

# MAINE STATE LEGISLATURE

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**N I N E T Y - F I R S T      L E G I S L A T U R E**

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**Legislative Document**

**No. 868**

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S. P. 479

In Senate, March 29, 1943.

Reported by Senator McGlaflin of Cumberland from Committee on  
Judiciary and laid on table to be printed under joint rules.

ROYDEN V. BROWN, Secretary.

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**STATE OF MAINE**

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**IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-THREE**

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**AN ACT Relating to Attached Mortgaged Property.**

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

**Sec. 1. R. S., c. 95, § 45, amended.** The last paragraph of section 45 of chapter 95 of the revised statutes is hereby repealed and the following enacted in place thereof :

‘Such summons, when property is attached on the writ, shall be returnable to the court to which the writ is returnable or to any justice thereof in vacation not less than 10 days nor more than 60 days after service thereof, and when property is seized on execution such summons shall be made returnable to any justice or judge of the court issuing such execution on any day fixed by such justice or judge not less than 10 days nor more than 60 days thereafter. Service in either case shall be by copy of such summons attested by the officer serving the same. If in either case the mortgagee or claimant fails to appear and answer, or after hearing, fails to establish his claim under such mortgage, pledge or lien, he thereby waives the right to hold the property thereon.’

**Sec. 2. R. S., c. 95, § 47, amended.** Section 47 of chapter 95 of the revised statutes is hereby amended to read as follows :

‘**Sec. 47. Proceedings when validity of mortgage is established.** If upon

examination held under the provisions of section 45, or upon the verdict of a jury as hereinafter provided, it appears that the mortgage is valid, the court, or such justice or judge thereof, having first ascertained the amount justly due upon it, may direct the attaching creditor to pay the same to the mortgagee or his assigns within such time as it orders; and if he does not pay or tender the amount within the time prescribed, the attachment shall be vacated and the property shall be restored. If the attaching creditor pays or tenders the amount directed to be paid within such time and the mortgagee or his assigns fails to immediately assign such mortgage to the attaching creditor, the mortgagee or his assigns shall be estopped from claiming any interest in such attached goods by virtue of his mortgage.'