

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTIETH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1850.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840,  
and March 16, 1842.  
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Augusta:
WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1850.

PUBLIC LAWS
OF THE
STATE OF MAINE.

1850.

Chapter 152.

An act additional to chapter one hundred and seventy-one of the revised statutes, entitled "Of commencement of proceedings in criminal cases."

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

SECT. 1. In all cases where any person has been or shall be adjudged guilty by verdict of a jury, of any offense punishable by confinement in the state prison, such person shall be admitted to bail only by the justice of the court who presided at the trial, or by some magistrate especially appointed by said justice, or either of the justices of the supreme judicial, or district courts, who may inquire into the case and admit such person to bail.

Persons adjudged guilty of any offense punishable by confinement in state prison, how bailed.

SECT. 2. This act shall take effect and be in force from and after its approval by the governor.

[Approved June 7, 1850.]

Chapter 153.

An act additional to chapter twenty-four of the revised statutes.

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

SECT. 1. Whenever the selectmen of any town, or the mayor and aldermen of any city in this state, by virtue of an

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Main drains and
sewers, benefits
how estimated.

Persons benefit-
ed, chargeable
with repairs.

Main drains, &c.,
to be deemed the
property of cities
and towns.

Duty of owners
of tenements to
construct drains,
&c.

Power of city and
town officers in
case of refusal or
neglect.

act approved March sixth, eighteen hundred and forty-four, entitled "an act additional to chapter twenty-four of the revised statutes," or in obedience to the by-laws or ordinances of any town or city, shall judge it expedient, on the application of two or more citizens residing in such town or city, that a main drain or common sewer, should be made, and shall proceed to construct the same accordingly, it shall be the duty of said selectmen and mayor and aldermen to estimate and decide what person or persons, if any, are benefited by such main drain, or common sewer, and the amount of such benefit; and any person who may be adjudged by said selectmen or mayor and aldermen to be in any way benefited thereby, shall pay to such town or city a proportional part of the charge of making, maintaining and repairing such main drain or common sewer, to be ascertained and assessed by the selectmen in case of towns, and by the mayor and aldermen in case of cities, and by them certified and recorded and notice thereof given in writing to the party to be charged, or his tenant, or lessee. And all main drains or common sewers which have heretofore been, or which may hereafter be constructed by any town or city, shall be taken and deemed to be the property of such town or city.

SECT. 2. It shall be the duty of the owner of every tenement, within the several towns and cities in this state, that is used as a dwelling house, to provide therefor a sufficient drain to carry off the waste water from the same, and also a suitable privy therefor to be used in common by the occupants of said tenement. And if the selectmen of towns, and mayor and aldermen of cities shall at any time be satisfied that any tenement, used as a dwelling house, is not provided with a suitable drain and privy, or either of them, as aforesaid, said selectmen or mayor and aldermen may give notice thereof to the occupant of said tenement, or, if the same be unoccupied, to the owner or agent, requiring such occupant, owner or agent, within such time as they shall appoint, to cause a proper and sufficient drain and privy, or either of them, as the case may require, to be constructed for such tenement, subject to the common use of all the occupants thereof; and in case of the neglect or refusal of such occupant, owner or agent, to regard said notice within the time prescribed, and to construct said drain or privy to the acceptance of said selectmen or mayor and aldermen, they shall have power to cause such drain and privy to be made for such tenement, the expense of which shall

be ascertained, assessed, recorded, certified, and notice thereof given as aforesaid. And if in constructing said particular drain said selectmen or mayor and aldermen shall find it necessary or convenient to enter the same into any main drain or common sewer, so constructed as aforesaid, or which may already have been built in any town or city, for the purpose of draining his cellar, or land, the owner of said cellar or land shall pay his proportional part of the charge of making, maintaining and repairing such main drain or common sewer, or be entitled to receive compensation for the taking of his private drain or destruction thereof, such compensation or damages to be ascertained, assessed, recorded, certified, and notice thereof given as aforesaid; always *provided* said tenement or land has not already been assessed their proportional part thereof as in the first section of this act is provided.

Owners of tenements, &c., accommodated by main drains, &c., shall pay for supporting said drains.

For destruction of private drain, owner entitled to compensation.

SECT. 3. Whenever it shall be made to appear to said selectmen or mayor and aldermen, that any cellar, lot or vacant ground in any town or city in this state is in a state of nuisance, or so situated that it may become a nuisance, and the health of the inhabitants be thereby endangered, it shall be their duty, and they are hereby authorized and required, to notify the owner or occupant thereof, within such time as they shall appoint, to have said nuisance, or cause of nuisance, removed by draining, filling up or otherwise, in the manner to be prescribed in such notice; and in case of neglect or refusal of such owner or occupant to regard said notice within the time appointed and to remove such nuisance or cause of nuisance in the manner prescribed, to the acceptance of said selectmen, or mayor and aldermen, they shall have power to remove the same by filling up, draining or otherwise, as they shall deem expedient, and the owner thereof shall defray and pay the expense thereof, to be ascertained, assessed, recorded, certified, and notice thereof given as aforesaid.

Duty of town and city officers where cellars, lots, &c., become a nuisance.

In case of neglect or refusal to remove such nuisance, after notice.

SECT. 4. All assessments so made as aforesaid shall constitute a lien on the real estate assessed for one year after they are laid, and may, together with all incidental costs and expenses, be levied by sale thereof, if said assessment in each case is not paid within three months after notice thereof given to the owner or occupant of said estate, such sale to be made by the treasurer of said town or city, to be conducted in the same manner as sales for non-payment of taxes are made; and said treasurer is hereby authorized to make and deliver his deed thereof to the purchaser, which shall be effectual to pass said

Assessments to defray the expense thereof, shall constitute a lien on such estate.

For non-payment of assessments, property how disposed of.

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estate ; saving and reserving to the owner of any land sold under the provisions of this act a right to redeem the same by paying to the purchaser or his assigns, within one year from the time of said sale, the sum for which said land was sold with interest thereon at the rate of twenty per centum per annum, and costs of reconveyance.

Notices, how
given.

SECT. 5. All notices required by the several provisions of this act and of said act approved March sixth, eighteen hundred and forty-four, except where is herein otherwise provided, shall be given by publishing the same in some newspaper, if there be any printed in said town or city, the first publication to be seven days, at least, prior to the time appointed by the selectmen or mayor and aldermen for doing the act required by such notice ; and if no newspaper be printed in said town or city, then said notice shall be given by posting up the same in two public places therein, seven days, as aforesaid.

Remedy of persons
aggrieved by award of
selectmen, &c.

SECT. 6. Any person who may deem himself aggrieved by the award of damages made by said selectmen or mayor and aldermen under the said act approved March sixth, eighteen hundred and forty-four, or by any assessment as is herein provided, may at any time within three months from making and recording said award of damages, or from receiving notice of said assessments, or any of them, appeal to the district court next to be holden in said county, which court, in such case shall appoint three disinterested persons, who may be inhabitants of said town or city, to determine the amount of damages and the sum to be assessed as aforesaid ; and said referees may examine the parties and any other persons, on oath, touching the matter submitted to them, and shall determine said damages and assessments and make return of their doings and award to said district court ; and their award shall be final ; and in case the damages awarded by said selectmen or mayor and aldermen shall not be increased, or the assessments made by them shall not be reduced on such appeal, the town or city shall recover costs ; but if otherwise shall pay costs : *provided, however,* that in all cases of an appeal as aforesaid, the appellant, before entering it shall give one month's notice in writing to said selectmen or mayor and aldermen of his intention to appeal, and shall therein specify the points of his objection to said award of damages or assessments, made by them, to which he shall be confined upon the hearing of the appeal.

Costs recovered
or paid.

Proviso.

Power of cities
and towns in
constructing and
regulating main
drains.

SECT. 7. Nothing contained in this act shall prevent any town or city from providing by their by-laws or ordinances, or

otherwise, that a part of the expense of constructing, main-
 taining and repairing main drains or common sewers shall be
 paid by such town or city ; nor from regulating the use and
 management of the same ; and any city or town may prevent
 the neglect and abuse of such main drain or common sewers,
 under such penalties as they may see fit to ordain and establish,
 not exceeding twenty dollars for any one offense, to be recovered
 by an action of debt in the name of the inhabitants of
 said town or by said city.

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For neglect or
 abuse of drains,
 penalty of.

SECT. 8. So much of the second section of the said act
 approved March sixth, eighteen hundred and forty-four, as pro-
 vides that said drains or common sewers shall be made at the
 cost of the city or town, and the fifth and sixth sections of said
 act, are hereby repealed.

Certain sections
 of act of March
 6, 1844, repealed.

SECT. 9. This act shall not take effect in any town or city
 in this state until the same shall have been accepted by said
 town at a meeting called for that purpose, or by the mayor,
 aldermen and common council of any city.

When to take
 effect.

SECT. 10. This act shall be in force from and after its ap-
 proval by the governor.

[Approved, June 10, 1850.]

Chapter 154.

An act authorizing the justices of the supreme judicial and district courts to
 order notice in certain cases.

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

Any justice of the supreme judicial court or district court,
 is hereby authorized and empowered to order notice in all cases
 where such order is required to be given by the court, in any
 county where such court may be in session, returnable to the
 county where the subject matter of the application is to be
 heard, or such order may be made on such application in vaca-
 tion by any justice of the court having jurisdiction of the
 subject matter thereof. The notice in either case to be such
 as is or may be required by existing laws.

Order of notice
 in certain cases.

[Approved June 14, 1850.]