

MAINE STATE LEGISLATURE

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NEW DRAFT.

Sixty-Seventh Legislature.

SENATE.

No. 163.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND NINETY-FIVE.

AN ACT relating to the Settlement of Titles to Real Estate.

*Be it enacted by the Senate and House of Representatives
in Legislature assembled, as follows:*

SECTION 1. When the record title of real estate is
2 encumbered by an undischarged mortgage, and the mort-
3 gagee and those having his estate in the premises have
4 been in uninterrupted possession of such real estate for
5 twenty years after the expiration of the time limited in
6 the mortgage for the full performance of the conditions
7 thereof; he or they, or any person having a freehold
8 estate, vested or contingent in possession, reversion or
9 remainder, in the land originally subject to the mortgage
10 or in any undivided or any aliquot part thereof, or any
11 interest therein which may eventually become a freehold

12 estate, or any person who has conveyed such land or any
13 such interest therein with covenants of title or warranty,
14 may apply to the supreme judicial court by petition, set-
15 ting forth the facts, and asking for a decree as hereinafter
16 provided; and if after notice to all persons interested as
17 provided in section four no evidence is offered of any pay-
18 ment within said twenty years or of any other act within
19 said time, in recognition of its existence as a valid mort-
20 gage, the court upon hearing may enter a decree setting
21 forth such facts and its findings in relation thereto, which
22 decree shall within thirty days be recorded in the proper
23 registry of deeds and thereafter no action at law or pro-
24 ceeding in equity shall be brought by any person to
25 enforce a title under said mortgage.

SECT. 2. Any two or more persons owning in severalty
2 different portions or different interests of the character
3 above described, in the whole or in different portions
4 thereof, may join in one petition. Two or more defects
5 arising under different mortgages affecting one parcel of
6 land may be set forth in the same petition; and in case of
7 a contest the court shall make such order for separate
8 issues as may be proper.

SECT. 3. When the mortgagor of such an undischarged
2 mortgage, and those having his estate in the premises have
3 been in uninterrupted possession of such real estate for
4 twenty years from the date thereof, and it shall appear
5 that such mortgage was not given to secure the payment
6 of a sum of money or a debt, but to secure the mortgagee
7 against some contingent liability assumed or undertaken
8 by him, and that such conditional liability has ceased
9 to exist and that the interests of no person will be preju-

10 diced by the discharge of such mortgage, the mortgagor
11 or those having his estate in the premises, or any of the
12 persons to whom a similar remedy is granted in section
13 one of this act may apply to the supreme judicial court
14 by petition setting forth the facts and asking for a decree
15 as hereinafter provided ; and if after notice to all persons
16 interested as provided in section 4 and upon hearing it
17 shall appear that the liability on account of which such
18 mortgage was given has ceased to exist and that such
19 mortgage ought to be discharged, the court may enter a
20 decree setting forth the facts proved and its findings in
21 relation thereto, which decree shall within thirty days be
22 recorded in the proper registry of deeds and thereafter no
23 action or proceedings in equity shall be brought to enforce
24 a title under said mortgage.

SECT. 4. When it is alleged under oath in the petition
2 that the mortgagees or persons claiming under them are
3 unknown or that their names are unknown, they may be
4 described generally as claiming by, through or under some
5 person or persons named in the petition. Personal service
6 by copy of the petition and order of notice shall be made
7 upon all such respondents residing in the state fourteen
8 days before the return day ; and upon all such respondents
9 residing out of the state, service may be made by personal
10 service of copy of the petition and order of notice ; by
11 publication for such length of time, in such newspapers or
12 by posting in such public places as the court may direct ;
13 or in any or all of these ways at the discretion of the court.

SECT. 5. Upon the service of such notice in accordance
2 with the order of the court, the court shall have jurisdiction
3 of all persons made respondents in the manner above pro-

4 vided, and shall upon due hearing make such decree upon
5 the petition and as to costs as it shall deem proper.

SECT. 6. The decree of the court, determining the
2 validity, nature or extent of any such incumbrance shall be
3 effectual to bar all the respondents from any claim there-
4 under contrary to such determination, and such decree so
5 barring said respondents shall have the same force and
6 effect as a release of such claims, executed by the respond-
7 ents in due form of law. The court may in its discretion
8 appoint agents or guardians ad litem to represent minors
9 or other respondents.

STATE OF MAINE.

IN SENATE, February 27, 1895.

Reported by Mr. SAVAGE, from Committee on the Judiciary, and
laid on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary.*