

MAINE STATE LEGISLATURE

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PUBLIC ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

FIFTEENTH LEGISLATURE,

AT ITS SESSION, HELD IN JANUARY, 1835.

Published agreeably to the Resolve of June 28, 1820.

AUGUSTA:

WILLIAM J. CONDON.....PRINTER TO THE STATE.

1835.

ther, That the provisions of this Act shall not extend to that part of Piscataquis River at and above the Great Falls in the town of Dover.

[Approved by the Governor, March 24, 1835.]

Chapter 195.

AN ACT for the relief of Poor Debtors.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled*, That no person shall be arrested on any suit founded on contract express or implied, bond or other specialty, or on a judgment on contract where the sum demanded, nor on any execution issued on any judgment where the debt or damages are less than ten dollars, nor on any suit on a judgment or an execution issued on a judgment founded on any prior judgment, where the original debt or damages are less than ten dollars.

No person to be arrested in any suit where original debt is less than ten dollars.

SECT. 2. *Be it further enacted*, That in all other cases on contracts express or implied, bond or other specialty, or on a judgment in civil actions, no person shall be arrested or imprisoned on mesne process, and no such process shall run against the body of such debtor nor shall any person be arrested or imprisoned on any execution issued on any judgment, on such contract, bond, specialty or judgment, nor shall any such execution run against the body of such person, except as hereinafter excepted.

No person to be arrested or imprisoned in any case except as is herein provided.

SECT. 3. *Be it further enacted*, That any person may be arrested on mesne process, on any contract, bond, specialty or judgment, mentioned in the second section of this Act, and held to bail or committed to prison, when he is about to depart and establish his residence beyond the limits of this State, with property or means exceeding the amount re-

Any person about to go out of the State may be arrested if creditor makes oath, &c.

quired for his own immediate support ; *Provided*, any creditor, his agent or attorney, shall make oath or affirmation, before a Justice of the Peace, to be certified by such Justice on such process, that he has reason to believe, and does believe that such debtor is about to depart, and take with him property or means as aforesaid, and that the demand in the writ, is, or the principal part thereof, due him.

SECT. 4. *Provided nevertheless, and be it further enacted*, That on any arrest or imprisonment, by virtue of the process provided in the third section of this Act, such debtor may, on demand made by him, of the officer who arrested him, or the gaoler who has him in custody, be taken before two Justices of the Peace of the County, *quorum unus*, to be by him selected, to disclose the actual state of his affairs, and he shall give notice to the creditor, his agent or attorney, of his intention so to do, and the time and place, and Justices before whom he so intends to disclose, and if he shall thereupon make a full disclosure of the actual state of his affairs, and of all his estate, property, rights and credits in possession, expectation or reversion, and answer all proper interrogatories in regard to the same, and shall then and offer to make oath to the same before said Justice, they shall administer to him such oath, and upon the whole examination, and hearing all proper evidence offered in the case, said Justices may discharge such debtor from arrest or imprisonment, or remand him into the custody of the officer who arrested him, or the gaoler who held him in prison, as the case may be, and in case of such discharge, no execution issuing on the judgment in such suit or process shall run against the body of such debtor ; but in case such debtor shall not then be discharged, execution shall issue against his body.

SECT. 5. *Be it further enacted*, That all attachable property disclosed by virtue of such examination, or so much thereof as the creditor may de-

Debtor so arrested may be taken before two Justices of the Peace and disclose the state of his affairs.

When discharged no execution to run against the body.

Property disclosed to be held attached from time of disclosure.

signate to satisfy his demand against the debtor, shall be held as attached from the time of such disclosure, and the officer shall make return thereof on the writ or process, certifying the fact that the property was so disclosed.

Persons served with process may appear before Justice or Court to which such process is returnable, and disclose.

SECT. 6. *Be it further enacted,* That whenever any person shall be served with writ or process, founded on such contract, bond, specialty, or judgment, in any other manner than by arrest of the body, such person, may on the return day of the said writ, or on any day to which the suit may be continued, appear before the Justice, Judge or Court, to which the writ or process in said suit may be returnable, or a commissioner or commissioners appointed by said Judge or Court, and then and there disclose the actual state of his affairs, and of all his estate, property, rights, and credits, in possession, expectation or reversion, and shall answer all proper interrogatories in regard to the same, and shall sign and offer to make oath or affirmation, to such disclosure, the Justice, Judge, or Court shall administer such oath and may upon the whole examination, adjudge and determine that execution on such judgment as the plaintiff may recover in said suit or process, shall issue against his estate or property only, or otherwise, as justice upon such disclosure may require, and the attachable estate or property disclosed, shall from the time of such disclosure, be held attached as is provided in the fifth section of this Act.—*Provided, however,* That at any time before the return day of any such writ or process, the parties to the suit, may, by agreement in writing, appear before any Justice of the Peace and of the quorum, in the County where the suit or process may be pending, and the debtor or defendant shall make the same disclosures, and submit to the same examination and proceedings, as is provided in this section, to be had before a Justice, Judge, Court or Commissioner, and in such case, the Justice, Judge, or Court shall proceed

Proviso, as to taking disclosure by agreement of parties.

thereon, in the same manner, and to the same effect as if the same disclosures were made as first provided in this section; *And Provided also*, That in case the said debtor shall neglect or refuse to appear and make disclosure as aforesaid, the execution which may issue upon any process or suit as aforesaid, shall run against the body of such debtor.

Proviso, as to neglect of debtor to appear.

SECT. 7. *Be it further enacted*, That whenever any person shall be arrested or imprisoned on mesne process, in any civil action, he may be released therefrom by giving bond, with surety or sureties, to be approved by a Justice of the Peace and of the quorum, in double the sum for which he is imprisoned, conditioned that he will within fifteen days after final judgment against him in said suit, notify the creditor to attend in the making such disclosure, and taking such oath or affirmation, as is provided in the tenth section of this Act, and if it shall appear on such examination and disclosure, that the debtor has attachable estate or property, the judgment shall be a lien on such estate or property, thirty days after such examination and disclosure, and if the debtor, on such examination and disclosure, shall not entitle himself to the benefit of said oath in the opinion of said Justices, he shall be committed to prison until discharged under the provisions of this Act, or otherwise by order of law, unless the creditor shall within thirty days elect to levy the execution issued on such judgment upon the estate or property so disclosed, in which case, the body of such debtor shall be forever discharged from any execution issuing from or founded on such judgment; *Provided*, That nothing in this Act, shall impair the right of any person to bail in any action or suit.

Persons arrested on mesne process may give bond to disclose within 15 days after judgment.

Judgment to be a lien on attachable property.

Debtor may be committed unless creditor levies on property disclosed.

Proviso.

SECT. 8. *Be it further enacted*, That whenever any debtor, arrested or imprisoned on execution, issuing on judgment in any civil suit, shall give bond in double the amount for which he is so ar-

Debtor imprisoned on execution may give bonds to disclose within 6 months.

rested or imprisoned, conditioned, that, in six months, he will cite the creditor before two Justices of the Peace, *quorum unus*, and submit himself to examination, and take the oath or affirmation as prescribed in the tenth section of this Act, or pay the debt, interest, costs and fees arising in said execution, or be delivered in custody of the jailer within said time, he shall be discharged, and if said debtor fails to fulfil the condition of such bond, the same shall be forfeited, and judgment in any suit on such bond, shall be rendered for the amount of the execution and fees, and costs of commitment, with interest thereon at twenty-five per cent. ; *Provided*, That no suit on any bond authorized by this Act, shall be sustained, unless commenced within one year after the forfeiture.

Neglect to disclose a forfeiture of the bond.

Proviso.

Proceedings in case the debtor committed complains to gaoler that he is unable to support himself in prison.

Proviso.

SECT. 9. *Be it further enacted*, That when any person committed to prison by force of any execution, shall make written complaint to the keeper of the gaol where he is committed, that he has not estate sufficient to support him in prison, the keeper shall thereupon apply to a Justice of the Peace of the County, who shall make out a notification under his hand and seal, to the creditor, of such prisoner's desire to take the privilege and benefit of the oath or affirmation authorized by this act, and the time and place of the intended caption, which may be served by any sheriff, deputy, or constable, (not a party) on any creditor, if living within the State, or if not, on any agent or attorney, by an attested copy delivered in hand, or left at the last and usual place of abode of such creditor, agent or attorney, fifteen days at least before the time appointed for taking the oath or affirmation, that he may be present, if he see cause; *Provided*, That if no creditor, agent or attorney live within the State, the notification shall be left with the Clerk of the Court, or Justice from whom said execution issued, at least fifteen days before such intended caption.

SECT. 10. *Be it further enacted,* That any two Justices of the Peace and of the Quorum of the County, and disinterested, may at the time and place of caption, examine the notification and return, and if regular and in due form, may hear, and if requested, take in writing, the disclosure of the debtor, and proceed in the examination as is provided in the fourth section of this Act, and if upon the whole examination, the Justices shall be satisfied that the debtor's disclosure is true, they may proceed to administer to him the following oath or affirmation:

Two Justices of the Peace and Quorum may hear disclosure and administer oath.

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, gift, 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, and which was not then in suit or judgment, 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,)

Form of oath.

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

Justices to certify that oath has been administered.

W———ss To ——— keeper of the gaol at ———
 [SEAL] We, the subscribers, two disinterested Justices of the Peace,
 [SEAL] and of the Quorum, in and for said County of W———, hereby certify, that (A— B—) a poor prisoner committed upon execution 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

Form of certificate.

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— }
G— H— } Justices aforesaid.

Debtor to be discharged on filing certificate with prison keeper, and free from liabilities to arrest on same judgment.

And the said debtor on delivering said certificate to said gaoler or prison keeper, or filing it in his office, shall be thereby discharged and set at liberty from commitment on the execution concerning which said notification issued, and the body of said debtor shall forever thereafter be free from liability to arrest and imprisonment on said execution, and on every other execution which may be issued on the same judgment, or on any other judgment founded thereon.

Proviso, as to debtor disqualified as a witness.

Provided, That any debtor or prisoner otherwise disqualified as a witness, shall be entitled to all the benefit of this Act, and nothing herein contained shall prevent any such debtor who shall be remanded, or fail to obtain his discharge, from a discharge at any future examination as is hereinafter provided;

Proviso, as to creditor's recovering cost.

Provided also, That when any debtor shall fail in his application for a discharge, the creditor shall recover his costs to be taxed as in actions before Justices of the Peace, and the Justice shall tax the same and issue execution accordingly.

Penalty for disclosing falsely.

SECT. 11. *Be it further enacted*, That if any debtor authorized or required to disclose on oath or affirmation, according to the provisions of this Act, shall falsely disclose, or withhold, or suppress the truth, he shall, on conviction thereof, be adjudged guilty of the crime of wilful and corrupt perjury, and subjected to the pains and penalties thereof, and shall receive no benefit from said oath or affirmation.

Creditor may commence special action on the case against debtor disclosing falsely.

And the creditor, his agent or attorney, may commence against such debtor, a special action on the case, particularly alleging the false oath or affirmation, and the fraudulent concealment of said debtor's estate or property, and on oath or affirmation before some Justice of the Peace, or other magistrate authorized to administer the same, declare his belief

of the truth of the declarations in the writ, the justice or magistrate administering the oath or affirmation, shall certify the same on the writ, and thereupon the debtor shall be held to bail on said writ, or in default thereof, committed to prison to abide the judgment in said suit; and if judgment shall be rendered against said debtor in the suit, it shall be for double the amount of the debt and costs, and he may be arrested and committed to prison on any execution issued on said judgment, without any privilege of release or discharge, under this Act.

Debtor may be arrested, and liable for double the amount.

SECT. 12. *Be it further enacted*, That no release of any debtor or pensioner, [prisoner] under the provisions of this Act, shall affect or impair the right of the creditor to his debt or demand, but the same shall remain in full force against the property or estate of said debtor, and may be at any time satisfied out of any such property and estate, which may be discovered, and shall not by law be exempted from attachment and execution, in the same manner as if such discharge had not been made.

No discharge of debtor to impair creditor's right against his property.

SECT. 13. *Be it further enacted*, That any person who shall knowingly aid or assist any debtor or prisoner in any fraudulent concealment of his property or estate, or any transfer thereof to secure or conceal the same from creditors, to prevent the same from attachment or execution, he shall be answerable in a special action of the case, to any creditor who, may sue for the same, in double the amount of the property or estate, so fraudulently concealed or transferred, not exceeding however, double the amount of such creditor's just debt or demand.

Penalty for assisting debtor in concealing property from his creditors.

SECT. 14. *Be it further enacted*, That any person committed to prison by virtue of any warrant for the collection of any tax, shall stand in the same relation to the assessors of the city, town, parish, or plantation, as the debtor shall to the creditor in this act, and the same proceedings may be had, and the person taxed and committed shall be sub-

Persons committed for taxes entitled to the benefit of this Act.

Proviso, as to
form of oath.

ject to the same liabilities, and entitled to the same benefits and immunities as debtors are in regard to their creditors, as herein provided. *Provided*, That the oath or affirmation, and certificate of discharge prescribed in the tenth section of this act, shall be so varied as to substitute in the oath "assessment of the tax," for "commencement of said suit," and the "city, town, parish, or plantation," for "any of my creditors," and in the certificate of discharge, "warrant for taxes," for "execution for debt," and "assessors for creditors."

Gaoler may re-
quire security
for support of
prisoner, and in
default thereof
discharge him.

SECT. 15. *Be it further enacted*, That whenever the keeper of any prison, when any person may be committed on mesne process or execution, shall require of the creditor, his agent or attorney, security for the payment of the expense of supporting such debtor, in case he shall claim relief as a pauper, it shall be the duty of the keeper to discharge such debtor from prison on such commitment, unless satisfactory security is given within eight days after such request, or money advanced for the support of such debtor, while he shall remain in close confinement. And in case of any dispute about the price of any articles furnished a prisoner in confinement, the County Commissioners may determine the same.

Fees for servi-
ces required by
this act.

SECT. 16. *Be it further enacted*, That the fees for the services required by this act, shall be— To the officer for taking a debtor before a justice or justices for disclosure, For travel, as in service of a writ, and attendance, one dollar. For certifying property disclosed, twenty five cents. For a bail or other bond, twenty five cents. For release from confinement, twenty-five cents. For recommitment of prisoner when remanded under the provisions of this act, twenty five cents. To the Justices, for any examination under this act, each, fifty cents. For interrogatories proposed by the creditor, or his attor-

ney, and answers, to be paid by the creditor, twelve cents per page.

SECT. 17. *Be it further enacted,* That this act shall be in force from and after the first day of July next and all acts regulating, prescribing and defining "gaol yards" or "gaol limits," and all other acts and parts of acts inconsistent with the provisions of this act, be, and the same hereby are repealed. *Provided,* That this shall not be so construed as to effect any suit or suits already commenced, or rights vested under any of said acts.

Act to take effect after first of July next.

Proviso, as to suits now pending.

[Approved by the Governor, March 24, 1835.]