

# 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)

NEW DRAFT.

---

---

# SEVENTY-THIRD LEGISLATURE

---

---

HOUSE.

No. 620

---

---

## STATE OF MAINE.

---

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

---

AN ACT to amend sections forty-seven and forty-eight of chapter one hundred and six of the Revised Statutes, relating to proceedings to quiet title to Real Estate.

---

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

Section 1. Section forty-seven of chapter one hundred and  
2 six of the revised statutes is hereby amended by adding  
3 thereto the following: 'Upon the filing of the petition in  
4 said proceedings the clerk of courts in the county where such  
5 proceedings are pending shall file a certificate in the registry  
6 of deeds in the county or district where said land is situated,  
7 setting forth the names of the parties, the date of the petition

8 and the filing thereof, and the description of the real estate  
9 as given in the petition, which said certificate shall be  
10 recorded by the register of deeds, who shall receive therefor  
11 the same fee as for recording a deed. The proceedings on  
12 the petition shall not be abated by the death of any party  
13 thereto, and the issues may be determined after such per-  
14 sonal or public notice, as the court orders, has been given to  
15 all persons interested in his estate, and they may become or  
16 be made parties; nor shall the proceedings be abated by the  
17 conveyance of the premises by the defendant by deed  
18 recorded after said certificate is recorded. The grantee of  
19 any defendant named or described in the petition, or any  
20 person claiming under such grantee, may voluntarily appear  
21 and become a party, and make any defense that would have  
22 been open to the defendant under whom he claims. If any  
23 person who becomes such grantee by conveyance recorded  
24 after the filing of the certificate aforesaid, does not volun-  
25 tarily appear, no such conveyance by the defendant shall be  
26 given in evidence, either in the proceedings on the petition  
27 or in any action brought thereunder to try title to the prem-  
28 ises as provided in the following section, and the issue shall  
29 be determined as though no such conveyance were made,  
30 so that said section, as amended, shall read as follows:

‘Sect. 47. A person in possession of real property, claiming  
32 an estate of freehold therein or an unexpired term of not less  
33 than ten years, or a person who has conveyed such property  
34 or interest therein with covenants of title or warranty, upon

35 which he may be liable, may, if he, or those under whom he  
36 claims, or those claiming under him, have been in uninter-  
37 rupted possession of such property for ten years or more,  
38 file a petition in the supreme judicial court setting forth his  
39 estate, stating the source of his title, describing the premises  
40 and averring that an apprehension exists that persons named  
41 in the petition, or persons unknown claiming as heirs,  
42 devisees or assigns or in any other way, by, through or under  
43 a person or persons named in the petition, claim, or may  
44 claim, some right, title or interest in the premises adverse to  
45 his said estate; and that such apprehension creates a cloud  
46 upon the title and depreciates the market value of the prop-  
47 erty; and praying that such persons be summoned to show  
48 cause why they should not bring an action to try their title  
49 to the described premises. If any such supposed claimants  
50 are unknown, the petitioner or his attorney shall so allege  
51 under oath, that the truth of the allegation shall not after  
52 decree has been filed, be denied, for the purpose of defeating  
53 the title established thereby. A person in the enjoyment of  
54 an easement is in possession of real property within the  
55 meaning and for the purposes of this section. Upon such  
56 petition the court, or any justice thereof in vacation, shall  
57 order notice returnable at a term of the supreme judicial  
58 court to be held in the county where the real estate lies.  
59 Personal service by copy of the petition and order of notice,  
60 shall be made upon all such supposed claimants residing in  
61 the state, fourteen days before the return day; and upon

62 all such supposed claimants residing out of the state, service  
63 may be made by personal service of copy of the petition and  
64 order of notice; by publication for such length of time, in  
65 such newspapers or by posting in such public places as the  
66 court may direct; or in any or all of these ways at the dis-  
67 cretion of the court. If the petitioner prefers, the petition  
68 may be inserted like a declaration in a writ, and served by  
69 copy like a writ of original summons. Upon the filing of the  
70 petition in such proceedings the clerk of courts in the county  
71 where such proceedings are pending shall file a certificate  
72 in the registry of deeds in the county or district where said  
73 land is situated, setting forth the names of the parties, the  
74 date of the petition and the filing thereof, and the description  
75 of the real estate as given in the petition, which said certifi-  
76 cate shall be recorded by the register of deeds, who shall  
77 receive therefor the same fee as for recording a deed. The  
78 proceedings on the petition shall not be abated by the death  
79 of any party thereto, and the issues may be determined after  
80 such personal or public notice, as the court orders, has been  
81 given to all persons interested in his estate, and they may  
82 become or be made parties; nor shall the proceedings be  
83 abated by the conveyance of the premises by the respondent  
84 by deed recorded after said certificate is recorded. The  
85 grantee of any defendant named or described in the petition,  
86 or any person claiming under such grantee, may voluntarily  
87 appear and become a party, and make any defence that would  
88 have been open to the defendant under whom he claims. If

89 any person who becomes such grantee by conveyance  
90 recorded after the filing of the certificate aforesaid, does not  
91 voluntarily appear, no such conveyance by the defendant  
92 shall be given in evidence, either in the proceedings on the  
93 petition or in any action brought thereunder to try title to  
94 the premises as provided in the following section, and the  
95 issue shall be determined as though no such conveyance were  
96 made.'

Sect. 2. Section forty-eight of said chapter is hereby  
2 amended by inserting after the word "title" in the first line  
3 thereof the following words: 'or voluntarily appears as  
4 aforesaid and claims title;' and by inserting after the word  
5 "named" in the tenth line the following: 'and all persons  
6 named as grantees in any deed given by the defendant and  
7 recorded after the filing of the certificate aforesaid and all  
8 persons claiming under such grantees;' and by inserting  
9 after the word "provided" in the nineteenth line thereof the  
10 following: 'and all persons named as grantees in any deed  
11 given by the defendant and recorded after the filing of said  
12 certificate and all persons claiming under such grantee,' so  
13 that said section as amended shall read as follows:

'Sect. 48. If any person so summoned appears and claims  
15 title or voluntarily appears as aforesaid and claims title, he  
16 shall by answer show cause why he should not be required  
17 to bring an action and try such title; and the court shall  
18 make such decree respecting the bringing and prosecuting  
19 of such action as seems equitable and just; if any person so

20 summoned appears and disclaims all right and title adverse  
21 to the petitioner, he recovers his costs. If the court upon  
22 hearing, finds that the allegation of the petition are true,  
23 and that notice by publication has been given as ordered it  
24 shall make and enter a decree that all persons named in the  
25 petition and all persons alleged to be unknown claiming by,  
26 through, or under persons so named, and all persons named  
27 as grantees in any deed given by the defendant and recorded  
28 after the filing of the certificate aforesaid and all persons  
29 claiming under such grantee who have not so appeared, or  
30 who, having appeared, have disclaimed all right and title  
31 adverse to the petitioner, or who, having appeared, shall dis-  
32 obey the order of the court to bring an action and try their  
33 title, shall be forever debarred and estopped from having or  
34 claiming any right or title adverse to the petitioner in the  
35 premises described in the petition; which decree shall within  
36 thirty days after it is finally granted be recorded in the  
37 registry of deeds for the county or district where the land  
38 lies, and shall be effectual to bar all right, title and interest  
39 of all persons, whether adults or minors, upon whom notice  
40 has been served, personally or by publication, as herein pro-  
41 vided, and all persons named as grantees in any deed given  
42 by the defendant and recorded after the filing of said certifi-  
43 cate and all persons claiming under such grantees. The  
44 court may in its discretion appoint agents or guardians ad  
45 litem, to represent minors or other supposed claimants.'

Sect. 3. This act shall take effect when approved.





STATE OF MAINE.

---

HOUSE OF REPRESENTATIVES,

Augusta, March 18, 1907.

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

E. M. THOMPSON, *Clerk.*