

# MAINE STATE LEGISLATURE

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# FIFTY-FIFTH LEGISLATURE.

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SENATE.

No. 10.

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## STATE OF MAINE.

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

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[H. R. 81.] AN ACT authorizing and regulating the construction of the Deering Boulevard and Water Park.

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

SECTION 1. Samuel H. Tewksbury, John B. Coyle,  
2 John Reed, Edward Payson and Jason M. Carleton,  
3 all being citizens of the town of Deering, in the  
4 county of Cumberland, are hereby constituted a Board  
5 of Commissioners of the Deering Boulevard and Water  
6 Park, and empowered, with the consent and under  
7 the direction of said town to locate a highway for  
8 said town, and when directed or required by said town  
9 to enter upon and take the needful lands therefor, to  
10 be denominated the Deering Boulevard and Water  
11 Park, to be kept open and maintained by said town

12 forever thereafter, to the free use and travel of the  
13 public, from a point northwesterly and near to the  
14 northwesterly corner of the dwelling-house of  
15                   in said Deering, and thence extending  
16 around and as near as may be upon the general margi-  
17 nal line of the shore of Back Cove in said Deering, to  
18 a point in the public highway leading over Tukey  
19 bridge to the city of Portland, substantially as shown  
20 upon a plan of survey made by Edward C. Jordan,  
21 civil engineer. Said highway shall be of the uniform  
22 width of one hundred feet in the clear from outside to  
23 outside, but no abutting owner of land on either side  
24 of such location shall at any time hereafter erect or  
25 maintain any building or structure whatsoever that  
26 shall obstruct the clear view on either side of said  
27 highway, within the distance of twenty-five feet of  
28 the upland outside line of said one hundred, nor within  
29 the distance of fifty feet of the outside shore line.  
30 All damages to the owners of land occasioned by said  
31 location and construction of said highway, when not  
32 released or donated for the purposes aforesaid, shall  
33 be adjudged, awarded and paid according to the ex-  
34 isting laws for appraising, awarding and paying of  
35 damages, occasioned by the laying out of town ways,  
36 deducting therefrom whatever sum of benefits and ad-  
37 vantages which may be adjudged as accruing to the

38 adjoining lands of each owner or to the owners of such  
39 lands by such location and construction of said high-  
40 way. Said commissioners shall continue in office  
41 respectively for the term of five years from the date  
42 of their respective qualifications and entering upon the  
43 duties of said office, unless sooner vacating the same  
44 by removal on a vote of the town, by death, resigna-  
45 tion, or abjuration of his residence in said town ; and  
46 each appointed commissioner, as hereinafter provided,  
47 to fill any vacancy in said board, shall hold his office  
48 for said term of five years from the date of his qualifi-  
49 cation and entering upon the duties of his office ; and  
50 all vacancies hereafter occurring in said board of com-  
51 missioners, shall be filled by an appointment made by  
52 the selectmen of said town or their successors in  
53 municipal powers of a resident citizen thereof. And  
54 each commissioner of said board before entering upon  
55 the duties of his office, shall take and subscribe an  
56 oath in writing before some magistrate duly qualified  
57 to administer judicial oaths, that he will faithfully  
58 and impartially and to the best of his knowledge and  
59 ability perform the duties of said office while he shall  
60 continue therein, and see that the interest of said  
61 town shall suffer no detriment through any wilful  
62 act or neglect of his own or of any other person by his  
63 concurrence, which oath so taken and subscribed, he

64 shall file with the clerk of said town, on his succes-  
65 sion in power, to be preserved in his office. Said  
66 highway shall be constructed in a permanent manner  
67 under the supervision of a competent civil engineer,  
68 with all suitable bridges, culverts, surface and under-  
69 ground drainage, railings, necessary for the safety of  
70 the public travel, and sidewalks for the convenience  
71 of foot passengers.

SECT. 2. Said board of commissioners shall have  
2 power to appoint a secretary and treasurer, who shall  
3 in like manner with the commissioners be sworn to a  
4 faithful discharge of the duties that shall be devolved  
5 upon them respectively by said board, or by virtue of  
6 this act, and shall continue in office during the pleasure  
7 of said board, or until a successor shall be appointed.  
8 It shall be the duty of the secretary to keep a record  
9 of all acts and proceedings of the board of commis-  
10 sioners, and preserve all papers and documents that  
11 shall be committed to him by them. It shall be the  
12 duty of the treasurer to deposit in his name as treas-  
13 urer, all moneys that shall come to his possession for  
14 the uses of the board of commissioners, in some bank  
15 to be by them designated, and to withdraw the same  
16 from time to time only upon his written check endorsed  
17 officially by three of their number. He shall keep a  
18 detailed account of all moneys so received, and of all

19 moneys expended by order of said board, in a book of  
20 record to be kept for that purpose. And before enter-  
21 ing upon the duties of his office he shall execute a bond  
22 with two sufficient sureties, to said board, in such sum  
23 as said board shall order, for the faithful discharge of  
24 the duties of his office, and which bond shall be re-  
25 newed in amount and with additional sureties when-  
26 ever and as often as said board shall direct, and the  
27 same shall be recorded by the secretary, and held by  
28 him for the use of said board; the compensation of the  
29 secretary and of the treasurer, respectively, shall be  
30 such as shall from time to time be allowed by said  
31 board. But no compensation whatever shall be allowed  
32 said commissioners, except for actual expenses incurred  
33 in the performance of the duties herein devolved upon  
34 them, of which a true account shall be filed quarter  
35 yearly with the treasurer of the board and paid on the  
36 order of the board. The treasurer shall preserve all  
37 papers and documents pertaining to the business of  
38 said board, which shall be entrusted to him. And all  
39 records and papers or documents so kept by the secre-  
40 tary and treasurer, shall be open at all reasonable  
41 times to the inspection of all citizens of the town.

SECT. 3. It shall be the duty of said board, after  
2 having completed the location of said highway, to  
3 cause a map of the same to be made and deposited in

4 their office, with a duplicate thereof to be deposited in  
5 the office of the clerk of said town, upon which map  
6 shall be accurately shown or delineated, all the side  
7 lines, courses and distances of said highway, and of  
8 the lands taken therefor, and the names of the owners  
9 thereof, respectively, and the extent of the ownership  
10 of each parcel so taken, in length and in width ; and  
11 also of the quantity, division lines and ownership of  
12 each parcel of land and buildings thereon lying be-  
13 tween the westerly or northerly inside or land side of  
14 said highway, and the easterly or southerly side line  
15 of the existing public highway from the commencement  
16 of said boulevard, near the aforesaid dwelling house of  
17 \_\_\_\_\_, and extending around Back  
18 Cove, so called, to the highway leading to Tukey's  
19 bridge, and thence on the westerly side line of said last  
20 named road to the terminal point of said boulevard as  
21 before described, near said bridge.

SECT. 4. It shall be the duty of said board when-  
2 ever and as soon as it shall be notified by the treasurer  
3 of said town, that said town has provided funds sub-  
4 ject to the draft of the treasurer of said board, en-  
5 dorsed by said commissioners officially, upon said town  
6 treasurer, equal in amount to the expenses of the  
7 location and maps aforesaid, to proceed in making and  
8 completing said location, and executing said maps ;

9 and thereupon to draw upon said treasurer of the town  
10 for such funds, to be received by the treasurer of said  
11 board, and held subject to, the orders of said board ;  
12 and thereafter, whenever and as soon as said board  
13 shall receive a like notice of the readiness of the town  
14 to furnish said board with requisite funds, to be drawn  
15 as aforesaid, or bonds or notes of the town, as herein-  
16 after provided, for the execution of the construction of  
17 said highway in the whole, or in one-half of the width  
18 of said location, along the entire extent of the line  
19 thereof, it shall be the duty of said commissioners  
20 to proceed in such construction, by contracts, or other-  
21 wise, as may in their judgment be most consistent with  
22 economy, and draw for and expend said funds, or the  
23 proceeds of said bonds or notes, accordingly ; making  
24 a monthly report in writing to the selectmen of said  
25 town of the doings and expenditures of said commis-  
26 sioners thereon. And said commissioners, while said  
27 work is in progress, and at all times thereafter, shall  
28 have the exclusive charge, care and control of said  
29 highway, and of the work and expenditures thereon,  
30 under such rules and regulations for the public safety  
31 and interest as said board shall from time to time or-  
32 dain ; and said board is empowered to employ such  
33 engineer, agents, and assistants in the discharge of the  
34 duties herein prescribed, as it shall deem expedient,

35 and determine the duration of their employment, and  
36 amount of compensation, respectively, to be paid  
37 them; *provided, however,* that the notes or bonds  
38 aforesaid of said town shall not be sold or converted at  
39 less than the par value thereof.

SECT. 5. It shall be competent for said town of  
2 Deering at any meeting of the inhabitants thereof,  
3 duly warned and holden for the purpose by article in  
4 the warrant therefor, to vote to raise upon its credit,  
5 from time to time, by notes, bonds or otherwise, bear-  
6 ing interest not exceeding six per cent. per annum,  
7 payable in half yearly installments at any bank in  
8 Portland to be therein designated, and redeemable  
9 within thirty years from the dates thereof at the  
10 pleasure of the town, a sum of money not exceeding  
11 thirty thousand dollars, to defray the costs of con-  
12 structing said highway, including all land damages not  
13 donated, and exclusive of all voluntary donations of  
14 money and labor therefor. And the officers of said  
15 town who may be designated to sign and execute such  
16 evidences of credit, notes or bonds, are empowered  
17 hereby so to do in accordance with the authority which  
18 such votes of said town shall confer; and the pay-  
19 ment of the same shall be obligatory upon said town,  
20 and shall be provided for in like manner by the town  
21 as other authorized expenditures of the town.

SECT. 6. It shall be the duty of the officers of the  
2 town who may be authorized to make and sign in be-  
3 half of the town, the bonds, notes, or other securities  
4 provided for in the preceding section, to file with the  
5 treasurer of the town a detailed account of the dates,  
6 amounts, number, and when payable, of each bond,  
7 note or other security that shall be so issued or made  
8 by them, and file a duplicate original of such account  
9 in the office of the said board of commissioners; and  
10 each bond, note, or other security, shall be denomi-  
11 nated at the top thereof, "Deering Boulevard and  
12 Water Park Loan."

SECT. 7. To provide a sinking fund for the payment  
2 of the interest on said bonds, notes, or other securities,  
3 of said town, and for redeeming the principal thereof  
4 as often as may be deemed expedient by said commis-  
5 sioners, it shall be the duty of the selectmen of said  
6 town to appropriate and order the treasurer of the town  
7 to pay quarter yearly to the treasurer of said board of  
8 commissioners, the full amount of taxes that shall be  
9 assessed and collected by the town upon all property  
10 and persons described in the third section of this act,  
11 exclusive of taxes assessed for state and county pur-  
12 poses, the support of schools, and for the repairs of  
13 highways, and it shall be the duty of said commission-

14 ers to appropriate so much of said funds so paid, to  
15 the payment of said interest, when due and payable,  
16 and to re-invest the surplus from time to time as a  
17 sinking fund in some safe interest-bearing securities of  
18 the United States, or the State of Maine, or of the  
19 city of Portland, or of said town of Deering, where-  
20 with to pay the principal of said bonds, notes, or other  
21 securities herein authorized to be issued, and as shall  
22 from time to time be deemed expedient.

SECT. 8. No horse railroad or steam car or telegraph  
2 line shall be established, or omnibus line run, within  
3 the limits of said highway, without the previous con-  
4 sent in writing of said board of commissioners, nor  
5 without suitable compensation therefor to be paid to  
6 the treasurer of said board, and to be used in the main-  
7 tenance and repair of said highway.

SECT. 9. It shall be competent for the city of Port-  
2 land by the concurrent vote of the Mayor and board  
3 of aldermen of said city, in order to retain the tidal  
4 waters of Back Cove at a height at all times sufficient  
5 to cover the flats of said cove, therewith to the outer  
6 base line of said highway, to construct a water dam  
7 or convert Tukey's bridge, before named, into a water  
8 dam, of sufficient height to reduce the influx and reflux  
9 of said tidal surface waters to the depth of two and  
10 one-half feet, and not less in ordinary tides, preserv-

11 ing a channel and passage way as the same now exists  
12 for vessels to pass and repass through the draw of said  
13 bridge as now constructed, and through said water  
14 dam, and as far as practical to create a tidal power in  
15 and by means of such dam for the operation of mills,  
16 and to lease such power for use on such terms as said  
17 mayor and aldermen shall from time to time determine,  
18 and the income of such leases to appropriate towards  
19 the payment of the interest and principal of any  
20 indebtedness that may be created by said city in the  
21 construction and maintenance of said work ; and said  
22 city is authorized by its municipal authorities to raise  
23 and appropriate the necessary amount of money for  
24 the purposes described in this section in such manner  
25 as they shall deem most expedient, and make the same  
26 a part of the legal indebtedness of said city.

STATE OF MAINE.

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IN SENATE, January 26, 1876.

On motion of Mr. HASKELL of Cumberland,  
*Ordered* to be printed, and referred to Committee on Ways and  
Bridges.

SAMUEL W. LANE, *Secretary*.