

# MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

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SENATE

NO. 4

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*In Senate, Jan. 8, 1913.*

*On motion of Senator Hersey of Aroostook, laid on table for printing pending reference in concurrence.*

*W. E. LAWRY, Secretary.*

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND THIRTEEN.

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AN ACT to amend section forty-six of chapter one hundred and six of the Revised Statutes as amended by chapter nine of the Public Laws of nineteen hundred and nine, relating to the appointment of surveyors in real actions.

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*Be it enacted by the People of the State of Maine, as follows:*

Section 1. Section forty-six of chapter one hundred and  
2 six of the Revised Statutes as amended by chapter nine of  
3 the Public Laws of nineteen hundred and nine, is hereby  
4 amended by striking out all the words of the last sentence  
5 in said chapter forty-six as amended by said chapter nine  
6 of said Public Laws, and substituting the following words  
7 therefor: 'The amount of the fees and necessary expenses

8 of such surveyor shall be fixed and determined by the court  
9 upon the acceptance of the report, and shall be paid as fol-  
10 lows: If the court is of the opinion that such fees and  
11 expenses, or some portion of the same, ought to be paid  
12 by the county then the amount thereof to be paid by the  
13 county, whether the whole or a part, shall be fixed and  
14 determined by the court and the amount so fixed and deter-  
15 mined shall be paid by the county on presentation of the  
16 proper certificate of the clerk of courts for that county.  
17 If the court is of the opinion that the whole or any part or  
18 portion of such fees and expenses should be paid by the  
19 parties to the suit or action, or by either of such parties,  
20 then the court may fix and determine the amount to be paid  
21 by such parties, or by either of such parties, and the parties  
22 shall be liable to the surveyor in an action of money had  
23 and received for the amount to be paid by them jointly, and  
24 each of the parties shall likewise be liable to the surveyor  
25 in the same kind of an action for the amount to be severally  
26 paid,' so that said section forty-six as amended by said chap-  
27 ter nine shall, as hereby amended, read as follows:

'Sect. 46. The court may appoint a surveyor to run lines  
29 and make plans of lands demanded in a real or mixed action,  
30 or in an action of trespass in which the title to land is in-  
31 volved, as shown by the pleadings filed on motion of either  
32 party; and if he is prevented by force, menaces, or fear,  
33 from performing the duties assigned him, the court may  
34 issue a warrant to the sheriff, commanding him with suit-

35 able aid, to prevent such opposition; and in the execution  
36 of such warrant, he may exercise all the power pertaining  
37 to his office; and all persons refusing their aid when called  
38 for by him are liable to the same penalties as in other like  
39 cases. The amount of the fees and necessary expenses of  
40 such surveyor shall be fixed and determined by the court  
41 upon the acceptance of the report, and shall be paid as fol-  
42 lows: If the court is of the opinion that such fees and  
43 expenses, or some portion of the same, ought to be paid by  
44 the county then the amount thereof to be paid by the county,  
45 whether the whole or a part, shall be fixed and determined  
46 by the court and the amount so fixed and determined shall  
47 be paid by the county on presentation of the proper certifi-  
48 cate of the clerk of courts for that county. If the court is  
49 of the opinion that the whole or any part or portion of such  
50 fees and expenses should be paid by the parties to the suit  
51 or action, or by either of such parties, then the court may  
52 fix and determine the amount to be paid by such parties, or  
53 by either of such parties, and the parties shall be liable to  
54 the surveyor in an action of money had and received for the  
55 amount to be paid by them jointly, and each of the parties  
56 shall likewise be liable to the surveyor in the same kind of  
57 an action for the amount to be severally paid.'