

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 968

6
7 H.P. 682

House of Representatives, March 8, 1985

8 Referred to the Committee on Judiciary. Sent up for concurrence and
9 ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Reeves of Pittston.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Require that all Land Boundary
18 Dispute Cases be Submitted to the Superior
19 Court and to Create a Surveyor Panel to Which
20 the Cases may be Referred.
21

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

24 Sec. 1. 4 MRSA §105-A is enacted to read:

25 §105-A. Boundary disputes

26 1. Purpose and establishment. The Legislature
27 finds that boundary disputes and other land descrip-
28 tion disputes often involve the hearing of evidence
29 which does not require the presence of a judge and
30 which requires an expertise in surveying. It is the
31 intent of the Legislature that all such cases be re-
32 ferred to the Superior Court which has the authority
33 to appoint masters and to create the concept of a
34 Panel of Masters to which the court may refer these
35 cases. It is the intent that the panel membership

1 have some case-to-case continuity, have strong local
2 representation and be made up substantially of li-
3 icensed surveyors.

4 2. Referral to Panel of Masters. In all pro-
5 ceedings involving a disagreement in the legal de-
6 scription of any right, title or interest in land
7 held and possessed within the State, the judge shall
8 consider the option of referring the issue of the
9 land description in dispute to a Panel of Masters. If
10 the judge wishes to appoint a referee or master in
11 these cases, he shall appoint a panel as described in
12 this section.

13 3. The panel. The Panel of Masters shall consist
14 of 2 surveyors, one of whom shall be an at-large sur-
15 veyor and one of whom shall be a resident of the
16 county in which the disputed land lies, and, at the
17 judge's option, one attorney.

18 A. The court shall appoint all members of the
19 panel. The attorney, if appointed, shall be ap-
20 pointed for each proceeding. He shall be expert
21 in land conveyances and shall be a resident of
22 the county in which the disputed land lies. The
23 surveyors shall be appointed from a list of sur-
24 veyors designated for this purpose by the Gover-
25 nor. The Governor shall appoint 36 surveyors, 4
26 shall be at-large surveyors chosen without regard
27 to place of residence and 32 shall be chosen so
28 that there will be 2 surveyors who are residents
29 of each county. The Governor's appointments
30 shall come from the roster of registered survey-
31 ors maintained by the State Board of Registration
32 for Land Surveyors.

33 B. The surveyors shall be appointed by the Gov-
34 ernor for terms of 4 years.

35 C. The per diem fees and necessary expenses of
36 all the panel members appointed under this sec-
37 tion shall be awarded by the court and shall be
38 paid by the State, except that compensation may
39 be considered by the court in its discretion as a
40 part of the taxable costs of the proceedings, in
41 which case the compensation shall be paid as de-
42 creed by the court.

1 4. Duties; hearing; report; survey. The panel
2 shall examine and report on whatever matters of title
3 or fact the court shall designate in its order of
4 reference. The panel shall act as a master to hear
5 the parties and their evidence. It shall report the
6 majority opinion to the court. The report shall be
7 accompanied by the supporting evidence and findings.
8 The panel may summon witnesses and compel them to at-
9 tend and be sworn by the panel. All panel members
10 must hear, but a majority may report, including a
11 statement that all did hear. The report of the panel
12 shall have the same effect as that of a master ap-
13 pointed by the Superior Court in equity and the panel
14 shall proceed according to the rules of the court ap-
15 licable to masters.

16 Sec. 2. 4 MRSA §152, first ¶, as repealed and
17 replaced by PL 1983, c. 796, §1, is amended to read:

18 The Except as noted in section 152-A, the Dis-
19 trict Court shall have jurisdiction in the following
20 matters:

21 Sec. 3. 4 MRSA §152-A is enacted to read:

22 §152-A. Boundary disputes

23 The District Court shall not have jurisdiction
24 over proceedings involving right, title or interest
25 in land where these involve any dispute in the land
26 description.

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STATEMENT OF FACT

2 This bill is to require that the Superior Court
3 have jurisdiction over all cases involving disputes
4 over land descriptions and to encourage the Superior
5 Court Judge to refer these cases to a 3-member panel
6 consisting of one at-large surveyor and one surveyor
7 and an attorney from the county in which the disputed
8 land lies. The panel will act as a master in those
9 cases. The panel may be appointed without the ap-
10 pointment of an attorney, at the discretion of the
11 judge.

12 Currently, the District Court has original juris-
13 diction, concurrent with that of the Superior Court,
14 over those cases. The Superior Court currently has
15 the right to appoint masters in those cases, but is
16 not obligated to do so. The District Court does not
17 have the right to appoint masters.

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