

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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# THE LEGISLATURE

OF THE

STATE OF MAINE.

1866.



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1866.

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# FORTY-FIFTH LEGISLATURE.

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HOUSE.

No. 38.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SIXTY-SIX.

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AN ACT to regulate the drainage of salt marsh.

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

SECTION 1. All partition ditches, for the drainage  
2 of salt marsh in this state, shall be subject to the juris-  
3 diction of the fence viewers of the towns in which such  
4 salt marsh is situated.

SECT. 2. The owners or occupants of salt marsh  
2 inclosed by ditches, shall maintain partition ditches  
3 between their own and the adjoining inclosures, while  
4 they continue to improve them, in such shares as shall  
5 in the judgment of the fence viewers, be in proportion  
6 to the benefit accruing to the parties, by such drainage.

SECT. 3. If any party neglects or refuses to make  
2 or repair any such ditch, which in the opinion of either  
3 party ought to be maintained, the aggrieved party  
4 may complain to two or more fence viewers of the  
5 town where the salt marsh is situated, who, after due  
6 notice to such parties, shall proceed to survey it, and  
7 if they determine that the marsh is not sufficiently  
8 drained, and that each party would be benefited by a  
9 partition ditch, they shall signify it in writing to the  
10 delinquent occupant, or owner, and direct him how  
11 wide and deep a ditch he must make, not to exceed  
12 three feet in width, and three feet in depth, and what  
13 time he shall be allowed to make it, not exceeding  
14 sixty days. If the ditch is not made or repaired, the  
15 complainant may make or repair it.

SECT. 4. When the complainant has completed such  
2 ditch, and notice given it is adjudged sufficient by  
3 two or more of the fence viewers, and the value there-  
4 of, with the fence viewers fees, certified under their  
5 hands, he may demand of the occupant or owner of  
6 the land, where the ditch was deficient, double the  
7 value, and fees thus ascertained ; and in case of neg-  
8 lect or refusal to pay the same, for one month after  
9 demand, he may recover the same by an action on  
10 the case, with interest at the rate of one per cent. a  
11 month.

SECT. 5. When the occupants or owners of adjacent  
2 lands disagree respecting their rights in partition  
3 ditches, and their obligation to maintain them, on  
4 application of either party, two or more fence viewers  
5 of the town, where the lands lie, after reasonable no-  
6 tice to each party, may in writing under their hands  
7 assign to each his share thereof, and limit the time in  
8 which each shall make or repair his part of the ditch,  
9 not exceeding sixty days. Such assignment and all  
10 other assignments of proprietors of partition ditches  
11 herein provided for, recorded in the town clerk's office,  
12 shall be binding upon the parties, and they shall there-  
13 after maintain their part of said ditch.

SECT. 6. When a ditch between the owners of im-  
2 proved lands is divided either by fence viewers, or by  
3 the written agreement of the parties, recorded in the  
4 town clerk's office, where the land lies, the owners  
5 shall make, and maintain it accordingly; but if any  
6 person lays his lands common, and determines not to  
7 improve any part of them adjoining such ditch, and  
8 gives six months notice to all occupants of adjoining  
9 lands, he shall not be required to maintain such ditch  
10 while his lands so lie common and unimproved.

SECT. 7. Fence viewers in such cases shall be sub-  
2 ject to the same penalty if they neglect their duty,

3 and receive the same fees for services as in cases of  
4 fence viewing.

SECT. 8. This act shall take effect when approved.

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## STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
February 9, 1866. }

Reported by Mr. CARGILL, from Committee on Agriculture.

F. M. DREW, *Clerk.*