

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FORTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE.

1868.

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1868.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1868.

CHAP. 189.**Chapter 189.**

An act to authorize certain town officers to remove fences to prevent snow drifts.

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

Fences may be taken down by municipal officers, &c., to prevent drifting of snow.

Fences so taken down to be replaced without expense to owner.

SECT. 1. The municipal officers of cities and towns, or highway surveyors under the direction of municipal officers of cities and towns, may take down fences upon the line of public highways in this state, when in their judgment the same is necessary to prevent the drifting of snow in such highways; but in all such cases, fences so taken down shall in due season be replaced, in as good condition as when taken down, without expense to the owner.

SECT. 2. This act shall take effect when approved.

Approved February 29, 1868.

Chapter 190.

An act to repeal section eighty-five of chapter three hundred and seven of the public laws of eighteen hundred and sixty-five, relating to inspection of state arsenals.

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

Public laws of 1865, chap. 307, sect 85, repealed.

SECT. 1. Section eighty-five, chapter three hundred and seven of the public laws of eighteen hundred and sixty-five, requiring the committee on military affairs to visit the arsenals at Portland and Bangor annually, is hereby repealed.

SECT. 2. This act shall take effect when approved.

Approved February 29, 1868.

Chapter 191.

An act relating to roads in unincorporated townships and tracts of land.

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

County commissioners authorized to lay out, alter or discontinue highways in unincorporated townships.

SECT. 1. The county commissioners, on petition as provided in chapter eighteen, section one of the revised statutes, observing the directions contained in sections thirty-one and thirty-two of said chapter, may lay out, alter or discontinue a highway on or over any township or tract of land in their county, not within any town or plantation required by law to raise money to make and repair highways; and all expenses for making and opening the same are to be paid by the owners of such lands, excluding lands reserved

for public uses, in proportion to their interest in the lands over CHAP. 191.
any part of which it is laid, except as hereinafter provided.

SECT. 2. Any party interested in such decision may appeal therefrom to the supreme judicial court, to be entered at the term thereof held first after such decision; the presiding judge, at that term, shall hear the case and allow or disallow the location, alteration or discontinuance in whole or in part in his discretion; and from his decision there shall be no appeal or exceptions. If the land owners appeal, and the decision is wholly against the prayer of the petition, the costs shall be paid by the county; otherwise by the party appealing. If such appeal is not entered, or if, being entered, no one appears and prosecutes the same at said first term, the judge shall dismiss it and affirm the decision of the commissioners; and in either case, the clerk shall immediately certify to the commissioners the action of the court.

SECT. 3. If the final decision of the commissioners or the court is against the prayer of the petition, no new petition for the same road shall be entertained by the commissioners for one year thereafterwards.

SECT. 4. When a road is so laid out over such lands, the commissioners shall immediately thereafter assess thereon such an amount as they judge necessary for making and opening it, and paying the expenses attending it, and such assessment shall create a lien upon such lands for the payment thereof; and they may make as many divisions as are equitable, conforming as nearly as is convenient to known divisions and separate ownerships, and assess upon each a sum proportionate to the value thereof, and the benefits likely to result to the same by the establishment of the road; *provided* that when it is made to appear to them that such assessment will be unreasonably burdensome and oppressive to such owners, they shall assess an equitable sum on the county, and the balance only on such lands. Any person who may deem himself aggrieved by any assessment, may have the right of appeal to the supreme judicial court, said appeal to be entered at the term thereof held first after such assessment; the presiding judge at that term shall, on a hearing of the case, determine what part of said assessment shall be paid by the owner or owners of the tract or township, and what part, if any, by the county; and there shall be no appeal from such decision. They shall at the same time fix the time for making and opening such road not exceeding two years, and appoint an agent or agents, not members of their board, to superintend the same, who shall give bond to the treasurer of the county, with sureties, to be approved by the county commissioners, to expend the money faithfully, and to render account thereof on demand; and they shall publish a list of the townships and tracts of land so assessed, with the sum assessed on each, and the time in which the road is to be

Parties aggrieved thereby may appeal to S. J. C.

But one petition for same road to be made same year.

County commissioners to assess amount necessary to build the roads on the owners of land.

When assessment appears oppressive, an equitable portion may be assessed on county.

Parties aggrieved may appeal to S. J. C.; proceedings.

An agent to be appointed to superintend building of road.

CHAP. 191. made and opened, in the state paper, and in some paper, if any, printed in the county where the lands lie, three weeks successively, the last publication to be within three months from the date of the assessment.

Owners of land may discharge their assessment by building road.

Sect. 5. If the owners of such lands shall make and open such road to the acceptance of the commissioners, after an actual examination by one or more of their board, within said time, the assessment shall thereby be discharged; otherwise it shall be enforced as hereinafter provided, and the agents shall proceed immediately to make and open such road.

County commissioners annually to inspect roads in unincorporated townships and cause their repair.

Sect. 6. The county commissioners, in September annually, by one or more of their board, shall make an actual inspection of all county roads in the unincorporated townships and tracts of land in their counties; and thereupon they shall make an estimate of the amount needed to put them in repair, so that they shall be safe and convenient for public travel; assess such amount on said townships and tracts of land, and cause so much thereof as they deem necessary for the purpose aforesaid to be expended on said roads within one year thereafter, and such assessment shall create a lien upon such lands for the payment thereof.

An agent to superintend the repair of roads to be appointed.

Sect. 7. They shall make such assessment by the first day of January in each year, and at the same time appoint an agent or agents, not members of their board, to superintend the expenditure thereof, who shall give bond with approved sureties, as aforesaid, to expend the money faithfully, and to render an account thereof on demand; and they shall publish a list of the townships and tracts of land so assessed with the sum assessed on each, and the roads on which it is to be expended, in the state paper, and in some paper, if any, printed in the county where the lands lie, three weeks successively, the last publication to be within three months from the date of the assessment.

Owners of land may discharge their assessment by repairing road.

Sect. 8. If by the fifteenth of July following in each year the owners of such lands shall repair such roads to the acceptance of the commissioners, after an actual examination by one or more of their board, the assessment shall be thereby discharged, otherwise it shall be enforced as hereinafter provided, and the agents shall proceed immediately to repair such roads.

Proceedings if owner fails to discharge his assessment.

Sect. 9. If any owner fails to pay the sum assessed on his land as aforesaid within two months after the time fixed for making and opening a new road, as provided in section five of this act, or within two months after the fifteenth of July for repairing roads, as provided in section eight of this act, the county treasurer shall proceed to sell the lands so assessed by advertising the lists of unpaid taxes, with the date of assessment, and the time and place of sale, in the state paper, and in some paper, if any, printed in the county where the lands lie, three weeks successively, the last pub-

lication to be at least thirty days before the time of sale. No bid CHAP. 191.
 shall be received at such sale for less than the amount due for the
 tax, costs and interest at twenty per cent. per annum from the
 time prescribed for the payment of said tax; and the treasurer
 shall sell so much of such land as is necessary to pay the unpaid
 tax, costs and interest as aforesaid, and give a deed thereof to the
 purchaser, if any; and if no one becomes a purchaser at such sale,
 it shall be forfeited to the county; and such owner or part owner
 or tenant in common may redeem his interest therein at any time
 within two years from the sale or forfeiture by paying to the pur-
 chaser or the county the sum for which it was sold or forfeited,
 with interest at twenty per cent. per annum, and any sums subse-
 quently paid for state and county taxes thereon.

SECT. 10. In any trial at law or in equity involving the validity
 of any sale or forfeiture of such lands, as provided in the preceding
 section, it shall be prima facie proof of title for the party claiming
 under it to produce in evidence the county treasurer's deed, duly
 executed and recorded, the assessments signed by the county com-
 missioners, and certified by them or their clerk to the county treas-
 urer, and to prove that the county treasurer complied with the
 requirements of law in advertising and selling such lands.

SECT. 11. Any owner of lands sold as hereinbefore provided,
 shall be entitled to his share in any overplus of the proceeds of
 such sale on exhibiting to the treasurer satisfactory evidence of his
 title. Owner entitled
to share of
overplus from
sale.

SECT. 12. Sections thirty-nine, forty and forty-one of chapter
 six, and sections thirty and thirty-three of chapter eighteen of the
 revised statutes, chapter twenty-three of the public laws of eight-
 teen hundred and fifty-eight, chapter twenty-two of the public laws
 of eighteen hundred and sixty-six, and all other acts and parts of
 acts inconsistent with the provisions of this act, are hereby re-
 pealed, and this act shall take effect on its approval by the gover-
 nor. R. S., chap. 6,
sects. 39, 40,
41; chap. 18,
sects. 30, 33,
chap. 23 pub-
lic laws 1858;
chap. 22 public
laws of 1866,
repealed.

SECT. 13. Nothing in this act shall affect any proceeding already
 commenced, either for the location or repair of roads, or any pro-
 ceeding that may be necessary to put roads in repair the coming
 season. Limitation.

Approved February 29, 1868.