

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 1477

S. P. 498

In Senate, April 16, 1965

Received by unanimous consent. Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

EDWIN H. PERT, Secretary

Presented by Senator Violette of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT Relating to Condemnation of Land for Highway.

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

Sec. 1. R. S., T. 23, § 154, amended. The first sentence of the 2nd paragraph of section 154 of Title 23 of the Revised Statutes is amended to read as follows :

‘A check in the amount of the determined net damage and offering price and a copy of the notice of condemnation shall be served on the owner or owners of record. In case there is multiple ownership, the check may be served on any one of the owners.’

Sec. 2. R. S., T. 23, § 154, sub-§ 2, ¶¶ H, I, additional. Subsection 2 of section 154 of Title 23 of the Revised Statutes is amended by adding 2 new paragraphs, as follows :

‘H. The check represents the state’s offer of just compensation. If the offer is not acceptable and the State cannot negotiate an agreement on the amount of just compensation within 60 days from the date of taking, the owner may apply to the commission within said 60 days and have the matter referred to the Land Damage Board for assessment of the damage. Acceptance and cashing this check will not jeopardize negotiation and will not be construed as acceptance of the offer;

I. Enclosed Check No.: Amount: \$

Payable to:

Sent to:

Sec. 3. R. S., T. 23, § 154, sub-§ 3, ¶¶ F, G, additional. Subsection 3 of

section 154 of Title 23 of the Revised Statutes is amended by adding 2 new paragraphs, as follows:

'F. The check represents the state's offer of just compensation. If the offer is not acceptable and the State cannot negotiate an agreement on the amount of just compensation within 60 days from the date of taking, the owner may apply to the commission within said 60 days and have the matter referred to the Land Damage Board for assessment of the damage. Acceptance and cashing this check will not jeopardize negotiation and will not be construed as acceptance of the offer;

**G. Enclosed Check No.: Amount \$
Payable to:
Sent to:**

Sec. 4. R. S., T. 23, § 154, amended. The 3rd and 4th paragraphs from the end of section 154 of Title 23 of the Revised Statutes are amended to read as follows:

'Service of the notice of condemnation with the copy of the plan, check and the statement by the commission shall be made by registered or certified mail or by personal service as required for service of a summons on a complaint in the Superior Court. The notice of condemnation only shall be published once in a newspaper of general circulation in the county where the property is located and such publication shall constitute service on any unknown owner or owners or other persons who may have or claim an interest in the property.'

If such owner is a minor, or an incompetent person, the commission shall cause such notice and check to be served upon the legal guardian of such minor or incompetent. If there is no such guardian, then the commission shall apply to the judge of probate for the county wherein the property is situated, briefly stating the facts and requesting the appointment of a guardian. The reasonable fee of such guardian as approved by the court shall be paid by the commission.'

Sec. 5. R. S., T. 23, § 155, amended. Section 155 of Title 23 of the Revised Statutes is amended by inserting after the first sentence, a new sentence, as follows:

'If within that time the owner rejects the state's offer of just compensation, such owner may apply to the commission and have the matter referred to the Land Damage Board for assessment of the damage.'

Sec. 6. R. S., T. 23, § 156, sub-§ 1, amended. Subsection 1 of section 156 of Title 23 of the Revised Statutes is amended to read as follows:

'1. Owners and encumbrances. The owner or owners of record and the holder of any mortgage, tax lien or other encumbrance of record;'

Sec. 7. R. S., T. 23, § 156, sub-§ 4, repealed and replaced. Subsection 4 of section 156 of Title 23 of the Revised Statutes is repealed and the following enacted in place thereof:

'4. Gross damage. The gross damage which shall be the net damage not including interest;'

Sec. 8. R. S., T. 23, § 156, sub-§§ 5-7, additional. Section 156 of Title 23 of the Revised Statutes is amended by adding 3 new subsections, as follows:

'5. Net amount of award. The net amount of the award which shall be the net damage less the amount paid the owner or owners at the date of taking;

6. Interest on award. The interest, if any, due on the net amount of the award from the date of taking to the date of the award;

7. Award. The award which shall be the net damage, less the amount paid the owner or owners at the date of taking plus interest on the net amount of the award.'

Sec. 9. R. S., T. 23, § 156, amended. The 3rd paragraph from the end of section 156 of Title 23 of the Revised Statutes is amended by inserting before the first sentence, a new sentence, as follows:

'No interest shall be allowed on so much of the net damage as has been paid to the owner or owners.'

Sec. 10. R. S., T. 23, § 157, amended. The 3rd and 4th paragraphs of section 157 of Title 23 of the Revised Statutes are amended to read as follows:

'If either the owner or owners of record or the commission appeal and the just compensation finally awarded, exclusive of interest, is less than the ~~award~~ **of gross damage determined by** the Land Damage Board, exclusive of any interest allowed, then the court shall give judgment in favor of the commission for the excess of the ~~award~~ **of gross damage determined by** the Land Damage Board, inclusive of interest, over the final award and for its costs from the time of appeal. Execution may be issued on such judgment.

If either the owner or owners of record or the commission appeal and the just compensation finally awarded, exclusive of interest, is not less than the ~~award~~ **of gross damage determined by** the Land Damage Board, exclusive of any interest allowed, then the court shall give judgment to the owner¹ or owners for the amount in which the final award is in excess of the money deposited in court, **plus the amount paid the owner or owners**, exclusive of any interest awarded by the Land Damage Board, and for interest on such excess from the date of taking and for costs from the time of appeal. No interest shall be allowed on so much of any award as has been paid into court **or on any amount paid to the owner or owners.** The clerk shall certify the final judgment of the court to the commission which shall enter the same of record, and order the same to be paid by the Treasurer of State.'