

# MAINE STATE LEGISLATURE

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# Sixty-Ninth Legislature.

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HOUSE.

No. 337

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## STATE OF MAINE.

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

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AN ACT to abolish Imprisonment for Debt and to Provide for  
the Disclosure of Poor Debtors.

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

Section 1. No execution issued on a judgment founded on  
2 a contract express or implied, or on a prior judgment on  
3 contract, shall run against the body of the judgment debtor  
4 unless the debtor was arrested on the original writ as pro-  
5 vided in section two of chapter 113 of the Revised Statutes.

Sect. 2. The judges of probate, and the judges of munici-  
2 pal and police courts, shall hereafter have in their respective  
3 counties jurisdiction to take disclosure of poor debtors.

Sect. 3. The owner of any judgment remaining unsatis-  
2 fied in whole or in part, may have a disclosure of the business  
3 and property affairs of the judgment debtor by proceeding  
4 as hereinafter provided.

Sect. 4. Such owner or his attorney may cause a summons  
2 under the hand and seal of any of the said judges in the  
3 county in which the judgment debtor resides, to be served  
4 upon said debtor as hereinafter provided. Said summons  
5 shall state the amount of the debt and costs for, and the court  
6 and term at, which the judgment was rendered, the names of  
7 the parties thereto and of the owners thereof, commanding  
8 said debtor to appear before said judge at the place where he  
9 usually holds his court, and at a time therein named, to make  
10 full and true disclosure on oath of all his business and prop-  
11 erty affairs.

Sect. 5. Said summons may be served by any officer qual-  
2 ified to serve civil processes in said county, by giving said  
3 debtor in hand a certified copy of said summons, in which  
4 case the debtor shall have twenty-four hours' notice for every  
5 twenty miles travel from his place of abode at the time of the  
6 service to said place of disclosure, or by leaving at his last and  
7 usual place of abode a attested copy of the same seven days  
8 at least before the time appointed for the hearing. The  
9 officer shall tender to said debtor, at the time of the service  
10 of said summons, the fees for travel provided by law for wit-  
11 nesses summoned before trial justices, or in the case of ser-  
12 vice at the last and usual place of abode, by leaving the same  
13 with the summons, and said fees shall be exempt from attach-  
14 ment or seizure upon execution.

Sect. 6. At such time and place the debtor shall appear  
2 and submit himself to examination, on oath, concerning his  
3 estate and effects, their disposal, and his ability to pay the  
4 judgment.

Sect. 7. The owner of the judgment or his attorney may  
2 propose to the debtor any interrogatories pertinent to the  
3 inquiry, and if he requires it, they shall be answered in writ-  
4 ing, and signed and sworn to by the debtor. If the owner

5 of the said judgment is absent, or does not propose interroga-  
6 tories, said judge shall conduct the examination.

Sect. 8. If on such examination and hearing said judge is  
2 satisfied that the debtor's disclosure is true, and does not dis-  
3 cover anything therein inconsistent with his taking the oath,  
4 he may administer to him the oath prescribed by section thirty  
5 of chapter 113 of the Revised Statutes.

Sect. 9. When from such disclosure it appears that the  
2 debtor possesses, or has under his control, any bank bills,  
3 notes, accounts, bonds, or other contracts or property, not  
4 exempt from attachment and seizure upon execution, which  
5 cannot become at to be attached, and the owner of said judg-  
6 ment and debtor cannot agree to apply the same towards the  
7 debt, said judge shall appraise and set off enough of such  
8 property to satisfy the debt, costs and charges; and the owner  
9 of said judgment may select the property to be appraised.  
10 If the owner of said judgment accepts it, it may be assigned  
11 and delivered by the debtor to him, and applied towards the  
12 satisfaction of said judgment and costs, provided, however,  
13 the debtor shall not be required to assign any sums due him  
14 as wages for his personal labor earned within one month  
15 next preceding the date of the disclosure, not exceeding  
16 twenty dollars. If the appraised value of any particular arti-  
17 cle of such property, necessary or convenient to be applied  
18 in satisfaction of said judgment and costs, exceeds the  
19 amount due thereon, and said property is not divisible in its  
20 nature, the owner of the judgment may take it by paying the  
21 overplus to the debtor, or securing it to the satisfaction of  
22 said judge.

Sect. 10. If the owner of the judgment is absent or does  
2 not so accept said property the debtor shall deposit with the  
3 said judge a written assignment to the owner of the judgment  
4 of all property thus appraised and set off; and said judge

5 shall cause such property to be safely kept for the term of  
6 thirty days thereafter, to be delivered to the owner of said  
7 judgment with the assignment on demand within that time,  
8 when the appraised value thereof shall be endorsed upon the  
9 execution in full or part satisfaction thereof as the case may  
10 be. If not so demanded it shall be returned with the assign-  
11 ment to the debtor.

Sect. 11. If an execution debtor discloses real estate liable  
2 to be seized on execution, said judge shall give the owner of  
3 said judgment a certificate thereof, stating the names of the  
4 parties and the amount of the execution; and the owner of  
5 said judgment shall have a lien thereon for thirty days there-  
6 after, if he files the certificate with the register of deeds of  
7 the county or district where the real estate lies, within five  
8 days from the date of the disclosure; and the register shall  
9 enter and file it like officers' returns of attachment; and said  
10 real estate or interest therein may be sold by any of the  
11 methods now provided for the sale of real estate upon execu-  
12 tion.

Sect. 12. If he discloses personal estate liable to be seized  
2 on execution, the owner of the judgment shall have a lien on  
3 it, or so much of it as said judge in his record judges neces-  
4 sary, for thirty days; and if the debtor transfers, conceals or  
5 otherwise disposes of it within said time or suffers it to be  
6 done, or refuses to surrender it, on demand, to any proper  
7 officer having an execution on the same judgment, the debtor  
8 shall have no benefit from the certificate described in section  
9 eight, and the owner of said judgment may recover, in an  
10 action on the case against him, or any person fraudulently  
11 aiding in such transfer, concealment or disposal, double the  
12 amount due on said execution; and any execution on a judg-  
13 ment in such action, shall run against the bodies of the debtor  
14 and other persons so aiding, but the payment thereof is a  
15 satisfaction of the original debt.

Sect. 13. If said judge finds reasonable cause to believe  
2 that any other person holds any property or credits in trust  
3 for said debtor, or in fraud of his creditors, or if the owner  
4 of said judgment shall make oath that he believes that such  
5 other person so holds property of the debtor, the judge shall  
6 issue a subpoena to such person to appear and testify in rela-  
7 tion thereto, the same to be served as subpoenas in civil suits.  
8 The testimony of such witness may be reduced to writing,  
9 and signed by him, and if it shall satisfactorily appear to  
10 the judge, from all the evidence in the case, that such person  
11 so holds property or credits of the debtor, he shall so certify  
12 upon the execution; and the owner of the judgment shall  
13 have a lien upon said property or credits for thirty days suc-  
14 ceeding such disclosure, to be enforced by bill in equity or  
15 trustee process, and if upon such bill in equity or trustee  
16 process, the court finds such property or credits to be so held  
17 as aforesaid, it may order the same, or so much of them as  
18 may be necessary to satisfy the judgment and costs, to be  
19 conveyed, transferred or assigned to the owner of the judg-  
20 ment; and if the parties cannot agree upon the value of such  
21 property or credits, they shall be assigned to the owner of the  
22 judgment if he shall give such trustee a bond with sufficient  
23 surety, approved by the court, to account for and pay over  
24 to said trustee, the surplus of the proceeds of such property  
25 or credits, after satisfying said judgment and costs.

Sect. 14. If the debtor, or any other person duly served  
2 with subpoena, as above provided, refuses or neglects to  
3 appear, said judge shall, upon request of the petitioner, issue  
4 a capias to bring said debtor or other person before him, and  
5 may in his discretion adjudge such debtor or other person  
6 to be in contempt, and commit him to jail until he purges  
7 himself of such contempt, or is otherwise discharged by due  
8 process of law.

Sect. 15. If the debtor or other person duly served with  
2 subpoena, refuses to testify in obedience thereto, or refuses to  
3 answer any proper question, or, if the debtor refuses to make  
4 full disclosure upon all matters named in section six, or if  
5 said debtor refuses to comply with any proper order of the  
6 judge, or perform the duty imposed upon him by sections  
7 nine and ten, or fail to obtain the benefit of the oath provided  
8 for in section eight, he may, in the discretion of the judge,  
9 be adjudged to be in contempt, and be committed to jail until  
10 he purges himself of such contempt by compliance, or is  
11 otherwise discharged by due process of law. The warrant of  
12 commitment shall state specifically the contempt of which the  
13 debtor is guilty.

Sect. 16. The judge, for cause shown by either party, may  
2 adjourn from time to time.

Sect. 17. After the examination of the debtor, other com-  
2 petent evidence may be introduced by either party, and the  
3 debtor may then be further examined. Depositions may be  
4 used in such disclosures, and said judge may, at the request  
5 of either party, issue subpoenas to witnesses, who are entitled  
6 to the same fees as witnesses before trial justices.

Sect. 18. Section sixty-seven of chapter one hundred and  
2 thirteen of the Revised Statutes, shall apply to disclosures  
3 under this act.

Sect. 19. After the oath mentioned in section eight of this  
2 act is administered, and the property disclosed is secured,  
3 and the debtor has complied with all proper orders of such  
4 judge, a certificate of the fact of such disclosure shall be  
5 indorsed by said judge under his hand and seal, on the exe-  
6 cution issued upon the judgment upon which the disclosure  
7 is had, and a copy of said certificate shall be indorsed on  
8 every subsequent execution issued on said judgment or on  
9 any judgment founded thereon.

Sect. 20. If upon such disclosure the debtor fails to obtain  
2 the benefit of the oath provided for in section eight, said  
3 judge shall indorse a certificate of that fact upon the execu-  
4 tion in force at the time of said disclosure, and a copy of said  
5 certificate shall be indorsed upon every subsequent execution  
6 issued on said judgment, or on any judgment founded  
7 thereon.

Sect. 21. Said judge shall be entitled to twenty-five cents  
2 for each subpoena, twenty-five cents for each capias, twenty-  
3 five cents for each certificate, and three dollars for each day  
4 in hearing the disclosure and other evidence. The fees of  
5 officers shall be the same as for service of other process of  
6 similar nature. The above fees, with the travel fees tendered  
7 the debtor, and fee in execution of capias, shall be paid by  
8 the petitioner, and shall be added to the costs on the judg-  
9 ment, and taxed on the execution in force at the time of the  
10 disclosure, by said judge, and a copy thereof shall be taxed  
11 on each subsequent execution issued on said judgment.

Sect. 22. Said judge shall keep, in proper record books, a  
2 correct and sufficient record of the proceedings upon each  
3 disclosure, stating the names of the parties, the amount of the  
4 judgment on which the disclosure is sought, the dates of the  
5 issuance of summons, and of the return day thereof, and of  
6 all hearings, adjournments, and continuances; also whether  
7 the debtor appeared or was brought in on capias; whether  
8 a disclosure was had, and if so what property was disclosed;  
9 whether the oath was administered or refused, and if refused  
10 the record shall state the reason for such refusal.

Sect. 23. No summons shall be deemed incorrect for want  
2 of form only, or for circumstantial errors or mistakes, when  
3 the person and case can be rightly understood. Such errors  
4 and mistakes may be amended on motion of either party.

Sect. 24. Sections fifty-one to sixty-six, both inclusive of  
2 chapters one hundred and thirteen of the Revised Statutes,



3 chapter one hundred and thirty-seven of the Public Laws of  
4 1887, chapter three hundred and thirteen of the Public Laws  
5 of 1893, and chapter three hundred and thirty of the Public  
6 Laws of 1897, and all acts and parts of acts inconsistent here-  
7 with are hereby repealed, except as hereinafter provided.

Sect. 25. This act shall not apply to debts and contracts  
2 existing when this act takes effect, but as to such debts and  
3 contracts the said judges of probate and judges of municipal  
4 and police courts in their respective counties shall have juris-  
5 diction to take disclosure of debtors under chapter one hun-  
6 dred and thirty-seven of the Public Laws of 1887, as amended  
7 by chapter 313 of the Public Laws of 1893, and as amended  
8 by chapter 330 of the Public Laws of 1897; which said acts  
9 are not repealed as to such debts and contracts, except so far  
10 as the office of disclosure commissioner is provided for  
11 therein.

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STATE OF MAINE.

HOUSE OF REPRESENTATIVES,

Augusta, March 10, 1899.

Reported by Mr. VIRGIN of Portland, from Committee on Judiciary,  
and ordered printed under joint rules.

W. S. COTTON, *Clerk.*