting highways.

SEC. 13. Any private cemetery or burying-ground, by written agreement of all the owners thereof, recorded by the clerk of the town in which it is situated, may, by vote of such town within one month after the recording of such agreement by the town clerk, become public, and subject to the law relating to public cemeteries or burying-grounds; *provided*, that such agreement is not in conflict with the terms of any conveyance or devise of land for the purposes of a burying-ground.

SEC. 14. Any city, town, cemetery corporation or trust company may accept any conveyance of land not exceeding half an acre, to be forever held, kept and used for a private or family burying-ground for the grantors and such of their heirs and relatives by blood or marriage as the conveyance shall designate. Such lot and all erections thereon, including the erection and maintenance of the same, and fixtures thereto suitable for its use or adornment as a burying-ground, are forever inalienable and indivisible, and exempt from liability for debt. Such city, town, corporation or company may also accept and forever hold any donation or legacy for insuring proper care and attention to any burial lot or ground and the avenues thereof and the monuments thereon. Having accepted such donation or legacy, said trustee becomes bound to perform the duties appertaining to the trust as specified in the writing creating the same, or, in default of such specification, as required by law, and as in cases of public charity.

SEC. 15. Every trust fund authorized by the preceding section shall be safely invested in United States, state, county, city or town securities; and the annual income only, shall be expended in performance of the requirements of the trust.

SEC. 16. A copy of the record of the vote of the trustee so accepting a conveyance of lands shall be indorsed on the conveyance and certified thereon by the clerk of the grantee, and recorded in the registry of deeds with the conveyance.

CHAPTER 16.

DRAINS AND COMMON SEWERS.

- SEC. 1. Penalty for laying drains in highways or streets without consent of municipal officers.
2. Municipal officers authorized to construct public drains.
 3. Damages, how assessed and paid.
 4. Private drains, regulations, and application for permits.
 5. Amount to be paid for permit, how adjusted.
 6. Drains heretofore constructed, how maintained and managed.
 7. Penalty for connecting private drains with public without permit.
 8. Penalty for violation of permit.
 9. Drains to be kept in repair. Penalty for neglect.

- SEC. 10. Record of proceedings to be kept; town officers to control prosecutions.
 11. Permit to be paid for in sixty days. Fees of arbitrators, how fixed.
 12. Private drains, how repaired, in case of neglect of owners.
 13. Penalty for wilfully or carelessly injuring public drains.
 14. All who enter a private drain to pay their proportion.
 15. To be paid in ten days after notice.
 16. Notice to be given before opening for repair.
 17. Drains and ditches, how authorized.
 18. Petitions to county commissioners; what to be set forth, and bond for costs.
 19. Commissioners to order notice; service and publication of notice. Committee of review; their proceedings; notice to be given, and report.
 20. Commissioners may consider report at next term after it is received.
 21. Final report to be recorded and damages tendered.
 22. Repairs, how to be made.
 23. Damages, how to be settled.
 24. Punishment for injury to works.

SEC. 1. Whoever digs up the ground in a highway or street to lay or repair any drain or common sewer without the written consent of the municipal officers, forfeits for each offence four dollars to the town.

Penalty for laying drains in highways without consent.
 R.S., c. 16, § 1.

SEC. 2. The municipal officers of a town may, at the expense of the town, construct public drains or sewers along or across any public way therein, and through any lands of persons or corporations, when they deem it necessary for public convenience or health; and they shall be under their control. (a)

Towns may lay drains.
 R.S., c. 16, § 2.
 —expense and control thereof.

SEC. 3. Before the land is so taken, notice shall be given, and damages assessed and paid therefor as is provided for the location of town ways. (b)

Notice, damages.
 R.S., c. 16, § 3.
 See c. 18, §§ 8, 14, 17, 18.

SEC. 4. Abutters upon the line of a public drain, and the owners of contiguous private drains, may enter and connect with it, on written application to the municipal officers, distinctly describing the land to which it applies, and paying therefor what they determine. They shall then give the applicants written permits so to enter, which shall be available to the owner of the land so described, his heirs and assigns, and shall run with the land without any other or subsequent charge or payment. Said officers shall establish such other regulations and conditions for entering public drains, as they deem expedient.

Private drains, application for permits.
 R.S., c. 16, § 4.

—regulations.

SEC. 5. If any person is dissatisfied with the sum which he is required to pay to enter a public drain, and within ten days after notice thereof, requests in writing to have it determined by arbitration, said officers shall nominate six persons, any two of whom, selected by the applicant, with a third person, selected by himself, may fix the sum to be paid; and by paying it and the fees of the arbitrators, the applicant shall be entitled to a permit.

Amount to be paid for permits, how adjusted.
 R.S., c. 16, § 5.

SEC. 6. All drains, heretofore made at the expense of a town, shall be maintained, managed, controlled and entered the same as if made under this chapter, subject to the rights of private persons therein.

Drains heretofore laid, how managed.
 R.S., c. 16, § 6.
 74 Me., 272.

SEC. 7. If any person connects a private drain with a public drain, or enters it by a side drain, without a permit, the municipal officers may forthwith destroy such connection; and such person forfeits to the town

Penalty for connecting private drains with public, without permit.

(a) 56 Me., 410; 67 Me., 53; 74 Me., 272.

(b) 51 Me., 524; 67 Me., 53.

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R.S., c. 16, § 7.

Penalty for violation of permit, and for nuisances. R.S., c. 16, § 8. 57 Me., 438.

SEC. 8. If any person wilfully or negligently violates any condition or regulation prescribed in his permit, said officers may forthwith disconnect his drain from the public drain and declare his permit forfeited; and such person, his heirs and assigns, shall not be allowed to enter it again without a new permit. Whoever by the construction or use of a private drain commits a nuisance, is liable therefor notwithstanding anything herein contained.

Drains to be kept in repair; penalty for neglect. R.S., c. 16, § 9. 56 Me., 410. 66 Me., 155.

SEC. 9. After a public drain has been constructed and any person has paid for connecting with it, it shall be constantly maintained and kept in repair by the town, so as to afford sufficient and suitable flow for all drainage entitled to pass through it; but its course may be altered, or other sufficient and suitable drains may be substituted therefor. If such town does not so maintain and keep it in repair, any person entitled to drainage through it may have an action against the town for his damages thereby sustained.

Proceedings to be recorded, and town officers to control prosecutions. R.S., c. 16, § 10.

SEC. 10. All proceedings of municipal officers as aforesaid shall be at their legal meetings. A suitable record shall be made of all such permits, exhibiting the persons and lands to which they apply. Said officers have exclusive direction, on behalf of their town, of all prosecutions under this chapter.

Sum for permit to be paid in sixty days. R.S., c. 16, § 11.

SEC. 11. If any person, after the sum to be paid by him for a permit has been determined by arbitration, neglects to pay it within sixty days after notice thereof, with the fees of the arbitrators, he shall have no benefit of such determination, or of his permit. The municipal officers may determine the fees of the arbitrators, which shall be paid in advance, if required; and their award shall be returned by them to the town clerk, and recorded with the proceedings of said officers in establishing such drains.

—fees of arbitrators, how determined.

Private drain, how repaired, in case of owner's neglect. R.S., c. 16, § 12. 51 Me., 524.

SEC. 12. If a private drain becomes so obstructed or out of repair as to injure any street or highway, and the persons using it, after notice by the street commissioner or highway surveyor, unreasonably neglect to repair such injury, it shall be repaired by the town, and the expense thereof may be recovered to the town in an action on the case against any one or more of the persons using such drain.

Penalty for wilfully or carelessly injuring public drains. R.S., c. 16, § 13.

SEC. 13. Whoever wilfully or carelessly injures or obstructs such public drain or its outlet, or any street or highway culvert leading into it, is liable to the town where it is located, in an action on the case for double the amount of injury and damages thereby caused, in addition to all other legal penalties therefor.

All who enter a private drain must pay their proportion. R.S., c. 16, § 14.

SEC. 14. When a person, at his own expense, lays a common drain or sewer, all who join or enter it, shall pay him their proportion of such expense; and the expense of opening and repairing shall be paid by all benefited, to be determined in each case by the municipal officers, subject to appeal to the county commissioners.

To be paid in ten days after notice. R.S., c. 16, § 15.

SEC. 15. The municipal officers shall notify each person of the amount which he is to pay, and to whom; and if not paid in ten days, he shall pay double the amount with cost.

SEC. 16. Before such drain is opened for repairs, all persons interested shall have seven days' notice thereof, given as the municipal officers direct; and if any one objects and said officers think his objection reasonable, he shall not be liable to any expense therefor; if not thought reasonable, or if no objection is made within three days, they may give written permission to proceed.

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Notice to be given before opening for repairs.
R.S., c. 16, § 16.

SEC. 17. Persons or corporations possessing land, swamp, meadow, quarries or mines, which by reason of adjacent lands or highways, cannot be approached, drained or used without crossing said lands or highways, may establish drains or ditches thereto, in the manner hereinafter provided.

Drains across adjacent lands or highways, how authorized.
R.S., c. 16, § 17.

SEC. 18. The party desiring to make such drains and ditches shall file a petition therefor with the county commissioners, in the county where the premises are situate, setting forth the proposed work, the situation of the adjoining lands, and the names of the parties interested, if known, accompanied by a bond approved by the commissioners and payable to the county treasurer, conditioned to pay all costs and damages.

Petition to county commissioners, what to be set forth in; bond for costs.
R.S., c. 16, § 18.

SEC. 19. Said commissioners thereupon, shall order notice to all parties named therein, by serving on them an attested copy thereof with the order thereon, fourteen days before their next regular session, and by publishing it in some newspaper published in said county, if any, otherwise in some paper in an adjoining county, and after said order has been complied with, they may appoint a committee of review of not less than three nor more than five disinterested persons, and fix their daily compensation; they shall meet on the premises on the day named, and by examination determine whether the proposed drain or ditch is necessary to the beneficial use of said lands, and if so, said committee shall lay out and establish the same, in a manner to cause the least injury, and shall assess the damages which any proprietor of the adjacent lands is likely to sustain, and report the same with all their proceedings to said commissioners; but before said committee proceeds to said examination they shall give ten days' notice of the time and place of their meeting, by posting notifications thereof in two public places, in the town in which said lands lie.

Commissioners to order notice.

—how to be served and published.
R.S., c. 16, § 19.

—may appoint committee of review; proceedings of committee.

—report.

—notice to be given before examination.

SEC. 20. At the next meeting of said commissioners after the report of the committee is received, they may, if deemed reasonable, accept such report.

Report, when considered.
R.S., c. 16, § 20.

SEC. 21. The party praying for such drains or ditches shall cause the final report and adjudication to be recorded in the registry of deeds for the county, and shall pay or tender in payment the full amount of damages to the parties to whom the same is adjudicated.

Final report to be recorded and damages tendered.
R.S., c. 16, § 21.

SEC. 22. The owners of a drain or ditch constructed for the purposes above named, or any one of them benefited thereby, may, from time to time, improve, deepen, and repair the same in such manner as is necessary to make it effective, and may remove and use any rock, earth or other material necessary for such improvements, and may enter upon the lands through which such drain or ditch passes, for that purpose.

Repairs, how to be made.
R.S., c. 16, § 22.

SEC. 23. All damages sustained by any person by reason of such Damages,

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how to be settled.
R.S., c. 16, § 23.
1883, c. 125,
§§ 3, 4.

improvement, including the value of the royalty or stumpage on the rock, and of the other material removed and used, may be recovered against the persons or corporations taking said material, in an action on the case; or upon application to the county commissioners, at the election of the party injured, who shall assess the damages, and the proceedings shall be conducted as provided in section eight of chapter eighteen.

Drains, how protected.
R.S., c. 16, § 24.

SEC. 24. Whoever damages such works shall be punished as provided in chapter one hundred and twenty-seven, for offences of like nature.

CHAPTER 17.

NUISANCES.

- SEC. 1. Certain places declared nuisances.
2. Punishment for keeping such nuisances.
3. Lease to a tenant keeping a nuisance, void.
4. Liability of owners of buildings, knowingly allowing nuisances.
5. Certain nuisances described.
6. Places to be assigned for unwholesome employments.
7. Proceedings when places so assigned become offensive.
8. When gunpowder manufactories shall be deemed nuisances.
9. Penalty for burning bricks in parts of a town prohibited by vote.
10. Water mills and dams on streams, and fences and buildings fronting on public ways, in certain cases, not nuisances.
11. Punishment for nuisances, on conviction; abatement thereof.
12. Action for damages, whether nuisances are public or private.
13. Process for abatement of a nuisance.
14. Warrant stayed, if defendant gives security to discontinue nuisance.
15. Expenses of abatement to be defrayed from materials, if sufficient; otherwise, as in case of execution.
16. Equity jurisdiction of supreme judicial court. Injunction may issue from court where a suit for nuisance is pending.
17. Stationary steam engine not to be used without license.
18. Notice and hearing by town officers on application for a license.
19. Such engine erected without license, to be deemed a nuisance.
20. Power of town officers to remove such engine.
21. Steam boilers to be provided with fusible safety plug.
22. Penalty for removing such plug, or using steam boiler without it.
23. Blasting rocks; notice to be given.
24. Violation, penalty for.
25. What buildings may be adjudged nuisances. Proceedings. Powers of town officers.
26. Town officers may abate nuisance, at owner's expense, unless he applies to a justice of the supreme court.
27. Owner may apply to justice of supreme court. Proceedings.
28. Costs, by whom to be paid.
29. Sections 25 to 29, inclusive, not to be in force unless adopted by town.

Common nuisances.
1880, c. 247, § 1.
1873, c. 152.
63 Me., 219.
64 Me., 529.
65 Me., 295,
430.
66 Me., 419.
67 Me., 125.
69 Me., 136.
74 Me., 153.

SEC. 1. All places used as houses of ill-fame, or for the illegal sale or keeping of intoxicating liquors, or resorted to for lewdness or gambling; all houses, shops or places where intoxicating liquors are sold for tippling purposes, and all places of resort where intoxicating liquors are kept, sold, given away, drunk, or dispensed in any manner not provided for by law, are common nuisances.