

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 264

S. P. 97

Referred to Committee on Legal Affairs.
ordered printed.

In Senate, January 19, 1965
Sent down for concurrence and

EDWIN H. PERT, Secretary

Presented by Senator Faloon of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT to Clarify Condemnation of Schoolhouse Lots.

Emergency preamble. Whereas, the procedures, outlined in the Revised Statutes, Title 20, section 3562, 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 statutes; 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 R. S., T. 20, § 3562, repealed and replaced. Section 3562 of Title 20 of the Revised Statutes is repealed and the following sections enacted in place thereof:

'Sec. 3562. Condemnation by municipality. When a location for the erection of, or an addition to, a school building has been legally designated by vote of a municipality, at any town meeting, city election or vote of a city council, called for that purpose 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 a schoolhouse lot and playgrounds, not exceeding 25 acres for any one project, and appraise the damages as is provided for laying out towns 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 by them, and a plan thereof, to be recorded in the registry of deeds where the land lies.

Sec. 3562-A. **Condemnation by School Administrative District.** When the location of a school lot has been determined by a vote of the legal voters of a School Administrative District, upon the recommendation of the board of directors, 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 25 acres for any one project, and appraise the damages sustained by the owner, as is provided for laying out county ways by Title 23, sections 2052 and 2054, 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. 3562-B. **Reversion.** When such schoolhouse lot, taken under either section 3562 or 3562-A, has ceased to be used for school purposes for 2 successive years, said lot reverts to the owner, his heirs or assigns, on demand by him or them in writing made to the municipal officers of the town or school directors of the School Administrative District, subject to the right of the town or school directors to enter upon said lot and remove said schoolhouse at any time within 6 months after said demand.

Sec. 3562-C. **Fencing.** All schoolhouse lots and playgrounds that require fencing shall be fenced by the town, city or administrative district.'

Sec. 2. R. S., T. 20, § 3563, repealed and replaced. Section 3563 of Title 20 of the Revised Statutes is repealed and the following enacted in place thereof:

'Sec. 3563. **Appeals.** If the owner is aggrieved at the damages awarded him under section 3562 or 3562-A, he may appeal from such award to the Superior Court of the county in which the land or any part thereof lies by filing a complaint in said court and serving the school administrative unit with a copy thereof within 90 days from the date of recording of the description of the lot hereinabove provided for in the registry of deeds. Said complaint shall set forth substantially the facts, but shall not state the amount of the damages previously awarded to the owner, and the damages may be determined in the

Superior Court by a committee of reference if the parties so agree, or by a verdict of its jury. If the damages are increased, such administrative unit shall pay the damages and costs; otherwise the costs shall be paid by the appellant. The committee of reference shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. An appeal may be taken by any party from the judgment of said court to the Supreme Judicial Court as in other cases. This section shall apply to cases in which condemnation proceedings for school purposes have not been instituted before the effective date of this Act; to cases in which such proceedings have been commenced but no application has been made to the county commissioners under the Revised Statutes of 1954, chapter 41, section 16, as amended; and to cases in which such application has been made but not acted upon, as to which cases last mentioned such application shall be transferred to the Superior Court to be dealt with as provided for by the clerk of the county commissioners transmitting an attested copy of such application to the clerk of said court for said county.'

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