

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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## THE LEGISLATURE,

OF THE

## STATE OF MAINE,

DURING ITS SESSION

A. D. 1837.

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*AUGUSTA:*  
SMITH & ROBINSON,.....PRINTERS.

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1837.

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# SEVENTEENTH LEGISLATURE.

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No. 26.

SENATE.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED  
AND THIRTY-SEVEN.

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AN ACT further providing for the redemption of  
Mortgages.

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SECTION 1. *Be it enacted by the Senate  
2 and House of Representatives, in Legislature  
3 assembled, That when any mortgagor, or other  
4 person, having the right to redeem lands or  
5 tenements mortgaged or granted, upon condition,  
6 by deed of bargain and sale with defeasance,  
7 shall bring his bill in equity for the redemption  
8 thereof, within three years next after the mortga-  
9 gee or vendee or their assigns shall have obtained  
10 actual or legal possession of such lands or tene-  
11 ments, for condition broken, and shall, in his  
12 bill, offer to pay such sum as shall be found*

13 justly and equitably due, or to perform such  
14 other condition as the case may require, such  
15 offer shall have the like force and effect as a  
16 tender of payment or performance made before  
17 the commencement of the suit, and the bill shall  
18 be sustained without any allegation or proof of  
19 such previous tender: *provided*, the mortgagee  
20 or those claiming under him, shall, on request,  
21 have refused or neglected truly to state his or  
22 their account of the sum due on such mortgage,  
23 before the commencement of such suit. And  
24 in such case no cost shall be awarded against  
25 the mortgagee or other defendant, unless it shall  
26 appear that he has unreasonably refused or  
27 neglected to render a just and true account,  
28 when thereto requested, of the money due on  
29 the mortgage, and of the rents and profits of the  
30 mortgaged premises, and the money expended  
31 in the repairs and improvements thereof, if any;  
32 or that he has otherwise, by his default, pre-  
33 vented the plaintiff or complainant from perform-  
34 ing or tendering performance of the condition  
35 before the commencement of the suit.

SECT. 2. *Be it further enacted*, That when-

2 ever any mortgage of any lands or tenements has  
3 been or shall be made for securing the payment  
4 of money only, and the whole sum due thereon  
5 shall have become payable, according to the  
6 terms of the contract, the mortgagor, his assigns,  
7 or other person having the right to redeem the  
8 same, on payment or tendering payment to the  
9 mortgagee or his assigns of the whole sum due  
10 thereon, may have their bill in equity for the  
11 redemption of the mortgaged premises, and com-  
12 pel the mortgagee or his assigns to seal, execute,  
13 acknowledge and deliver a good and sufficient  
14 deed of release and quit claim of the mortgaged  
15 premises, if such mortgagee or his assigns, shall,  
16 on request, neglect or refuse to give such release  
17 and quit claim, although such mortgagee or his  
18 assigns shall not have entered and obtained ac-  
19 tual or legal possession of the mortgaged premi-  
20 ses for condition broken or otherwise; or the  
21 mortgagor or other person having the right to  
22 redeem as aforesaid, may in such case have his  
23 bill in equity, in manner provided in the first  
24 section of this Act, without having made such  
25 tender or payment, before the commencement  
26 of the suit, and in each case the cause shall be

27 heard and determined in like manner as is by  
 28 law provided on a bill in equity brought after an  
 29 entry for the breach of the condition : *Provided*  
 30 that when the suit is brought before an actual  
 31 entry by the mortgagee or his assigns, and before  
 32 any tender or payment made as aforesaid, if the  
 33 mortgagee, his assigns or other defendant, to  
 34 whom the money is payable, shall be out of the  
 35 State, and shall not have had actual notice of  
 36 the suit, the Court, in which the suit is pending,  
 37 shall order notice to be given to such absent  
 38 party, in such manner as the circumstances of  
 39 the case may appear to require, and may con-  
 40 tinue the case as long as may be necessary in  
 41 their discretion, to enable such absent party to  
 42 appear and answer to the suit.

SECT. 3. *Be it further enacted*, That no  
 2 bill in equity shall be hereafter brought or main-  
 3 tained for the redemption of mortgaged lands or  
 4 tenements founded on a tender of payment or of  
 5 performance of the condition, made before the  
 6 commencement of the suit, unless the suit shall  
 7 be commenced within three years from the time  
 8 of passing this Act, or within three years next  
 9 after the making of such tender.

**SECT. 4.** *Be it further enacted,* That all  
2 Acts and parts of Acts inconsistent with the  
3 provisions of this Act, be, and the same hereby  
4 are, repealed.



STATE OF MAINE.

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IN SENATE, MARCH 8, 1837.

ORDERED, that 500 copies of this bill be printed for the use  
of the Legislature.

(Extract from the Journal.)

Attest,                      WILLIAM TRAFTON, Secretary.