

## SENATE....No. 61.

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### Commonwealth of Massachusetts.

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IN SENATE, March 7, 1857.

The Standing Committee on Probate and Chancery, to whom was committed the Order of the Senate, of February 5, directing said Committee to consider and report upon the best mode of perfecting title to real estate acquired under a mortgage containing a power of sale, report the accompanying Bill.

A. CHURCHILL, *Chairman.*

## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Fifty-  
Seven.

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### AN ACT

To perpetuate the Evidence of Title to Real Property,  
obtained under Mortgage Deeds containing a Power  
of Sale.

*Be it enacted by the Senate and House of Representatives,  
in General Court assembled, and by the authority of the  
same, as follows:—*

1    SECT. 1. In all cases in which a power of sale is  
2 contained in a mortgage deed of real property, the  
3 mortgagee, or any person having his estate therein,  
4 may, upon the breach of the condition thereof, give  
5 such notices, and do all such acts as are authorized  
6 and required by such power; and he shall, within  
7 ten days after selling, in pursuance of such power,  
8 file a copy of the notice and his affidavit in the office  
9 for the registry of deeds, in the county or counties

10 where such real property is situated; which affidavit  
11 shall set forth his acts in the premises fully and par-  
12 ticularly. Such affidavit and copy of notice shall be  
13 recorded by the register, with a note of reference  
14 thereto on the margin of the record of the mortgage  
15 deed. And if it shall appear by such affidavit that  
16 he has, in all respects, complied with the requisitions  
17 of such power of sale, the same shall be presumptive  
18 evidence against all persons, that the power of sale  
19 was duly executed, and shall be *conclusive* evidence  
20 thereof, unless upon suit brought within three years  
21 from the sale, the demandant shall, by competent evi-  
22 dence, rebut such presumption.

1     SECT. 2. If the deed of mortgage was executed by  
2 a man having at the time no lawful wife, or if, being  
3 married, the wife of the mortgagor joined in such  
4 deed in token of her release of dower, such sale shall  
5 be effectual to bar all claim and possibility of dower  
6 in such real property.

