

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

331

OF THE

FIFTY-SECOND LEGISLATURE

OF THE

STATE OF MAINE.

1873.

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1873.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1873.

of difference; and the report of said commissioners, after notice to said cities, and hearing returned to said court in said county, at any term soon as may be, and accepted, shall be binding as an award of referees, and may be enforced by appropriate action at law.

SECT. 12. No person shall throw any refuse matter nor the carcasses of any dead animals into Wilson pond, nor shall injure, deface, dig up or destroy any structure made or constructed by either or both of said cities of Lewiston and Auburn, under and by virtue of the provisions of this act; and any person violating the provisions of this section shall be prosecuted by complaint before any municipal court in the county of Androscoggin, or by indictment and be imprisoned not more than six months in the county jail for said county of Androscoggin, or pay a fine not exceeding five hundred dollars.

Throwing refuse matter into Wilson pond prohibited.

Penalty for violation.

SECT. 13. If the said cities of Lewiston and Auburn shall not locate and commence to build said aqueduct or water-works on or before the first day of September, one thousand eight hundred and seventy-eight, nor shall not complete the said water-works before the first day of September, one thousand eight hundred and eighty-three, this act shall be void.

Time for locating and completing water works.

SECT. 14. This act shall take effect when approved.

Approved February 27, 1873.

Chapter 387.

An act amendatory of and additional to chapter three hundred and ninety-eight of the public laws of eighteen hundred and sixty-four, and in addition to "an act to incorporate the city of Lewiston."

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

SECT. 1. The authority of the city council of the city of Lewiston to lay out, make, maintain and repair all main drains and common sewers in said city, shall remain as provided by chapter three hundred and ninety-eight of the public laws of eighteen hundred and sixty-four, to which this act is additional.

City council of Lewiston authorized to make and repair drains.

SECT. 2. To defray in part the expenses of making and repairing main drains and common sewers, the mayor and aldermen of said city may assess upon abutting lots of land, and upon lots benefited thereby, and upon such other lots as the health of said city requires to be drained, a sum not exceeding two-thirds of the cost of making and constructing such main drains and common sewers, exclusive of the cost of catch-basins and connecting drains,

—may assess abutting lots to defray part expenses.

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Assessment,
how made.

—lists to be filed
with clerk.

Owners required
to drain lots when
necessary.

Penalty for
neglect.

—if not paid
within three
months, how
recovered.

Assessments not
complete in
certain cases.

—when complete.

Lien for drainage.

such assessment to be made on a just and equitable basis after at least seven days' notice in writing, or by advertisement in one newspaper printed in said city, of the time and place of meeting of the mayor and aldermen for such purpose. The mayor and aldermen shall within one month, file a list of such assessments with the clerk of said city, and cause such list to be published in some newspaper printed in said city.

SECT. 3. Whenever the mayor and aldermen of said city shall decide that any lot of land abutting or contiguous to, or that can be conveniently drained into any main drain or sewer, needs to be drained in order to promote the health of said city, it shall be the duty of said mayor and aldermen to give immediate notice in writing, signed by the city clerk, to the owner or occupant of such lot of land to drain the same, and said notice may designate the sewer or drain into which the same may be drained; and if such owner or occupant shall unreasonably refuse to drain the same as required, the city may proceed to lay such drain or sewer to drain the same, and charge the expense to such owner or occupant; and such expense shall be a charge against such lot of land drained; and a lien is created to secure the payment of such expense, and it shall be charged against said lot of land and returned for collection to the city treasurer; and if such expense is not paid within three months after notice by the city treasurer in writing to the owner of such lot, and request to pay the same, an action of debt may be maintained in the name of the city treasurer to recover such expense, and execution issued upon any judgment obtained in such action may be levied upon the lot of land drained as aforesaid, or upon any other personal or real estate of such owner; and when the owner resides out of the county of Androscoggin, notice to him to pay such expense, published in some newspaper in said city shall be held sufficient.

SECT. 4. The provisions of section two of this act shall be so construed that the assessments therein provided upon the lots of land named, may be made in manner stated, but such assessments shall not be held complete until the owner or occupant of the lot of land to be drained shall enter the main drain or sewer made or repaired by said city, for the purposes of draining said lot, or shall have had his land benefited by being drained by a street drain or by a drain entering such sewer from an adjoining lot, or shall refuse or unreasonably delay to enter such main drain or sewer, after being notified to do so by the mayor and aldermen of said city, and after the drainage of such lot shall have been completed by the city, as provided in this act, at which time the assessments before named shall be held to be complete and shall be held to be an assessment against the lot of land drained in the manner herein provided; and a lien is created upon such lot for

the payment of the proportion of the expense of making and repairing such main drain or sewer provided by this act, or the entire expense of draining, as the case may be, and such lien may be enforced by an action of debt in the name of the city treasurer commenced at any time within six months after such assessments are completed; and execution issued upon any judgment obtained under the provisions of this act may be levied and satisfied upon such lot of land or upon any other property real or personal belonging to such owner.

Lien, how enforced.

SECT. 5. Any person or corporation aggrieved by any assessment made by virtue of the provisions of this act, may have an appeal to the county commissioners for the county of Androscoggin at any time within two months after such assessment is made and filed with the city clerk by the mayor and aldermen as provided by section two, and such person or corporation shall have the same rights and be subject to the same liabilities and restrictions as provided in cases of land taken for county roads. And when such appeal is entered and prosecuted, the action of debt authorized by this act may be commenced at any time within three months after proceedings in such appeal are closed.

Parties aggrieved may appeal.

SECT. 6. All assessments made upon lots of land under and by virtue of the provisions of this act shall remain in force and be held valid whether assessed upon such lot in the name of the owner or occupant; and assessments under this act shall be certified by the mayor and aldermen of said city to the city treasurer, under the hands of said mayor and aldermen, with directions to collect the same according to law, and such assessment duly certified as herein provided, shall be sufficient evidence of the owner's or occupant's liability, against whichever the assessment may be made, in any suit under and by virtue of the provisions of this act; and execution issuing upon any judgment obtained against any person or corporation by virtue of the provisions of this act, may be levied and satisfied upon the lot of land upon which the assessment sought to be recovered was assessed, upon any property, real or personal, of such person or corporation.

Action of debt may be commenced.

Assessments held valid.

—how certified.

—evidence of owner or occupant's liability.

Execution, how levied and satisfied.

SECT. 7. The mayor and aldermen of said city of Lewiston shall, within two months after the acceptance of this act by the city council, cause a list of assessments made prior to such acceptance on account of sewers, upon lots of land or upon the owners of the abutting lots, under the provisions of said chapter three hundred and ninety-eight of the public laws of eighteen hundred and sixty-four, so far as such assessments have not been already paid or satisfied, to be published in some newspaper printed in said city. If the owner of any lot so assessed deems the assessment unreasonable, he may within one month after such publication apply in writing to the mayor and aldermen of said city for an abatement

List of assessments unpaid to be published in newspaper.

Abatements may be made.

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or reduction of the same ; and said mayor and aldermen shall hear and determine such request and make such abatement of or reduction in any assessment as may seem to them just and reasonable on the basis provided by section two of this act. The mayor and aldermen shall file with the city clerk a list of assessments as finally determined by them after hearing applications for abatement or reduction ; and such assessments when thus filed shall be held valid and remain in full force, subject however, to the right of appeal, and the limitations, restrictions and liabilities provided by sections four, five and six of this act.

Assessments, lists of, to be filed with clerk.

Assessments held valid, subject to appeal.

—collection of, how enforced.

SECT. 8. To enforce the collection of assessments made by the municipal officers of said city of Lewiston upon the owners of abutting lots and other lots benefited thereby, under and by virtue of the provisions of the act to which this act is additional, the said city of Lewiston is authorized to commence an action of debt in the name of the treasurer of said city, and for the benefit of said city of Lewiston, against each of such owners, or against two or more owners where they are tenants in common or joint tenants. Said action of debt may be commenced where the assessments have become complete as provided by sections seven and four, at any time within six months after the right of request for abatement or reduction provided in section seven has expired, or in case of an appeal within six months after the proceedings are closed ; and when assessments have not become complete as provided by said sections seven and four, then said action of debt may be commenced within six months after such assessments have been so completed. Such action of debt shall not abate by reason of removal from office, or expiration of office, or death of such treasurer, but in either such case the name of the succeeding city treasurer may be substituted in the writ, and the action proceed to final judgment, and execution issued upon any judgment obtained by virtue of the provisions of this section may be levied and satisfied upon any estate real or personal, of such owners of the abutting lots or other lots benefited thereby, against whom said assessment may have been made.

Action, when to commence.

—shall not abate.

Execution, how satisfied.

Removal of bodies from public burial places, notice to be given.

SECT. 9. When the mayor and aldermen of said city of Lewiston think that the public health or convenience requires the removal of bodies buried in any public graveyard or burial place in said city, in which there have been no interments for at least ten years, and which is neglected and practically abandoned, said mayor and aldermen shall give at least fourteen days' notice of the time and place for hearing all parties interested, by publishing an advertisement of the same in some newspaper printed in the city of Lewiston. If after such hearing, said mayor and aldermen shall decide to make such removal, they shall give at least one month's notice by advertisement in some newspaper as aforesaid,

Notice of time of removal, how given.

of the time when they propose to make such removal, which time shall be between the first day of May and the first day of November. The mayor and aldermen of said city may then cause the bodies interred in such graveyard or burial place to be carefully removed and reinterred in some public burial place or cemetery in said city, in lots equally spacious with those from which they were removed, and all gravestones, monuments or other memorials remaining over such bodies to be removed and replaced over the same, all to be done at the expense of said city.

Regulations for removal.

SECT. 10. So much of section five of said chapter three hundred ninety-eight as is inconsistent with the provisions of this act is hereby repealed.

Inconsistent provisions repealed.

SECT. 11. This act shall take effect when approved, and accepted by the city council of Lewiston.

Approved February 27, 1873.

Chapter 388.

An act additional to an act entitled "an act to establish the Portland, Saco and Portsmouth Railroad Company."

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

SECT. 1. The Portland, Saco and Portsmouth Railroad Company is hereby authorized to extend, locate, construct and maintain its railroad from some convenient point on its present line in Cape Elizabeth or Portland, so as to enable it to secure such suitable and convenient terminal facilities, and depot accommodations as it shall find to be necessary, in the city of Portland, as far as Union street in said city. And said company is authorized to take, acquire and hold such lands as may be necessary for said purposes; *provided however*, that nothing herein contained shall authorize said railroad corporation to take the land of another railroad within the limits of their actual way location acquired by purchase or otherwise, or their necessary depot grounds, without the written consent of said companies, except in case of crossing said roads, and except as provided by the general laws of the state. And it is further provided, that said company shall not construct its roadway so as to prevent any railway company from having suitable and convenient access to the wharves, nor shall any track be laid across the wharves and docks in said city below the head of such docks or slips; and nothing herein shall authorize said company to increase the number of tracks now authorized by law upon any portion of the highway and county bridge, leading

Authorized to extend railroad.

Route.

Authorized to take and hold land.

Proviso.

Land of other railroads not to be taken.

Not to obstruct the rights of other railroads.

Not to increase number of tracks.