

# MAINE STATE LEGISLATURE

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# SIXTY-FIRST LEGISLATURE.

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HOUSE.

No. 178.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND  
EIGHTY-THREE.

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AN ACT to abolish arrest and imprisonment for debt,  
except in cases of fraud.

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

SECTION 1. No person shall be arrested in any  
2 civil action, except as herein provided; but these  
3 provisions shall not apply to proceedings for con-  
4 tempt in law or equity.

SECT. 2. Any person, a resident within this  
2 state or not, may be arrested and held to bail or  
3 committed to prison on mesne process on a con-  
4 tract, express or implied, if the sum demanded  
5 amounts to ten dollars, or on a judgment on con-  
6 tract, if the debt originally recovered and remain-  
7 ing due is ten dollars or more, exclusive of

8 interest, when he is about to depart and reside  
 9 beyond the limits of this state, with property or  
 10 means of his own, exceeding the amount required  
 11 for his immediate support, if the creditor, or some  
 12 person in his behalf, makes affidavit before and  
 13 proves to the satisfaction of some justice of a court  
 14 of record, or of a judge of a police or municipal  
 15 court, judge of a court of probate, master in chan-  
 16 cery, commissioner to enforce judgments, or bail  
 17 commissioner, that he has reason to believe and  
 18 does believe that such debtor is about so to depart,  
 19 reside and take with him property or means as  
 20 aforesaid, and that the demand, or principal part  
 21 thereof, amounting to at least ten dollars is due to  
 22 him. And such affidavit and the certificate of the  
 23 magistrate that he is satisfied the same is true shall  
 24 be annexed to the writ.

SECT. 3. Any person, a resident within this state  
 2 or not, may be arrested on mesne process, in any  
 3 action of tort, when the plaintiff or some person in  
 4 his behalf makes affidavit before and proves to the  
 5 satisfaction of some magistrate named in section  
 6 two,

7 *First*, That he has a good cause of action and  
 8 reasonable expectation of recovering damages  
 9 amounting to twenty dollars; and

10    *Second*, That he believes and has reason to  
11 believe that the defendant intends to leave the  
12 state, so that execution, if obtained, cannot be  
13 served upon him; and

14    *Third*, That he believes and has reason to  
15 believe that the defendant has property, not ex-  
16 empt from being taken in execution, which he  
17 does not intend to apply to plaintiff's claim.

18 Or, instead of second and third, one or both of  
19 the following particulars:

20    *First*, That the defendant, since the cause of  
21 action accrued, has removed or begun to remove  
22 any of his property out of the state, with intent to  
23 prevent the same from being attached or seized on  
24 execution by the plaintiff; or

25    *Second*, That the defendant, since the cause of  
26 action accrued, has assigned or disposed of, or  
27 concealed all or part of his property, rights in  
28 action, or evidences of debt, or has converted the  
29 same into money, with intent to defraud the  
30 plaintiff, or with intent to prevent the same from  
31 being attached or seized on execution by the  
32 plaintiff.

33    And such affidavit and the certificate of the  
34 magistrate that he is satisfied the same is true  
35 shall be annexed to the writ.

SECT. 4. No execution, hereafter issued, shall  
2 run against the body of the judgment debtor ex-  
3 cept as provided by this act. No person shall be  
4 arrested on any execution in a civil action except  
5 in the cases provided for by this act.

SECT. 5. After entry and before judgment, when  
2 it is alleged in the declaration and made to appear  
3 to the court that one or more of the following par-  
4 ticulars is true;

5 *First*, That the action is for a fine or penalty, or

6 *Second*, That the defendant fraudulently con-  
7 tracted the debt or obligation, upon which the  
8 action is brought, or

9 *Third*, That the action is brought for the con-  
10 version of personal property, which the defendant  
11 has fraudulently concealed or disposed of, or

12 *Fourth*, That the action is brought to recover  
13 damages for fraud or deceit, or

14 *Fifth*, That the action is for seduction or crim-  
15 inal conversation, or .

16 *Sixth*, That the action is for money or other  
17 property embezzled or fraudulently misapplied or  
18 converted to his own use by a public officer, or by  
19 an attorney, or by an officer or agent of a corpora-  
20 tion or banking association in the course of his

21 employment as such, or by any factor, agent,  
22 broker, clerk, or other person in a fiduciary  
23 capacity;

24 then the court if the damages recovered exceed  
25 ten dollars shall order the execution to run against  
26 the body of the judgment debtor; and he may be  
27 arrested and imprisoned thereon for the purpose of  
28 obtaining a discovery of his property wherewith to  
29 satisfy it, as provided by law.

SECT. 6. Any person may be arrested on an ex-  
2 ecution in a civil action, when the judgment cred-  
3 itor, or some person in his behalf, after execution  
4 is issued amounting to ten dollars, exclusive of all  
5 costs which make part of said judgment, whether  
6 the same have accrued in the last action or in any  
7 former action on the same original cause of action,  
8 and while so much as that amount remains uncol-  
9 lected, makes affidavit before and proves to the  
10 satisfaction of some magistrate named in section  
11 two, that he believes and has good reason to be-  
12 lieve,—

13 *First*, That the debtor is about to depart and  
14 reside beyond the limits of this state, and take  
15 with him property, or means of his own, exceed-  
16 ing the amount required for his immediate sup-  
17 port; or

18 *Second*, That since the debt was contracted, or  
19 the cause of action accrued, the debtor has fraud-  
20 ulently conveyed, concealed, or otherwise disposed  
21 of, some part of his estate, with a design to secure  
22 the same to his own use and to defraud his credit-  
23 ors; or

24 *Third*, That the defendant is an attorney-at-  
25 law, that the debt sought to be recovered is for  
26 money collected by the defendant for the plaintiff,  
27 and that the defendant unreasonably neglects to  
28 pay the same to the plaintiff; or

29 *Fourth*, That since the debt was contracted, the  
30 debtor has wilfully expended and misused his  
31 goods and estate, or some part thereof, for the  
32 purpose of enabling himself to swear that he has  
33 not any estate, except such as is exempt from  
34 being taken on execution; or

35 *Fifth*, If the action was founded on contract,  
36 that the debtor contracted the debt with an intent  
37 to defraud the plaintiff; or

38 *Sixth*, That the defendant has removed, or be-  
39 gun to remove, any of his property out of the  
40 state, with intent to prevent the collection of the  
41 plaintiff's claim; or

42 *Seventh*, That the defendant has property,

43 rights in action, evidences of debt, or interest in  
44 stock in a corporation or company, which he fraud-  
45 ulently conceals with intent to prevent the collec-  
46 tion of plaintiff's claim; or

47 *Eighth*, That the defendant has assigned or dis-  
48 posed of all or part of his property, rights in  
49 action, or evidences of debt, or has converted the  
50 same into money, with intent to defraud his credi-  
51 tors or with intent to prevent the same from being  
52 applied to the plaintiff's claim.

53 And such affidavit, and the certificate of such  
54 magistrate that he is satisfied there is reasonable  
55 cause to believe the charges therein contained, or  
56 some one of them, are true, shall be annexed to  
57 the execution.

SECT. 7. The officer who serves an original writ  
2 shall not be liable for not having arrested the de-  
3 fendant, unless he has been expressly required by  
4 the plaintiff or his attorney to make such arrest.

SECT. 8. No affidavit shall be required to au-  
2 thorize arrest upon an execution for costs only; nor  
3 upon an execution issued upon scire facias or other  
4 suit upon a recognizance against bail or sureties in  
5 criminal cases, when the debtor neglects upon de-



6 mand to deliver to the officer having such precept,  
7 property not exempt from attachment sufficient to  
8 satisfy such execution.

SECT. 9. No arrest shall be made after sunset  
2 unless specially authorized by some magistrate  
3 named in section two, upon satisfactory cause  
4 shown.

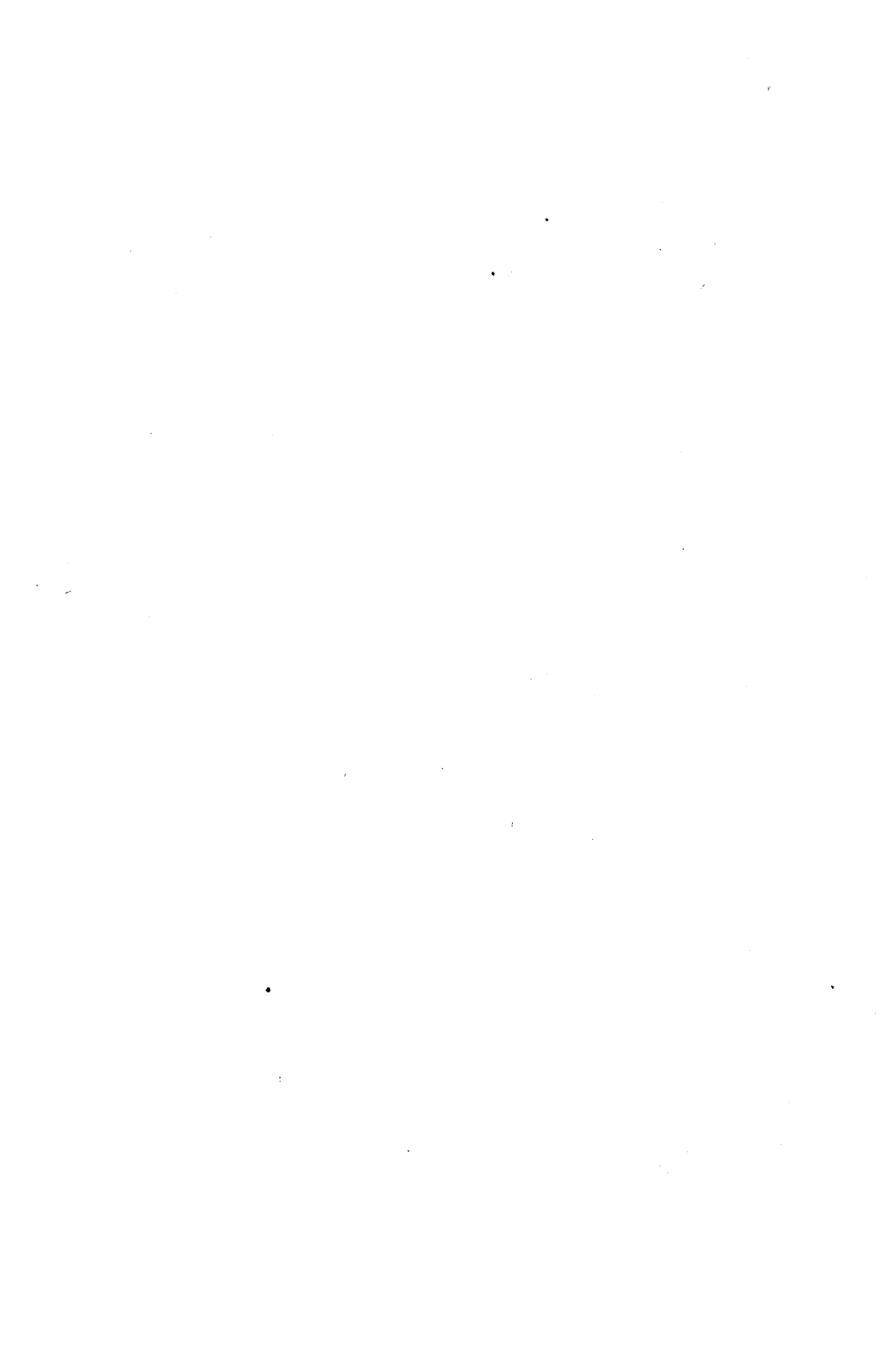
SECT. 10. No married woman shall be arrested  
2 on mesne process or execution.

SECT. 11. The fees of the magistrate shall be:  
2 for hearing an application for a certificate to arrest,  
3 one dollar; for each certificate, fifty cents. The  
4 plaintiff shall pay the fees in advance, and when  
5 the arrest is ordered, they shall be taxed upon the  
6 writ or execution, under the hand of the magistrate,  
7 and be deemed as part of the service thereof.

SECT. 12. Before being discharged from arrest  
2 or imprisonment, or being allowed to have the oath  
3 for the relief of poor debtors administered to him,  
4 the defendant or debtor shall pay all the fees of  
5 the disclosure, the jailer's fees (if any,) and if  
6 arrested on execution, the fees of service of the  
7 execution.

(9)

**SECT. 13. Executions in force at the time this  
2 act goes into effect may be enforced according to  
3 the tenor thereof.**



STATE OF MAINE.

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IN HOUSE OF REPRESENTATIVES, }  
March 5, 1883. }

Reported by Mr. HEATH, from Committee on the Judiciary,  
and ordered printed.

ORAMANDAL SMITH, *Clerk.*