

MAINE STATE LEGISLATURE

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EIGHTY-FIRST LEGISLATURE

HOUSE

NO. 391

House of Representatives, March 15, 1923.

Reported by Mr. Hale from Committee on Legal Affairs and ordered printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Dudley of Woodstock.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-THREE

AN ACT in Addition to and to Amend Chapter Seventy-five of the Special Laws of Eighteen Hundred and Sixty-six as Amended by Chapter Eighteen of the Private and Special Laws of Eighteen Hundred and Seventy-eight, as Amended by Chapter One Hundred Sixty-four and Chapter Three Hundred and Four of the Private and Special Laws of Nineteen Hundred and Five and as Amended by Chapter Two Hundred and Thirty-six of the Private and Special Laws of Nineteen Hundred and Eleven, Entitled "An Act Creating the South Paris Village Corporation," Relating to a Public Sewer for Said Corporation.

Be it enacted by the People of the State of Maine, as follows:

Section 1. The South Paris Village Corporation, in addition to the powers already granted it, is hereby authorized and empowered to raise money for the construction, support and maintenance of a system of sewerage within said corporation limits, also for the purchase of any sewerage system already in existence.

Sect. 2. It shall be the duty of the assessors of the South Paris Village Corporation, when said corporation has constructed and completed any public drain or common sewer, to determine what lots or parcels of land are benefited by such drain or sewer, and to estimate and assess upon such lots and parcels of land, and against the owner thereof, or person in possession, or against whom the taxes thereon shall be assessed, whether said person to whom the assessment is so made shall be the owner, tenant, lessee or agent, and whether the same is occupied or not, such sum not exceeding such benefit as they may deem just and equitable towards defraying the expenses of constructing and completing such drain or sewer, the whole of such assessments not to exceed three-fourths of the cost of such drain or sewer; and such drain or sewer shall forever thereafter be maintained and kept in repair by said village corporation. Said corporation assessors shall file with the clerk of said village corporation the location of such drain or sewer, with a profile description of the same, with the amount assessed upon each lot or parcel of land so assessed, and the name of the owner of such lots or parcels of land or person

22 against whom said assessment shall be made, and the clerk
23 of said village corporation shall record the same in a book
24 kept for that purpose, and within ten days after filing such
25 notice, each person so assessed shall be notified of such as-
26 sessment by having an authentic copy of said assessment,
27 with an order of notice signed by the clerk of said village
28 corporation, stating the time and place for a hearing upon
29 the subject matter of said assessments, given to each per-
30 son so assessed or left at his usual place of abode in said
31 village; if he has no place of abode in said village, then
32 such notice shall be given or left at the abode of his tenant
33 or lessee, (if he has one in said village; if he has no such
34 tenant or lessee) in such village then by posting the same
35 notice in some conspicuous place in the vicinity of the lot
36 or parcel of land so assessed, at least thirty days before
37 said hearing, or such notice may be given by publishing
38 the same three weeks successively in any newspaper pub-
39 lished in said village, the first publication to be at least
40 thirty days before said hearing; a return made upon a copy
41 of such notice by any constable in said village, or the pro-
42 duction of the paper containing such notice, shall be con-
43 clusive evidence that said notice has been given, and upon
44 such hearing, the corporation assessors shall have power to
45 revise, increase or diminish any of such assessments, and
46 all such revisions, increase or diminution shall be in writing
47 and recorded by such clerk.

Sect. 3. Any person who is aggrieved by the doings of

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

Sect. 4. Any person may enter his private drain into any
2 such public drain or common sewer, while the same is un-
3 der construction and before the same is completed, and be-
4 fore the assessments are made, on obtaining a permit in
5 writing from the corporation assessors, or the sewer board
6 having the construction of the same in charge; but after
7 the same is completed and the assessments made, no person
8 shall enter his private drain into the same, until a permit
9 in writing is obtained from the village corporation treas-
10 urer, by authority of the corporation assessors. All permits

11 given to enter any such drain or sewer shall be recorded
12 by the corporation clerk of said village corporation before
13 the same are issued.

Sect. 5. The total amount of said assessment shall be as-
2 sessed in annual assessments of one-tenth part of the prin-
3 cipal sum of said total amount of said assessment, appor-
4 tioned among the lots or parcels of land determined to be
5 benefited under section one of this act in the same propor-
6 tions the assessed values of said lots or parcels of land bear
7 to the total assessed value of the land benefited, and shall
8 be included as a part of the annual South Paris Village
9 Corporation tax against such lots or parcels of land in each
10 and every year until the full amount of the said assessment
11 is paid, with necessary interest on corporation bonds which
12 may be issued for that purpose. And the part of said as-
13 sessment so assessed shall annually create a lien on every
14 lot or parcel or parcels of land so assessed, which lien shall
15 be of the same character as the lien for other taxes, and
16 shall be enforced in the same manner if not paid.

Sect. 6. If said assessments are not paid, and said village
2 corporation does not proceed to collect said assessments, by
3 a 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 sale
6 of the real estate so assessed, then the said village corpora-
7 tion, in the name of the said village corporation, may sue
8 for and maintain any action against the party so assessed

9 for the amount of said assessment, as for money paid, laid
10 out and expended, in any court competent to try the same,
11 and in such suit may recover the amount of such assess-
12 ment, with twelve per cent. interest on the same from the
13 date of said assessments, together with costs.

Sect. 7. When any such assessment shall be paid by any
2 person against whom such assessment has been made, who
3 is not the owner of such lot or parcel of land, then the per-
4 son so paying the same shall have a lien upon such lot or
5 parcel of land with the buildings thereon, for the amount
6 of said assessment so paid by said person, and incidental
7 charges, which lien may be enforced in an action of as-
8 sumpsit as for money paid, laid out and expended, and by
9 attachment in the same way and manner provided for the
10 enforcement of liens upon buildings and lots, under sections
11 twenty-nine to forty-five inclusive, of chapter ninety-three,
12 revised statutes, which lien shall continue one year after
13 said assessment is paid.

Sect. 8. Whenever it shall appear to the board of health
2 of the Town of South Paris, that any cellar or lot of land
3 lying in said village within two hundred feet of any public
4 drain or common sewer, constructed or maintained by said
5 village corporation, or that any private drain draining into
6 the gutter of any street, way, land or alley or upon neigh-
7 boring property within two hundred feet as above provided,
8 in said village, is a public nuisance, said board of health
9 shall give notice thereof in writing to the owner or occupant

10 of said premises and request said owner or occupant to
11 abate said nuisance within such reasonable time as said board
12 of health shall direct; and if said owner or occupant shall
13 not, within the time specified by the board of health, abate
14 said nuisance, the corporation assessors, or a committee
15 chosen by them, shall have the power to connect the prem-
16 ises with the public drain or common sewer, and the prop-
17 erty shall be liable for the expense thereof in addition to
18 the assessment fixed by said corporation assessors; but the
19 owner or person in possession or person against whom the
20 taxes are assessed, shall have all the rights and privileges
21 guaranteed to him by section two of this act, relating to as-
22 sessments, the same as if such person had connected with
23 such public drain or common sewer voluntarily.

Sect. 9. For the construction or repair of any public
2 drain or common sewer, the South Paris Village Corpora-
3 tion shall have authority to enter upon any land in said vil-
4 lage, and take the same for said purposes, and to lay said
5 sewer over, across and through said lands, when in the
6 opinion of the corporation assessors it is for public interest
7 so to do. Said corporation assessors shall within thirty days
8 after such taking, file in the registry of deeds for Oxford
9 county a description of the lands so taken and the course
10 of said drain or sewers. All damages occasioned by reason
11 of any such taking shall be determined by said corporation
12 assessors, by first giving not less than seven days' written
13 notice in hand, or leaving the same at the last and usual

14 place of abode of the owner, tenant, lessee or agent, or by
15 publishing a like notice in one or more of the village papers,
16 designating the time and place of hearing, the last publica-
17 tion of which shall not be less than seven days prior to the
18 time of hearing. The corporation assessors shall, within
19 five days after such hearing, file their return with the cor-
20 poration clerk, stating the amount of damages allowed for
21 each parcel or lot of land so crossed. Any person not satis-
22 fied with the amount of his award, shall have the right to
23 appeal to the supreme judicial court in which the same pro-
24 ceedings shall be had as in case of appeal from the decision
25 of county commissioners in case of damages for lands taken
26 for highways.

Sect. 10. If at any time prior to the final payment of the
2 last installment of said assessment, the owners of any lots
3 or parcels of land not included in the original determination
4 of the assessors as provided in section one of this act shall
5 desire to connect with said sewer, and shall obtain a permit
6 therefor as provided in section three, said lots or parcels
7 of land may thereafter be included in the annual assess-
8 ment as if they had been originally included in the lots or
9 parcels determined to be benefited, and shall be subject to
10 the same tax and same annual lien until the debt for said
11 sewerage system is fully paid.

Sect. 11. Said village corporation shall not proceed under
2 this act until after it shall have been accepted by a majority
3 vote of the voters present at a meeting called for that pur-
4 pose.