

MAINE STATE LEGISLATURE

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Fifty-Seventh Legislature.

HOUSE.

No. 146.

STATE OF MAINE.

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

AN ACT to provide additional remedies for the enforcement of judgment.

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

SECTION 1. The supreme judicial court in any
2 county, from time to time shall appoint such number
3 of commissioners, and in such localities in the county
4 as the court shall determine to be necessary for the
5 purposes of this act, which commissioners shall be
6 sworn and hold office during the pleasure of the court.

SECT. 2. The owner of any judgment remaining un-
2 satisfied in any part may have a disclosure of the
3 judgment debtor's business affairs at any time by pro-
4 ceeding as hereinafter mentioned.

SECT. 3. Such owner shall make application in

2 writing to a commissioner of the county in which the
3 judgment debtor resides, stating the amount of said
4 judgment, the court and term at which it was ren-
5 dered, the names of the original parties, the title
6 of the petitioner, and the amount remaining due on
7 the judgment, and praying for a subpoena to issue to
8 the debtor to appear and make disclosure.

SECT. 4. The commissioner, upon such application,
2 shall issue under his hand and seal a subpoena to the
3 debtor, commanding him to appear before said com-
4 missioner at a time and place within said county named
5 in the subpoena, to make full and true disclosure on
6 oath of all his business and property affairs. The
7 application shall be annexed to the subpoena.

SECT. 5. The subpoena may be served by any offi-
2 cer qualified to serve civil process in said county, and
3 as other subpoenas are served. The debtor shall have
4 twenty-four hours notice for every twenty miles travel
5 from his home, or place of abode at time of service, to
6 the place of disclosure.

SECT. 7. At the time and place named in the sub-
2 poena the debtor shall make, on oath before the said
3 commissioner, a full and true disclosure of all matters
4 relating to the condition of his property and means,
5 and resources, to transfers, conveyances and gifts
6 by him made or suffered, to claims against him,

7 to his accounts with others, and to the disposition of
8 his property and earnings. He may be examined by
9 the petitioner upon all such matters, and shall produce
10 all books and papers pertaining thereto. The disclos-
11 ure shall be reduced to writing if the petitioner re-
12 quire, and signed by the debtor.

SECT. 8. If it shall satisfactorily appear to said com-
2 missioner from said disclosure, that the debtor has in
3 his possession or under his control any coin, or United
4 States or national bank note currency, or any personal
5 property, that cannot be reached to be taken on execu-
6 tion, and is not exempt therefrom, he may require the
7 said debtor to deliver to said petitioner enough of said
8 coin or currency at its par value, or of said other prop-
9 erty at its appraised value, to satisfy the amount due
10 on said judgment with the costs of the disclosure pro-
11 ceedings. If the petitioner and debtor cannot agree
12 upon the value of such property, the same shall be
13 delivered by the debtor to any officer holding the exe-
14 cution to be sold thereon. If such property consists of
15 choses-in-action, and the parties cannot agree upon
16 their value, they shall be assigned by the debtor to the
17 petitioner, if he shall give the debtor a bond with suf-
18 ficient surety accepted by said commissioner, to account
19 for and pay over to said debtor the surplus of the pro-

20 ceeds of such choses-in-action, after satisfying said
21 judgment and costs.

SECT. 9. The petitioner shall have a lien on real
2 estate disclosed, by filing in the registry of deeds of
3 the county where such real estate is situated, a certifi-
4 cate stating the names of the parties, the amount due
5 on the judgment, and the fact of the disclosure. Such
6 lien shall continue ten days. He shall have a similar
7 lien on personal property disclosed, by filing a similar
8 certificate in the office of the clerk of the town in which
9 such debtor resides.

SECT. 10. During the continuance of said lien the
2 said debtor shall not sell, give away, transfer, eloin, or
3 nor conceal any of such property, under penalty of a
4 fine not exceeding five hundred dollars or imprisonment
5 less than one year. Any person aiding the debtor in
6 such sale, gift, transfer, eloinment, or concealment
7 shall be similarly punished.

SECT. 11. If there shall satisfactorily appear to said
2 commissioner reasonable cause to believe that any other
3 person holds any property or credits of the debtor in
4 trust for him, or in fraud of his creditors, or if the
5 petitioner shall make oath that he believes that such
6 other person so holds property of the debtor, the com-
7 missioner shall issue a similar subpoena to such person
8 to appear and testify in relation thereto. Such sub-

9 poena to be served as subpoenas in civil suits. The
10 testimony of such witness may be reduced to writing
11 and signed by him.

SECT. 12. If the debtor, or any other person duly
2 served with subpoena as above provided shall refuse or
3 neglect to appear, the commissioner shall issue a capias
4 to bring said debtor or other person before him, and
5 may impose a fine not exceeding ten dollars and costs
6 of capias, and service thereof, for such neglect; and
7 in default of payment may commit him to jail until
8 paid.

SECT. 13. If the debtor, or other person duly served
2 with subpoena, shall refuse to testify in obedience
3 thereto, or shall refuse to answer any proper question,
4 or if the debtor shall refuse to make full disclosure
5 upon all matters named in the sixth section, or if the
6 said debtor shall refuse to comply with any proper
7 order of the commissioner, or perform the duty im-
8 posed upon him by the seventh section, he shall be
9 adjudged to be in contempt, and be committed to jail
10 until he purge himself of such contempt by compli-
11 ance, or be otherwise discharged by due process of
12 law. The warrant of commitment shall state specifi-
13 cally the contempt of which the prisoner is guilty.

SECT. 14. The commissioner, for cause shown by

2 either party, may adjourn the proceedings before him
3 from time to time.

SECT. 15. The commissioner shall be entitled to
2 fifty cents for subpoena to debtor, twenty-five cents for
3 each extra subpoena, twenty-five cents for capias, fifty
4 cents for warrant of commitment, and three dollars for
5 each day, in hearing the disclosure and other testi-
6 mony. The fees of officers shall be the same as for
7 service of other process of similar nature. The peti-
8 tioner may, if the commissioner authorizes it, procure
9 an officer to be in attendance during the proceedings,
10 and the fees for such attendance shall be seventy-five
11 cents per day. These fees shall be paid by the peti-
12 tioner, and may be added to the costs on the judgment
13 and execution. They shall be taxed by the justice
14 and certified in detail on the back of the execution.

SECT. 15. Nothing herein contained shall affect any
2 other remedy now existing for the enforcement of
3 judgments and executions ; but any debtor making a
4 disclosure under this act shall not be arrested on any
5 execution upon said judgment. The commissioner
6 shall make on the execution a certificate of the fact of
7 the disclosure.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
February 9, 1878. }

Reported from the Committee on the Judiciary, by Mr. DRINK-
WATER of Ellsworth, and ordered printed under the Joint Rule.

ORAMANDAL SMITH, *Clerk.*