

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

NO. 423

H. P. 1007

House of Representatives, Feb. 2, 1933.

Referred to Committee on Judiciary and 500 copies ordered printed.
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Plummer of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-
THREE

AN ACT Relating to the Taking of Land by the State Highway Commission, and the Taking or Discontinuing of a Public Highway.

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

Section 1. R. S. c. 28, § 12, amended. Section 12 of c. 28 of the revised statutes, as amended by c. 261 of P. L. 1931, is hereby further amended to read as follows:

'Sec. 12. Commission may purchase or take lands for highways and materials; procedure; commission may vacate lands taken; governor and council authorized to sell property acquired by purchase. The commission may purchase, take over, and hold for the state as for public use such materials and land as may be necessary to provide a change of location or alignment of any state or state aid highway as herein designated, or to secure materials, including clay, gravel, sand, and rock, with necessary ways and access thereto, for the improvement, construction, and maintenance of state and state aid highways under the provisions of this chapter. Whenever the commission determines that public exigency requires the taking of land as aforesaid, it shall cause the same to be surveyed and described and a plan thereof and said description to be recorded in the registry of deeds for the county or registry district where the same is located, and notice thereof shall be given in some newspaper, if any, published wholly or in part in said county. **In case there is a mortgage of record**

covering any of said land, written or printed notice of said taking shall be sent forthwith by registered mail to the holder of record of said mortgage, addressed to his place of abode, if known, otherwise to the abode or address as set forth in said record. If the commissioner is unable to purchase such material or land with necessary ways and access thereto at what it deems a reasonable valuation, the commission and the county commissioners of the county wherein such material or land is located shall constitute a joint board which shall on petition of the commission or interested parties, meet and ascertain and determine the damages in the same manner as provided for land taken for highway purposes, and all parties aggrieved by the estimate of damage shall have like remedies as provided for appraisal of damages for land taken by towns for highway purposes, and such damages shall be paid by the treasurer of state, from the appropriate funds provided under this chapter. Said board shall fix a time and place for its hearings and give notice thereof as provided for laying out highways. The commission may vacate any land or part thereof or rights in land which have been taken or acquired for highway purposes under the provisions hereof, by executing and recording a deed thereof, and such action shall revert the title to the lands or rights so vacated in the persons, their heirs, and assigns, in whom it was vested at the time of the taking, and the value at the time of vacation may be pleaded in mitigation of damages in any proceedings therefor on account of such taking. The governor and council on recommendation of the commission may sell and convey on behalf of the state the interests of the state in property acquired by purchase under this section and deemed no longer necessary for the purposes hereof, and the proceeds of such sale shall so far as practicable be credited to the fund from which such purchase was originally made.'

Sec. 2. Notice to mortgagee on taking of land by eminent domain. Chapter 28 of the revised statutes is hereby amended by adding thereto the following section, to be numbered 89:

'Sec. 89. Notice to mortgagee on taking of land by eminent domain. No land shall be taken for public purposes, either by the state or any subdivision thereof, and no public highway shall be discontinued, unless 15 days' notice in writing is given to any holder of record of a mortgage covering any of said land so taken, or abutting on said highway. Said notice shall be sent by registered mail addressed to said mortgage holder's place of abode, if known, otherwise to the abode or address as set forth in said record.'