

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-THIRD LEGISLATURE

OF THE

STATE OF MAINE.

1887.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
February 18, 1840, and March 16, 1842.

AUGUSTA:
SPRAGUE & SON, PRINTERS TO THE STATE.
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1889.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1889.

CHAP. 506

Board of trustees.

—qualification.

—executive board

Shall report annually to insurance commissioner.

Shall be subject to taxation.

SECT. 5. All the corporate powers of said corporation shall be exercised by a board of trustees, whose number and term of office shall be determined by vote of the shareholders at the first meeting held by the incorporators and at each annual meeting thereafter. Said trustees shall be residents of this state, and shall be sworn to the faithful performance of the duties of their office. The affairs and powers of the corporation may, at the option of the shareholders, be entrusted to an executive board of three or more members, to be, by vote of the shareholders, elected from the full board of trustees.

SECT. 6. Said corporation shall, annually, by the thirty-first day of January, render to the insurance commissioner either an exact statement, under oath, of its condition as it existed on the thirty-first day of the previous December, or its last exhibit, setting forth its condition as required by blanks furnished by the commissioner, who shall have the same power and authority to visit and examine said corporation and to compel a compliance with the provision of law governing it, as he may by law exercise in relation to domestic insurance companies.

SECT. 7. Said corporation shall be subject to taxation in the same manner and amount as are domestic insurance companies.

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

Approved March 5, 1889.

Chapter 506.

An Act to incorporate the city of Deering.

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

Corporate name.

—rights, powers, and privileges.

SECT. 1. The inhabitants of the town of Deering in the county of Cumberland, shall continue to be a body politic and corporate under the name of the city of Deering, and as such shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and shall be subject to all the duties and obligations now incumbent upon and pertaining to the said town as a municipal corporation and may enact reasonable by-laws and regulations for municipal pur-

poses and impose penalties for the breach thereof, not exceeding twenty dollars, to be recovered for such uses as the city council may designate.

SECT. 2. The administration of all fiscal, prudential and municipal affairs of said city with the government thereof shall be vested in an officer to be called the mayor, and one council of seven to be denominated a board of aldermen; all of whom shall be inhabitants of said city and legal voters therein. Said mayor and aldermen shall constitute the city council, and shall be sworn or affirmed in the form prescribed by the constitution of the state for state officers.

Municipal affairs, vested in mayor and board of aldermen.

SECT. 3. The mayor of said city shall be the chief executive magistrate thereof. It shall be his duty to be vigilant and active in causing the laws and regulations of the city to be executed and enforced, to exercise a general supervision over the conduct of all subordinate officers, and to cause their violations or neglect of duty to be punished. He may call special meetings of the city council when, in his opinion, the interest of the city requires it, by causing a summons or notification to be given in hand or left at the usual dwelling place of each member thereof. He shall, from time to time, communicate to the city council such information, and recommend such measures as the business and interests of the city may, in his opinion, require. He shall preside at the meetings of the city council, but shall have only a casting vote. The salary and compensation of the mayor shall be two hundred dollars per year for the first five years, under this charter. It may then be diminished or increased by the aldermen, but not oftener than once in five years. The mayor shall, in the month of February, annually, prepare and lay before the city council an estimate of the amount of money necessary to be raised for the ensuing financial year, under the various heads of appropriation, and the ways and means of raising the same; and shall also, in the month of February, annually, prepare and lay before the city council a statement of all the receipts and expenditures of the preceding financial year, giving in detail the amount of appropriations and expenditures for each department; and said statement shall be accompanied with a schedule of the property, real and personal, belonging to the city, and the value thereof, and amount of city debt.

Duties and powers of mayor

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Powers of city council.

—shall have care of public buildings.

—take property for municipal purposes.

—provide for election of subordinate officers.

—vested with authority to lay out, etc., streets.

—proceedings.

SECT. 4. The city council shall secure a prompt and just accountability by requiring bonds with sufficient penalty and surety or sureties, from all persons trusted with the receipt, custody or disbursement of money; the city council shall also have the care and superintendence of the city buildings, and the custody and management of all city property and trust funds for the benefit of schools, public library, parks, cemeteries and for any other beneficial purpose, whether acquired by purchase or legacy; with power to let or sell what may be legally let or sold, and to purchase and take, in the name of the city, real and personal property for municipal purposes to an amount not exceeding one hundred thousand dollars in addition to that now held by the town, and shall, as often as once a year, cause to be published for the information of the inhabitants, a particular account of the receipts and expenditures, and a schedule of the city property and the city debt. The city council shall have power to establish by ordinance such offices as may be necessary for municipal government not provided for by this act, and to elect such subordinate officers as may be elected by towns under general laws of the state for whose election or appointment other provision is not herein made; to define their duties and fix their compensation, to act upon all matters in which authority is now given to said town of Deering, and to determine what streets, if any, shall be lighted, and upon what terms. The city council shall appropriate annually the amount necessary to meet the expenditures of the city for the current municipal year. The city council shall have exclusive authority to lay out, widen or otherwise alter or discontinue any and all streets or public ways in said city, and as far as extreme low water mark, and to estimate all damages sustained by owners of land taken for such purpose. A committee of the council shall be appointed whose duty shall be to lay out, alter, widen or discontinue any street or way, first giving notice of the time and place of their proceedings to all parties interested, by an advertisement in two newspapers printed in Deering or Portland, for three weeks at least, next previous to the time appointed. The committee shall first hear all parties interested and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued, and shall make a written return of their proceedings, signed by a

majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of the land taken, when known, and the damages allowed therefor; the return shall be filed in the city clerk's office at least seven days previous to its acceptance by the city council. The street or way shall not be altered or established until the report is accepted by the city council, and the report so filed shall not be altered or amended before it comes up before the city council, for action. A street or way shall not be discontinued by the city council, except upon the report of said committee. The committee shall estimate and report the damages sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued. Their report shall be filed with the city clerk seven days at least before its acceptance. Any party aggrieved at their decision may appeal therefrom as provided by law in the case of town ways. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owners shall not be entitled to recover such damages, but the committee in their report discontinuing the same shall estimate and include all the damages sustained by the land owner, including those caused by the original location of the streets; and in such cases, if any appeal has been regularly taken, the appellant shall recover his costs. The city shall not be compelled to construct or open any street or way thus hereafter established, until, in the opinion of the city council, the public good requires it to be done; nor shall the city interfere with possession of the land so taken, by removing therefrom materials or otherwise, until they decide to open said street. The city council may regulate the height and width of the sidewalks in any public square, places, streets, lanes or alleys in said city; and may authorize hydrants, drinking fountains, posts and trees to be placed along the edge of sidewalks, and may locate and construct culverts and reservoirs within the limits of any street or way in said city whenever they deem it needful for protection against fire, and the city shall not be liable for any damages caused by such posts, hydrants, drinking fountains, trees and reservoirs, nor by any poles or wires erected in its streets by any parties authorized by law so to do. Every law, act, ordinance, resolve or order of the city council, excepting rules and orders of a parliamentary

—estimate
damages.

—party
aggrieved, may
appeal.

—may regulate
side walks,
authorize
hydrants, posts,
and trees placed.

—city not liable
for damages.

—laws enacted,
shall be pre-
sented to mayor.

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—veto power.

character, shall be presented to the mayor. If not approved by him, he shall return it, with his objections in writing, at the next stated session of the city council, which shall enter the objections at large on its journal and proceed to reconsider the same. If, upon such reconsideration, it shall be passed by vote of two-thirds of all the members of the board, it shall have the same force as if approved by the mayor. In case of vacancy in the mayor's office, this section shall not apply to any act of the council. In case the mayor fails to either sign or return the bill at the next session, then it becomes a law as though he had signed it.

City clerk, shall be sworn, duties of.

SECT. 5. The city clerk shall, before entering upon the duties of his office, be sworn to the faithful discharge thereof. He shall have care of all journals, records, papers and documents of the city; and shall deliver all journals, records, papers and documents, and other things entrusted to him as city clerk, to his successor in office. He shall be clerk of the city council, and do such acts in his said capacity as the city council may lawfully and reasonably require of him. He shall perform all the duties, and exercise all the powers by law incumbent upon or vested in the town clerk of the town of Deering. He shall attend all meetings of the city council and keep a journal of its acts, votes and proceedings. He shall engross all of the ordinances passed by the city council in a book provided for the purpose, and shall add proper indexes, which book shall be deemed a public record of such ordinances; he shall issue to every person who is appointed to any office by the mayor, or elected to any office by the mayor, or elected to any office by the city council, a certificate of such appointment or election. He shall give notice of time and place of regular ward meetings. In case of the temporary absence of the city clerk, the city council may elect a clerk, pro tempore, with all the powers, duties and obligations of the city clerk who shall be duly qualified.

—in temporary absence, clerk, pro tem., shall be chosen.

SECT. 6. The assessors, overseers of the poor and health officers, shall be elected by the city council on the second Monday in March, or as soon thereafter as may be. At the first election thereof under this act, three persons shall be elected assessors, one of whom shall be elected for one year, one for two years and one for three years, and at each subsequent election, one assessor shall be elected for three years, each of whom shall continue in office until some other person

Assessors, election of, and tenure.

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shall have been elected and qualified in his place. Three overseers of the poor shall be elected in the same manner as are the assessors, and shall hold office the same time, and all subsequent elections of these officers shall be in the same manner as all subsequent elections for assessors. The city council may elect an assistant assessor in each ward, whose duty it shall be to furnish the assessors with all necessary information relative to persons and property taxable in his ward. He shall be sworn, or affirmed, to the faithful performance of his duty. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of this state relative to town taxes, except as herein modified, and the city council may establish further or additional provisions for the collection thereof and of interest thereon. The city council shall also elect a city solicitor, whose salary shall not exceed two hundred dollars.

—overseers of poor, election of.

—assistant assessors, may be elected.

—taxes, how assessed and collected.

—city solicitor, and salary.

SECT. 7. The city council shall annually, as soon after its organization as may be convenient, elect by ballot a city clerk and a city treasurer, who shall be the collector of taxes, and who shall hold their offices for the current municipal year following their election, and until their respective successors shall be elected and qualified; provided, however, that either of the officers named in this section may be removed at any time by the city council for sufficient cause. Vacancies in the above named offices may be filled by ballot of the city council at any time. The compensation of the officers named in this section shall be fixed by vote of the city council, and the official fees by them received shall be paid in to the city treasurer. If it is deemed expedient by the city council, the offices of city clerk and city treasurer may be held by the same person. The treasurer of the city shall also be the collector of taxes for said city, with all the powers of collectors of taxes under the laws of this state. He shall be styled treasurer and collector, and shall give but one bond, to be approved by the city council, for the faithful performance of his duties, and may appoint assistants and deputies as provided by law. All warrants directed to him by the assessors and municipal officers, shall run to him and his successor in office, and shall be in the form prescribed by law, changing such parts only as by this act are required to be changed. The method of keeping, vouching and settling his accounts shall be subject to such rules and regulations as the

Clerk and treasurer, election of.

—removal of.

—vacancies, how filled.

—compensation.

—treasurer, shall be collector.

—bond.

—all warrants shall run to treasurer and successor.

—how his accounts shall be kept.

CHAP. 506

—shall collect
all taxes.

city council may establish. Said treasurer and collector shall collect all such uncollected taxes and assessments, in whatever year assessed, as may be collected during his term of office; and at the expiration of said term his powers as collector shall wholly cease; all sales, distresses and all other acts and proceedings, lawfully commenced by him as such treasurer and collector, may be as effectually continued and completed by his successor in office as though done by himself; and all unreturned warrants, which would otherwise be returnable to him, shall be returned to his successor in office.

Street commis-
sioner, election
of.

SECT. 8. There shall be annually elected by the city council a street commissioner, who shall give bonds to the city in the sum of one thousand dollars, with such sureties as the city council shall approve, for the faithful performance of his duty, and shall receive such compensation as the city council shall establish, and he shall be removable at their pleasure; and if said office shall become vacant, by death, resignation or otherwise, they shall forthwith elect another person.

—compensa-
tion.

Shall super-
intend streets
and sidewalks.

I. It shall be the duty of the street commissioner to superintend the general state of the streets, roads, bridges, excepting such bridges as it is the duty of the city of Portland and county of Cumberland to keep in repair, sidewalks and lanes in the city; to attend to the repairs of the same, and to remove sidewalks when they are dangerous to travelers; and it shall be the duty of the commissioner to cause permanent bounds, monuments or land marks to be erected at the termini and angles of all highways and streets now located, or that may hereafter be located by the council, or altering or widening as provided by statute, and shall cause plans thereof to be made and filed with the city clerk, when required, after the passage of an order by the council. He shall make all contracts for labor and material, subject to approval of the council, and give notice to the mayor, or to any police officer, or constable, of any obstruction or encroachment thereon; to superintend the building and repair of any sewer, drain or reservoir, and to make contracts for labor and material for the same, subject to approval of the council.

—cause bounds
to be erected at
angles of streets.

—contract for
labor and
materials.

Perform all
duties required
by council.

II. He shall perform such duties in his said office as the city council may require, and shall at all times obey the

the directions of the council, or its committees, in the performance of his official duties.

III. The street commissioner shall certify all accounts, contracted in the discharge of his official duties, to the city council for their examination and allowance, at each regular meeting of the council.

Certify
accounts.

IV. No person or corporation authorized by the city council to dig up any public street or sidewalk in said city, shall begin such digging before furnishing to the street commissioner, security satisfactory to him to restore such street or sidewalk to its former condition.

Secure bonds of
any person who
may be author-
ized to dig up
streets, by
council.

SECT. 9. The city council first elected under this act, shall as soon after its organization as may be convenient, elect by ballot three persons, legal voters of said city, to constitute a board of managers of ancient burying grounds, and the public cemeteries of said city, to serve, one for three years, one for two years, and one for one year from the second Monday of March then next ensuing, and until their respective successors shall be elected, and thereafter the council shall annually, on the second Monday of March, in the same manner, elect one person, a legal voter of said city, to serve on said board of managers for three years from the second Monday of March then next ensuing, and until his successor is chosen. The said board shall have charge and control of the public cemeteries and burial places belonging to said city, and shall serve without pay. The board shall keep deposited, at the office of the city clerk, a correct record of its proceedings, which shall be open to public inspection.

Managers of
ancient burying
grounds and
public ceme-
teries, election
and tenure of.

—powers of.

SECT. 10. The city council may, by the affirmative vote of two-thirds of all its members, establish by ordinance, a police department, to consist of a chief of police and such other officers and men as it may prescribe, and may make regulations for the government of the department. Until a department of police shall be established in accordance with the provisions of this act, the mayor shall have the appointment, control and direction of the police force of the city.

City council,
shall establish
police depart-
ment.

—mayor shall
control police,
until depart-
ment is estab-
lished.

SECT. 11. The city council may establish a fire department for said city to consist of a chief engineer, one assistant engineer from each ward and such other officers and men as it may prescribe and it may make regulations for the government of the department.

Shall establish
fire department.

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City hall, shall not be built until erection has been approved by voters.

SECT. 12. The city council shall not authorize or appropriate money for the erection of a city hall or for the purchase or lease of land for a location thereof, until such erection or such purchase has been approved by the qualified voters of the city, voting in their respective precincts, at an annual municipal election the form of such approval be prescribed by the city council.

Salaries, how established.

SECT. 13. The city council shall establish by ordinance, the regular salaries or remuneration of the offices established by this act, in case the same is not fixed herein, and of such other offices as may be hereafter established, and after the first municipal year no ordinance of the council changing any such salary or remuneration shall take effect until the municipal year succeeding that in which the ordinance is passed.

Passage of ordinance, involving expenditure of money, etc., shall be by majority vote.

SECT. 14. In case any ordinance, order, resolution or vote involves the appropriation or expenditure of money to an amount which may exceed three hundred dollars, the laying of an assessment, or the granting to a person or corporation of any right in, over or under any street or other public ground of said city, the affirmative votes of a majority of all the members of the city council shall be necessary for its passage. Every such ordinance, order, resolution or vote shall be read twice, with an interval of at least three days between the two readings, before being finally passed, and the vote upon its final passage shall be taken by roll-call.

--proceedings.

Money appropriated for specific purpose, shall be expended for such purpose only.

No sum appropriated for a specific purpose shall be expended for any other purpose, and no expenditure shall be made, nor liability incurred by or in behalf of the city, until an appropriation has been duly voted by the city council, sufficient to meet such expenditure or liability, together with all unpaid liabilities which are payable out of such appropriation; provided, however, that after the expiration of the financial year, and until the passage of the regular annual appropriations, liabilities payable out of a regular appropriation to be contained therein may be incurred to an amount not exceeding one quarter of the total of such appropriation for the preceding year. No money shall be paid out of the city treasury, except on orders signed by the mayor, designating the fund or appropriation from which said orders are to be paid.

--money shall not be paid out, except on order of mayor.

Proceedings, for organization of city government.

SECT. 15. For the purpose of organizing the system of government hereby established, and putting the same in operation in the first instance, the selectmen of the town shall

at least seven days before the first Monday of March, after the acceptance of this charter issue their warrant for calling a meeting of the legal voters at such place and hour of the day as they shall choose, for the purpose of choosing a mayor, seven aldermen, an auditor, and seven constables to be taken from the city at large; said officers shall be elected by a plurality vote. The town clerk shall notify the several officers elect of their election, in writing, within twenty-four hours. Their powers and duties shall be as herein provided. It shall be the duty of the city council, as soon as may be after their election, to cause a division of the city into seven wards in such manner as to include as nearly as may be, consistently with well defined limits, an equal number of legal voters in each ward. After such division into wards, ward meetings of the legal voters thereof shall be called, which meetings shall be presided over by some person appointed by the city council, and the records of said first meetings in the several wards shall be made by some person designated by the city council, and at said first meetings lists of voters, corrected by the aldermen, shall be delivered to the persons designated to act as recording officers in the several wards, to be used, as provided by law, in town meetings. Said recording officers shall perform the duties of ward clerks, as before herein provided, relative to making a record of the election, and returning a copy of the records to the city council. And on the first Monday in March, annually thereafter, the qualified voters of each ward shall vote on one ballot for city and ward officers, as hereafter provided for, all of which officers except the mayor, shall be residents of the ward or district where elected. And all officers shall be elected by ballot, by a plurality of the votes given, and shall hold their offices one year from the second Monday in March, and until others shall be elected and qualified in their places. All city and ward officers shall be held to discharge the duties of the offices to which they have been respectively elected, notwithstanding the removal after their election, out of their respective wards into any other wards in the city, but they shall not so be held after they have taken up their permanent residence out of the city; the ward clerk, within twenty-four hours after such election, shall deliver to the ward officers elected, certificates of their election, and shall forthwith deliver to the city clerk a certi-

Wards.

Annual meetings and proceedings.

—ward clerk, shall deliver certificates to ward officers.

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—new election, shall be held in case of vacancy, or otherwise.

—oaths of office, by whom administered.

—meetings of city council.

Permanent chairman, election of, powers, and duties.

—president, pro tem., how and when chosen.

Officers required to appear before city council, at any time.

Aldermen, shall not be entitled to any compensation.

fied copy of the record of such election, a plain and intelligible abstract of which shall be entered by the city clerk on the city records. If the person elected shall refuse to accept the office, the said board shall issue their warrants for another election; and in case of a vacancy in the office of mayor by death, resignation or otherwise, it shall be filled for the remainder of the term by a new election, to be called as herein provided, and held within twenty days after the vacancy occurs. The oath or affirmation prescribed by this act, shall be administered to the mayor by the city clerk or any justice of the peace in said city. The aldermen elect shall meet on the second Monday in March, at seven o'clock in the evening, when the oath, or affirmation, required by the second section of this act shall be administered to the members present by the mayor, or any justice of the peace. The city council shall, by ordinance, determine the times of holding stated or regular meetings of the board, and shall also in like manner determine the manner of calling special meetings and the persons by whom the same shall be called; but, until otherwise provided by ordinance, special meetings shall be called by the mayor, by causing a notification to be given in hand, or left at the usual residence of each member.

SECT. 16. After the organization of a city government and the qualification of a mayor, and when a quorum of the city council shall be present, said board, the mayor presiding, shall proceed to choose a permanent chairman who, in the absence of the mayor shall preside at all meetings of the board, and in case of any vacancy in the office of mayor, he shall exercise all the powers and perform all the duties of the office so long as such vacancy shall remain; he shall continue to have a vote in the board, but shall not have a veto power. The board of aldermen, in the absence of the mayor and permanent chairman, shall choose a president, pro tempore, who shall exercise the powers of a permanent chairman.

SECT. 17. Every officer of the city, except the mayor, shall, at the request of the city council, appear before the board and give such information as may be required, and answer any questions that may be asked by the council in relation to any matter, act or thing connected with his office or the discharge of the duties thereof.

SECT. 18. The aldermen shall not be entitled to receive any salary or other compensation during the year for which

they are elected, nor be eligible to any office of profit or emolument, the salary of which is payable by the city, during said term; and all departments, boards, officers and committees, acting under the authority of the city and intrusted with the expenditure of public money, shall expend the same for no other purpose than that for which it is appropriated, and shall be accountable therefor to the city in such manner as the city council may direct.

SECT. 19. Neither the mayor, members of the board of aldermen, or any officer of the city, shall be interested, directly or indirectly, in any contract or agreement to which the city is a party, nor shall any such person furnish supplies of any kind to the city while holding office therein.

Mayor, nor other officers, shall not be party to any contract in which city is interested.

SECT. 20. All officers of the police and health departments shall be appointed by nomination by the mayor and confirmed by the aldermen, and may be removed by them for good cause. All other subordinate officers shall be elected by the city council, and may be removed by them for cause. Except as otherwise specially provided in this act, all subordinate officers shall be elected annually on the second Monday of March, or as soon thereafter as may be, and their term of office shall be for one year, and until others are qualified in their place.

Appointment of police and health officers, appointment and removal of.

—election of subordinate officers.

SECT. 21. A municipal court is hereby established in said city of Deering, which shall be denominated the Deering municipal court; it shall be a court of record, with a seal, and shall consist of one judge who shall reside in said Deering. He shall cause to be entered on the docket of said court all civil and criminal actions, with full minutes of the proceedings in and disposition of the same, which docket shall be at all times open to inspection, and he shall perform all other duties required of similar tribunals in this state; and copies of the record of said court, duly certified by said judge, shall be legal evidence in all courts. He shall not act as attorney or counsel in any action, matter or thing within the jurisdiction of said court.

Municipal court, established.

—court of record, with seal

Judge, appointment and duties

—shall not act as counsel.

SECT. 22. The judge shall appoint a recorder of said court, who shall reside in said Deering and hold his office for four years. He shall be sworn by said judge, and keep the records of said court when requested so to do by said judge. In case of absence from the court room, or sickness of the

Shall appoint a recorder.

—duties and powers.

CHAP. 506

—in absence of judge and recorder, justice of peace may preside

judge, or when the office of judge shall be vacant, the recorder shall have and exercise all the powers of said judge, and perform all the duties required of said judge by this act, and the signature of the recorder as such, shall be sufficient evidence of his right to act instead of the judge. In the absence of both judge and recorder, any justice of the peace of the city of Deering, may preside for the purpose of entering and continuing actions and filing papers in said court, and may adjourn the same from day to day, or till the next regular term.

Exclusive jurisdiction.

SECT. 23. Said court shall have exclusive original jurisdiction of all civil actions in which the debt or damages demanded do not exceed twenty dollars, and both parties, or one of the parties and a person summoned in good faith, and on probable grounds as trustee, reside in said city of Deering; and shall have exclusive original jurisdiction of all offenses committed against the ordinances and by-laws of said city, and all such criminal offenses and misdemeanors committed therein as cognizable by trial justices; provided, that warrants may be issued upon complaints for offenses committed in said city of Deering, by any trial justice in said county, but all such warrants shall be returnable before said court, and no trial justice shall take cognizance of any crime or offense committed in said city or any civil action of which said court has exclusive jurisdiction. Said court shall have original jurisdiction, concurrent with trial justices, of all such matters and things, civil and criminal, within the county of Cumberland, as are by law within the jurisdiction of trial justices in said county.

—proviso.

—concurrent jurisdiction, with trial justices.

Concurrent jurisdiction, with Superior Court.

SECT. 24. Said court shall have original jurisdiction, concurrent with the superior court of all civil actions in which the debt or damages, exclusive of costs, do not exceed one hundred dollars, in which either party, or a person summoned in good faith and on probable grounds as trustee, resides in the county of Cumberland, or having his residence beyond the limits of this state, is served with process within said county. And said court shall have original jurisdiction concurrent with the superior court in said county, of all larcenies described in sections one, six, seven, eight and nine of chapter one hundred and twenty of the Revised Statutes, when the value of the property is not alleged to exceed thirty dollars; of all cases of cheating by false pretences, described in section one of chapter one hundred and twenty-six of the

Revised Statutes, when the value of the property or other thing alleged to have been fraudulently obtained or sold does not exceed thirty dollars; of the assaults and batteries described in section twenty-eight of chapter one hundred and eighteen of the Revised Statutes, and of the offense described in section six of chapter one hundred and twenty-four of the Revised Statutes, and may punish for either of said offenses by fine not exceeding fifty dollars, and by imprisonment not exceeding three months; provided, that said court shall not try civil actions in which the title to real estate, according to the pleadings filed in the case by either party, is in question, except as provided in chapter ninety-four, sections six and seven of the Revised Statutes.

SECT. 25. A term of said court shall be held on the third Tuesday of each month, beginning at ten o'clock in the forenoon, at such place in the city of Deering as said city shall provide for the transaction of civil business, and all civil processes shall be made returnable accordingly; provided, however, that said court shall be held on every Tuesday at the usual hour for the entry and trial of actions of forcible entry and detainer, and such actions shall be returnable accordingly, and be heard and determined, and judgment entered on the return day of the writ, unless continued for good cause. Said court may adjourn from time to time, but shall be considered as in constant session for the trial of criminal offenses.

Terms.

—adjournment,

SECT. 26. Writs and processes issued by said court shall be in the usual form, signed by the judge or recorder, and under the seal of said court. They shall be served as like precepts are required to be served when issued by trial justices, except original writs in civil actions, which shall be served not less than seven nor more than sixty days before the sitting of the court at which the same are made returnable. All the provisions of the statutes of the state, relative to the attachment of real and personal property, and the levy of executions shall be applicable to actions in this court and executions on judgments rendered therein; provided, that property may be attached equal in value to the ad damnum, in addition thereto sufficient to satisfy the costs of suit, and the writ may be framed accordingly.

Writs and processes, forms and service.

—provisions of statutes, relative to attachment, applicable to actions in this court.

SECT. 27. All civil actions in said court shall be entered the first day of the term and not afterwards, except by special

Entry of actions, and proceedings.

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permission, and they shall be in order for trial at the next term after the entry if not otherwise disposed of. Pleadings shall be the same as in the superior court, and all the provisions of law relative to practice and proceedings in the superior court, in civil actions, are hereby made applicable and extended to this court, except so far as they are modified by the provisions of this act.

Proceedings when defendant, in any civil action, claims a trial by jury, in Superior Court.

SECT. 28. If any defendant, his agent or attorney, in any action in said court in which the debt or damages claimed in the writ exceeds twenty dollars, shall, on or before the first day of the second term, file in said court an affidavit, that he has a good defense to said action, and intends in good faith to make such defense, and claims a jury trial, and shall deposit with the judge of said court one dollar and fifty cents for copies and entry in the superior court, to be taxed in his costs if he prevails, the said action shall be removed into and entered at the next term of the superior court for said county, and the judge of said municipal court shall forthwith cause certified copies of the writ, return of the officer, and all the other papers in the case to be filed in the clerk's office of the said superior court.

Appeals.

SECT. 29. Any party may appeal from any judgment or sentence of said municipal court to the superior court, in the same manner as from a judgment of trial justice.

Exceptions may be alleged, and cases heard and determined, at law term of S. J. Court.

SECT. 30. Exceptions may be alleged and cases certified on agreed statements of facts, or upon evidence reported by the judge in all civil actions as in the superior court, and the same shall be entered, heard and determined at the next law term held in the western district, or by agreement of parties may be certified to the chief justice of the supreme judicial court, and when so certified, to be argued in writing on both sides within thirty days; and the supreme judicial court, sitting as a court of law, shall have the same jurisdiction of all questions of law arising from said exceptions, statements and reports, as if they had originated in the superior court for the county of Cumberland; and all the provisions of law and rules of the superior court relative to the transfer of actions and other matters from the superior court for said county, shall apply to the transfer of actions from the said municipal court to said law court. Decisions of the law court on all cases from said municipal court, shall be certified to the judge of said municipal court with the same effect as in cases

—decisions of law court, shall be certified to judge.

originating in the supreme judicial and superior courts in said county.

SECT. 31. The costs and fees allowed to parties and attorneys in civil actions before said court, in which the debt or damages recovered do not exceed twenty dollars, shall be the same as are allowed in actions before trial justices, except that the plaintiff, if he prevails, shall be allowed one dollar for his writ; and the defendant, if he prevails, shall be allowed one dollar for his pleadings. But in all actions in which the amount recovered exceeds twenty dollars, the costs and fees of parties and attorneys shall be the same as in the superior court, except that the defendant, if he prevails, shall be allowed two dollars for his pleadings.

Costs and fees, to be allowed to parties, and attorneys.

SECT. 32. Fees of the judge which he may demand and receive for his services, shall be the same as are allowed by law to trial justices and clerks of the supreme judicial court for similar services, except that he shall receive for every blank writ signed by him, four cents; for the entry of each civil action, fifty cents; for every warrant issued by him, one dollar; and for the trial of an issue in civil or criminal cases, one dollar, and two dollars for each day actually employed after the first. All fines and penalties awarded and received by said judge or said recorder, shall be accounted for and paid over as if the same had been awarded and received by a trial justice, and for neglect to do so they shall be subject to like penalties with trial justices.

Fees, received by the judge.

SECT. 33. A school committee of seven persons shall be elected by the city council at its first meeting for the election of subordinate officers, two to hold office for one year, two to hold office for two years and three to hold office for three years, and thereafter, at each annual municipal election, a person shall be elected to fill the place of each one whose term expires, who shall hold office for three years. No member of the committee shall receive any compensation for his services. The members of said committee, duly elected, shall meet and organize as soon after their election as may be. A majority of the board shall constitute a quorum for the transaction of business. They shall have all the powers and perform all the duties in regard to the care and management of the public schools of said town which are now conferred upon superintending school committees by the laws of this state, except as otherwise provided in this act. They

School committee, election and tenure.

—shall receive no compensation.

—quorum.

—powers and duties.

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—shall elect a superintendent.

—duties.

—salary.

—committee shall annually furnish estimate of amount needed for support of schools.

City council, may maintain drains and sewers.

Proceedings, when land is taken for sewers.

Locations, estimates, and plans of drains, to be recorded.

shall annually, and whenever there is a vacancy, elect a superintendent of schools for the current municipal year, who shall have the care and supervision of said public schools under their direction, and act as secretary of their board; they shall fix his salary at the time of his election, which shall not be increased nor diminished during the year for which he is elected, and may at any time dismiss him if they deem it proper or expedient. A suitable and convenient room shall be furnished by the town for the meetings of said committee, wherein shall be kept their records open to the inspection of the citizens. The said committee shall annually, before the spring election, furnish to the city council an estimate in detail of the several sums required during the ensuing municipal year for the support of said public schools, and they shall not increase the expenditures beyond the amount appropriated therefor.

SECT. 34. I. The city council may make, lay and maintain all such main drains or common sewers, as they adjudge to be necessary for the public convenience or the public health, through the public streets, or through the lands of any person or corporation, and may repair the same whenever it is necessary, as hereafter provided. All such drains and sewers shall be the property of the city, and shall be constructed in such manner and dimensions as the city council deem best.

II. When such drains or sewers are laid through the land of any person or corporation and not through the public street, and the land is taken therefor, the proceedings shall be the same as provided by the Revised Statutes, as in the case of laying out streets.

III. The city council, as soon as convenient after its first meeting, shall determine what localities within the city limits, and streets of said localities, are in need of drains or sewers, and thereupon cause to be made accurate plans and estimates of cost of main drains or sewers, with their out falls and receptacles, needed in said localities, setting forth full details of costs of each main and needed branches connected therewith, with costs of each branch, using the results of the survey and estimates made in compliance with the appropriation of the town of Deering, under article twenty-three of the warrant for the annual town meeting of said town in the year of our Lord eighteen hundred and eighty-eight, so far as appli-

cable, and cause the same to be recorded and carefully preserved in record books prepared expressly for the purpose, but kept ready at all times for public inspection.

IV. The city council shall adjudge what lots or parcels of land are to be benefited by such sewers or drains, and establish outlines of same and estimate what sums shall be assessed upon such lots and parcels of land, or the owners thereof, towards defraying the expense of constructing and completing such drains or sewers, the whole of said assessment not to exceed two-thirds of the cost of such drains or sewers.

Lands benefited, may be assessed.

V. Sixty days or more after the approval by the city council of the plans and estimates made in accordance herewith, and the public announcement of the same in at least two newspapers printed in Portland, on application of ten resident tax payers in a locality requiring drains or sewers, the city council may proceed to construct and complete such drains and sewers, in manner as herein provided, as are needed.

When drains may be constructed.

VI. When said drains or sewers are completed, the city council shall adjudge what lots or parcels of land are benefited by such drains or sewers, and estimate and assess upon such lots and parcels of land and against the owner thereof, if known, such sum, not exceeding such benefit, as they may deem just and equitable towards defraying the expenses of constructing and completing such drain or sewer, the whole of said assessments not to exceed two-thirds of the cost of such drain or sewer, and such drain or sewer shall forever thereafter be maintained and kept in order by said city; the city council shall file with the clerk of said city the amount assessed upon each lot or parcel of land so assessed and the name of the owner of each lot or parcel of land, if known, and the clerk of said city shall record the same in the book kept for that purpose, and within ten days after filing such notice, each person so assessed shall be notified of such assessment by having an authentic copy of said assessment, with an order of notice signed by the clerk, stating a time and place for a hearing on the subject matter of said assessment given to the person so assessed, or left at his usual place of abode in said city; if he has no place of abode in said city, then such notice shall be given to or left at the abode of his tenant or lessee, if he has one in said city; if he has no such tenant or lessee in said city, then

Expenses of construction, how estimated and assessed.

—location of drain and assessments, to be recorded.

—notices of assessment, and hearing thereon, how given.

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by posting the same in some conspicuous place in the vicinity of the lot or parcel of land so assessed, at east thirty days before said hearing, or such notice may be g ven by publishing the same three weeks successively, in two newspapers published in the city of Portland, the first publication to be at least thirty days before said hearing. A return made by copy of such notice by any constable in said city, or the production of the paper containing such notice, shall be conclusive evidence that such notice has been given, and upon such hearing the city council shall have power to revise, increase or diminish any such assessments, and all such revision, increase or diminution, shall be in writing and recorded by said clerk.

—assessments, may be revised.

Appeals from doings of city council, may be taken to S. J. Court.

VII. Any person who is aggrieved by the doings of said city council in laying out and constructing said drains or sewers, or in making said assessments. may appeal therefrom to the next term of the supreme judicial court which shall be holden in the county of Cumberland, more than thirty days from and after the day when the hearing last mentioned is concluded, excluding the day of the commencement of the session of said court. The appellants shall serve written notice of such appeal upon said city council fourteen days at least before the session of the court, and shall, at the first term, file a complaint, setting forth the facts of the case; either party shall be entitled to a trial by jury, or the matter in dispute may, if parties so agree, be decided by a committee of reference, and the court shall render such judgment and decree in the premises as the nature of the case may require; at the trial, exceptions may be taken to the ruling of the judge, as in other cases.

—either party is entitled to trial by jury.

—exceptions may be taken to rulings of judge.

Lien, for payment of assessments.

VIII. All assessments made under the provisions of this act shall create a lien upon each and every lot or parcel of land so assessed, and within ten days after they are made the clerk of said city shall make out a list of all such assessments, the amount of each assessment, the name of the person, if known, against whom the same is assessed, to be by him certified; and he shall deliver the same to the treasurer of said city, and if said assessments are not paid within three months from the date of said assessments, then the treasurer shall proceed and sell such of said lots or parcels of land upon which such assessments remain unpaid, or so much thereof, at public auction, as is necessary to pay such assess-

—lots of land, may be sold.

ments, and all costs and incidental charges, in the same way and manner that real estate is advertised and sold for taxes under chapter six of the Revised Statutes, which sale shall be made within one year from the time said assessments are made, and upon such sale the treasurer shall make, execute and deliver his deed to the purchaser thereof, which shall be good and effectual to pass the title to such real estate.

IX. Any person to whom the right by law belongs may, at any time within one year from the date of said sale, redeem such real estate by paying to the purchaser, or his assigns, the sum for which the same was sold, with interest thereon at the rate of twenty per cent per annum, with cost of re-conveyance.

Lots may be redeemed.

X. If said assessments are not paid and said city does not proceed to collect said assessments by a sale of the lots or parcels of land upon which said assessments are made, or does not collect, or is in any manner delayed or defeated in collecting such assessments, by sale of the real estate so assessed, then the said city, in the name of the inhabitants of said city, or in the name of such city may sue for and maintain an action against the parties so assessed for the amount of said assessment as for money paid, laid out and expended, in any court competent to try the same, and in such suit may recover the amount of such assessment with twelve per cent interest on the same from the date of said assessment, and costs; provided, however, that if any lot, when sold in the manner before provided, shall not sell for enough to pay the amount of said assessment with interest and cost, the owner thereof shall be under no personal liability for the same.

If assessments are not paid, or enforced by sale, city may maintain action.

XI. When lots and parcels of land adjoining streets where sewers are laid, receive no immediate benefit from said drains or sewers constructed and completed in accordance with the provisions of this section, the city council may suspend the enforcement of the assessment till said lots, or parts thereof, are sufficiently improved for building purposes, and the amounts of the assessments shall be filed by the city treasurer as assets of the city; but it shall not be lawful, under this section, for the city council, or agents thereof, to assess more than one-third of the cost of constructing and completing any drain or sewer, or any part thereof, upon the tax payers of the city at large.

Enforcement of assessments, upon lots that receive no immediate benefit, may be suspended.

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General meetings, may be held.

SECT. 35. General meetings of the citizens, qualified to vote, in the city affairs, may, from time to time, be held to consult upon the public good, to instruct their representatives, and to take all lawful measures to obtain redress of any grievances according to the rights secured to the people by the constitution of this state; and such meetings shall be duly warned by the mayor and aldermen upon requisition of twenty qualified voters. The city clerk shall act as clerk of such meetings and record the proceedings upon the city records.

Proceedings, upon question of acceptance of this act.

SECT. 36. A town meeting may be held at the usual place of meeting, in said town, for the purpose of submitting the question of the acceptance of this act to the legal voters of said town, at any time within five years after the passage thereof, except in the months of September and November. At such meeting the polls shall be open from eight o'clock in the forenoon until five o'clock in the afternoon, and the vote shall be taken by written or printed ballots in answer to the question, "Shall the act passed by the legislature in the year of our Lord one thousand eight hundred and eighty-nine, entitled an act to incorporate the city of Deering, be accepted." The selectmen shall preside at such election and use a check list. The affirmative votes of a majority of the voters present and voting thereon, shall be required for its acceptance. If at any meeting so held this act shall fail to be thus accepted, it may, at the expiration of six months from any such previous meeting, be again thus submitted for acceptance, but not after the period of five years from the passage thereof. Such meetings shall be called as provided for by general laws of the state for calling and holding meetings for the transaction of town business.

Act shall not affect rights accrued, or suits pending.

SECT. 37. The passage of this act shall not affect any right accruing or accrued, or any suit, prosecution or other legal proceeding pending at the time when it shall take effect by acceptance, as herein provided for, and no penalty or forfeiture previously incurred shall be affected thereby. All persons holding office in said town at the time this act shall be accepted as aforesaid, shall continue to hold such offices until the organization of the city government hereby authorized shall be effected, and until their respective successors shall be chosen and qualified.

SECT. 38. So much of this act as authorizes the submission of the question of its acceptance to the legal voters of the said town, shall take effect upon its passage, but it shall not take further effect unless accepted by the legal voters of said town, as herein prescribed, in which case all acts and parts of acts inconsistent with this act, are hereby repealed.

Approved March 5, 1889.

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When act takes effect.

Chapter 507.

An Act to establish the Dover Municipal Court.

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

SECT. 1. A municipal court is hereby established in and for the towns of Dover and Foxcroft, in the county of Piscataquis, which shall be called the Dover Municipal Court, and shall be a court of record with a seal. All original processes issuing from said court shall be under the teste of the judge, or, if the office of judge is vacant, of the recorder thereof, and signed by the judge or recorder thereof, and shall have the seal of said court affixed.

Dover Municipal Court, established.

—court of record, with seal.

SECT. 2. Said court shall consist of one judge, who shall be an inhabitant of the county of Piscataquis, and shall be appointed in the manner and for the term provided by the constitution of this state. The said judge shall enter, or cause to be entered on the docket of said court all civil and criminal actions, with full minutes of the proceedings in and disposition of the same, which docket shall be at all times open to inspection, and he shall perform all other duties required of similar tribunals in this state; and copies of the records of said court, duly certified by the judge or recorder thereof, shall be legal evidence in all courts. The said judge shall not act as attorney or counsel in any action or matter within the exclusive jurisdiction of said court.

Judge, appointment and duties of.

—shall not act as counsel.

SECT. 3. The said judge may in his discretion appoint, in writing, a recorder, who shall be sworn by said judge, and shall keep the records of said court when requested so to do by said judge; and in case of absence from the court room of said judge, or when the office of judge shall be vacant, the said recorder shall have and exercise all the powers of

May appoint a recorder.

—duties and powers.