

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

**A. D. 1834.**

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FOURTEENTH LEGISLATURE.

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NO. 37.

HOUSE.

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STATE OF MAINE.

IN THE YEAR OF OUR LORD, ONE THOUSAND EIGHT  
HUNDRED AND THIRTY FOUR.

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AN ACT to restrain the taking of excessive Usury.

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SECT. 1. *Be it enacted by the Senate and  
2 House of Representatives in Legislature as-  
3 sembled,* That the legal rate of interest upon  
4 the loan or forbearance of any money, goods, or  
5 any kind of merchandise or things in action, shall  
6 continue to be six Dollars upon one hundred  
7 Dollars for one year, and at that rate for a  
8 greater or less sum, or for a longer or shorter  
9 time.

SECT. 2. *Be it further enacted,* That if  
 2 any person or persons, upon any contract here-  
 3 after made, shall take, directly or indirectly, for  
 4 loan of any moneys, wares, merchandise, or any  
 5 other commodities, above the value of six Dol-  
 6 lars, for the forbearance of one hundred Dollars  
 7 for a year, and so after that rate for a greater or  
 8 less sum, or for a longer or shorter time ; and  
 9 if, upon any bond, contract, mortgage and as-  
 10 surance, made for the payment of any money  
 11 lent, or covenanted to be lent, upon or for usury,  
 12 whereupon or whereby there shall be reserved  
 13 or taken, above the rate of six Dollars in the  
 14 hundred as aforesaid, the debtor or defendant  
 15 may plead this act, and thereby avoid the ex-  
 16 cess over and above said legal rates.

SECT. 4. *Be it further enacted,* That where  
 2 any person or persons shall be sued on any bond,  
 3 contract, mortgage or assurance for the pay-  
 4 ment of any moneys, wares, merchandise, or  
 5 other commodities, whereby or wherein any sum  
 6 is given, secured or taken for the forbearing or  
 7 giving day of payment, for a longer or shorter  
 8 time, then, if the creditor be alive, and the  
 9 debtor or debtors, or any one of two or more  
 10 debtors, shall come into Court, where the said

11 cause is to be tried, and shall offer to make oath,  
12 and if required by the Court, shall actually  
13 swear to the same, that there is taken, reserv-  
14 ed or secured by such bond, contract or assur-  
15 ance, above the rate of six Dollars in the hun-  
16 dred, for the forbearance of the property actual-  
17 ly lent or sold, whether it be in money or other  
18 things, for one year, and so after that rate for a  
19 greater or less sum, or for a longer or shorter  
20 time, or that the creditor or creditors, have re-  
21 ceived more than at the rate of six Dollars in  
22 the hundred, for the loan or forbearance of the  
23 moneys or other things actually lent or sold; all  
24 such excess over and above the legal rate which  
25 is hereby allowed to be received, shall be void;  
26 and the debtor shall be discharged from the  
27 payment of such excess, whether arising from  
28 moneys, goods, or other things lent, exchanged,  
29 bargained, sold, or agreed for as aforesaid, un-  
30 less the creditor or creditors shall swear that he  
31 she or they have not, directly nor indirectly,  
32 wittingly taken or received more than after the  
33 rate of six dollars in the hundred, for forbear-  
34 ance or giving day of payment; and by such  
35 bond, contract, mortgage or assurance there is

36 not reserved, secured or taken more than after  
37 the rate of six per centum for forbearance or  
38 giving day of payment, for the moneys, goods  
39 or other things actually lent or sold, any law,  
40 usage or custom to the contrary notwithstanding.  
41 *Provided* nothing in this Act shall extend  
42 to letting of cattle, or other usages of the like  
43 nature in practice among farmers, or maritime  
44 contracts among merchants, as bottomry, insur-  
45 ance, or course of exchange, as hath heretofore  
46 been practised.

SECT. 4. *Be it further enacted*, That every  
2 person who, for any such loan or forbearance,  
3 shall pay or deliver any greater sum or value  
4 than is above allowed to be received, or his per-  
5 sonal representatives, may recover in an action  
6 against the person or persons who shall have  
7 taken or received the same and his or their per-  
8 sonal representatives, the amount of the money  
9 so paid or value delivered, above the rate afore-  
10 said, if such action be brought within  
11 after such payment or delivery; but this section  
12 shall not extend to any bills of exchange or  
13 promissory notes, payable to order or bearer, in  
14 the hands of an endorsee or holder, who shall  
15 have received the same in good faith, and for

16 valuable consideration, and who had not at the  
17 time of discounting such bill or note, or paying  
18 such consideration for the same, actual notice,  
19 that such bill or note, had been originally given,  
20 for a usurious consideration, or upon a usurious  
21 contract.

SECT. 5. *Be it further enacted,* That  
2 whenever a suit shall be brought in any case,  
3 where more than legal interest shall be reserved  
4 and taken, the party so reserving and taking,  
5 shall recover no costs, but shall pay to the de-  
6 fendant or defendants his costs, provided such  
7 defendant or defendants, or any one of two or  
8 more of them by his oath or plea, shall reduce  
9 the damages, by reason of such usurious interest.

SECT. 6. *Be it further enacted,* That all  
2 laws now in force inconsistent with the provis-  
3 ions of this Act, be and they are hereby re-  
4 pealed.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }  
February 24, 1834. }

ORDERED, That four hundred copies be printed for the use of  
the Legislature.

(Extract from the Journal.)

Attest, ASAPH R. NICHOLS, *Clerk.*