

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)

SEVENTY-NINTH LEGISLATURE

HOUSE

NO. 261

House of Representatives, February 26, 1919.

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

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. O'Leary of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND
NINE HUNDRED AND NINETEEN

AN ACT to Amend Sections Thirty-five and Thirty-seven of Chapter Ninety-five of the Revised Statutes, Relating to the Discharge of Undischarged Mortgages Appearing on the Record Title to Real Estate, by Decree of Court.

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

Section 1. Section thirty-five of chapter ninety-five of 2 the revised statutes is hereby amended by inserting in the 3 eleventh line of said section after the word "court" the 4 words 'in equity,' so that said section, as amended, shall 5 read as follows:

'Sect. 35. Proceedings to bar action on undischarged 2 mortgage. R. S. c. 92, § 34. When the record title of real

3 estate is encumbered by an undischarged mortgage, and
4 the mortgagor and those having his estate in the premises
5 have been in uninterrupted possession of such real estate
6 for twenty years after the expiration of the time limited
7 in the mortgage for the full performance of the conditions
8 thereof; he or they, or any person having a freehold estate,
9 vested or contingent in possession, reversion or remainder,
10 in the land originally subject to the mortgage or in any
11 undivided or any aliquot part thereof, or any interest
12 therein which may eventually become a freehold estate,
13 or any person who has conveyed such land or any interest
14 therein with covenants of title or warranty, may apply to
15 the supreme judicial court in equity in the county where
16 the whole or any part of the mortgaged premises is situ-
17 ated, by petition setting forth the facts, and asking for a
18 decree as hereinafter provided; and if after notice to all
19 persons interested as provided in section thirty-eight, no
20 evidence is offered of any payment within said twenty years
21 or of any other act within said time, in recognition of its
22 existence as a valid mortgage, the court upon hearing may
23 enter a decree setting forth such facts and its findings in
24 relation thereto, which decree shall within thirty days be
25 recorded in the registry of deeds where the mortgage is
26 recorded; and thereafter no action at law or proceeding in
27 equity shall be brought by any person to enforce a title
28 under said mortgage.'

Sect. 2. Section thirty-seven of chapter ninety-five of the

2 revised statutes is hereby amended by inserting in the
3 eleventh line of said section after the word "court" the
4 words 'in equity,' so that said section, as amended, shall
5 read as follows:

'Sect. 37. Proceedings to bar action on undischarged
2 mortgage given to secure against some contingent liability.
3 R. S. c. 92, § 36. When the mortgagor of such an undis-
4 charged mortgage and those having his estate in the prem-
5 ises have been in uninterrupted possession of such real
6 estate for twenty years from the date thereof, and it shall
7 appear that such mortgage was not given to secure the
8 payment of a sum of money or a debt, but to secure the
9 mortgagee against some contingent liability assumed or
10 undertaken by him, and that such conditional liability has
11 ceased to exist and that the interests of no person will be
12 prejudiced by the discharge of such mortgage, the mort-
13 gator or those having his estate in the premises, or any
14 of the persons to whom a similar remedy is granted in
15 section thirty-five may apply to the supreme judicial court
16 in equity in the county where the whole or any part of
17 the mortgaged premises is situated, by petition setting
18 forth the facts and asking for a decree as hereinafter pro-
19 vided; and if after notice to all persons interested as pro-
20 vided in the following section, and upon hearing it shall
21 appear that the liability on account of which such mortgage
22 was given has ceased to exist and that such mortgage
23 ought to be discharged, the court may enter a decree setting

24 forth the facts proved and its findings in relation thereto,
25 which decree shall within thirty days be recorded in the
26 registry of deeds where the mortgage is recorded; and
27 thereafter no action or proceeding in equity shall be brought
28 to enforce a title under said mortgage.'