

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1530

S. P. 476

In Senate, March 17, 1971

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Kellam of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to the Powers of Eminent Domain.

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

R. S., T. 1, § 815, additional. Title 1 of the Revised Statutes is amended by adding a new section 815 to read as follows:

§ 815. Eminent domain

1. In addition to those departments, agencies, boards and commissions of the State already authorized by law to exercise the power of eminent domain, it is declared that public exigencies require that property may be taken by eminent domain for the University of Maine, and for the State Department of Education, for the development, maintenance and support of a system of public higher education, including campus areas, and by the State Department of Mental Health and Corrections for the development, maintenance and support of its institutional services, and that said university and either of said departments shall have the right to determine in each case that such public exigency requires the taking of a particular property or properties or any interests therein.

2. If the trustees of said university, or the commissioner of either of said departments, determine that need exists requiring the acquisition of a particular property or properties or interest therein for the aforesaid purposes, and cannot purchase the same at what they deem to be a reasonable price, said trustees or commissioner may adopt and file with the Governor and Council a resolution declaring such need, together with a proposed order of taking, for adoption by the Governor and Council, containing a description of the property or properties or interest therein sufficiently accurate for its identification, the name or names of the owner or owners of record so far as they

can be reasonably determined, and the interest therein to be taken, and request the Governor and Council to determine that public exigency exists and to take and acquire the same for the use of and in the name of the University of Maine, or in the name of the State for the use of the appropriate department, by the right of eminent domain.

3. At least 14 days prior to the meeting of the Governor and Council for the purpose of considering the proposed taking by eminent domain, the said trustees, or the commissioner concerned, shall give written notification of the time and place of such meeting to the owner or owners of record, and the holder of any mortgage of record, and shall cause notice thereof to be published in a newspaper published or having general circulation in the county where such property or interest therein is situated, and shall advise the Park and Recreation Commission and the State Museum Commission of the same, so that they may appear to testify as to the necessity and propriety of taking such property or interest therein.

4. If the Governor and Council concur with the finding of the trustees, or the department, that such taking is necessary for the aforesaid purposes, and determine that public exigency requires such taking by eminent domain, and to specifically determine the advisability of taking said property rather than using other suitable property, they shall adopt the aforesaid order of taking in the manner provided in sections 811 to 813, as amended, and the proceedings shall be in accordance therewith.

STATEMENT OF FACT

This Act will give the power of eminent domain to the University of Maine and the State Department of Education for the development, maintenance and support of a system of public higher education including campus areas and to the State Department of Mental Health and Corrections for the development, maintenance and support of its institutional services. This legislation is necessary for these purposes in view of the case of **Smith v. Speers**, decided by the Supreme Judicial Court in 1969 which held that the Legislature must authorize the taking of property by eminent domain for certain stated general purposes.