

MAINE STATE LEGISLATURE

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NEW DRAFT.

Sixty-Fifth Legislature.

HOUSE.

No. 92.

STATE OF MAINE.

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

AN ACT relating to drains and common sewers in the City
of Rockland.

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

SECTION 1. It shall be the duty of the municipal offi-
2 cers of Rockland, when said city has constructed and com-
3 pleted any public drain or common sewer, to determine
4 what lots or parcels of land are benefited by such drain or
5 sewer, and to estimate and assess upon such lots and par-
6 cels of land, and against the owner thereof, or person in
7 possession, or against whom the taxes thereon shall be

8 assessed, whether said person to whom the assessment is
9 so made shall be the owner, tenant, lessee or agent, and
10 whether the same is occupied or not, such sum, not
11 exceeding such benefit, as they may deem just and equit-
12 able, towards defraying the expenses of constructing and
13 completing such drain or sewer, the whole of such assess-
14 ments not to exceed three-fourths of the cost of such drain
15 or sewer, and such drain or sewer shall forever thereafter
16 be maintained and kept in repair by said city. Such
17 municipal officers shall file with the clerk of said city the
18 location of such drain or sewer, with a profile description
19 of the same, with the amount assessed upon each lot or
20 parcel of land so assessed, and the name of the owner of
21 such lots or parcels of land or person against whom said
22 assessment shall be made, and the clerk of said city shall
23 record the same in a book kept for that purpose, and
24 within ten days after filing such notice, each person so
25 assessed shall be notified of such assessment by having an
26 authentic copy of said assessment, with an order of notice
27 signed by the clerk of said city, stating the time and
28 place for a hearing upon the subject matter of said assess-
29 ments, given to each person so assessed or left at his
30 usual place of abode in said city; if he has no place of
31 abode in said city, then such notice shall be given or left
32 at the abode of his tenant or lessee, if he has one in said
33 city; if he has no such tenant or lessee in said city, then
34 by posting the same notice in some conspicuous place in
35 the vicinity of the lot or parcel of land so assessed, at
36 least thirty days before said hearing, or such notice may
37 be given by publishing the same three weeks successively
38 in any newspaper published in said city, the first pub-

39 lication to be at least thirty days before said hearing; a
40 return made upon a copy of such notice by any constable
41 in said city, or the production of the paper containing
42 such notice, shall be conclusive evidence that said notice
43 has been given, and upon such hearing the municipal offi-
44 cers shall have power to revise, increase or diminish any
45 of such assessments, and all such revisions, increase or
46 diminution shall be in writing and recorded by such clerk.

SECT. 2. Any person not satisfied with the amount for
2 which he is assessed, may, within ten days after such
3 hearing, by request in writing given to such clerk,
4 have the assessment upon his lot or parcel of land
5 determined by four arbitrators, who shall be resi-
6 dents of said city, two of whom shall be selected by
7 the municipal officers of the city and two by the appli-
8 cant, who shall fix the sum to be paid by him, and if
9 these four are unable to agree, they shall choose a fifth
10 person, and the report of such referees made to the clerk
11 of said city and recorded by him, shall be final and bind-
12 ing upon all parties. Said reference shall be had and
13 their report made to said clerk, within thirty days from
14 the time of hearing before such municipal officers named
15 in section one of this act.

SECT. 3. Any person may enter his private drain into
2 any such public drain or common sewer, while the same
3 is under construction and before the same is completed,
4 and before the assessments are made, on obtaining a per-
5 mit in writing from the municipal officers, or the sewer
6 board having the construction of the same in charge; but
7 the person so entering shall pay the assessment as soon as
8 the amount is fixed; but after the same is completed and

9 the assessments made, no person shall enter his private
10 drain into the same until he has paid his assessment and
11 obtained a permit in writing from the city treasurer, by
12 authority of the municipal officers. All permits given to
13 enter any such drain or sewer shall be recorded by the
14 city clerk of said city before the same are issued.

SECT. 4. All assessments made under the provisions of
2 this act shall create a lien upon each and every lot or par-
3 cel of land so assessed, and the buildings upon the same,
4 which lien shall continue one year after said assessments
5 are made, and within ten days after they are
6 made the clerk of said city shall make out a list of all
7 such assessments, the amount of each assessment, and the
8 name of the person against whom the same is assessed, to
9 be by him certified; and he shall deliver the same to the
10 treasurer of said city, and if said assessments are not paid
11 within three months from the date of said assessments,
12 then the treasurer shall proceed and sell such of said lots
13 or parcels of land upon which such assessments remain
14 unpaid, or so much thereof, at public auction, as is neces-
15 sary to pay such assessments and all costs and incidental
16 charges; he shall advertise and sell the same in the way
17 and manner that real estate is advertised and sold for
18 taxes under chapter six of the Revised Statutes, which sale
19 shall be made within one year from the time said assess-
20 ments are made; and upon such sale the treasurer shall
21 make, execute and deliver his deed to the purchaser
22 thereof, which shall be good and effectual to pass the title
23 of such real estate; the sum for which such sale shall be
24 made shall be the amount of the assessment and all costs
25 and incidental expenses.

SECT. 5. Any person to whom the right by law belongs,
2 may at any time within one year from the date of said sale,
3 redeem such real estate by paying to the purchaser or his
4 assigns the sum for which the same was sold, with interest
5 thereon at the rate of twenty per cent per annum, and the
6 costs of re-conveyance.

SECT. 6. If said assessments are not paid, and said city
2 does not proceed to collect said assessments, by a sale of
3 the lots or parcels of land upon which said assessments
4 are made, or do not collect, or is in any manner delayed
5 or defeated in collecting such assessments by a sale of the
6 real estate so assessed, then the said city, in the name of
7 said city, may sue for and maintain any action against the
8 party so assessed for the amount of said assessment, as
9 for money paid, laid out and expended, in any court com-
10 petent to try the same, and in such suit may recover the
11 amount of such assessment, with twelve per cent interest
12 on the same from the date of said assessments and costs.

SECT. 7. When any such assessment shall be paid by
2 any person against whom such assessment has been made,
3 who is not the owner of such lot or parcel of land, then
4 the person so paying the same, shall have a lien upon such
5 lot or parcel of land with the buildings thereon, for the
6 amount of said assessment so paid by said person, and
7 incidental charges, which lien may be enforced in an
8 action of assumpsit as for money paid, laid out and
9 expended, and by attachment in the same way and man-
10 ner provided for the enforcement of liens upon buildings
11 and lots, under section thirty, chapter ninety-one, Re-
12 vised Statutes, which lien shall continue one year after
13 said assessment is paid.

SECT. 8. Whenever it shall appear to the board of health of the city of Rockland that any cellar or lot of land lying in said city within two hundred feet of any public drain or common sewer, constructed or maintained by said city, or that any private drain draining into the gutter of any street, way, lane or alley or upon neighboring property within said city, or into to so called Lindsey brook or any branch or tributary thereof, is a public nuisance, said board of health shall give notice thereof in writing to the owner or occupant of said premises, and request said owner or occupant to abate said nuisance within such reasonable time as said board of health shall direct; and if said owner or occupant shall not, within the time specified by the board of health, abate said nuisance, the municipal officers or a committee chosen by them, shall have the power to connect the premises with the public drain or common sewer, and the property shall be liable for the expense thereof in addition to the assessment fixed by said municipal officers, but the owner or person in possession or person against whom the taxes are assessed, shall have all the rights and privileges guaranteed to him by section two of this act, relating to assessments, the same as if such person had connected with such public drain or common sewer voluntarily.

SECT. 9. For the construction or repair of any public drain or common sewer, the city of Rockland shall have authority to enter upon any lands in said city, and take the same for said purposes, and to lay said sewer over, across and through said lands, when in the opinion of the municipal officers, it is for public interest so to do. Said municipal officers shall within thirty days after such taking

8 file in the registry of deeds for Knox county a description
9 of the lands so taken and the course of said drain or sewer.
10 All damages occasioned by reason of any such taking
11 shall be determined by said municipal officers, by first
12 giving not less than seven days written notice in hand, or
13 leaving the same at the last and usual place of abode of
14 the owner, tenant, lessee or agent, or by publishing a like
15 notice in one or more of the city papers, designating the
16 time and place of hearing, the last publication of which
17 shall not be less than seven days prior to the time of
18 hearing. The municipal officers, shall, within five days
19 after such hearing, file their return with the city clerk,
20 stating the amount of damages allowed for each parcel or
21 lot of land so crossed. Any person not satisfied with the
22 amount of his award, may within ten days after such
23 hearing, by request in writing given to such clerk, have
24 the damages determined by abitation, as sewer assess-
25 ments are determined by section two of this act, and if the
26 award determined by the arbitrators be unsatisfactory to
27 either party, the party aggrieved shall have the right to
28 appeal to the supreme judicial court in which the same
29 proceedings shall be had as in case of appeal from the
30 decision of county commissioners in case of damages for
31 lands taken for highways.

SECT. 10. All acts and parts of acts inconsistent with
2 the provisions of this act, so far as they relate to the city
3 of Rockland, are hereby repealed. This act shall not
4 apply to or effect any public drain or common sewer con-
5 structed, or assessments made prior to the approval of this
6 act.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 14, 1891.

Tabled pending first reading, by Mr. SAVAGE of Auburn, and ordered
printed.

W. S. COTTON, *Clerk.*