

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY BAILEY & NOYES.

CHAP. 113.**CHAPTER 113.**

RELIEF OF POOR DEBTORS.

ARRESTS ON MESNE PROCESS.

- SEC. 1. No arrest on mesne process on contract, except where specially provided.
Arrests allowed in actions not founded on contract.

ARRESTS AND DISCLOSURES ON LEAVING THE STATE.

- SEC. 2. Debtor about to leave the state, may be arrested in certain cases.
3. Disclosure on such arrest, how made.
 4. Notice thereof to be given to the plaintiff.
 5. Justices may adjourn.
 6. Mode of making disclosure; adjudication of justices; effect of discharge.
 7. Lien on property disclosed, how preserved. Provisions of section fourteen applicable.

DISCLOSURES ON MESNE PROCESS BEFORE JUDGMENT.

- SEC. 8. Defendant may in all cases disclose on return of writ. Notice, how to be given.
9. Effect thereof; lien on property disclosed.
 10. Certificate of real estate disclosed to be filed in registry of deeds.
 11. How to preserve lien on personal estate.
 12. Disclosure on mesne process by consent of parties, how to be made.
 13. Execution to issue against the body, unless there is a disclosure and discharge.
 14. Certain property, which cannot be come at to be attached, to be delivered up on disclosure, or assigned.

BONDS IN MESNE PROCESS AND DISCLOSURES AFTER JUDGMENT.

- SEC. 15. Persons arrested may give bond to disclose in a certain time after judgment.
16. Proceedings if debtor has given bond on mesne process.
 17. Debtor in such case may go at large thirty days during the lien on the property disclosed.
 18. Effect of creditor's election to arrest on execution or otherwise.

ARRESTS AND BONDS ON EXECUTION, AND DISCLOSURES THEREON.

- SEC. 19. No arrest on execution if debt is less than ten dollars.
20. Arrests in other cases, and mode of release. Proceedings if not discharged.
 21. Debtor may disclose without giving bond, when and how. Officer's fees to be first paid.
 22. Debtor in jail may also disclose, and how. Notice how served. What fees to be first paid.
 23. If not discharged, remanded; otherwise oath administered and certificate given, and effect of it.
 24. Bond may be given on such arrest; condition and effect thereof.
 25. Valid statute bond if not double the amount.
 26. Application by a debtor under bond or imprisoned, to a justice, for privilege of poor debtor's oath. Justice to appoint the time and place, and cite the creditor.
 27. Citation, how served on any one creditor, his attorney or agent.
 28. Examination before two justices of the quorum, and the mode thereof.

- SEC. 29. Creditor may put questions, have them answered in writing, sworn to and CHAP. 113.
have a copy.
30. When the justices may administer the oath. Form of the poor debtors' oath.
31. Certain property disclosed, which cannot be come at to be attached, may be appraised off to the creditor, and how.
32. Creditor may accept it within thirty days, if not, returned to debtor.
33. Form of justice's certificate of discharge.
34. Effect of such certificate.
35. Effect of voluntary release by creditor, from arrest on execution.
36. Officer may indorse such release on the execution, and then levy the execution on property.
37. Preservation of creditor's lien on real estate disclosed.
38. Lien on personal estate disclosed; consequences if debtor or any person transfers or conceals it.
39. Bond taken on execution to be returned therewith, for benefit of creditor.
40. Amount recoverable thereon, if forfeited.

ARRESTS FOR TAXES.

- SEC. 41. Persons arrested for taxes entitled to the privileges of this chapter. Variation in form of oath and certificate.

GENERAL PROVISIONS.

- SEC. 42. Manner of selecting the justices to take the disclosure; if two do not agree, they may select a third; if they cannot agree on a third, the officer may choose him; majority may decide.
43. Judges of municipal or police courts may act as justices of the peace and quorum.
44. Persons incompetent as witnesses not to be precluded from taking poor debtor's oath.
45. Costs for creditor if debtor is not discharged.
46. Debtor twice refused a discharge may apply to court for a commissioner to disclose again; who shall give notice, proceedings.
47. After debtor is examined, other evidence or depositions may be introduced and same used in subsequent disclosures.
48. Bond valid though not taken for exact amount; officer not responsible beyond actual damage.
49. Suits on bond to be brought within one year after forfeiture; except as provided in sections 87 and 88 of chapter 81.

FALSE DISCLOSURES AND AIDING IN FRAUDULENT CONVEYANCES.

- SEC. 50. Liability of debtor if he discloses falsely. Proceedings of creditor in such case. Effect if creditor prevails.
51. Liability of persons aiding in fraudulent concealment and transfer of property; double damages.

DAMAGES ON BONDS.

- SEC. 52. In all actions upon a debtor's bond, if debtor has taken poor debtor's oath, only actual damages recovered.
53. The new judgment, on any such bond to operate as a discharge of the old judgment, as far as it goes.

WILLFUL TRESPASS.

- SEC. 54. Disability of persons committed for willful trespass.

CHAP. 113.

SUPPORT OF DEBTORS IN JAIL.

- SEC. 55. Prison keeper may require the creditor to support the debtor. Special provision.
56. Adjustment of price of articles furnished to prisoner.

PROVISIONS RELATING TO DEBTORS TO THE STATE.

- SEC. 57. Such debtor may apply to a justice of the supreme court. Notice to be given to county attorney, or attorney general.
58. Proceedings and power to release the debtor.
59. Justice may discharge him or the debt, on payment or security for a part.
60. Jailer to comply with decision of judge.
61. Adjudication to be entered on the record.
62. Same power vested in the county commissioners.
63. Application by such debtor to take the poor debtor's oath, and citation to the county attorney. County attorney to attend. Oaths and certificates in such cases.

ARRESTS ON MESNE PROCESS.

No arrest on mesne process on contract, unless going out of the state, except in action of tort.

R. S. c. 113, § 1.

SEC. 1. No person shall be arrested on mesne process in a suit on contract, express or implied, or on a judgment on such contract, except as provided in the following section; and the writ or process shall be varied accordingly; but in all other actions, the original writ or process may run against the body of the defendant, and he may be arrested and imprisoned thereon, or give bail as provided in chapter eighty-five.

ARRESTS AND DISCLOSURES ON LEAVING THE STATE.

Debtor about to leave the state may be arrested in certain cases.

R. S. c. 113, § 2.
5 Me. 291.
16 Me. 398.
20 Me. 77, 465.
28 Me. 45.
38 Me. 128.
52 Me. 590.

SEC. 2. Any person, a resident within this state or not, may be arrested and held to bail, or committed to prison on mesne process on contract express or implied, if the sum demanded amounts to ten dollars, or on a judgment on contract, if the debt originally recovered and remaining due is ten dollars or more, exclusive of interest, when he is about to depart and reside beyond the limits of this state, with property or means of his own exceeding the amount required for his immediate support, if the creditor, his agent, or attorney makes oath before a justice of the peace, to be certified by such justice on said process, that he has reason to believe and does believe that such debtor is about so to depart, reside, and take with him property or means as aforesaid, and that the demand, or principal part thereof, amounting to at least ten dollars, is due to him.

Disclosure on such arrest, how made.

R. S. c. 113, § 3.
5 Me. 494.
15 Me. 55.

SEC. 3. A debtor arrested or imprisoned, on request to the officer or jailer who has him in custody, may be taken before two disinterested justices of the peace and quorum, to be selected as provided in section forty-two, to disclose the actual state of his affairs.

Notice to be given to plaintiff.

R. S. c. 113, § 4.

SEC. 4. Previous to the disclosure, he shall give to the creditor or one of them, if more than one, his agent, or attorney, due notice

of his intention, and of the time and place for said disclosure, that he may be present and select one of the justices and be heard thereon; such notice shall not be less than one day for every twenty miles travel, exclusive of Sundays. CHAP. 113.

SEC. 5. The justices may adjourn from time to time, if they see cause; and if either of them is not present at the adjournment, the other may adjourn to another time; but no such adjournments shall exceed three days in the whole, exclusive of Sundays. (a) Justices may adjourn.
R. S. c. 113, § 6.

SEC. 6. If the debtor at the appointed time and place makes a full disclosure of the actual state of his affairs and of all his property, rights, and credits, and answers all proper interrogatories in regard to the same, to the satisfaction of said justices, and they are satisfied that the disclosure is true, and do not discover anything therein inconsistent with his taking the oath prescribed in the thirtieth section, they may administer it to him and certify the fact on the writ; and the debtor shall thereupon be discharged from arrest; and no execution issuing on the judgment in the suit, shall run against his body, but against his property only. Mode of making disclosure; adjudication of justices; effect of discharge.
R. S. c. 113, §§ 5, 7, 1859, c. 118, §§ 2, 3.
14 Me. 475.

SEC. 7. All attachable property disclosed by the examination, or so much as the creditor designates to satisfy his demand, shall be held as attached from the time of the disclosure until thirty days after final judgment, like other attachments; the officer shall make return thereof on the writ or process, certifying the fact that the property was so disclosed; if it is real estate, he shall certify it to the register of deeds, like other attachments; and if the creditor requires it, at any time before final judgment, he shall take into his custody any part of the personal property so disclosed, sufficient to secure the demand, and hold it as in other cases; and the provisions of section fourteen are also applicable to this class of disclosures. Lien on property disclosed, how preserved.
R. S. c. 113, § 8.

DISCLOSURES ON MESNE PROCESS BEFORE JUDGMENT.

SEC. 8. When a person is served with an original writ, or other mesne process, founded on such contract or judgment, in any other manner than by arrest of the body, he may, at any time before final judgment, appear before the court or justice, before whom such writ or process is pending, or a disinterested commissioner or commissioners, appointed by said court or justice, and submit himself to examination; and such court, justice, or commissioner shall give notice, and proceed to take his disclosure as provided in sections four, five, and six, and with like effect. Defendant may in all cases disclose on return of writ. Notice how given.
R. S. c. 113, § 9.
14 Me. 475.
15 Me. 55, 129.

SEC. 9. On such examination, the court, justice, or commissioner, except as provided in section fourteen, may determine that the execution, on the judgment recovered in the suit, shall run against the Effect thereof; lien on property disclosed.
R. S. c. 113, § 10.

(a) 18 Me. 142; 23 Me. 458.

CHAP. 113. property only of the defendant, or otherwise, as justice requires, on the facts so disclosed or proved; and all attachable property so disclosed, from the time of the disclosure, shall be held attached as provided in section seven, and subject to the provisions of the two following sections.

Certificate of real estate disclosed to be filed in registry of deeds.
R. S. c. 113, § 11.

SEC. 10. If the disclosed property is real estate, the court, justice, or commissioner, shall deliver to the plaintiff a certificate thereof, stating the names of the parties, and the amount of the claim in the writ, which the plaintiff shall file with the register of deeds for the county or district where the estate lies, within five days after its date; and the register shall enter and file it as returns of officers making attachments on real estate, and be entitled to the same fees from the plaintiff.

How to preserve lien on personal estate.
R. S. c. 113, § 12.
20 Me. 465.
38 Me. 122.

SEC. 11. If personal estate liable to attachment is disclosed, and the plaintiff states that he is apprehensive that it may be removed or concealed, so that it cannot be taken on execution, the court in term time, or any justice thereof in vacation, or the trial justice before whom the suit is pending, may issue an order duly signed and sealed, directing any officer, authorized to serve processes in the suit, to take such property into his custody, and hold it as if originally attached; and he shall execute it accordingly.

Disclosure on mesne process by consent of parties.
R. S. c. 113, § 13.

SEC. 12. At any time before or after the return day of any such writ or process, the parties to the suit, by a written agreement, may appear before a justice of the peace and quorum in the county where the suit is pending; and the defendant shall make the disclosures, and submit to the examinations and proceedings required in section eight, and the record thereof shall be returned to the court or justice before which the suit is pending, before final judgment, where the proceedings shall be the same as if the disclosure had been before a commissioner appointed for the purpose.

Execution to issue against the body, unless discharged.
R. S. c. 113, § 14.

SEC. 13. If no such disclosure and examination are made before final judgment, or if the result thereof is adverse to the defendant's right to exemption from arrest, the execution shall run against his body.

Certain property which cannot be come at to be attached, to be delivered up or assigned.
R. S. c. 113, § 15.

SEC. 14. If, on any disclosure and examination before judgment, it appears that the debtor possesses, has in his power, or, with intent to protect the same from his creditors, has assigned, secreted, or otherwise disposed of any bank bills, notes, accounts, bonds, other contracts, or property not exempted from attachment, but which cannot be reached to be attached from its nature or otherwise, the debtor, if under arrest, shall not be released; nor shall he be exempted from arrest on execution on judgment in such suit, unless he assigns and delivers to such person as the examining magistrate, court, or commissioner appoints, all such property, or so much of it as they adjudge sufficient security for the creditor, to be held by him, under the

direction of the court or justice before which the suit is pending, in trust for the parties, that it may be applied and appropriated as provided in sections thirty-one and thirty-two. CHAP. 113.

BONDS ON MESNE PROCESS AND DISCLOSURES AFTER JUDGMENT.

SEC. 15. When a person is arrested or imprisoned on mesne process in a civil action, he may be released, by giving bond to the plaintiff in double the sum for which he is arrested or imprisoned, with surety or sureties, approved by him, or by two or three justices of the peace and quorum of the county where the arrest or imprisonment is made, selected and proceeding as prescribed in section forty-two, conditioned that within fifteen days after rendition of judgment, or after the adjournment of the court in which it is rendered, he will notify the creditor, his agent, or attorney, to attend at a certain place in the county, at a time not more than thirty, nor less than fifteen days after such notice, for the purpose of disclosure and examination; that he will then and there submit himself to examination; make true disclosure of his business affairs and property on oath; and abide the order of the justices thereon; and if the officer serving the writ takes such bond, he shall return it to the court or justice where the suit is pending.

Persons arrested may give bond to disclose in a certain time after judgment.
R. S. c. 113, § 16,
4 Me. 10.
22 Me. 433.
24 Me. 361.
36 Me. 240.
40 Me. 132.
52 Me. 590.
53 Me. 62.
56 Me. 178,
542.

SEC. 16. After judgment, he may apply in writing to a justice of the peace of the county where he was arrested, who shall issue a citation to the creditor, his agent or attorney; and an examination and disclosure may be had before two justices of the peace and quorum, within the time specified in the bond; and the same proceedings shall be had, and the same results follow, as in disclosures on bonds given on execution, except as provided in the following section.

Proceedings if debtor has given bond on mesne process.
R. S. c. 113, § 17.
10 Me. 394.
15 Me. 337.
21 Me. 441.
23 Me. 400.
43 Me. 101.
51 Me. 108.

SEC. 17. If the debtor, on such examination, does not entitle himself, in the opinion of the justices, to the benefit of the oath hereinafter provided, and it appears that at that time he has any real or personal estate, liable to attachment, or any property such as is described in section thirty-one, they shall permit him to go at large on his bond, during the thirty days the creditor's lien exists on the property disclosed; and during that time, the creditor may elect to arrest him on execution, or enforce his lien on the property.

Debtor may go at large thirty days, during lien on property disclosed.
R. S. c. 113, § 18.
20 Me. 465.

SEC. 18. If the creditor elects to so arrest him, and the officer having the execution, returns that he is not found, his bond shall be forfeited, and on judgment thereon, execution shall issue for the amount of judgment in the original suit, and interest. If the debtor is not arrested within that time, and does not avoid arrest, no execution, issued or founded on such judgment, shall run against his body, but against his property only.

Effect of creditor's election to arrest on execution or otherwise.
R. S. c. 113, § 19.

CHAP. 113.

ARRESTS ON EXECUTION, AND DISCLOSURES THEREON.

No arrest on execution if debt is less than \$10.
R. S. c. 113, § 20.

SEC. 19. No person shall be arrested on an execution issued on a judgment founded on a contract, express or implied, where the debt is less than ten dollars, exclusive of costs; or on a prior judgment on contract, where the amount of the original debt remaining due is less than ten dollars, exclusive of costs; and the form of the process shall be varied accordingly.

Arrests in other cases, and mode of release.
R. S. c. 113, § 21.

SEC. 20. In all other cases, except where express provision is by law made to the contrary, an execution shall run against the body of the judgment debtor; and he may be arrested and imprisoned thereon for the purpose of obtaining a discovery of his property wherewith to satisfy it, as hereinafter stated.

Debtor may disclose without giving bond; when and how.
Officer's fees to be first paid.
1860, c. 170, §§ 1, 2, 3.

SEC. 21. When so arrested, he may, without giving bond, disclose as provided in section twenty-four, by giving notice of the time and place appointed therefor, to the creditor or his attorney, at least twenty-four hours for every twenty miles travel from his residence thereto. The debtor shall pay the officer for serving the notice and keeping him from the arrest to the disclosure, before he can be discharged.

Debtor in jail may also disclose, and how.
Notice how served, what fees to be first paid.
1862, c. 126, §§ 1, 2, 3.

SEC. 22. A debtor committed on execution, may disclose thereon, at the jail, in the manner and on the notice aforesaid, which may be served by the jailer or other officer; and besides the other fees, shall pay the jailer's fees before he can be discharged.

If not discharged, remanded; otherwise oath allowed and certificate given, and effect of it.
1860, c. 170, § 4.

SEC. 23. If the debtor, in either case, is not permitted to take the oath, he shall be remanded; but if permitted, the justices shall administer the oath prescribed in section thirty, and give him the certificate provided in section thirty-three; and the officer shall make return thereof on the execution; and no subsequent execution shall authorize his arrest.

Bond may be given on such arrest; condition and effect thereof.
R. S. c. 113, § 22.

SEC. 24. When a debtor is arrested or imprisoned on execution, he may be released by giving bond to the creditor, in double the sum due thereon, with surety or sureties approved in writing by the creditor, or by two or three justices of the peace and quorum, of the county where he is arrested or imprisoned, selected and proceeding as provided in section forty-two, conditioned that he will, within six months thereafter, cite the creditor before two justices of the peace and of the quorum; submit himself to examination, and take the oath prescribed in section thirty; pay the debt, interest, costs, and fees, arising in said execution; or deliver himself into the custody of the keeper of the jail to which he is liable to be committed under said execution. (a)

(a) 5 Me. 353; 6 Me. 229; 10 Me. 121; 20 Me. 465; 21 Me. 385, 430; 24 Me. 123, 166, 451, 546, 551; 29 Me. 480; 36 Me. 419; 44 Me. 21, 97; 48 Me. 37, 297; 49 Me. 16, 99.

SEC. 25. Such bond is a valid statute bond though the penalty varies not exceeding five per cent. from the sum aforesaid; and judgment in a suit thereon shall be rendered according to section forty.

CHAP. 113.
When valid.
1868, c. 147.
See § 48.

SEC. 26. A debtor, who has given such bond, may apply in writing, within the time limited in his bond, to a justice of the peace in the county where he was arrested, claiming the benefit of the oath authorized in section thirty; or if he is committed or has delivered himself into the custody of the jailer, he may apply to a justice of the same county, or at his request, the jailer shall apply in his behalf; and in either case, the justice shall appoint a time and place for his examination, and issue a citation to the creditor, under his hand and seal. (a)

Application by a debtor under bond or imprisoned, to disclose. Justice to cite the creditor.
R. S. c. 113, § 23.
1861, § 29.

SEC. 27. The citation shall be served on the creditor, or one of them if more than one, or on the attorney of record in the suit, or any known authorized agent of the creditor, by any officer qualified to serve civil process between the same parties, by reading it to him, or leaving an attested copy of it at his place of last and usual abode, or by giving it to him in hand fifteen days at least before the time appointed for the examination, if the creditor is alive; otherwise it shall be so served on his executor or administrator, if to be found in the state, and if not, such copy shall be left in like time with the clerk of the court or magistrate who issued the execution.

Citation how served on any one creditor, his attorney or agent.
R. S. c. 113, § 24.
1860, c. 142.
22 Me. 400.
48 Me. 101.
51 Me. 108.

SEC. 28. The examination shall be before two disinterested justices of the peace and quorum for the county, who may adjourn as provided in section five, and shall examine the citation and return, and if found correct, examine the debtor on oath, concerning his estate and effects, their disposal, and his ability to pay the debt for which he is committed. (b)

Examination to be before two justices, and the mode thereof. Mode of examination.
R. S. c. 113, §§ 25, 26.

SEC. 29. The creditor may propose to the debtor any interrogatories pertinent to the inquiry, and if he requires it, they shall be answered in writing, and the answers signed and sworn to by the debtor; and the creditor may have a copy thereof certified by the justices, on paying therefor twelve cents a page.

Creditor may put questions and have them answered in writing, and sworn to, and have copy.
R. S. c. 113, § 27.

SEC. 30. If, on such examination and hearing, the justices are satisfied that the debtor's disclosure is true, and they do not discover any thing therein inconsistent with his taking the oath, they may administer it to him as follows:

When the justices may administer the oath. Form thereof.
R. S. c. 113, § 28.

I, ———, do solemnly swear (or affirm) that I have not any real or personal estate, or interest in any, except what is exempted by statute from attachment and execution, and what I have now disclosed; and that since any part of this debt or cause of action

21 Me. 53, 108.
22 Me. 483.
24 Me. 509.
25 Me. 428.
26 Me. 200.
27 Me. 419.
39 Me. 355.

(a) 10 Me. 334; 15 Me. 33, 337; 17 Me. 96, 398; 18 Me. 120; 32 Me. 27, 450; 35 Me. 153; 48 Me. 79; 51 Me. 108.

(b) 12 Me. 415; 16 Me. 386; 18 Me. 142; 23 Me. 144; 24 Me. 166, 196; 25 Me. 423; 39 Me. 267; 50 Me. 334; 54 Me. 386; 56 Me. 542.

CHAP. 113. accrued, I have not directly or indirectly sold, conveyed, or disposed of, or entrusted to any person, any of my real or personal property, to secure it, or receive any benefit from it to myself or others, with an intent to defraud any of my creditors. So help me God; (or, this I do under the pains and penalties of perjury.)

Certain property disclosed, which cannot be come at to be attached, may be appraised off to the creditor, and how.
R. S. c. 113, § 29.
28 Me. 310.
29 Me. 368.
32 Me. 458.
36 Me. 494, 589.
38 Me. 123, 215.
47 Me. 182.
49 Me. 100, 355.

SEC. 31. When, from such disclosure, it appears that the debtor possesses or has under his control any bank bills, notes, accounts, bonds, or other contracts, or property, not exempted by statute from attachment, which cannot be come at to be attached, and the creditor and debtor cannot agree to apply the same towards the debt, the justices hearing the disclosure shall appraise and set off enough of such property to satisfy the debt, cost, and charges; and the creditor or his attorney, if present, may select the property to be appraised. If the creditor accepts it, it may be assigned and delivered by the debtor to him, and applied towards the satisfaction of his demand. If any particular article of such property, necessary or convenient to be applied in satisfaction of the execution, exceeds the amount due thereon, and is not divisible in its nature, the creditor may take it, by paying the overplus to the debtor, or securing it to the satisfaction of the justices.

Creditor may accept it within thirty days; if not, returned to debtor.
R. S. c. 113, § 30.

SEC. 32. If the creditor is absent, or does not so accept it, the debtor shall deposit with the justices a written assignment to the creditor of all the property thus appraised and set off; and they shall make a record of such proceedings, and cause such property to be safely kept and secured for the term of thirty days thereafter, to be delivered to the creditor with the assignment, on demand, within that time. If not so demanded, they shall be returned to the debtor.

Form of justice's certificate of discharge.
R. S. c. 113, § 31.
11 Me. 288.
18 Me. 340.
19 Me. 452, 484.
20 Me. 495.
23 Me. 489.
24 Me. 196.
26 Me. 444.
27 Me. 133, 174.
30 Me. 347.
33 Me. 500.
34 Me. 230.
39 Me. 504.
51 Me. 194.

SEC. 33. After the oath is administered and the property disclosed is duly secured, the justices shall make out and deliver to the debtor a certificate under their hands and seals in the form following:

STATE OF MAINE.

_____, ss. To the sheriff of the county of _____, or his deputy, and to the keeper of the jail at _____, (or to any coroner or constable.)

[L. s.] We, the subscribers, two disinterested justices of the peace and quorum in and for said county of _____, hereby certify, that _____, a poor debtor arrested on a certain execution issued by (here insert the name and style of the court, or of the justice of the peace, and the amount of the judgment, and date of the judgment and execution,) and committed to the jail at _____ aforesaid, (or enlarged on giving bond to the creditor, as the case may be,) has caused _____, the creditor, to be notified, according to law, of his desire to take the benefit of the one hundred thirteenth chapter of the revised statutes; that in our opinion he is clearly

entitled to the benefit of the oath prescribed in the thirtieth section CHAP. 113. thereof; and that we have, after due caution, administered it to him.

Witness our hands and seals, this — day of —, in the year —.

— —, chosen by —.

— —, chosen by —.

SEC. 34. The debtor, on delivering the certificate to the prison keeper, or filing it in his office if imprisoned, shall be set at liberty, so far as relates to this execution; and his body forever after shall be free from arrest thereon, and on every subsequent execution issued on the judgment, or on any other judgment founded thereon, except as provided in sections thirty-eight and fifty.

Effect of such certificate.
R. S. c. 113, § 32.
20 Me. 75.
24 Me. 451.

SEC. 35. A creditor may discharge his debtor from arrest, or imprisonment on execution, by giving to the officer or jailer having him in custody a written permission to go at large; and it shall have the same effect as a discharge or disclosure.

Effect of voluntary release by creditor from arrest.
R. S. c. 113, § 33.

SEC. 36. A certificate of a discharge on execution in any of the modes hereby authorized, and of the cause of it, shall, at any time, at the creditor's request, be indorsed on the execution by the officer who had such debtor in custody; and if it is before the return day of the execution, it may still be levied on his property; if after, it may be renewed like other executions, against his property only; and the judgment may be revived or kept in force, with said execution, as judgments in other cases.

Officer may indorse release on the execution and proceed to levy on property.
R. S. c. 113, § 34.

SEC. 37. If an execution debtor discloses any real estate liable to be seized on execution, the justices shall give the creditor a certificate thereof, stating the names of the parties, and the amount of the execution; and the creditor shall have a lien thereon for thirty days thereafter, if he files the certificate with the register of deeds of the county or district where the real estate lies within five days from the date of the disclosure; and the register shall enter and file it like officers' returns of attachments.

Preservation of creditor's lien on real estate disclosed.
R. S. c. 113, § 35.
31 Me. 50.

SEC. 38. If he discloses personal estate liable to be seized on execution, the creditor shall have a lien on it for thirty days, or so much of it as the justices, in their record, judge necessary; and if the debtor transfers, conceals, or otherwise disposes of it within said time, or suffers it to be done, or refuses to surrender it, on demand, to any proper officer having an execution on the same judgment, the debtor shall have no benefit from the certificate described in section thirty-three; and the creditor may recover, in an action on the case against him, or any person fraudulently aiding in such transfer, concealment, or disposal, double the amount due on said execution; and any execution on a judgment in such action shall run against the body of the debtor and other persons so aiding; but the payment thereof shall be a satisfaction of the original debt.

Lien on personal estate disclosed.
Effect if debtor or any person conceals it.
R. S. c. 113, § 36.
20 Me. 222, 465.
21 Me. 191.

CHAP. 113. SEC. 39. Every officer, taking a bond on an execution, shall return it with the execution for the benefit of the creditor, who may receive it on filing a copy with the clerk of court, judge, or justice to whom it is returned. He may also receive from the jailer any such bond in his hands on the like terms.

Bond taken on execution to be returned therewith and creditor to have a copy.
R. S. c. 113, § 37.
Amount recoverable thereon if forfeited.
R. S. c. 113, § 38.

SEC. 40. If the debtor fails to fulfill the condition of such bond, judgment in a suit thereon shall be rendered for the amount of the execution, costs, and fees of service, with interest thereon, against all the obligors; and a special judgment against the principal, for a sum equal to the interest on said amount, at the rate of twenty per cent. by the year, after the breach of the bond. (a)

ARRESTS FOR TAXES.

Persons arrested for taxes, entitled to the privileges of this chapter. Variation in form of oath and certificate.
R. S. c. 113, § 39.
1868, c. 183.
19 Me. 322,
39 Me. 345.

SEC. 41. Any person arrested or imprisoned by virtue of a warrant for the collection of a public tax; or any constable, collector, or deputy sheriff, arrested or imprisoned for default in collecting taxes committed to him, shall have the privileges, and be subject to the obligations of this chapter, as if arrested or imprisoned on execution for debt; and for all purposes relating thereto, the assessors who assessed the taxes shall be deemed the creditors; and corresponding verbal alterations shall be made in the oath and certificate of discharge; but nothing herein shall exempt any property from distress for taxes, except those implements, tools, and articles of furniture which are exempt by law from attachment for debt.

★ GENERAL PROVISIONS.

Manner of selecting the justices to take the disclosure.
R. S. c. 113, § 40.

SEC. 42. One of the justices to hear a disclosure, may be chosen by the debtor, and the other by the creditor, his agent, or attorney; and if at the time appointed, he refuses, or unreasonably neglects to appoint, or to procure his attendance, the other may be chosen by an officer who has the debtor in charge, or if not in charge, who might serve the precept on which he was arrested; and in that case, the justice chosen by the debtor, if he deems it necessary, may adjourn once, not exceeding twenty-four hours, Sundays excluded, to enable the debtor to procure the attendance of another justice. If the justices do not agree, they may choose a third; if they cannot agree on a third, such officer may choose him; and a majority may decide. (b)

Municipal and police judges may act.
R. S. c. 113, § 41.

SEC. 43. The judge of a municipal or police court shall have the same powers, duties and obligations under this chapter, as a justice of the peace and quorum of his county.

Persons incompetent as witnesses, not precluded from taking the oath.
R. S. c. 113, § 42.

SEC. 44. No criminal conviction, or other disqualification to be a witness, shall preclude a debtor from relief under this chapter.

(a) 15 Me. 340; 16 Me. 353; 18 Me. 120; 20 Me. 206; 22 Me. 160; 23 Me. 76, 101, 244; 24 Me. 123, 166; 27 Me. 97; 39 Me. 434; 44 Me. 77.

(b) 16 Me. 101; 21 Me. 206; 23 Me. 26, 489; 24 Me. 196; 26 Me. 101; 27 Me. 551, 458; 28 Me. 458; 29 Me. 107; 30 Me. 101, 155; 32 Me. 335; 33 Me. 382; 39 Me. 504; 47 Me. 28, 145; 49 Me. 434; 50 Me. 334; 54 Me. 203, 336; 56 Me. 178.

SEC. 45. If a debtor fails in any application for a discharge from arrest or imprisonment, the creditor shall recover his costs as in actions before a trial justice, and the justices shall issue execution therefor; but no such failure shall prevent his obtaining a discharge at any future examination, except as provided in sections thirty-eight and fifty.

CHAP. 113.

Costs for creditor if debtor not discharged.
R. S. c. 113, § 43.

SEC. 46. A debtor who has been twice refused a discharge, shall not again disclose before such justice; but may apply to a judge of the supreme judicial court, who in term time or vacation, after notice to the creditor or his attorney, and a hearing of the parties, may appoint a commissioner to take his examination and disclosure; and shall then fix his compensation, which shall be paid by the debtor, before commencing his disclosure. The commissioner shall give to the creditor or his attorney, seven days' notice of the time and place appointed by him for such hearing; and all the proceedings relating to such disclosure, oath, discharge and disposition of the property disclosed shall be the same as in disclosures before such justices, and have the like effect.

Debtor twice refused discharge, may apply to court for a commissioner to disclose again, who shall give notice how, and proceedings.
1860, c. 185, § 1.

SEC. 47. In any disclosures on mesne process or execution, after the examination of the debtor, other competent evidence may be introduced, and the debtor be then further examined by either party. Depositions may be used in such disclosure; and in any subsequent disclosure or proceeding on that or another arrest or imprisonment for the same cause of action, the same depositions may be used.

After debtor is examined other evidence or depositions introduced and same used in subsequent disclosures.
1860, c. 185, § 2.
1862, c. 126, § 4.

SEC. 48. If by mistake or accident, the penalty of a bond taken by an officer under this chapter, varies from the sum required by law, it is still valid; and the officer is not responsible to either party beyond the actual damage. (a)

48 Me. 73.
Bond when valid.
R. S. c. 113, § 44.
See § 25.

SEC. 49. No suit, on any bond herein authorized to be given, shall be sustained unless commenced within one year after the forfeiture; except that the provisions of sections eighty-seven and eighty-eight of chapter eighty-one are applicable to such suits.

Limitation of suits on bond.
R. S. c. 113, § 45.
10 Me. 399.

FALSE DISCLOSURES AND AIDING IN FRAUDULENT CONVEYANCES.

SEC. 50. When a debtor, herein authorized or required to disclose on oath, willfully discloses falsely, withholds, or suppresses the truth, the creditor of record or in interest may bring a special action on the case against him, whether he is criminally prosecuted or not, particularly alleging the false oath and fraudulent concealment of his estate or property; and, on oath, before a justice of the peace, may declare his belief of the truth of the allegations in the writ; such justice shall certify the oath on the writ; and thereupon the debtor shall be held to bail, or in default thereof, committed to jail to abide the judg-

Liability of a debtor if he discloses falsely.
R. S. c. 113, § 46.
1862, c. 70.
48 Me. 298.

(a) 23 Me. 101; 24 Me. 546; 31 Me. 350; 35 Me. 459; 59 Me. 99, 434, 452.

CHAP. 113. ment in the suit; and if the creditor prevails in the suit, judgment shall be rendered against the debtor, for double the amount of the debt and charges on the former judgment; and the debtor may be arrested and committed to prison on any execution issued on the judgment last recovered, without the privilege of release or discharge, except by payment or consent of the creditor.

Liability of persons aiding in fraudulent concealment or transfer of property. Double damages. R. S. c. 113, § 47. 25 Me. 249.

SEC. 51. Whoever knowingly aids or assists a debtor or prisoner in a fraudulent transfer or concealment of his property to secure it from creditors, and prevent its attachment or seizure on execution, shall be liable to any creditor suing therefor in an action on the case, in double the amount of property so fraudulently transferred or concealed, not exceeding double the amount of such creditor's demand.

DAMAGES ON BONDS.

In actions on bond if debtor has taken oath, only actual damages recovered. R. S. c. 113, § 48. 15 Me. 33. 27 Me. 419. 28 Me. 45, 371. 30 Me. 347, 457. 32 Me. 385. 33 Me. 357, 388. 390, 500. 35 Me. 106. 36 Me. 240. 42 Me. 343. 44 Me. 55, 97. 47 Me. 28, 145, 182. 48 Me. 79. 49 Me. 99, 100, 434, 452. 51 Me. 108. 52 Me. 257. 56 Me. 173, 515. The new judgment on such bond to operate as discharge of old judgment as far as it goes. R. S. c. 113, § 49. 25 Me. 249. 34 Me. 20.

SEC. 52. In all actions on any bond given by a debtor to obtain his release from arrest on mesne process, execution, or warrant of distress for taxes, if it appears that, prior to the breach of any of its conditions, the principal had legally notified the creditor, or the assessors who issued such warrant, and had been allowed by two justices of the peace and of the quorum of the county where the arrest was made, having jurisdiction and legally competent to act in the matter, to take, and had taken the oath prescribed in the thirtieth section, the damages shall be assessed by the jury, at the request of either party; otherwise, by the court. The amount assessed shall be the real and actual damage, and any legal evidence on that point may be introduced by either party. In any such action, evidence may be received to show that no legal service of the citation was made on the creditor or assessors, though it may contradict the record and certificate of the magistrates who administered the oath.

SEC. 53. If the whole amount due on the execution or warrant of distress is recovered in any such action, the new judgment shall be a discharge of said execution or warrant of distress; if only a part is recovered, it shall be a discharge of such part. If the amount of damage is not more than twenty dollars, the plaintiff's costs shall not exceed a quarter part of the damage, though the penalty of the bond is more than twenty dollars. If the verdict or judgment is that the creditor has sustained no damage, neither party shall recover costs.

WILLFUL TRESPASS.

Disability of persons committed for willful trespass. R. S. c. 113, § 50.

SEC. 54. When, in the trial of an action of trespass on property, the court, jury, or magistrate, determines that such trespass was committed willfully, and the fact is recorded, and noted on the margin of the execution on such judgment, and the debtor is thereon arrested and committed to prison, he shall not be entitled to give any bond for his liberation; and if he applies to take the oath described in section

thirty, no notice shall be issued to the creditor till at least thirty days after his commitment. CHAP. 113.

SUPPORT OF DEBTORS IN JAIL.

SEC. 55. When a person is committed to prison on mesne process or execution, or delivers himself into the custody of the jailer to save the condition of a bond given on execution, and makes a written complaint, by him signed and sworn to, stating that he is unable to support himself in jail, and has not sufficient property to furnish security for his support, the jailer may require of any one of the creditors, their agent or attorney, security for his support; and unless it is satisfactorily furnished within eight days after the request, or money is paid in advance therefor from time to time, he may release him; but when a debtor is committed on more than one execution at the same time, the jailer shall be entitled to pay for board only on the first execution, to be paid for equally by all the creditors, on whose executions he is committed; and the first creditor may have an action against the other committing creditors for their proportion thereof; and if such debtor is discharged on the first, the jailer shall notify the next committing creditor of his liability to pay for his support, as on the first execution.

Prison keeper may require creditor to support debtor, and how and when.
R. S. c. 113, § 51.
29 Me. 555.
36 Me. 399.

SEC. 56. In case of dispute about the price of such support, the county commissioners may determine it, not exceeding two dollars and twenty-five cents a week.

Adjustment of price of support.
R. S. c. 113, § 52.

PROVISIONS RELATING TO DEBTORS TO THE STATE.

SEC. 57. Any person committed to jail in any county on execution, warrant of distress, or other final civil process for debt, penalty or costs, due to the state, may make application in writing to a justice of the supreme judicial court for relief, whether the court is in session or not; who shall appoint a convenient time and place to inquire into the circumstances of the petitioner; give such notice thereof as he thinks proper to the attorney general, or county attorney for the county where the commitment is made, to attend the hearing in behalf of the state.

Such debtor may apply to a justice of the supreme court. Notice to attorney general, or county attorney.
R. S. c. 113, § 53.

SEC. 58. The justice shall consider all proper evidence offered on either side, and may require the oath of the petitioner to all or any of the facts by him stated; and if satisfied that the prisoner is unable to pay any part of the amount due on such process, may order his discharge from imprisonment, having first administered to him, if he thinks proper, an oath substantially in the form prescribed by section thirty.

Proceedings and power to release the debtor.
R. S. c. 113, § 54.

SEC. 59. If, on examination, it appears to the justice that the prisoner is able to pay only a part of the amount due, he shall order his release from imprisonment, and, if he thinks it more for the interest of the state, may order the whole debt to be discharged, upon his paying or securing such sum of money, or assigning to the state such

Judge may discharge him or the debt, on payment or security of part.
R. S. c. 113, § 55.

CHAP. 113. securities or other property, at such time and in such manner, to be deposited with such public officer, as he directs.

Jailer to comply with such decision.
R. S. c. 113, § 56.

SEC. 60. The jailer having charge of the debtor shall thereupon release him from confinement, or give him a full discharge from the demand on the terms prescribed.

Adjudication to be recorded.
R. S. c. 113, § 57.

SEC. 61. If such proceedings are had when the supreme judicial court is not in session for the county, the justice shall cause his adjudication and discharge to be entered of record as of the last preceding term of the court therein.

Same powers vested in the county commissioners.
R. S. c. 113, § 58.

SEC. 62. The county commissioners, at a regular session, or a majority of them in vacation, on application, may exercise the powers, and their proceedings shall have the like effect, provided in the five preceding sections.

Application by such debtor to take the poor debtor's oath. Notice to county attorney.
Oath and certificate.
R. S. c. 113, § 59.

SEC. 63. A person committed on execution as mentioned in section fifty-seven, desiring to take the oath provided in section thirty, may apply to the jailer, who shall apply in writing to a justice of the peace in his behalf, and he shall issue a citation as herein before prescribed, to be served on the county attorney for the same county, who shall attend at the time and place, by himself or a competent substitute as attorney to the state, and a disclosure may thus be had, and all the proceedings and the effect shall be the same as in the disclosures of execution debtors to individual creditors; and the justices of the peace and quorum hearing it may, if they see cause, administer an oath, and grant a certificate to the debtor as herein before provided, with verbal alterations to conform to the case.