

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

115

PASSED BY THE

FORTY-FIFTH LEGISLATURE

OF THE

STATE OF MAINE.

1866.

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.
1866.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1866.

Chapter 34.

An act to regulate the drainage of salt marsh.

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

Partition ditches subject to jurisdiction of fence viewers.

SECT. 1. All partition ditches for the drainage of salt marsh in this state, shall be subject to the jurisdiction of the fence viewers of the towns in which such salt marsh is situated.

Owners of salt marsh to maintain ditches as established by viewers.

SECT. 2. The owners or occupants of salt marsh inclosed by ditches, shall maintain partition ditches between their own and the adjoining inclosures, while they continue to improve them, in such shares as shall, in the judgment of the fence viewers, be in proportion to the benefit accruing to the parties by such drainage.

Aggrieved parties may enter complaint to viewers, who shall make survey, &c., and give notice to delinquent owners, &c.

SECT. 3. If any party neglects or refuses to make or repair any such ditch, which, in the opinion of either party ought to be maintained, the aggrieved party may complain to two or more fence viewers of the town where the salt marsh is situated, who, after due notice to such parties, shall proceed to survey it, and if they determine that the marsh is not sufficiently drained, and that each party would be benefited by a partition ditch, they shall signify it, in writing, to the delinquent occupant, or owner, and direct him how wide and deep a ditch he must make, not to exceed three feet in width, and three feet in depth, and what time he shall be allowed to make it, not exceeding sixty days. If the ditch is not made or repaired, the complainant may make or repair it.

In case of neglect, complainant may make or repair ditch.

Liability of occupant or owner, when constructed by complainant.

SECT. 4. When the complainant has completed such ditch, and notice given it is adjudged sufficient by two or more of the fence viewers, and the value thereof, with the fence viewers fees, certified under their hands, he may demand of the occupant or owner of the land, where the ditch was deficient, double the value, and fees thus ascertained ; and in case of neglect or refusal to pay the same for one month after demand, he may recover the same by an action on the case, with interest at the rate of one per cent. a month.

In case of disagreement, viewers may assign proportion to be constructed by each party, and limit time thereof.

SECT. 5. When the occupants or owners of adjacent lands, disagree, respecting their rights in partition ditches and their obligation to maintain them, on application of either party, two or more fence viewers of the town, where the lands lie, after reasonable notice to each party, may, in writing, under their hands, assign to each his share thereof, and limit the time in which each shall make or repair his part of the ditch, not exceeding sixty days. Such assignment and all other assignments of proprietors of partition ditches herein provided for, recorded in the town clerk's office, shall be binding upon the parties, and they shall thereafter maintain their part of said ditch.

Assignments of viewers, when recorded, to be binding.

SECT. 6. When a ditch between the owners of improved lands is divided either by fence viewers, or by the written agreement of the parties, recorded in the town clerk's office, where the land lies, the owners shall make, and maintain it accordingly; but if any person lays his lands common, and determines not to improve any part of them adjoining such ditch, and gives six months notice to all occupants of adjoining lands, he shall not be required to maintain such ditch while his lands so lie common and unimproved.

SECT. 7. Fence viewers, in such cases, shall be subject to the same penalty if they neglect their duty, and receive the same fees for services, as in cases of fence viewing.

SECT. 8. This act shall take effect when approved.

Approved February 21, 1866.

CHAP. 35.

Provision respecting improved lands.

Exemption from maintenance of ditches when lands lay common.

Penalty for neglect by viewers, and fees of same.

Chapter 35.

An act to amend chapter two hundred and sixty-four of the public laws of eighteen hundred and sixty-four, entitled "an act requiring the secretary of state to furnish the clerks of courts in the several counties, a list of all persons commissioned and qualified as justices of the peace, justices of the peace and quorum, trial justices and notaries public."

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

Section first of said chapter is hereby amended by inserting after the word "counties" in the second line, and after the word "clerks" in the ninth line, the words, *and to the judges of the several municipal and police courts*, so that the said section as amended shall read as follows:

SECT. 1. The secretary of state shall, on or before the first day of June next, forward to the clerks of court in the several counties, and to the judges of the municipal and police courts, a list of all justices of the peace, justices of the peace and quorum, trial justices and notaries public in this state, whose qualifications have been filed in his office. Such list shall contain the name and place of residence of every such officer, the date of his commission, and the county or counties for which he is commissioned. And he shall forward to said clerks and judges of the several municipal and police courts, on the first day of December and of June annually thereafter, a similar list of all such officers commissioned and qualified during each preceding period of six months.

Amendment.

Provisions applicable to judges of municipal and police courts.

Approved February 21, 1866.