

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

EXTRA SESSION OF THE THIRTY-SECOND LEGISLATURE, 1853,

AND THE

THIRTY-THIRD LEGISLATURE

OF THE

STATE OF MAINE,

1854.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820,  
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1854.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1854.

Chapter 77.

An act to regulate the construction and maintenance of public drains in the city of Portland.

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

City council authorized to construct public drains.

SECT. 1. The city council of the city of Portland shall have authority to construct public drains or sewers, through any of the streets of the city, at the expense of the city, and which shall be solely under the direction and control of the city council. Whenever it shall be necessary to provide a suitable out-fall for any such drain, at or near low-water-mark, the same may be located and constructed for that purpose, by the city council, over the lands of private persons ; and such location shall be made, and damages assessed and paid therefor, in the same manner as is or may be provided by law for the location of streets in said city.

Damages.

Private drains.

SECT. 2. The abutters upon the line of any such public drain, and the owners of private drains contiguous thereto, shall be allowed to enter and connect, at suitable places, with such public drains, upon application, as hereinafter provided, and paying such sum as the mayor and aldermen shall determine therefor. The mayor and aldermen shall also establish such other regulations and conditions as they may deem expedient, upon which the privilege of entering public drains, in any case, shall be granted and enjoyed ; and shall give to the person applying and paying as aforesaid, a written permit for such entrance. All applications for permits shall be in writing, and shall distinctly describe the land to which they are to apply. The privilege granted by such permit shall be available to the owner of the land described, his heirs and assigns, and shall run with the land, without any other or subsequent charge, or payment therefor.

Regulations, how established.

Application for permits.

Amount to be paid for permit, how determined in case of disagreement.

SECT. 3. If any person shall be dissatisfied with the sum which the mayor and aldermen shall require him to pay for permission to enter a public drain, and shall, within ten days after notice thereof, request, in writing, that the same may be determined by arbitration, the mayor and aldermen, at their next regular meeting, shall nominate six persons, any two of whom selected by the applicant, together with a third person nominated by the applicant himself, shall be empowered to determine the sum to be paid : upon the payment of which, by the applicant, together with the fees of the arbitrators, he shall be enti-

bled to such a permit as was offered to be given by the mayor and aldermen for the sum determined by them.

SECT. 4. All drains in said city which have heretofore been constructed at the expense of the city, shall hereafter be maintained, managed and controlled, in the same manner as if they had been constructed under this act, subject to any rights which private persons may have acquired therein. And the privilege of entering such drains shall hereafter be granted and held upon the same terms and conditions as are herein provided in case of drains which may be constructed under this act.

Drains heretofore constructed, how maintained and managed.

SECT. 5. If any person shall connect any private drain or sewer with any such public drain, or enter the same by any side drain, without a permit obtained therefor as herein provided, the mayor and aldermen shall be empowered, forthwith, to cause such connection to be broken and destroyed; and such person shall also be subject to a penalty, to the use of the city, not exceeding two hundred dollars, to be recovered by indictment in any court of competent jurisdiction, or by an action of debt. If any person shall, willfully or negligently, violate any of the conditions and regulations prescribed in his permit, the mayor and aldermen shall be empowered, forthwith, to cause his connecting drain to be disconnected from the public drain, and may declare his permit to be forfeited; in which case, such person, his heirs and assigns, shall have no privilege of entering such public drain, until a new permit shall be granted, as herein provided. If any person, by the construction or use of any private drain, shall commit any public or private nuisance, he shall be liable to indictment or action for such nuisance, notwithstanding anything contained in this act.

Penalty for connecting private drains with public drain without permit.

—how recovered.

Penalty for violation of permit.

SECT. 6. After any such public drain shall be constructed, and any person shall have paid for the privilege of connecting therewith, such public drain shall be constantly maintained and kept in repair by the city, so as to afford sufficient and suitable flow for all drainage lawfully entitled to pass through it. But the same may be altered in its former course, or other public drains may be substituted therefor, so however, that equally sufficient and suitable drainage shall be afforded. If the city shall not so maintain and keep in repair such public drain, any person lawfully entitled to the privilege of drainage through the same, may have an action against the city to recover his damages occasioned thereby.

Drains to be kept in repair, &c.

Penalty for neglect.

CHAP. 77.

Records of
permits to be
kept, &c.

SECT. 7. All proceedings of the mayor and aldermen under this act, shall be at legal meetings of that board. A suitable record shall be made and kept of all permits granted as herein provided, which record shall succinctly exhibit the persons and lands to which the respective permits apply. The mayor and aldermen shall have the exclusive direction, on behalf of the city, of all prosecutions under this act.

Amount for
permit to be paid
within 60 days.

SECT. 8. If any person, after the determination of the sum required to be paid by him for a permit, shall neglect to pay the same within sixty days after notice thereof, together with the fees of the arbitrators, if any, he shall have no benefit of such determination, nor of his application for a permit. The mayor and aldermen may determine the fees of the arbitrators, in any case, and the same shall be paid if required, in advance; the award of the arbitrators shall be by them returned to the city clerk and recorded with the proceedings of the mayor and aldermen.

Fees of arbitra-
tors, how
determined, &c.

Private drains,
how repaired in
case of neglect
of owners.

SECT. 9. If any private drain in said city now existing or which may hereafter be constructed, shall become so obstructed, decayed or out of repair as to do injury to any street in which the same shall be laid, and the person or persons using such drain, shall unreasonably neglect after notice by the street commissioner to repair such injury, the same shall be repaired by the city, and the expense thereof may be recovered to the use of the city, by an action of the case against any one or more of the persons using such drains, to whom notice as afore-said shall have been given.

Penalty for
willfully or care-
lessly injuring
public drains.

SECT. 10. If any person shall willfully or carelessly do any injury to any public drain constructed or maintained under this act, or to any street culvert leading into the same, or shall willfully or carelessly obstruct any such street culvert, or the outlet of any such drain, he shall be liable to pay to the use of the city, to be recovered by an action of the case, double the amount of the injury and damages so done and caused, in addition to all the other penalties for such offense provided by law.

Penalties
accrued under
former acts not
affected by this
act.

SECT. 11. Nothing in this act contained, shall discharge any penalties or forfeitures which have accrued under any previous act or under any ordinance of said city, and this act shall take effect from and after its approval by the governor.

[Approved April 11, 1854.]