

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

# DOCUMENTS

PRINTED BY ORDER OF

# THE LEGISLATURE,

OF THE

# STATE OF MAINE,

DURING ITS SESSION

**A. D. 1835.**

---

*AUGUSTA:*  
WILLIAM J. CONDON,.....PRINTER.

---

1835.

---

---

FIFTEENTH LEGISLATURE.

---

NO. 33.

SENATE.

---

---

STATE OF MAINE.

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

---

---

AN ACT for the Relief of Poor Debtors.

---

SECTION 1. *Be it enacted by the Senate  
2 and House of Representatives in Legislature  
3 assembled,* That no person shall be liable to be  
4 arrested or committed to prison on mesne pro-  
5 cess, founded on any contract entered into since  
6 the first day of July, in the year of our Lord  
7 one thousand eight hundred and thirty-one, or  
8 upon any judgment rendered in any suit upon  
9 any such contract, except in conformity with  
10 the provisions of this Act; and no mesne pro-

11 cess shall run against the body of any debtor  
12 in any such contract, except as is hereinafter by  
13 this Act provided.

SECT. 2. *Be it further enacted,* That any  
2 debtor may be arrested on mesne process, found-  
3 ed on any such contract or judgment, or on any  
4 execution upon any judgment as is aforesaid,  
5 when the original debt exceeds the amount of  
6 five dollars, in case the creditor or creditors, or  
7 any of them, when two or more shall be inter-  
8 ested, or his or their agent or attorney, shall  
9 first make oath before any Justice of the Peace,  
10 and annex a certificate thereof under the hand  
11 of said Justice to the said creditor's process,  
12 that the amount or principal part of the debt  
13 claimed is actually due and unpaid, and that  
14 the said creditor, agent or attorney has sufficient  
15 reason to believe, and does believe, that the said  
16 debtor is about to change his residence or go  
17 to a residence beyond the limits of the State,  
18 with property or means exceeding the amount  
19 required for his own immediate support; and  
20 the person so arrested shall give bail to the offi-  
21 cer making said arrest, if it be on mesne pro-  
22 cess, and on his neglecting or refusing so to give

23 bail, he shall be committed by said officer to  
24 gaol in the county where such arrest was made,  
25 there to remain until he be discharged therefrom  
26 by the creditor or by due order of law, unless he  
27 shall claim to be carried before two Justices of  
27 the Peace, to disclose the actual state of his bu-  
28 siness affairs, and all his property; in which case  
29 it shall be the duty of said officer, as it shall be  
30 where such arrest is made on executions, upon  
31 which is a magistrate's certificate as is aforesaid,  
32 to carry said debtor as soon as may be and with-  
33 out unnecessary delay, before any two disinter-  
34 ested Justices of the Peace and of the Quorum,  
35 who shall be freeholders, residing in the county  
36 where such arrest shall be made, for said pur-  
37 pose, of the time and place for which he shall  
38 have given said creditor, his agent or attorney,  
39 reasonable notice; before whom said debtor shall  
40 make a full disclosure of the actual state of his  
41 business affairs, and of all and every description  
42 of property, real, personal or mixed, which such  
43 debtor may have in severalty or in common with  
44 others, of in possession, reversion or remainder,  
45 together with a particular description thereof,  
46 and where and with whom the same is in keep-

73 to said creditor, that the same may be taken by  
74 him on mesne process or execution, which said  
75 debtor shall have a right to do, and that he has  
76 acted honestly and without any collusion or  
77 fraudulent concealment relative to his property,  
78 then the execution which may issue upon the  
79 final judgment in said suit, or on any final judg-  
80 ment which may be rendered in any suit on said  
81 judgment, shall run against the property only of  
82 said debtor and not against his body; and the  
83 property he shall so disclose, describe and offer,  
84 shall be holden for thirty days after the rendi-  
85 tion of final judgment in said suit, to be taken on  
86 any execution to be issued thereon, in the same  
87 manner as if it had been attached on said writ,  
88 and the officer having said execution shall have  
89 the same right to it and remedies to recover it,  
90 as if it had been so attached; but if it shall appear  
91 in any of the cases aforesaid, that said debt-  
92 or has other property than is so exempt or offer-  
93 ed, or that he has not acted honestly, and with-  
94 out collusion, fraud or intentional concealment  
95 relative to his property, then the execution  
96 which may be issued on the final judgment that  
97 may be rendered in said suit, shall run against

72 the said creditor, or by order of law, and shall  
73 certify said judgment or order upon said writ or  
74 execution, and annex to said writ or execution  
75 said disclosure, interrogatories and answers, their  
76 adjudication and other proceedings in the case,  
77 by them signed, to be returned therewith by  
78 said officer. But in case it shall reasonably ap-  
79 pear to said Justices on said disclosure, evidence  
80 and other proceedings aforesaid, that said debt-  
81 or is not possessed of property or means of pay-  
82 ment as supposed in and by the oath of said  
83 creditor, agent or attorney, excepting such as the  
84 said debtor may then surrender or offer to said  
85 creditor, so that the same may be taken on mesne  
86 process or execution as is aforesaid, or is by law  
87 exempt from attachment and execution, the said  
88 Justices shall thereupon order the said debtor to  
89 be discharged from said arrest, which shall be  
90 complied with by the officer; but he shall make  
91 return of said writ, if said arrest were on mesne  
92 process, with his doings thereon, according to  
93 the precept thereof, which shall be a sufficient  
94 service thereof. And no execution issuing on a  
95 judgment rendered in that suit, on which such  
96 disclosure was had, shall run against the body  
97 of said debtor; and if said arrest were on execu-

98 tion, said debtor shall not thereafter be liable to  
99 arrest on that, nor on any other execution to be is-  
100 sued on the same judgment, or on any judgment  
101 to be rendered in any suit thereon, but the exe-  
102 cution aforesaid shall be retained by the officer,  
103 making said arrest, till the return day thereof,  
104 and the property of said debtor shall be liable  
105 to be taken thereon, and on any of the execu-  
106 tions last aforesaid, in the same way as if such  
107 arrest had not been made. *Provided*, that the  
108 debtor so arrested on mesne process and order-  
109 ed into imprisonment, or imprisoned on said or-  
110 der, shall be released from said arrest or im-  
111 prisonment by bond to said creditor or credit-  
112 ors, with sufficient surety or sureties, condi-  
113 tioned that he will notify the creditor or credit-  
114 ors within fifteen days after final judgment in  
115 the case, if such judgment shall be against said  
116 debtor, to attend the making of a new disclos-  
117 ure by said debtor according as is provided, it  
118 shall be done on the arrest on mesne process;  
119 and further conditioned, that so much of the  
120 property, or of the value thereof in money,  
121 which said Justices of the Peace and of the  
122 Quorum adjudged said debtor possessed of on  
123 his disclosure, made on mesne process as afore-



124 said, shall, within thirty days after the rendi-  
125 tion of said judgment, be surrendered or paid  
126 over in satisfaction thereof, as on said new dis-  
127 closure, the **J**ustices of the **P**eace and **Q**uorum  
128 before whom he shall appear, shall adjudge  
129 said debtor was possessed of at the time of his  
130 examination last aforesaid, and said notice  
131 shall be issued by any **J**ustice of the **P**eace in  
132 said county, to whom said debtor may apply,  
133 which notice shall be in the form, as near as the  
134 circumstances will admit, of the one provided  
135 for in the eleventh section hereof, and shall be  
136 returnable and served in the same way and  
137 manner as shall the notice provided for in said  
138 section; and said creditor or creditors, said  
139 debtor and **J**ustices of the **P**eace and of the  
140 **Q**uorum before whom said debtor may appear  
141 as is last aforesaid, shall have all the same  
142 rights, be subject to and perform all the same  
143 requirements, acts and duties relative to said  
144 disclosure, and certifying the adjudication of  
145 said **J**ustices, as they respectively have, are  
146 under, or are required by law to perform in the  
147 disclosure on mesne process, as is provided for  
148 in the second section hereof; and in all the pro-  
149 ceedings on disclosure or examination of a debt-

150 or required or provided for in this Act, to be  
151 had before Justices of the Peace and of the  
152 Quorum, they or any one of them in the ab-  
153 sence of the other, shall have power to adjourn  
154 from time to time, as the convenience of the  
155 parties and impartial Justice may, in their opin-  
156 ion, require, and shall receive of him at whose  
157 request said proceedings are had one dollar  
158 each, for each day he may attend on account  
159 of said examination and disclosure, and the  
160 same for travel as is claimed by Justices of the  
161 Peace for taking depositions. And when the  
162 arrest shall be by virtue of the second section  
163 hereof, and the debtor shall not be discharged  
164 by said Justice, said creditor may tax his cost  
165 of said disclosure and examination on his writ  
166 or execution, as the case may be, against said  
167 debtor, and recover and collect the same of  
168 said debtor; and the Clerk of the Court, the  
169 Judge or Justice by whom the execution may  
170 be renewed shall certify the amount thereof in  
171 the margin of the subsequent executions; and  
172 if any debtor who shall cite his or her creditor  
173 to hear him or her disclose and take the bene-  
174 fit of the oath prescribed in this Act, shall not  
175 be discharged by the Justice before whom said

176 citation may be returnable, said creditor shall  
 177 be entitled to recover of him or her said credit-  
 178 or's cost, to be taxed and allowed by said Jus-  
 179 tices, as it is for parties in suits before a Jus-  
 180 tice of the Peace, of which one of them shall  
 181 make a record, and for which he shall issue his  
 182 execution, if the same be not paid.

SECT. 3. *Be it further enacted*, That when-  
 3 ever any person shall have served upon him any  
 4 original writ or mesne process, founded upon any  
 5 debt or contract, in any other manner than by  
 6 an arrest of his body, said person may, at any  
 7 time and place to be by him and the plaintiff in  
 8 said writ agreed upon in writing, and before the  
 9 return day of said writ, go before any two Jus-  
 10 tices of the Peace and of the Quorum named in  
 11 the second section hereof, whom they may se-  
 12 lect by said agreement, and before them disclose  
 13 the actual state of his business affairs, and an-  
 14 swer interrogatories, and sign and make oath to  
 15 all the same, in the manner specified in said se-  
 16 cond section. Or if said debtor shall not  
 17 have so appeared and disclosed before said  
 18 Justices in manner as is last aforesaid, he  
 19 may, on the return day of said writ, or on  
 20 any day to which the suit may be continued,

21 appear before the Justices, Judge or Court,  
22 before which said writ may be returnable, or  
23 before a commissioner or commissioners, to be  
24 appointed by said Judge or Court, and then  
25 and there disclose the actual state of his busi-  
26 ness affairs, and answer interrogatories, and  
27 sign and make oath to the same in manner as  
28 is aforesaid; and it shall be the duty of said  
29 two Justices of the Peace and of the Quorum,  
30 on application as aforesaid of said debtor and  
31 creditor, and of said Justice, Judge and Court  
32 before which said writ may be returnable, or  
33 the commissioner to be appointed as aforesaid,  
34 to hear and take the said disclosure and an-  
35 swers of said debtor, and the other evidence  
36 either party may produce pertinent to the mat-  
37 ter, and said creditor shall have the same right  
38 to put interrogatories and produce other evi-  
39 dence, and the said debtor shall have the same  
40 right, and be bound to the same duties, rela-  
41 tive to this disclosure and the proceedings  
42 relative thereto, and the said Justices of the  
43 Peace and Quorum last aforesaid, and the  
44 Justice of the Peace, Judge or Court before  
45 whom or which said writ may be returnable,  
46 and said commissioners, shall each have the

47 same rights and powers, and perform the same  
48 duties which the creditor, debtor and Justices  
49 of the Peace and Quorum named in the second  
50 section hereof respectively have, are under, or  
51 must perform, relative to the disclosure therein  
52 named, and the proceedings relative thereto;  
53 and it shall be the duty of said Justices of the  
54 Peace and Quorum so selected, and before  
55 whom any such disclosure may be had, and of  
56 said commissioners before whom any such dis-  
57 closure may be had, to certify their opinion  
58 and judgment concerning the same, upon said  
59 disclosure, and the same, with all the papers  
60 and other evidence in the case, to return to  
61 the Justice, Judge or Court before whom or  
62 which said writ was returnable or may be pend-  
63 ing, and if it shall appear to said Justice of the  
64 Peace, Judge or Court before whom the said  
65 writ was returnable, or may be pending, from  
66 any examination or disclosure aforesaid had be-  
67 fore them, or from the certificate aforesaid of  
68 said Justices of the Peace and of the Quorum,  
69 or of said commissioners, that said debtor has  
70 not any property, except such as may be by law  
71 exempt from attachment and execution, or such  
72 as he has disclosed and so described and offered

73 to said creditor, that the same may be taken by  
74 him on mesne process or execution, which said  
75 debtor shall have a right to do, and that he has  
76 acted honestly and without any collusion or  
77 fraudulent concealment relative to his property,  
78 then the execution which may issue upon the  
79 final judgment in said suit, or on any final judg-  
80 ment which may be rendered in any suit on said  
81 judgment, shall run against the property only of  
82 said debtor and not against his body; and the  
83 property he shall so disclose, describe and offer,  
84 shall be holden for thirty days after the rendi-  
85 tion of final judgment in said suit, to be taken on  
86 any execution to be issued thereon, in the same  
87 manner as if it had been attached on said writ,  
88 and the officer having said execution shall have  
89 the same right to it and remedies to recover it,  
90 as if it had been so attached; but if it shall appear  
91 in any of the cases aforesaid, that said debt-  
92 or has other property than is so exempt or offer-  
93 ed, or that he has not acted honestly, and with-  
94 out collusion, fraud or intentional concealment  
95 relative to his property, then the execution  
96 which may be issued on the final judgment that  
97 may be rendered in said suit, shall run against

98 said debtor's body as well as his property, as it  
 99 shall in all cases when no such disclosure has  
 100 been had before issuing the same, and not here-  
 101 in otherwise provided for. And if said debtor  
 102 shall not, before the return day of said writ,  
 103 have administered to him the oath provided  
 104 in this Act, by the Justices so by him and said  
 105 creditor in writing agreed upon, said creditor,  
 106 if he shall have attended at the time aforesaid  
 107 so agreed upon shall, on filing with said Justic-  
 108 es said writing, recover his costs against said  
 109 debtor, to be by them taxed and allowed as it  
 110 is for parties in suits before Justices of the  
 111 Peace, of which one of them shall make a rec-  
 112 ord and issue his execution thereon.

SECT. 4. *Be it further enacted,* That  
 2 no person shall be liable to be arrested or com-  
 3 mitted to prison, on any execution issued upon  
 4 any judgment founded on contract, or on any  
 5 execution issued on any judgment, founded on a  
 6 former judgment, rendered in any suit upon con-  
 7 tract, unless the debt or damage in the original  
 8 judgment, shall exceed the sum of five dollars;  
 9 and it shall be the duty of the Clerks of Courts,  
 10 and Justices of the Peace, who may issue execu-

11 tions upon such judgments, so to vary the form of  
 12 executions, as that the same shall not run against  
 13 the bodies of such debtors.

SECT. 5. *Be it further enacted, That*  
 2 whenever any person who is or may be imprison-  
 3 ed in any gaol on mesne process, or execution,  
 4 in any civil suit, except the case provided for in  
 5 the second section hereof, and in the Act enti-  
 6 tled an Act, giving further remedy in cases of  
 7 wilful trespass, passed the fourteenth day of  
 8 February, A. D. 1833, shall give bond to the  
 9 creditor, with one or more sureties, approved by  
 10 the creditor, or two Justices of the Peace, *quo-*  
 11 *rum unus*, in double the amount for which he  
 12 is imprisoned, unconditioned, if said commitment  
 13 be on mesne process, the same it would have  
 14 been if given on said arrest, and before commit-  
 15 ment; and, if on execution, that within six  
 16 months from the time of giving said bond, he  
 17 will surrender himself, and go into close confine-  
 18 ment; or pay the debt and costs, with interest,  
 19 and fees for which he was committed, or cite  
 20 said creditor and disclose the state of his busi-  
 21 ness affairs, and make answer and take the  
 22 oath, in the same way and manner it is provid-



23 ed a debtor may cite his creditor, disclose, an-  
 24 swer and take the oath, by the 13th, 14th and  
 25 15th sections hereof, he shall be discharged from  
 26 close confinement on said writ or execution, by  
 27 the keeper of said gaol, and be permitted to go  
 28 at large.

SECT. 6. *Be it further enacted, That*  
 2 any bond which may be given, by any debtor,  
 3 to obtain his discharge from close confinement,  
 4 in gaol, as is provided in the last section, shall  
 5 be discharged and void, whenever the principal  
 6 therein shall surrender himself, or be surrendered  
 7 by his surety, to the keeper of the prison where  
 8 said bond was given, reserving, however, the  
 9 right of the creditor to recover for a breach  
 10 thereof, before such surrender; and such sur-  
 11 rendered principal, shall be in custody of the  
 12 gaol keeper, under the execution or writ, in  
 13 which the bond was given, as fully as on the  
 14 first commitment: *Provided, however, That*  
 15 after such surrender, said principal shall be enti-  
 16 tled, in giving bond anew, to the same privilege,  
 17 as he was or would be, before such surrender.

SECT. 7. *Be it further enacted, That any*  
 2 principal surrendered by his bail, (either on

3 mesne process, or action of *scire facias* against  
 4 the bail, shall, on giving bond, similar to that in  
 5 this Act provided, be released from close con-  
 6 finement, in the same manner as if he had given  
 7 such bond after commitment on the original  
 8 writ or execution.

SECT. 8. *Be it further enacted,* That no  
 2 Sheriff, Gaoler, or Prison keeper, shall hereaf-  
 3 ter be chargeable to the creditor, if any person  
 4 who has been or may hereafter be imprisoned  
 5 for debt, either upon mesne process or execution,  
 6 for an escape in consequence of allowing any  
 7 debtor to go at large from close confinement, on  
 8 his giving bond as is provided in the fifth section  
 9 hereof, notwithstanding such bond, from acci-  
 10 dent, mistake, or misapprehension, may not have  
 11 been given for double the sum for which he is or  
 12 was imprisoned.

SECT. 9. *Be it further enacted,* That if  
 2 the creditor or creditors shall refuse to take the  
 3 bond, the same shall be left with the gaol keeper,  
 4 until the creditor or creditors shall demand the  
 5 same; and upon putting such bond in suit, when  
 6 the condition shall be broken, judgment shall be  
 7 entered up, against the principal, for the whole  
 8 penalty, and no chancery shall be allowed there-

9 in; but against the surety in said bond, judg-  
 10 ment shall not be entered for a greater sum than  
 11 the original debt, costs and interest, with cost  
 12 of suit; but a separate judgment may be enter-  
 13 ed against the principal for the penalty of the  
 14 bond.

SECT. 10. *Be it further enacted,* That no  
 2 action shall hereafter be maintained, for the  
 3 breach of any bond given or to be given, as is  
 4 provided in the fifth and seventh sections hereof,  
 5 unless such action be brought within one year  
 6 from and after such breach.

SECT. 11. *Be it further enacted,* That when  
 2 any person, committed by force of any execution,  
 3 except in such cases as is provided for in the  
 4 second . . . sections hereof, shall make writ-  
 5 ten complaint to the keeper of the gaol to which  
 6 he was committed, that he or she hath not es-  
 7 tate sufficient to support him or her in prison,  
 8 said keeper of the gaol shall, on such complaint,  
 9 apply to one of the Justices of the Peace in and  
 10 for said County in which such prison is, who  
 11 shall thereupon make out a written notification  
 12 under his hand and seal, thereby signifying to  
 13 the creditor or creditors, such prisoner's desire  
 14 of taking the privilege and benefit of the oath or

15 affirmation, allowed and provided in the thir-  
 16 teenth section of this Act, and the time and  
 17 place appointed for the intended caption of said  
 18 oath or affirmation, which may be served by the  
 19 Sheriff, his deputy, or a constable, or the cred-  
 20 itor or creditors, of said debtor, if he, she, or  
 21 they, live within the State, his or her executor  
 22 or administrator; and if such creditor or credi-  
 23 tors live out of the State, upon his, her, or their  
 24 agent or attorney, either by reading the same to  
 25 him or her, by giving to him or her an attested  
 26 copy thereof, in hand, or leaving such copy at  
 27 the last and usual place of abode of such credi-  
 28 tor or creditors, agent or attorney, as aforesaid,  
 29 at least fifteen days before the time appointed  
 30 for the taking said oath or affirmation, that he,  
 31 she or they, may be present, if they see cause:  
 32 *Provided*, That if any creditor or creditors live  
 33 out of the State, and have no agent or attorney  
 34 living in the same, an attested copy of such no-  
 35 tification, shall be left with the Clerk of the  
 36 Court, or the Justice by whom said execution  
 37 was signed, at least fifteen days before such in-  
 38 tended caption.

SECT. 12. *Be it further enacted*, That any  
 2 two Justices of the Peace and of the Quorum,

3 within and for said County, who shall be disin-  
4 terested and freeholders, are hereby authorized  
5 and empowered at the time and place ap-  
6 pointed for the taking said caption, to examine  
7 said notification and the return thereof, and if  
8 they shall appear to be in due form and duly  
9 made, to proceed to hear and take in writing the  
10 disclosure of said debtor, his answers to interro-  
11 gations and to hear and take the other evidence  
12 to be offered by either party, in manner as is  
13 provided in the second section hereof, and in  
14 case any such debtor shall neglect to make the  
15 disclosure aforesaid, or to make answer to such  
16 interrogations pertinent to the matter, as the  
17 executor, creditor or creditors, his or their attor-  
18 ney, may see fit to propound in writing, or to  
19 sign and make oath to the truth and justness of  
20 said disclosure and answers; or in case any such  
21 debtor shall comply with the foregoing requisi-  
22 tions of this act in making said disclosure, and  
23 answering said interrogations, which shall be  
24 signed and sworn to by said debtor, in the pres-  
25 ence of said Justices, and it shall not clearly ap-  
26 pear to said Justices upon the disclosure, an-  
27 swering to interrogations, and other evidence in  
28 the case, which each party shall have a right to

29 produce, that said debtor has conducted honest-  
30 ly, without collusion, fraud, or intentional con-  
31 cealment respecting his property, and that said  
32 debtor is unable to satisfy said execution, with-  
33 out the aid of property exempt by law from at-  
34 tachment and execution, or that he cannot for  
35 other causes with propriety and honestly, take  
36 the oath herein prescribed; then, in either case,  
37 said Justices shall adjudge said debtor, not en-  
38 titled to the benefit and privilege of said oath or  
39 affirmation, and said creditor or attorney shall  
40 have a right to receive the said disclosure, in-  
41 terrogations and answers made by any débtor,  
42 in any such notification, certified by said Justi-  
43 ces, for which he shall pay them the same fees,  
44 (travelling fees excepted,) as for taking a deposi-  
45 tion of same length; and it shall be the duty of  
46 one of said Justices, to make proper entries and  
47 records of their proceedings upon all such notifi-  
48 cations aforesaid, returned before them, and to  
49 enter up judgment in due form, as in other cases.

SECT. 13. *Be it further enacted,* That in  
2 case it shall clearly appear to the aforesaid Jus-  
3 tices, upon the disclosures, interrogations and  
4 answers, and other proof of the parties made  
5 and produced as aforesaid, that the said execu-

6 tion debtor has conducted honestly, without  
 7 collusion, fraud, or intentional concealment res-  
 8 pecting his property, and that he is unable to  
 9 satisfy said execution, without the aid of prop-  
 10 erty exempt by law from attachment and exe-  
 11 cution, and the property disclosed by him, and  
 12 according to the twentieth section hereof, offer-  
 13 ed to said creditor, as not so exempted, the said  
 14 Justices shall adjudge said debtor entitled to the  
 15 privilege and benefit of this Act, and shall pro-  
 16 ceed to administer to said debtor, if he be will-  
 17 ing to take the oath or affirmation, in the form  
 18 following, to wit :—

I ————— do solemnly swear, (or affirm, as the case may be,) that I have not any estate, real or personal, in possession, reversion or remainder, except the goods and chattels exempted by law from attachment and execution; and that I have not since the commencement of this suit against me, or at any other time, directly or indirectly, sold, loaned, leased, or otherwise disposed of, or conveyed or entrusted, to any person or persons whomsoever, all or any part of the estate, real or personal, whereof I have been possessed, or been the lawful owner, with any intent or design, to secure the same, or to receive or to expect any profit, gain, remuneration or advantage therefor personally, or that any or all of my family, heirs, or friends should receive or expect any profit, advantage, or benefit therefrom; that I have not since the commencement of said suit against me, applied or disposed of any of my said property to the payment in whole or in part of any debt or demand, owed by me, or for which I was liable at that time, or have caused or suffered to be done any thing else whatsoever, whereby any of my creditors might have been or may be defrauded, **So HELP ME God.** (or this I do under the pains and penalties of perjury, as the case may be.)

19 which oath or affirmation, being administered  
 20 by said Justices to, and taken by said debtor,  
 21 said Justices shall make out a certificate thereof,  
 22 under their hands and seals, to such gaoler or  
 23 prison keeper, and deliver it to the said debtor,  
 24 in the form following, to wit :—

*W*——, ss. *To* —— *Keeper of the Gaol at* ——.

[SEAL.] We, the subscribers, two disinterested Justices of  
 [SEAL.] the Peace, and of the Quorum, in and for said  
 County of *W*——, and each of us freeholders, hereby cer-  
 tify, that (*A— B—*), a poor prisoner, committed upon execu-  
 tion for debt, to the gaol at —— aforesaid, hath caused (*C—*  
*D—*), the creditor at whose suit he was so committed, to be  
 notified according to law, of his the said (*A— B—*'s,) desire of  
 taking the benefit of the Act, entitled an Act for the relief of  
 Poor Debtors; that in our opinion, he was clearly entitled to  
 have the oath prescribed in said act, administered to him by us;  
 and that we have, after due caution to him, administered said  
 oath to him. Witness our hands and seals, this —— day of ——  
 Anno Domini, ——

*E— F—*, } *Justices*  
*G— H—*, } *aforesaid.*

25 and the said debtor on delivering said certificate  
 26 to said gaoler or prison keeper, on filing it in his  
 27 office, shall be thereby discharged and set at lib-  
 28 erty from commitment on the execution concern-  
 29 ing which said notification issued, and the body  
 30 of said debtor shall forever thereafter be free  
 31 from liability to arrest and imprisonment on said  
 32 execution, and on every other execution which  
 33 may be issued on the same judgment, or on any



34 subsequent judgment, rendered in a suit on said  
35 judgment.

SECT. 14. *Be it further enacted, That*  
2 whenever the body of any debtor shall have been  
3 arrested or committed to gaol on any writ or ex-  
4 ecution, his creditor may discharge said debtor  
5 from such arrest or imprisonment, without af-  
6 fecting or discharging the judgment upon which  
7 said execution issued, by giving to the officer  
8 who made the arrest, or by leaving with the  
9 keeper of the gaol, a written permission to go at  
10 large; and such discharge shall not operate to  
11 release the debtor from the debt or costs on  
12 which he was arrested or committed, but such  
13 debt and cost, shall be and remain a legal claim  
14 against the goods and estate of such debtor, but  
15 the body of such debtor, so released, shall be  
16 forever thereafter exempted from arrest and im-  
17 prisonment upon such execution, and upon any  
18 execution which may be obtained in virtue of the  
19 judgment upon which such execution issued;  
20 and whenever such discharge shall have been  
21 from arrest or commitment on execution, or when  
22 any debtor shall be discharged on the certificate  
23 of any two Justices of the Peace and of the

24 Quorum, who allowed to said debtor, the oath  
25 provided for in this act, and the return day of  
26 said execution has not arrived, the creditor by  
27 procuring the sheriff or gaoler to certify a true  
28 copy of such permission or certificate, upon such  
29 execution, may cause the same execution to be  
30 levied on any real or personal estate of such  
31 debtor, in the same manner as he might have  
32 done before the arrest and commitment of such  
33 debtor, or on the return of such execution, with  
34 the doings of the officer who executed the  
35 same, together with the certificate of the Sher-  
36 iff, gaoler, or of said Justices of the Peace and  
37 of the Quorum, of the debtor's discharge from  
38 his commitment, at any time before the return  
39 day thereof, the creditor may have the same re-  
40 newed in the same manner as after the return  
41 day thereof.

SECT. 15. *Be it further enacted,* That  
2 whenever any person shall have been convicted of  
3 any offence against Government, and shall have  
4 suffered the penalties of the law therefor, and  
5 cannot therefore be admitted as a witness in any  
6 civil or criminal action, and shall be committed  
7 for debt, and being poor and unable to pay pris-  
8 on charges, the same person may be admitted to

.9 the oath prescribed by this Act, he or she con-  
 10 forming to all the requisitions in this Act pre-  
 11 scribed.

SECT. 16. *Be it further enacted,* That if  
 2 any prisoner or defendant shall, in any of the  
 3 cases provided for in the foregoing sections here-  
 4 of, be convicted of having sold, leased or other-  
 5 wise conveyed or concealed, or disposed of, en-  
 6 trusted or applied his or her estate or any part  
 7 thereof, directly or indirectly, contrary to his or  
 8 her foregoing oath or affirmation, he or she shall  
 9 not only be liable to the pains and penalties of  
 10 wilful perjury, but shall receive no benefit from  
 11 said oath or affirmation. And the creditor of  
 12 any prisoner or defendant, to whom, in any of  
 13 the cases provided for in the preceding sections,  
 14 said oath may be administered, may commence  
 15 against said defendant or prisoner a special ac-  
 16 tion on the case for having sold, leased or other-  
 17 wise conveyed or concealed, or disposed of, en-  
 18 trusted or applied his or her estate or any part  
 19 thereof, contrary to his or her foregoing oath or  
 20 affirmation, and on said creditors, or any one of  
 21 them, his, her or their agent or attorney making  
 22 oath before any Justice of the Peace in his coun-

23 ty, that the declaration in said writ is substan-  
24 tially true and correct, and annexing to said writ  
25 said Justice's certificate of said oath, said cred-  
26 itor may cause said prisoner or defendant to be  
27 arrested and held to bail; and if judgment in said  
28 suit shall be rendered against said prisoner or de-  
29 fendant, he may be arrested and committed to  
30 gaol on any execution which may issue on said  
31 judgment, and he shall not be permitted to go  
32 at large on giving any bond provided for in this  
33 Act, but shall be held in close confinement on  
34 the same till satisfied; and every person who  
35 shall knowingly aid or assist any such prisoner  
36 or defendant in such fraudulent transactions,  
37 shall be answerable and chargeable to the cred-  
38 itor in double the value of the goods, money or  
39 effects, concerning which said aid or assistance  
40 was, in a special action on the case; and in case  
41 such prisoner, at the time of the intended cap-  
42 tion, shall not take the said oath or affirmation,  
43 or be not admitted thereto by the said Justices,  
44 he shall not be released from prison, and shall  
45 not be entitled to the benefit of this Act, unless  
46 a new notification be made out and served in  
47 manner as aforesaid.

SECT. 17. *Be it further enacted,* That all  
 2 and every judgment obtained against such pris-  
 3 oners, shall, notwithstanding such discharge, as  
 4 aforesaid, be, and remain good and effectual in  
 5 law, to all intents and purposes, against any es-  
 6 tate whatsoever, which may then, or at any  
 7 time afterwards, belong to him or her; and the  
 8 creditor or creditors, agent or attorney, their ex-  
 9 ecutors or administrators may take out a new  
 10 execution against the lands, tenements, heredit-  
 11 aments, goods and chattels of such prisoner, (the  
 12 goods and chattels by law exempted from at-  
 13 tachment and distress only excepted,) for the  
 14 satisfaction of the debt, in such manner as might  
 15 have been done in case the said prisoner had  
 16 never been taken in execution.

SECT. 18. *Be it further enacted,* That when-  
 2 ever a debtor in execution, having goods, effects,  
 3 or credits, to the amount of *thirty dollars*, or  
 4 more, shall spend or use the same, or so much  
 5 thereof, for his subsistence, as shall amount to  
 6 the sum upon which he is committed in execu-  
 7 tion, without giving the creditor, his agent or  
 8 attorney, notice where, and of what kind they  
 9 are, and enabling him, if he thinks proper, to

10 accept the same, or such part of them as will  
 11 amount to the debt for which he is in execution, in  
 12 satisfaction thereof, such neglect shall be esteem-  
 13 ed and taken as a fraudulent transaction in the  
 14 debtor; and every person, who shall knowingly  
 15 aid and assist a debtor in such fraudulent trans-  
 16 actions, shall be answerable and chargeable to  
 17 the creditor, to double the full value of the  
 18 money, goods or effects by him or them thus se-  
 19 creted, spent, or embezzled, in a special action  
 20 on the case.

SECT. 19. *Be it further enacted,* That when-  
 2 ever any dispute shall arise about the price of  
 3 articles provided by the gaoler, for a prisoner  
 4 while in prison, under his custody, the Court of  
 5 County Commissioners for the county in which  
 6 such gaol stands, shall be, and hereby are fully  
 7 authorized to hear, and finally to determine all  
 8 such disputes.

SECT. 20. *Be it further enacted,* That  
 2 if any person who may be hereafter imprisoned  
 3 for debt, on execution, shall not within six  
 4 months after being first admitted to go at large,  
 5 by giving bond as aforesaid, be discharged ac-  
 6 cording to law, such person shall no longer be  
 7 entitled to be at large; but it shall be the du-

8 ty of the gaol-keeper, from and after the expi-  
 9 ration of six months, to hold such person in close  
 10 confinement until lawfully discharged therefrom ;  
 11 and if such person shall not, within three days  
 12 after the expiration of said six months, surren-  
 13 der himself to the gaol-keeper, and go into close  
 14 confinement, it shall be deemed a breach of the  
 15 condition of said bond.

SECT. 21. *Be it further enacted, That*  
 2 whenever in any disclosure, made or had before  
 3 any Justices of the Peace and of the Quorum,  
 4 pursuant to the provisions of this act, at the de-  
 5 sire of the execution debtor, the execution he  
 6 shall disclose, describe, and offer, to said credi-  
 7 tor or creditors, any and all the estate, real and  
 8 personal, belonging to said debtor, and not ex-  
 9 empted by law from attachment and execution,  
 10 so that the same may be taken in execution, the  
 11 said debtor, if he shall be adjudged by said Jus-  
 12 tices entitled to the privilege and benefit of this  
 13 Act, and may be admitted to take the oath pre-  
 14 scribed in the thirteenth section of this Act, by  
 15 adding thereto after the word "execution,"  
 16 "and the estate, real, (or personal, as the case  
 17 may be,) disclosed, described, and offered, as  
 18 required by law in satisfaction of the execution

19 whereon I have been notified to disclose;" and  
20 the creditor shall have a lien on both the person-  
21 al and real estate, so disclosed and described,  
22 and offered, or so much thereof as shall be requi-  
23 site to satisfy said execution, for the term of  
24 thirty days after the time of such offer; and if  
25 the debtor shall transfer, conceal, or otherwise  
26 dispose of, or suffer to be transferred, concealed  
27 or otherwise disposed of, the personal estate so  
28 offered, within the period aforesaid, and after  
29 taking the oath or affirmation aforesaid, or if he  
30 shall refuse to surrender the same, within a  
31 reasonable time, to the demand of said creditor  
32 or creditors, that the same may be taken in ex-  
33 ecution if demanded within the thirty days afore-  
34 said, then said debtor shall receive no benefit  
35 from the said oath or affirmation, but said cred-  
36 itor or creditors shall be entitled to recover,  
37 against said debtor, in an action on the case,  
38 founded on such transfer, concealment, or other  
39 disposal of the property of said debtor as afore-  
40 said, double the amount of said execution; and  
41 an execution shall be issued on the judgment  
42 that shall be rendered in such action, running  
43 against the body of said debtor, authorizing and  
44 commanding his arrest, and commitment to pris-



45 on, without the reservation to him of any right to  
46 bail, or the benefit of the provisions of this Act.

SECT. 22. *Be it further enacted,* That when-  
2 ever any person is, or may be committed to pris-  
3 on by virtue of any warrant for the collection of  
4 any tax, and shall give bond to the Treasurer  
5 from whom such warrant issued, with one or  
6 more sureties, approved by such Treasurer, or  
7 two Justices of the Peace, *Quorum unus*, in  
8 double the amount for which he is imprisoned,  
9 conditioned as provided in the fourth section of  
10 this Act, the gaol-keeper shall release him from  
11 close confinement.

SECT. 23. *Be it further enacted,* That when  
2 any person, standing committed to prison by vir-  
3 tue of any warrant for the collection of any tax,  
4 rate or assessment, shall complain that he or she  
5 hath not estate sufficient to support him or her-  
6 self in prison, the gaoler, or keeper of such pris-  
7 on, shall, on such complaint, apply to one of the  
8 Justices of the Peace, within and for the county  
9 in which such prison is, who shall thereupon  
10 make out a notification, in writing, under his  
11 hand and seal, thereby signifying to the Assess-  
12 ors of the town, plantation or parish, where such  
13 tax, rate or assessment was made, and also to

14 the Constable or Collector who executed such  
 15 warrant, such prisoner's desire of taking the  
 16 privilege and benefit, and of the time and place  
 17 appointed for the intended caption, of the oath  
 18 or affirmation allowed by this Act; which noti-  
 19 fication shall be served on such Assessors, and  
 20 Constable or Collector, by leaving an attested  
 21 copy thereof, at the office of such Assessors, or  
 22 at the usual place of abode of any one of them;  
 23 and also at the usual place of abode of such Con-  
 24 stable or Collector, at least thirty days before  
 25 the time appointed for the taking the said oath  
 26 or affirmation, that they may be present if they  
 27 see cause.

SECT. 24. *Be it further enacted,* That any  
 2 two Justices of the Peace and of the Quorum, of  
 3 the same County, being disinterested, shall be,  
 4 and hereby are authorized and required, at the  
 5 time and place appointed in such notification,  
 6 and upon the examination of the return thereof,  
 7 and a full hearing of the parties who shall and  
 8 may appear thereupon, and no sufficient cause  
 9 to the contrary, in the opinion of either of the  
 10 said Justices, being shewn, and after due cau-  
 11 tion and examination of such prisoner to proceed  
 12 to administer an oath, or affirmation, in the  
 13 form following, to wit:

I do solemnly swear before Almighty God, (or I do affirm, as the case may be,) that I had not, at the time of my imprisonment, by (naming the said Collector or Constable) nor have I, at this time, any lands, goods, money, or demands, whereby to satisfy the sum at which I am assessed in the list or warrant of taxes committed to him to collect, and for which I am now holden in prison, or for the payment of any part of that sum, my necessary apparel and some other articles not liable to be distrained for taxes, and what has been expended for my necessary support while in prison, only excepted; nor have I, at any time before, or since my said imprisonment, disposed, or intrusted, to any person or persons, any estate, either real or personal, whereby to avoid such payment. So help me God—(or this I do under the pains and penalties of perjury, in case of affirming, as aforesaid.)

14 which oath or affirmation being administered by  
 15 the said Justices to, and taken by such prison-  
 16 er, and a certificate thereof made under the  
 17 hands and seals of the Justices administering the  
 18 same, to such gaoler, or prison keeper, he shall  
 19 thereupon set such prisoner at liberty, if he or  
 20 she is in prison for no other cause; and the body  
 21 of such prisoner shall not be held in prison any  
 22 longer upon such warrant or commitment. which  
 23 certificate to be made by the Justices aforesaid,  
 24 shall be in form following, to wit:

S———ss. To *Keeper of the Gaol of C———*.

We, the subscribers, two of the Justices of the Peace and of the Quorum, for the county of S. hereby certify, that A. B. a poor prisoner, confined by warrant for taxes, in the gaol at C. aforesaid, hath caused the Assessors of the town, district, or parish, (as the case may be,) by virtue of whose warrant the said was so confined, and also (naming the said Constable or Collector who executed such warrant) to be notified according to law, of the said A. B.'s desire of taking the benefit of an Act, entitled "An Act for the relief of poor

debtors;" and no sufficient cause to the contrary being shewn—  
 We have, after due caution and examination of the said A. B.  
 administered to him or her the oath or affirmation prescribed in  
 the Act aforesaid. Witness our hands and seals, this  
 day of                    Anno Domini,

25 and the said Justices, or either of them, (if only  
 26 one be present,) may adjourn to a future day, if  
 27 he or they shall judge it to be necessary.

SECT. 25. *Be it further enacted,* That all  
 2 and every warrant for taxes as aforesaid, against  
 3 such prisoner, shall, notwithstanding such dis-  
 4 charge as aforesaid, be, and remain good and  
 5 effectual in law, to all intents and purposes,  
 6 against any estate whatsoever, which may then,  
 7 or at any time afterwards belong to him or her,  
 8 (his wearing apparel and other articles not lia-  
 9 ble to be distrained for taxes only excepted,) and  
 10 may be carried into execution for the satisfac-  
 11 tion of such taxes, out of such estate, in such  
 12 manner as might have been done in case the  
 13 said prisoner had never been committed as  
 14 aforesaid: Or the Constable or Collector, who  
 15 shall make such commitment, or the inhabitants  
 16 of such town or place where such tax was as-  
 17 sessed, shall, and may have a remedy therefor,  
 18 by a suit or action, as for the proper debt of  
 19 such Constable, Collector, or inhabitants; any  
 20 judgment to be recovered thereupon, to be satisfi-

21 ed only from the goods or estate of such poor per-  
22 son, who shall, and may be relieved by this Act.

SECT. 26. *Be it further enacted,* That any  
2 person who shall take the oath, or make the af-  
3 firmation aforesaid, having had at the time of  
4 his or her commitment as aforesaid, or after-  
5 wards, and before or at the time of taking such  
6 oath, or affirmation, any lands, goods, money,  
7 or demands, other than therein excepted, and  
8 whereby he or she might have discharged the  
9 said rates, or taxes, or any part thereof, or hav-  
10 ing disposed of, or intrusted his or her estate,  
11 contrary to the tenor of the said oath, and shall be  
12 thereof duly convicted before the Justices of the  
13 Supreme Judicial Court of this State, he or she,  
14 so therein offending, shall suffer the pains and  
15 penalties of wilful perjury, which are or shall be  
16 in other cases provided. And in case such pris-  
17 oner, at the time of the intended caption, shall  
18 not take the said oath or affirmation, or not be  
19 admitted thereto by the said Justices, he or she  
20 shall be remanded back to prison, and shall not  
21 be entitled to the benefit of this Act, unless up-  
22 on a repetition of the proceedings aforesaid, the  
23 oath or affirmation aforesaid shall be administer-  
24 ed.

SECT. 27. *Be it further enacted,* That  
2 whenever any creditor who may have caused  
3 his debtor to be arrested, or committed to pris-  
4 on on execution, shall think proper to discharge  
5 such debtor from such arrest, or from prison, he  
6 shall have the right so to do, without affecting  
7 or discharging the judgment upon which such  
8 execution issued, by giving to the officer who  
9 made the arrest, or by leaving with the keeper  
10 of the gaol, a written permission for such debtor  
11 to go at large; and such discharge shall not ope-  
12 rate to release the debtor from the debt and  
13 costs on which he was arrested, or committed,  
14 but such debt and costs shall be and remain a  
15 legal claim against the goods and estate of such  
16 debtor; but the body of such debtor, so released,  
17 shall be forever thereafter, exempted from arrest  
18 and imprisonment upon such execution, and up-  
19 on any execution which may be obtained in vir-  
20 tue of the judgment upon which such execu-  
21 tion issued.

SECT. 28. *Be it further enacted,* That  
2 whenever the keeper of any prison, when any  
3 person may be committed to prison upon mesne  
4 process, or execution, shall require of the credit-  
5 or, his or her attorney, security for the payment of

6 the expense of supporting such debtor, in case  
 7 he or she shall claim relief as a pauper, it shall  
 8 be lawful for, and the duty of such prison keep-  
 9 er, to discharge such debtor from prison, on such  
 10 commitment, unless satisfactory security is giv-  
 11 en, within eight days after such request, or mon-  
 12 ey advanced for the support of such debtor,  
 13 while he or she shall remain in close confine-  
 14 ment: *Provided*, That such discharge shall not  
 15 operate to release the debt or cost, on which  
 16 such debtor was imprisoned.

SECT. 29. *Be it further enacted*, That an  
 2 Act, entitled "An Act for the relief of poor  
 3 debtors," passed the ninth day of February  
 4 A. D. 1822, also an Act entitled "an Act for  
 5 the abolition of imprisonment of honest debtors  
 6 for debt," passed the thirty first day of March  
 7 A. D. 1831, also an Act entitled "an addi-  
 8 tional Act for the relief of poor debtors," pass-  
 9 ed the twenty ninth day of February A. D.  
 10 1828, be, and the same hereby are repealed, re-  
 11 serving however to all persons all rights acquir-  
 12 ed under and by virtue of said Acts, or any of  
 13 them, provided that none of the Acts which  
 14 were repealed by said Acts, or any of them,  
 15 shall be thereby revived.

STATE OF MAINE.

The foregoing Bill was ordered to lie on the table, and 500 copies to be printed for the use of the Legislature.

[Extract from Journal.]

(Attest,) WILLIAM TRAFTON, *Secretary.*