

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1366

S.P. 507

Received by the Secretary, April 14, 1995

Resolve, to Provide Clear Title for the Maine Judicial Center.

(EMERGENCY)

Submitted by the Judicial Department pursuant to Joint Rule 24.
Referred to the Committee on State and Local Government and ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator BUSTIN of Kennebec.

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

4
6 **Whereas,** the Judicial Department of the State of Maine has
been given a house and adjoining grounds located at 65 Stone
Street in the City of Augusta for use as chambers for the Chief
Justice, as a meeting center for the Judicial Department and as
offices for Judicial Department staff; and

10 **Whereas,** the right to use the property for those purposes
may be limited by a deed restriction dating from 1936 that limits
the property to residential uses; and

14 **Whereas,** most of the neighboring owners have consented to
waive this restriction, but a few have refused to permit the
proposed use; and

18 **Whereas,** the Judicial Department requires the authority to
clear the title to the property and to use the gift in accordance
with the purposes of the donor and in the interests of the State;
and

22 **Whereas,** the Legislature finds that these facts create a
public exigency, requiring the authority to purchase or take the
limiting restriction; and

24 **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

28 **Sec. 1. Authority to acquire interest in property. Resolved:** That
the State Court Administrator may acquire by purchase, gift,
negotiated agreement or eminent domain any legal right or
interest in property that grants the explicit or implied right to
enforce a restriction limiting the use of the Judicial
Department's property at 65 Stone Street in Augusta to
residential use; and that this authority extends to holders of
interest in property within the area depicted on a plan entitled
"Preliminary Grading Plan for the Residential Development of the
Kling Estate" as approved for filing on July 16, 1936 and
recorded in the Kennebec County Registry of Deeds in Plan Book
11, pages 2 and 3; and be it further

34 **Sec. 2. Procedure for compensation. Resolved:** That if any legal
right or interest in property is taken by eminent domain under
the authority granted by this resolve, then the State Court
Administrator shall have that right or interest appraised and

2 offer to the owner just compensation for the right or interest
3 acquired. The appraisal and award proceedings are governed by
4 the procedures established in the Maine Revised Statutes, Title
5 12, section 602, subsection 21. References to "the bureau"
6 contained in that section are deemed to mean the State Court
7 Administrator. The consent of the Governor is not required to
8 proceed under the authority granted by this resolve.

9
10 **Emergency clause.** In view of the emergency cited in the
11 preamble, this resolve takes effect when approved.

12 STATEMENT OF FACT

13
14 The Judicial Department has been given a house and adjoining
15 grounds located at 65 Stone Street in Augusta for use as chambers
16 for the Chief Justice, as a meeting center for the Judicial
17 Department and as offices for Judicial Department staff. The
18 gift was accepted for the Judicial Department by the Governor,
19 acting under the Governor's authority under the Maine Revised
20 Statutes, Title 2, section 5. However, the right to use the
21 property for those purposes is or may be limited by a deed
22 restriction dating from 1936, limiting the property to
23 residential uses. Almost all of the neighboring owners have
24 consented to waive this restriction, but 2 owners have indicated
25 that they will not consent to permit the proposed use.

26
27 This resolve authorizes the State Court Administrator to
28 clear the title to the property by purchase, negotiated
29 settlement or eminent domain so that the gift can be utilized in
30 accordance with the purposes of the donor and further requires
31 that the State Court Administrator proceed under the procedures
32 currently established for the Bureau of Parks and Recreation to
33 compensate any affected owners if any taking by eminent domain is
34 finally required.