

MAINE STATE LEGISLATURE

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SIXTIETH LEGISLATURE.

HOUSE.

No. 158.

STATE OF MAINE.

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

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 :*

SECTION 1. When any meadow, swamp, marsh,
2 beach or other low land is held by several proprie-
3 tors, and it is necessary or useful to drain or flow
4 the same, or remove obstructions in rivers or
5 streams leading therefrom, such improvements
6 may be effected under the direction of commission-
7 ers in the manner herein provided.

SECT. 2. Such proprietors, or a majority of them
2 in interest, may apply by petition to the supreme
3 judicial court for the county where the lands or
4 any part of them lie, setting forth the proposed
5 improvements and the reasons therefor; and the

6 court shall cause notice of the petition to be given
7 in such manner as it may judge proper to any pro-
8 prietors who have not joined in the petition, that
9 they may appear and and answer thereto.

SECT. 3. If, upon hearing the parties, it appears
2 that the improvements proposed will be for the
3 general advantage of the proprietors, the court
4 may appoint three suitable persons, as commission-
5 ers, who shall be sworn to the faithful discharge of
6 their duties; shall view the premises, notify parties
7 concerned, hear them as to the best manner of
8 making the improvements, and prescribe the meas-
9 ures to be adopted for that purpose.

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

SECT. 5. They may employ suitable persons to
2 erect the dams or dikes, or perform the other work,

3 under their direction, for such reasonable wages as
4 they may agree upon; unless the proprietors do
5 the same in such time and manner as the commis-
6 sioners shall direct.

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

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

SECT. 8. If the collector neglects for twenty
2 days, after being thereto required by the commis-
3 sioners, to account for and pay over the money he
4 has collected, he shall be liable to pay to the com-
5 missioners the whole amount committed to him for
6 collection, to be recovered by them in an action
7 therefor; and the money so recovered, after de-
8 ducting the expense of recovery, shall be applied

9 and accounted for by the commissioners as if it
10 had been collected and paid over by the collector
11 pursuant to his warrant.

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

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

SECT. 11. When it appears to the commissioners
2 that part of the land is held by a tenant for life, or
3 years, they shall determine how much of the sum
4 apportioned on that part of the premises shall be
5 paid by such tenant, and how much by the landlord
6 or reversioner; and shall assess the same accord-
7 ingly, unless the parties concerned agree to an ap-
8 portionment; and every such tenant, landlord, and
9 reversioner, shall be considered a proprietor.

SECT. 12. If any part of the land is mortgaged,
2 the mortgagor or mortgagee, in possession, shall
3 be considered as the proprietor; and all sums paid

4 by the mortgagee by order of the commissioners,
5 shall be allowed to him as sums paid by him for
6 improvements are by law to be allowed.

SECT. 13. When the commissioners find it neces-
2 sary or expedient to reduce or raise the water
3 for the purpose of obtaining a view of the prem-
4 ises, or for more convenient or expeditious removal
5 of obstructions, they may open the flood-gates of a
6 mill, or make other needful passages through or
7 around the dam thereof, or erect a temporary dam
8 on the land of any person not a party to the pro-
9 ceedings, and may maintain such dam or passages
10 for the water as long as may be necessary for the
11 purposes aforesaid.

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

SECT. 15. If any person, whether a party to the
2 proceedings or otherwise interested therein or
3 affected thereby, is aggrieved by the doings of the
4 commissioners, he may appeal to the court
5 at any time after their appointment and before the

6 end of the term next following that at which the
7 return is made.

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

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

SECT. 18. Any person aggrieved by any opin-
2 ion, direction or judgment of the court in any mat-
3 ter of law, may allege exceptions thereto, which

4 shall be reduced to writing, and when found to be
5 true and not deemed frivolous, shall be signed by
6 the presiding judge, and thereupon the questions
7 of law arising therein shall be determined, as in
8 other actions.

SECT. 19. After dams, dikes and removal of ob-
2 structions shall have been completed in pursuance
3 to the provisions of this act, repairs thereon may
4 be made on petition, and similar proceedings re-
5 quired for the construction of the original im-
6 provements, but such repairs shall be made at the
7 expense of such proprietors only as occupy their
8 lands, take crops therefrom, and are actually ben-
9 efitted by such improvements.

STATE OF MAINE.

In HOUSE OF REPRESENTATIVES, }
March 9, 1881. }

Reported by Mr. FLINT, from Committee on Judiciary, and
ordered printed under Joint Rule.

ORAMANDAL SMITH, *Clerk.*