

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION
(Emergency)
New Draft of : S. P. 679, L. D. 1662

ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1673

S. P. 698

In Senate, January 13, 1964

Reported by Senator Campbell of Kennebec from Committee on Judiciary.
Printed under Joint Rules No. 10.

CHESTER T. WINSLOW, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FOUR

AN ACT to Clarify Condemnation of Schoolhouse Lots.

Emergency preamble. Whereas, acts of the Legislature do not become effective until 90 days after adjournment of the Legislature unless enacted as emergencies ; and

Whereas, the procedures outlined in the Revised Statutes, chapter 41, section 15, as amended, are unclear ; and

Whereas, many administrative units are currently facing the problem of acquiring land to construct school buildings ; and

Whereas, the acquisition of proper school sites is essential to the welfare of the citizens of these communities ; and

Whereas, several communities are unable to acquire adequate school sites because of the confusion in the present statute ; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety ; now, therefore,

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

Sec. 1. R. S., c. 41, § 15, repealed and replaced. Section 15 of chapter 41 of the Revised Statutes, as amended by section 5 of chapter 364 of the public laws of 1957, is repealed and the following enacted in place thereof :

'Sec. 15. Property for schoolhouse lots taken by a municipality. When the location for the erection of, or an addition to, a school building has been determined by vote of the municipal officers and the owner thereof refuses to sell, or, in the opinion of the municipal officers, asks an unreasonable price for the property, or resides without the State and has no authorized agent or attorney therein, they may lay out either a schoolhouse lot or a playground or both, not exceeding 50 acres for any one project, and appraise the damages as is provided for laying out town ways, and on payment or tender of such damages, or if such owner does not reside in the State, upon depositing such damages in the treasury of such town for his use, the municipality designating it may take such lot to be held and used for the purposes aforesaid. The municipal officers shall thereupon, within 30 days after payment, tender or deposit of such damages, cause a description of such lot as laid out, and a plan thereof, to be recorded in the registry of deeds where the land lies.'

Sec. 2. R. S., c. 41, §§ 15-A - 15-D, additional. Chapter 41 of the Revised Statutes is amended by adding 4 new sections to be numbered 15-A to 15-D, to read as follows:

'Sec. 15-A. Taken by a School Administrative District. When the location of a school lot has been determined by a vote of the directors of a School Administrative District, and the owner of the property thereof refuses to sell, or, in the opinion of the directors, asks an unreasonable price for it, or resides without the State and has no authorized agent or attorney therein, the board of directors may take and acquire a lot for the erection of, or an addition to, a school building and requisite playgrounds, not exceeding 50 acres for any one project, and appraise the damages sustained by the owner, as is provided for laying out county ways by chapter 89, sections 36 and 38, except that no notice need be given to the State Highway Commission, and on payment or tender of such damages, or if such owner does not reside in the State, upon depositing such damages in the treasury of the county for his use, the School Administrative District may take such lot to be held and used for the purposes aforesaid. The directors thereof shall thereupon, within 30 days after payment, tender or deposit of such damages, cause a description of such lot as laid out by them and a plan thereof to be recorded in the registry of deeds where the land lies.

Sec. 15-B. Voters of municipality. The voters in the municipality of the proposed location as determined by the municipal officers or school administrative directors may upon the written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election, but in no case less than 10, require the municipal officers to hold an election for the acceptance or rejection of the proposed location.

The municipal officers shall authorize and make the necessary provisions for the holding of an election on a date no later than 30 calendar days from the receipt of such petitions by the municipal officers of such municipality. The proposed location shall not become final in the municipality unless or until a majority of the voters of such municipality voting in such election, duly held, have voted in favor of said proposed location. The results of such election shall be declared by the municipal officers in the same manner as regular elections.

Sec. 15-C. Definition. The words "schoolhouse lot", "school lot" or "lot" as used in this chapter shall include land, buildings and appurtenances necessary or relevant to the operation of an educational program.

Sec. 15-D. Limitation on eminent domain. No property may be taken by eminent domain under sections 15 or 15-A which is owned by municipal, quasi-municipal, public municipal corporations, a county or any agency of the State.'

Sec. 3. R. S., c. 41, § 16, repealed and replaced. Section 16 of chapter 41 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

'**Sec. 16. Appeal.** If the owner is aggrieved at the damages awarded him under section 15 or 15-A, he may appeal from such award to the Superior Court of the county in which the land, or any part thereof, is situated, within 60 days after payment, tender or deposit of such damages. Such appeal shall be taken by filing a complaint setting forth substantially the facts upon which the case shall be tried like other cases. The appellant shall serve notice of such appeal on the administrative unit by sending by registered or certified mail within the time above limited a true copy of said complaint and returning therewith to said administrative unit whatever payment may have been forwarded to said owner as an award of damages. The appellant shall serve notice of such appeal on the School Administrative District, when applicable, in a like manner.

The court shall determine the same by a verdict of its jury or, if all parties agree, by the court or by a referee or referees and shall render judgment for just compensation, with interest where such is due, and for costs in favor of the party entitled thereto. If the damages are increased, such administrative unit shall pay the damages and costs; otherwise the costs shall be paid by the appellant.

An appeal may be taken by any party from the judgment of said court to the Supreme Judicial Court as in other cases.'

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.