

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

HOUSE

NO. 99

House of Representatives, Jan. 30, 1913.

Reported by Mr. Smith from Committee on Judiciary and ordered printed under joint rules.

W. R. ROIX, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTEEN.

AN ACT to amend section forty-six of chapter one hundred and six of the Revised Statutes as amended by chapter nine of the Public Laws of nineteen hundred and nine, relating to the appointment of surveyors in real actions.

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

Section 1. Section forty-six of chapter one hundred and
2 six of the Revised Statutes as amended by chapter nine of
3 the Public Laws of nineteen hundred and nine, is hereby
4 amended by striking out all the words of the last sentence in
5 said chapter forty-six as amended by said chapter nine of
6 said Public Laws, and substituting the following words
7 therefor: "The amount of the fees and necessary expenses

8 of such surveyor shall be fixed and determined by the court
9 upon the acceptance of the report, and shall be paid as fol-
10 lows: If the court is of the opinion that such fees and ex-
11 penses, or some portion of the same, ought to be paid by the
12 county then the amount thereof to be paid by the county,
13 whether the whole or a part, shall be fixed and determined
14 by the court and the amount so fixed and determined shall
15 be paid by the county on presentation of the proper cer-
16 tificate of the clerk of courts for that county. If the court
17 is of the opinion that the whole or any part or portion of
18 such fees and expenses should be paid by the parties to the
19 suit or action, or by either of such parties, then the court
20 may fix and determine the amount to be paid by such par-
21 ties, or by either of such parties, and the parties shall be
22 liable to the surveyor in an action of money had and received
23 for the amount to be paid by them jointly, and each of the
24 parties shall likewise be liable to the surveyor in the same
25 kind of an action for the amount to be severally paid,' so
26 that said section forty-six as amended by said chapter nine
27 shall, as hereby amended, read as follows:

'Sect. 46. The court may appoint a surveyor to run lines
29 and make plans of lands demanded in a real or mixed ac-
30 tion, or in an action of trespass in which the title to land is
31 involved, as shown by the pleadings filed on motion of either
32 party; and if he is prevented by force, menaces, or fear,
33 from performing the duties assigned him, the court may is-
34 sue a warrant to the sheriff, commanding him with suitable

35 aid, to prevent such opposition; and in the execution of such
36 warrant, he may exercise all the power pertaining to his of-
37 fice; and all persons refusing their aid when called for by
38 him are liable to the same penalties as in other like cases.
39 The amount of the fees and necessary expenses of such sur-
40 veyor shall be fixed and determined by the court upon the
41 acceptance of the report, and shall be paid as follows: If
42 the court is of the opinion that such fees and expenses, or
43 some portion of the same, ought to be paid by the county
44 then the amount thereof to be paid by the county, whether
45 the whole or a part, shall be fixed and determined by the
46 court and the amount so fixed and determined shall be paid
47 by the county on presentation of the proper certificate of
48 the clerk of courts for that county. If the court is of the
49 opinion that the whole or any part or portion of such fees
50 and expenses should be paid by the parties to the suit or
51 action, or by either of such parties, then the court may fix
52 and determine the amount to be paid by such parties, or by
53 either of such parties, and the parties shall be liable to the
54 surveyor in an action of money had and received for the
55 amount to be paid by them jointly, and each of the parties
56 shall likewise be liable to the surveyor in the same kind of
57 an action for the amount to be severally paid.'