

MAINE STATE LEGISLATURE

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(EMERGENCY)
NEW DRAFT OF: S. P. 697, L. D. 1878
FIRST SPECIAL SESSION

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 2021

S. P. 748

In Senate, February 2, 1972

Reported by Senator Tanous from Committee on Judiciary and printed
under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-TWO

**AN ACT Relating to Actions to Quiet Title to the Fee Interest in
Discontinued Roads and Ways.**

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

Whereas, certain construction projects important to the public interest are presently being delayed because of the inability to determine the fee interest in discontinued roads and ways; and

Whereas, the following legislation is vitally necessary in order to permit the establishment of title to said discontinued roads and ways so as to permit said construction to go forward in the public interest; and

Whereas, an inability to determine the fee interest in discontinued roads and ways deters the immediate demolition of old, dilapidated and unsafe buildings; and

Whereas, said buildings constitute a health and safety hazard to the people of Maine and their destruction would remove such a hazard; and

Whereas, the construction of new buildings will greatly enhance the economic base of the communities in which such buildings are constructed and such new buildings will be in compliance with modern health and safety standards and such benefits will inure to the people of the State; and

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

R. S., T. 14, §§ 6659 - 6661, additional. Title 14 of the Revised Statutes is amended by adding 3 new sections to read as follows:

§ 6659. Action by abutters of discontinued road or way

Any person or persons, claiming an estate of freehold in a discontinued road or way, or in a portion thereof, or an interest in common and undivided therein, may maintain an action as provided in sections 6651 to 6654, or as provided in sections 6655 to 6657 in regard to said discontinued road or way, or portion thereof, without the need or necessity of showing 4 years of possession next prior to the filing of the complaint, provided that the claim of said person or persons to the discontinued road or way, or portion thereof, is based upon fee simple ownership of the land immediately adjoining said discontinued road or way.

§ 6660. Burden of proof

In the trial of any action regarding title to a discontinued road or way, or portion thereof, brought pursuant to a decree under section 6654 or pursuant to sections 6655 to 6657, or of a counterclaim asserted pursuant to section 6654, the burden of proof concerning the construction of any deed or conveyance shall be borne by the party which is adverse to the party so owning said land immediately adjoining the discontinued road or way.

§ 6661. Application

Sections 6659 to 6660 shall apply only in build-up areas as defined in Title 29, section 1252, subsection 3-A in such cities and towns whose population exceeds 5,000 according to the last Federal Decennial Census.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is reflected in the emergency preamble. This new draft limits the application to cities and towns whose population exceeds 5,000.