

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING THE SESSION

A. D. 1891.



AUGUSTA:  
BURLEIGH & FLYNT, PRINTERS TO THE STATE.  
1892.

---

---

# Sixty-Fifth Legislature.

---

---

SENATE.

No. 217.

---

---

## STATE OF MAINE.

---

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

---

AN ACT to amend chapter 250 of the private and special laws of the year eighteen hundred and eighty, entitled "An Act relating to Drains and Sewers in the Town of Deering."

---

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

Chapter 250 of the private and special laws of 1880, is 2 hereby amended by striking out all of said chapter after 3 section two in said chapter, and inserting thereof the 4 following :

SECT. 3. A Board of three commissioners shall be 2 chosen by the town, who shall have jurisdiction over and 3 authority to construct, build, maintain and repair in 4 behalf of the town all the drains and sewers of said town

5 now or that may be hereafter laid out and accepted by  
6 said town, under the provisions of sections one and two  
7 of this act. The commissioners first elected shall hold  
8 their offices, one until the annual March meeting of said  
9 town in 1892, one until the annual March meeting of said  
10 town in 1893, and one until the annual March meeting of  
11 said town in 1894, and until their several successors are  
12 elected and qualified. The member having the shortest  
13 term to serve shall be chairman of the Board. Said  
14 commissioners shall be first elected, after the approval of  
15 this act, at a special meeting of the inhabitants of said  
16 town, called for such purpose, and hold office as above  
17 stated, and as said terms severally expire shall thereafter  
18 be elected at the annual March meeting of the inhabitants  
19 of said town, and such commissioners so elected shall hold  
20 office for the term of three years each and until their  
21 several successors are elected and qualified. In case any  
22 vacancy shall occur by resignation, declination or other-  
23 wise in said Board during the term for which any member  
24 shall have been elected, the municipal officers of said  
25 town may fill such vacancy for the remainder of the year,  
26 by the written appointment of some suitable person to  
27 serve on said Board.

SECT. 4. When said drain or sewer is completed, said  
2 commissioners shall adjudge what parcels of land are ben-  
3 efitted by such drain or sewer, whether abutting upon any  
4 street through which such sewer may be built or otherwise,  
5 and whether the same is occupied or not, and estimate and  
6 assess upon such lots and parcels of land and against the  
7 owner thereof, if known, such sum, not exceeding such  
8 benefit, as they may deem just and equitable, towards

9 defraying the expenses of constructing and completing  
10 such drain or sewer, the whole of said assessments not to  
11 exceed two-thirds of the cost of such drain or sewer, and  
12 such drain or sewer shall forever thereafter be maintained  
13 and kept in order by said town; said commissioners shall  
14 file with the clerk of said town the location of such drain  
15 or sewer, with a profile description of the same, with the  
16 amount assessed upon each lot or parcel of land so assessed,  
17 and the name of the owner of each lot or parcel of land, if  
18 known, and the clerk of said town shall record the same  
19 in a book kept for that purpose, and within ten days after  
20 filing such notice, each person so assessed shall be notified  
21 of such assessment, by having an authentic copy of said  
22 assessment with an order of notice signed by the clerk,  
23 stating a time and place for a hearing on the subject mat-  
24 ter of said assessments, given to the person so assessed,  
25 or left at his usual place of abode in said town, if he  
26 has no place of abode in said town then such notice  
27 shall be given to or left at the abode of his tenant  
28 or lessee if he has one in said town; if he has no such  
29 tenant or lessee in the said town, then by posting the  
30 same in some conspicuous place in the vicinity of the lot  
31 or parcel of land so assessed at least thirty days before  
32 said hearing, or such notice may be given by publishing the  
33 same three weeks successively in any newspaper published  
34 in the city of Portland, the first publication to be at least  
35 thirty days before said hearing; a return made by a copy  
36 of such notice by any constable in said town, or the pro-  
37 duction of the paper containing such notice shall be con-  
38 conclusive evidence that such notice has been given, and  
39 upon such hearing said commissioners shall have power to

40 revise, increase or diminish any such assessments, and all  
41 such revision, increase or diminution shall be in writing  
42 and recorded by such clerk.

SECT. 5. Any person who is aggrieved by the doings  
2 of said municipal officers in laying out said sewer or by  
3 the doings of said commissioners in constructing said  
4 sewer, or in making said assessments, may appeal there-  
5 from to the next term of the supreme judicial court  
6 which shall be holden in the county of Cumberland, more  
7 than thirty days from and after the day when the hearing  
8 last mentioned is concluded, excluding the day of the  
9 commencement of the session of said court; the appel-  
10 lants shall serve written notice of such appeal upon said  
11 commissioners fourteen days at least before the session of  
12 the court, and shall, at the first term, file a complaint set-  
13 ting forth substantially the facts in the case; either party  
14 shall be entitled to a trial by jury, or the matter in dis-  
15 pute may, if the parties so agree, be decided by a com-  
16 mittee of reference, and the court shall render such judg-  
17 ment and decree in the premises as the nature of the case  
18 may require; at the trial exceptions may be taken to the  
19 ruling of the judge, as in other cases.

SECT. 6. Whenever, in the judgment of said commis-  
2 sioners, the building of such drain or common sewer shall  
3 damage any land owner, the said commissioners shall esti-  
4 mate, and the town shall pay such damages, in the same  
5 manner and form as is provided in the statutes, in relation  
6 to damages in building ways.

SECT. 7. Any person may enter his private drain into  
2 any such public drain or sewer while the same is under  
3 construction and before the same is completed, and before

4 the assessments are made, on obtaining a permit in writing  
5 from the commissioners ; but after the same is completed  
6 and the assessments made, no person shall enter his private  
7 drain into the same until he has paid his assessment and  
8 obtained a permit in writing from the commissioners. All  
9 permits given to enter any such drain or sewer shall be  
10 recorded by the clerk of said town before the same are  
11 issued.

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

SECT. 9. 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 with costs  
6 of re-conveyance.

SECT. 10. If said assessments are not paid and said town  
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 does 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 town, in the name of  
7 the inhabitants of said town or in the name of such town,  
8 may sue for and maintain an action against the party so  
9 assessed for the amount of said assessment as for money  
10 paid, laid out and expended, in any court competent to  
11 try the same, and in such suit may recover the amount of  
12 such assessment with twelve per cent interest on the same  
13 from the date of said assessment, and costs; provided,  
14 however, that if any lot when sold in the manner before  
15 provided shall not sell for enough to pay the amount of  
16 said assessment with interest and costs, the owner thereof  
17 shall be under no personal liability for the same.

SECT. 11. The municipal officers of the town may  
2 employ one of their number, or some other person, to  
3 attend the sale of real estate to be sold for assessments  
4 under the provisions of this act, and bid therefor a sum  
5 sufficient to pay the amount due and charges, in behalf of  
6 the town, and the deed shall be made to said town.

SECT. 12. All acts and parts of acts inconsistent with  
2 this act are hereby repealed, *provided*, however, this act



3 shall not affect or invalidate, in any manner whatever, the  
4 proceedings and doings of the municipal officers of the  
5 town of Deering in laying out and constructing any drain  
6 or common sewer, or in making any assessment or assess-  
7 ments relating to the same prior to the approval of this  
8 act, and the provisions of said chapter 250, under which  
9 said proceedings were had, are hereby continued in force  
10 for the purpose of governing, determining and settling  
11 the rights, duties and liabilities of all parties in interest  
12 resulting from the proceedings and doings aforesaid of said  
13 municipal officers.

SECT. 13. This act shall take effect when approved.

So that said chapter as amended shall read as follows :

SECT. 1. The municipal officers of the town of Deering  
2 may, personally or by agency, lay out a public drain or  
3 common sewer, upon the written application of seven or  
4 more of its inhabitants. They shall give written notice of  
5 such application and of a hearing in regard to it, to be  
6 posted for seven days in two public places in the town and  
7 in the vicinity of the sewer, describing it in the notice.

SECT. 2. A written return of their proceedings in all  
2 cases, containing the bounds and measurements and a pro-  
3 file description of the sewer, is to be made and filed with  
4 the town clerk. The sewer is not established and shall  
5 not be built until it has been accepted in a town meeting  
6 legally called, after it has been so laid out, by a warrant  
7 containing an article for the purpose.

SECT. 3. A board of three commissioners shall be  
2 chosen by the town, who shall have jurisdiction over and  
3 authority to construct, build, maintain and repair in  
4 behalf of the town all the drains and sewers of said town

5 now or that may be hereafter laid out and accepted by  
6 said town, under the provisions of sections one and two  
7 of this act. The commissioners first elected shall hold  
8 their offices : one until the annual March meeting of said  
9 town in 1892, one until the annual March meeting of  
10 said town in 1893, and one until the annual March meet-  
11 ing of said town in 1894, and until their several succes-  
12 sors are elected and qualified. The member having the  
13 shortest term to serve shall be chairman of the board.  
14 Said commissioners shall be first elected, after the approval  
15 of this act, at a special meeting of the inhabitants of said  
16 town, called for such purpose, and hold office as above  
17 stated, and as said terms severally expire shall thereafter  
18 be elected at the annual March meeting of the inhabitants  
19 of said town, and such commissioners so elected shall hold  
20 office for the term of three years each and until their sev-  
21 eral successors are elected and qualified. In case any  
22 vacancy shall occur by resignation, declination or other-  
23 wise in said board during the term for which any member  
24 shall have been elected, the municipal officers of said town  
25 may fill such vacancy for the remainder of the year by the  
26 written appointment of some suitable person to serve on  
27 said board.

SECT. 4. When said drain or sewer is completed, said  
2 commissioners shall adjudge what parcels of land are ben-  
3 efitied by such drain or sewer, whether abutting upon any  
4 street through which such sewer may be built or other-  
5 wise, and whether the same is occupied or not, and esti-  
6 mate and assess upon such lots and parcels of land and  
7 against the owner thereof, if known, such sum, not  
8 exceeding such benefit, as they may deem just and equit-

9 able, towards defraying the expenses of constructing and  
10 completing such drain or sewer, the whole of said assess-  
11 ments not to exceed two-thirds of the cost of such drain  
12 or sewer, and such drain or sewer shall forever thereafter  
13 be maintained and kept in order by said town; said com-  
14 missioners shall file with the clerk of said town the loca-  
15 tion of such drain or sewer, with a profile description of  
16 the same, with the amount assessed upon each lot or par-  
17 cel of land so assessed, and the name of the owner of  
18 each lot or parcel of land, if known, and the clerk of  
19 said town shall record the same in a book kept for that  
20 purpose, and within ten days after filing such notice, each  
21 person so assessed shall be notified of such assessment,  
22 by having an authentic copy of said assessment with an  
23 order of notice signed by the clerk, stating a time and  
24 place for a hearing on the subject matter of said assess-  
25 ments, given to the person so assessed, or left at his  
26 usual place of abode in said town; if he has no place of  
27 abode in said town, then such notice shall be given to or  
28 left at the abode of his tenant or lessee if he has one in  
29 said town, if he has no such tenant or lessee in the said  
30 town, then by posting the same in some conspicuous  
31 place in the vicinity of the lot or parcel of land so  
32 assessed, at least thirty days before said hearing, or such  
33 notice may be given by publishing the same three weeks  
34 successively in any newspaper published in the city of  
35 Portland, the first publication to be at least thirty days  
36 before said hearing; a return made by a copy of such  
37 notice by any constable in said town, or the production of  
38 the paper containing such notice shall be conclusive evi-  
39 dence that such notice has been given, and upon such

40 hearings said commissioners shall have power to revise,  
41 increase or diminish any such assessments, and all such  
42 revision, increase or diminution shall be in writing and  
43 recorded by such clerk.

SECT. 5. Any person who is aggrieved by the doings  
2 of said municipal officers in laying out said sewer or by  
3 the doings of said commissioners in constructing said sewer,  
4 or in making said assessments, may appeal therefrom to  
5 the next term of the supreme judicial court which shall be  
6 holden in the county of Cumberland, more than thirty  
7 days from and after the day when the hearing last men-  
8 tioned is concluded, excluding the day of the commence-  
9 ment of the session of said court; the appellants shall  
10 serve written notice of such appeal upon said commis-  
11 sioners fourteen days at least before the session of the  
12 court, and shall, at the first term, file a complaint setting  
13 forth substantially the facts in the case; either party shall  
14 be entitled to a trial by jury, or the matter in dispute  
15 may, if the parties so agree, be decided by a committee  
16 of reference, and the court shall render such judgment and  
17 decree in the premises as the nature of the case may  
18 require; at the trial exceptions may be taken to the rul-  
19 ing of the judge, as in other cases.

SECT. 6. Whenever, in the judgment of said commis-  
2 sion, the building of such drain or common sewer shall  
3 damage any land owner, the said commissioners shall esti-  
4 mate, and the town shall pay, such damages, in the same  
5 manner and form as is provided in the statutes, in relation  
6 to damages in building ways.

SECT. 7. Any person may enter his private drain into  
2 any such public drain or sewer while the same is under

3 construction and before the same is completed, and before  
4 the assessments are made, on obtaining a permit in writ-  
5 ing from the commissioners; but after the same is com-  
6 pleted and the assessments made, no person shall enter  
7 his private drain into the same until he has paid his assess-  
8 ment and obtained a permit in writing from the commis-  
9 sioners. All permits given to enter any such drain or  
10 sewer shall be recorded by the clerk of said town before  
11 the same are issued.

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

SECT. 9. 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 with costs  
6 of re-conveyance.

SECT. 10. If said assessments are not paid and said  
2 town does not proceed to collect said assessments by a  
3 sale of the lots or parcels of land upon which said assess-  
4 ments are made, or does not collect or is in any manner  
5 delayed or defeated in collecting such assessments by a  
6 sale of the real estate so assessed, then the said town, in  
7 the name of the inhabitants of said town or in the name  
8 of such town, may sue for and maintain an action against  
9 the party so assessed for the amount of said assessment  
10 as for money paid, laid out and expended, in any court  
11 competent to try the same, and in such suit may recover  
12 the amount of such assessment with twelve per cent  
13 interest on the same from the date of said assessment,  
14 and costs; provided, however, that if any lot when sold  
15 in the manner before provided shall not sell for enough to  
16 pay the amount of said assessment with interest and costs,  
17 the owner thereof shall be under no personal liability for  
18 the same.

SECT. 11. The municipal officers of the town may  
2 employ one of their number, or some other person, to  
3 attend the sale of real estate to be sold for assessments  
4 under the provisions of this act, and bid therefor a sum  
5 sufficient to pay the amount due and charges, in behalf of  
6 the town, and the deed shall be made to said town.

SECT. 12. All acts and parts of acts inconsistent with  
2 this act are hereby repealed, *provided, however*, this act  
3 shall not affect or invalidate, in any manner whatever,  
4 the proceedings and doings of the municipal officers of the  
5 town of Deering in laying out and constructing any drain  
6 or common sewer, or in making any assessment or assess-  
7 ments relating to the same prior to the approval of this  
8 act, and the provisions of said chapter 250, under which  
9 said proceedings were had, are hereby continued in force  
10 for the purpose of governing, determining and settling  
11 the rights, duties and liabilities of all parties in interest  
12 resulting from the proceedings and doings aforesaid of said  
13 municipal officers.

SECT. 13. This act shall take effect when approved.





## STATE OF MAINE.

---

IN SENATE, March 20, 1891.

Reported in the House from the Committee on Legal Affairs, and passed to be engrossed. In Senate, laid on table to be printed, pending second reading, on motion by Mr. MOORE of Cumberland.

KENDALL M. DUNBAR, *Secretary.*