

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1850.

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1850.

THIRTIETH LEGISLATURE.

No. 6]

[SENATE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
FIFTY.

AN ACT additional to chapter twenty-four of the Revised
Statutes.

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

SEC. 1. Whenever the selectmen of any town, or
2 the mayor and aldermen of any city in this state, by
3 virtue of an act approved March sixth, eighteen hund-
4 red and forty-four, entitled an "act additional to
5 chapter twenty-four of the revised statutes," or in
6 obedience to the by-laws or ordinances of any town or
7 city shall judge it expedient, on the application of two
8 or more citizens residing in such town or city that a

9 main drain, or common sewer should be made, and
10 shall proceed to construct the same accordingly, it
11 shall be the duty of said selectmen and mayor and
12 aldermen to estimate and decide what person or per-
13 sons, if any, are benefited by such main drain, or
14 common sewer, and the amount of such benefit; and
15 any person who may be adjudged by said selectmen
16 or mayor and aldermen to be, in any way, benefited
17 thereby, shall pay to such town or city a proportional
18 part of the charge of making, maintaining and re-
19 pairing such main drain or common sewer, to be
20 ascertained and assessed by the selectmen in case of
21 towns and by the mayor and aldermen in case of
22 cities, and by them certified and recorded and notice
23 thereof given in writing to the party to be charged,
24 or his tenant, or lessee. And all main drains, or
25 common sewers which have heretofore been, or which
26 may hereafter be constructed by any town, or city
27 shall be taken and deemed to be the property of such
28 town or city.

SEC. 2. It shall be the duty of the owner of every
2 tenement, within the several towns and cities in this
3 state, that is used as a dwelling house, to provide there-

4 for a sufficient drain to carry off the waste water from
5 the same, and also a suitable privy therefor to be used
6 in common by the occupants of said tenement. And if
7 the selectmen of towns and mayor and aldermen of
8 cities shall at any time be satisfied that any tenement,
9 used as a dwelling house, is not provided with a suitable
10 drain and privy, or either of them, as aforesaid,
11 said selectmen or mayor and aldermen may give
12 notice thereof to the occupant of said tenement, or,
13 if the same be unoccupied, to the owner or agent
14 thereof, requiring such occupant, owner, or agent,
15 within such time as they shall appoint, to cause a
16 proper and sufficient drain and privy, or either of
17 them as the case may require, to be constructed for
18 such tenement subject to the common use of all the
19 occupants thereof; and in case of the neglect or re-
20 fusal of such occupant, owner, or agent, to regard
21 said notice within the time prescribed and to con-
22 struct said drain, or privy, to the acceptance of said
23 selectmen or mayor and aldermen, they shall have
24 power to cause such drain and privy to be made
25 for such tenement, the expense of which shall be
26 ascertained, assessed, recorded, certified and notice

27 thereof given as aforesaid. And if, in constructing
28 said particular drain, said selectmen or mayor and
29 aldermen shall find it necessary or convenient to enter
30 the same into any main drain or common sewer so
31 constructed as aforesaid, or which may already have
32 been built in any town or city, for the purpose of
33 draining his cellar, or land, the owner of said cellar
34 or land shall pay his proportional part of the charge
35 of making, maintaining and repairing such main
36 drain or common sewer, or be entitled to receive com-
37 pensation for the taking of his private drain or des-
38 truction thereof, such compensation or damages, to
39 be ascertained, assessed, recorded, certified and notice
40 thereof given as aforesaid; *always provided*, said
41 tenement or land has not already been assessed their
42 proportional part thereof as in the first section of this
43 act is provided.

SEC. 3. Whenever it shall be made to appear to
2 said selectmen, or mayor and aldermen, that any cellar,
3 lot or vacant ground in any town or city in this state
4 is in a state of nuisance, or so situated that it may
5 become a nuisance, and the health of the inhabitants
6 be thereby endangered, it shall be their duty and they

7 are hereby authorized and required to notify the
8 owner, or occupant thereof, within such time as they
9 shall appoint, to have said nuisance, or cause of nui-
10 sance removed by drainings, filling up or otherwise
11 in the manner to be prescribed in such notice ; and
12 in case of neglect or refusal of such owner or occu-
13 pant to regard said notice within the time appointed
14 and to remove such nuisance or cause of nuisance in
15 the manner prescribed to the acceptance of said
16 selectmen, or mayor and aldermen, they shall have
17 power to remove the same by filling up, drainings or
18 otherwise as they shall deem expedient, and the
19 owner thereof shall defray and pay the expense
20 thereof, to be ascertained, assessed, recorded, certified
21 and notice thereof given as aforesaid.

SEC. 4. All assessments so made as aforesaid, shall
2 constitute a lien on the real estate assessed, for one
3 year after they are laid, and may, together with all
4 incidental costs and expenses, be levied by sale
5 thereof, if said assessment in each case is not paid
6 within three months after notice thereof given to the
7 owner or occupant of said estate—such sale to be
8 made by the treasurer of said town or city, to be con-

9 ducted in the same manner as sales for non-payment
10 of taxes are made ; and said treasurer is hereby au-
11 thorized to make and deliver his deed thereof to the
12 purchaser, which shall be effectual to pass said estate ;
13 saving and reserving to the owner of any land sold
14 under the provisions of this act a right to redeem the
15 same by paying to the purchaser, or his assigns,
16 within one year from the time of said sale the sum for
17 which said land was sold with interest thereon at the
18 rate of twenty per centum per annum, and costs of
19 reconveyance.

SEC. 5. All notices required by the several provis-
2 ions of this act and of said act approved March sixth,
3 eighteen hundred and forty-four, except where is
4 herein otherwise provided, shall be given by publish-
5 ing the same in some newspaper, if there be any
6 printed in said town or city, the first publication to be
7 seven days, at least, prior to the time appointed by
8 the selectmen or mayor and aldermen for doing the
9 act required by such notice ; and if no newspaper be
10 printed in said town or city, then said notice shall be
11 given by posting up the same in two public places
12 therein, seven days as aforesaid.

SEC. 6. ANY person who may deem himself ag-
2 grieved by the award of damages made by said select-
3 men, or mayor and aldermen under the said act
4 approved March sixth, eighteen hundred and forty-
5 four, or by any assessment as is herein provided, may
6 at any time within three months from making and
7 recording said award of damages, or from receiving
8 notice of said assessments or any of them, appeal to
9 the district court next to be holden in said county,
10 which court, in such case shall appoint three disinter-
11 ested persons, who may be an inhabitant of said town
12 or city, to determine the amount of damages and the
13 sum to be assessed as aforesaid; and said referees
14 may examine the parties and any other person, on
15 oath, touching the matter submitted to them, and shall
16 determine said damages and assessments and make
17 return of their doings and award to said district court;
18 and their said award shall be final; and in case the
19 damages awarded by said selectmen, or mayor and
20 aldermen shall not be increased, or the assessments
21 made by them shall not be reduced, on such appeal,
22 the town or city shall recover costs; but if otherwise,
23 shall pay costs. *Provided, however,* that in all cases

24 of an appeal as aforesaid, the appellant, before enter-
25 ing it shall give one month's notice in writing to said
26 selectmen, or mayor and aldermen of his intention to
27 appeal, and shall therein specify the points of his
28 objection to said award of damages or assessments,
29 made by them to which he shall be confined upon the
30 hearing of the appeal.

SEC. 7. Nothing contained in this act shall prevent
2 any town or city from providing by their by-laws or
3 ordinances, or otherwise that a part of the expense of
4 constructing, maintaining and repairing main drains
5 or common sewers shall be paid by such town or city ;
6 nor from regulating the use and management of the
7 same ; and any city or town may prevent the neglect
8 and abuse of such main drains or common sewers,
9 under such penalties as they may see fit to ordain and
10 establish, not exceeding twenty dollars for any one
11 offense, to be recovered by an action of debt in the
12 name of the inhabitants of said town or by said city.

SEC. 8. So much of the second section of the said
2 act approved March sixth, eighteen hundred and
3 forty-four, as provides that said drain or common
4 sewers shall be made at the cost of the city or town,

5 and the fifth and sixth sections of said act are hereby
6 repealed.

SEC. 9. This act shall not take effect in any town
2 or city in this state, until the same shall have been
3 accepted by said town at a meeting called for that
4 purpose, or by the mayor, aldermen and common
5 council of any city.

SEC. 10. This act shall be in force from and after
2 its approval by the governor.

STATE OF MAINE.

IN SENATE, May 24, 1850.

ORDERED, That 350 copies of the foregoing bill (reported by the committee on the judiciary,) be printed for the use of the legislature.

ALBERT H. SMALL, *Secretary.*