

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE.

1859.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840, and March 16, 1842.

AUGUSTA:
STEVENS & SAYWARD, PRINTERS TO THE STATE.

1859.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1859.

SECT. 5. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

CHAP. 101.

Acts inconsistent repealed.

[Approved April 2, 1859.]

Chapter 101.

An act relating to drainage.

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

SECT. 1. Any person, persons or corporation having the ownership or possession of any lands, swamps, meadows, quarries or mines, that by reason of adjacent lands belonging to another person, persons, corporation or highway cannot be approached, drained or used in the ordinary manner without crossing said land or highways, may be authorized to establish drains or ditches to said places in the manner hereinafter provided.

Drains authorized.

SECT. 2. The party desirous of making such improvements shall file a petition therefor with the county commissioners for the county where the premises are situate, setting forth in detail the proposed work and the situation of the adjoining land and the names of the parties interested, if known to the petitioner, accompanied by a bond satisfactory to the commissioners and payable to the county treasurer, conditioned to pay all costs and damages.

Petition to county commissioners, what to set forth, bond for costs.

SECT. 3. The county commissioners of the county, on the filing of said petition and bond, shall order notice to be given to all the parties named in said petition, by serving on them an attested copy of the petition with the order thereon, fourteen days at least before the next regular session of said court, and also by publishing an attested copy of the said petition in some newspaper of general circulation, published in said county, or if no newspaper is published in said county, then in some newspaper published in some adjoining county, and after said order has been fully complied with, the commissioners may, if they see cause, appoint a committee of review, and fix the compensation per day, to be composed of not less than three, nor more than five judicious disinterested persons to meet on the premises on the day named, and by examination and inspection determine whether the proposed improvement is necessary to the ordinary working, occupation and beneficial use of said lands, swamps, meadows, quarries or mines, and if so, said committee shall proceed to lay out and establish the same, and in such a manner as to do as little injury as practicable, and shall furthermore fix and assess the amount of damages which any pro-

Commissioners to order notice, how to be served and published.

— may appoint committee of review, proceedings of committee, notice to be given, report.

CHAP. 102.

prietor of adjacent lands will be likely to sustain, and report and return the same with all their proceedings to the county commissioners; but before said committee shall proceed to said examination they shall give ten days notice, setting forth the hour and place of their meeting, by posting up notifications in two public places, in the town or towns in which said lands lie.

— to consider report of committee at next meeting.

SECT. 4. At the next meeting of the county commissioners after the return of the committee is received, said commissioners shall proceed to consider the subject, and if they shall be of opinion, taking into view the public as well as the private interests, that said improvements will be advantageous and desirable, they shall accept said report.

Final report to be recorded and damages tendered.

SECT. 5. The party praying for said improvements shall cause the final report and adjudication to be recorded in the registry of deeds for the county, and shall pay or tender in payment the full amount of damages to the parties to whom the same is adjudged.

Repairs, how to be made.

SECT. 6. Whenever it may become necessary to repair such works, any one of the parties benefitted may enter and cause said repair to be made, and all works constructed under this act shall be entitled to the benefit of all laws for the protection of railroads in the state.

Drains, how protected.

SECT. 7. The parties interested in making such work may enter and take such property or material as may be necessary to make them, provided they pay to the proprietor of such land so taken or used, such price as may be agreed upon, or as said committee may report; and provided said parties do not agree, and if said parties owning said land or property taken, shall not receive the damage, awarded by said committee, then the party taking said land or material, shall pay such sum as may be determined by a jury, and the same proceedings shall be had for the purpose of ascertaining such damages as are now provided in estimating damages by a jury in case of laying out public highways.

Damages, how to be settled.

[Approved April 2, 1859.]

Chapter 102.

An act in relation to the competency of witnesses.

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

When husband and wife may be witnesses.

SECT. 1. In the trial of civil actions the husband and wife of either party shall be deemed competent witnesses, when the wife is