

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY BAILEY & NOYES.

SEC. 5. If the municipal officers of a town, or the treasurer or committee of a parish or religious society, neglect so to apply the said fines when recovered under their authority, they shall each forfeit the amount thereof, to be recovered by action of debt by any person suing therefor.

CHAP. 16.

Penalty, if selectmen or other officers neglect their duty.
R. S. c. 15, § 5.

SEC. 6. When any persons appropriate a piece of land for a burying ground containing not more than half an acre, it shall be exempt from attachment and execution, and unalienable and indivisible by the owners without the consent of all; and be kept fenced and occupied as a burying ground; and they shall cause a written description of it, under their hands, attested by two disinterested witnesses, to be recorded in the registry of deeds in the county or district where it lies, or by the clerk of the town where it is situated.

Grounds to be fenced, and unalienable and indivisible, except by unanimous consent.
Description to be recorded.
R. S. c. 15, § 6.
1859, c. 77, § 1.

SEC. 7. When an individual appropriates a piece of land for a family burying ground containing not more than one-fourth of an acre; causes a description of it to be recorded in the registry of deeds of the same county, or by the clerk of the town where it is situated, and encloses it with a substantial fence, it shall be exempt from attachment and execution; and no subsequent conveyance of it shall be valid; while any person is interred therein; but it shall remain to him and his heirs as a burial place forever. Said clerks shall receive fifty cents for recording such deed.

Land appropriated by individuals for burying ground, exempt from attachment, and unalienable.
R. S. c. 15, § 7.
1859 c. 77, § 1.
1867 c. 73, § 2.

CHAPTER 16.

DRAINS AND COMMON SEWERS.

- SEC. 1. Penalty for laying drains in highways or streets without consent of municipal officers.
2. Municipal officers authorized to construct public drains.
 3. Damages, how assessed and paid.
 4. Private drains, regulations, application for permits.
 5. Amount to be paid for permit, how adjusted.
 6. Drains heretofore constructed, how maintained and managed.
 7. Penalty for connecting private drains with public without permit.
 8. Penalty for violation of permit.
 9. Drains to be kept in repair. Penalty for neglect.
 10. Record of proceedings to be kept, and officers of town to control prosecutions.
 11. Sum for permit to be paid in sixty days. Fees of arbitrators, how determined.
 12. Private drains, how repaired, in case of neglect of owners.
 13. Penalty for willfully or carelessly injuring public drains.
 14. All, who enter a private drain, pay their proportion.
 15. To be paid in ten days after notice.
 16. Notice to be given before opened for repair.
 17. Drains and ditches authorized.

- CHAP. 16. SEC. 18. Petitions to county commissioners, what to be set forth therein, and bond for costs.
19. Commissioners to order notice, service and publication of notice. Committee of reviews, notice to be given, and report.
 20. Commissioners, consider the report at next term after it is received.
 21. Final report to be recorded and damages tendered.
 22. Repairs, how to be made.
 23. Damages how to be settled.
 24. Punishment for injury to works.

Penalty for laying drains in highways or streets without consent of municipal officers.

R. S. c. 16, § 1.

Public drains, authority for construction of.

1860, c. 153, § 1.

56 Me. 410.

Expense and control.

Notice.

Damages.

1860, c. 153, § 2.

51 Me. 521.

56 Me. 407.

Private drains, regulations, application for permits.

R. S. c. 16, § 4.

Amount to be paid for permits, how adjusted.

R. S. c. 16, § 5.

Drains heretofore constructed, how maintained and managed.

R. S. c. 16, § 6.

Penalty for connecting private drains with public,

SEC. 1. Whoever digs up the ground in a highway or street for laying or repairing any drain or common sewer without the written consent of the municipal officers, shall forfeit for each offence four dollars to the use of the town.

SEC. 2. The municipal officers of a town may construct public drains or sewers along or across any public way therein, and through any lands of persons or corporations, when they deem it necessary for public convenience or health, at the expense of the town; and they shall be under their control.

SEC. 3. When the land is so taken, notice shall first be given, and damages assessed and paid therefor as is provided for the location of town ways.

SEC. 4. Abutters upon the line of a public drain, and the owners of contiguous private drains, may enter and connect with it, on written application to the municipal officers, distinctly describing the land to which it applies, and paying therefor what they determine. They shall then give the applicants written permits so to enter, which shall be available to the owner of the land so described, his heirs and assigns, and shall run with the land without any other or subsequent charge or payment. Said officers shall establish such other regulations and conditions for entering public drains, as they deem expedient.

SEC. 5. If any person is dissatisfied with the sum he is required to pay to enter a public drain, and within ten days after notice thereof, requests in writing to have it determined by arbitration, the said officers shall nominate six persons, two of whom, selected by the applicant, with a third person, selected by himself, may fix the sum to be paid; and by paying it and the fees of the arbitrators, the applicant shall be entitled to a permit.

SEC. 6. All drains, heretofore made at the expense of a town, shall be maintained, managed, controlled and entered the same as if made under the provisions of this chapter, subject to the rights of private persons therein.

SEC. 7. If any person connects a private drain with a public drain, or enters it by a side drain, without a permit, the municipal officers may forthwith destroy such connection; and such person shall

forfeit to the use of the town, where the offence is committed, not exceeding two hundred dollars, to be recovered by indictment, or action of debt. CHAP. 16.

SEC. 8. If any person willfully or negligently violates any condition or regulation prescribed in his permit, said officers may forthwith disconnect his drain from the public drain and declare his permit forfeited; and such person, his heirs and assigns, shall not be allowed to enter it again without a new permit. Whoever by the construction or use of a private drain commits any nuisance, shall be liable therefor notwithstanding any thing herein contained.

SEC. 9. After a public drain is constructed and any person has paid for connecting with it, it shall be constantly maintained and kept in repair by the town, so as to afford sufficient and suitable flow for all drainage entitled to pass through it; but it may be altered from its former course, or other sufficient and suitable drains may be substituted therefor. If such town does not so maintain and keep it in repair, any person entitled to drainage through it, may have an action against the town for his damages thereby sustained.

SEC. 10. All proceedings of the municipal officers as aforesaid shall be at their legal meetings. A suitable record shall be made of all such permits, exhibiting the persons and lands, to which they apply. Said officers shall have the exclusive direction, on behalf of their town, of all prosecutions under this chapter.

SEC. 11. If any person, after the sum to be paid by him for a permit has been determined by arbitration, neglects to pay it within sixty days after notice thereof, with the fees of the arbitrators, he shall have no benefit of such determination, or of his permit. The municipal officers may determine the fees of the arbitrators, which shall be paid in advance, if required; and their award shall be returned by them to the town clerk, and recorded with the proceedings of said officers in establishing such drains.

SEC. 12. If a private drain in a town becomes so obstructed or out of repair as to injure any street or highway therein, and the persons using it unreasonably neglect to repair such injury, after notice by the street commissioner or highway surveyor, it shall be repaired by the town, and the expense thereof may be recovered to the use of the town in an action of the case against any one or more of the persons using such drain.

SEC. 13. If any person willfully or carelessly does an injury or causes any obstruction to such public drain or its outlet, or to any street or highway culvert leading into it, he shall be liable in an action of the case for double the amount of injury and damages thereby caused, to the use of the town, where it is located, in addition to all other legal penalties therefor.

without permit.
R. S. c. 16, § 7.

Penalty for violation of permit.
R. S. c. 16, § 8.
57 Me. 436.

Drains to be kept in repair; penalty for neglect.
R. S. c. 16, § 9.
56 Me. 407.

Record of proceedings to be kept, and officers of towns to control prosecutions.
R. S. c. 16, § 10.

Sum for permit to be paid in sixty days. Fees of arbitrators, how determined.
R. S. c. 16, § 11.

Private drains, how repaired, in case of neglect of owners.
R. S. c. 16, § 12.
51 Me. 521, 539.

Penalty for willfully or carelessly injuring public drains.
R. S. c. 16, § 13

CHAP. 16.

All who enter a private drain pay their proportion.

R. S. c. 16, § 14.

To be paid ten days after notice.

R. S. c. 16, § 15.

Notice given before open for repair.

R. S. c. 16, § 16.

Drains authorized.

1859, c. 101, § 1.

Petition to country commissioners, what shall set forth, bond for costs.

1859, c. 101, § 2.

Commissioners to order notice.

How to be served and published.

1859, c. 101, § 3.

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

SEC. 14. When a person, at his own expense, lays a common drain or sewer, all, who join or enter it, shall pay him their proportion of such expense; and the expense of opening and repairing shall be paid by all benefited, to be determined in each case by the municipal officers subject to appeal to the county commissioners.

SEC. 15. The municipal officers shall notify each person to whom he is to pay, and the amount; and if not paid in ten days, he shall pay double the amount with cost.

SEC. 16. Before any such drain is opened for repairs, all persons interested shall have seven days notice thereof, given as the municipal officers direct; and if any one objects to it and said officers think his objection reasonable, he shall not be liable to any expense thereof; if not reasonable, or none is made within three days, they may give written permission to proceed.

SEC. 17. Persons or corporations possessing land, swamp, meadow, quarries or mines, which by reason of adjacent lands or highways, cannot be approached, drained or used without crossing said lands or highways, may establish drains or ditches thereto, in the manner hereinafter provided.

SEC. 18. The party desirous of making such drains and ditches shall file a petition therefor with the county commissioners, in the county where the premises are situate, setting forth the proposed work, and the situation of the adjoining lands, and the names of the parties interested, if known, accompanied by a bond approved by the commissioners and payable to the county treasurer, conditioned to pay all costs and damages.

SEC. 19. Said commissioners thereupon, shall order notice to be given to all the parties named therein, by serving on them an attested copy thereof with the order thereon, fourteen days before their next regular session, and by publishing it in some newspaper published in said county, if any, otherwise in some paper in an adjoining county, and after said order has been complied with, they may appoint a committee of review of not less than three nor more than five disinterested persons, and fix their compensation per day, who shall meet on the premises on the day named, and by examination determine whether the proposed drain or ditch is necessary to the beneficial use of said lands, and if so, said committee shall lay out and establish the same, in a manner to cause the least injury, and shall assess the damages which any proprietor of the adjacent lands will be likely to sustain, and report the same with all their proceedings to said commissioners; but before the said committee proceeds to said examination they shall give ten days' notice of the time and place of their meeting, by posting-up notifications thereof in two public places, in the town in which said lands lie.

SEC. 20. At the meeting of said commissioners next after the report of the committee is received they may, if deemed reasonable, accept such report.

SEC. 21. The party praying for such drains or ditches shall cause the final report and adjudication to be recorded in the registry of deeds for the county, and shall pay or tender in payment the full amount of damages to the parties to whom the same is adjudicated.

SEC. 22. The owners of a drain or ditch constructed for the purposes above named, or any one of them, benefited thereby, may, from time to time, improve, deepen, and repair the same in such a manner as shall be necessary to make them effective, and shall have the right to remove and use any rock, earth or other material which shall be necessary in making such improvements, and to enter upon the lands through which such drains or ditches pass, for that purpose.

SEC. 23. All damages sustained by any person by reason of such improvement, the value of the royalty or stumpage on the rock, and of the other material removed and used, may be recovered against the person, persons or corporations taking said rock, earth or other material, in an action on the case, or upon application to the county commissioners at the election of the party injured, and in case he shall elect the latter, the same proceedings shall be had for the purpose of ascertaining such damage, and to recover the same, as are now provided in estimating damage by a jury in case of laying out public highways.

SEC. 24. Any person doing damage to such works shall be punished as provided in chapter one hundred and twenty-seven, for offences of like nature.

CHAP. 17.

To consider report of committee at next meeting. 1859, c. 101, § 4.

Final report to be recorded and damages tendered. 1859, c. 101 § 5.

Repairs, how to be made. 1859, c. 101, § 6. 1870, c. 117, § 1.

Damages how to be settled. 1859, c. 101, § 7. 1870, c. 117, § 2.

Drains, how protected. 1859, c. 101 § 6.

CHAPTER 17.

NUISANCES.

- SEC. 1. Certain places declared nuisances.
2. Punishment for keeping such nuisances.
3. Lease to a tenant keeping a nuisance, void.
4. Liability of owners of buildings, knowingly allowing nuisances.
5. Certain nuisances described.
6. Places to be assigned for unwholesome employments.
7. Proceedings when places so assigned become offensive.
8. When buildings for the manufacture of gunpowder shall be deemed a nuisance.
9. Burning bricks in parts of a town prohibited by vote; nuisances.
10. Water mills and dams on streams, and fences and buildings fronting on public ways, in certain cases, not nuisances.