

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE

1897

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PUBLIC LAWS
OF THE
STATE OF MAINE.

1897.

Chapter 330.

An Act to amend Chapter one hundred and thirteen of the Revised Statutes, and Chapter one hundred and thirty-seven of the Public Laws of eighteen hundred and eighty-seven, as amended by Chapter three hundred and thirteen of the Public Laws of eighteen hundred and ninety-three, relating to the appointment and duties of disclosure commissioners.

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

Sect. 1. Chapter one hundred and thirteen, section fifty-one, of the revised statutes, is hereby repealed and the following is enacted in place thereof:

Section 51, chapter 113, R. S., repealed.

'Sect. 51. The governor shall from time to time appoint commissioners in different localities within and for each county of the state who shall have jurisdiction within the county for which they are appointed and shall perform the duties required by the fifteen following sections. Such commissioners shall be attorneys at law and shall be sworn and shall hold office for the term of seven years. They shall have an official seal which shall have engraved thereon the name of the commissioner, the words "disclosure commissioner" and the word "Maine" and the name of the county and the town or city where the commissioner resides. Each town or city of not more than five thousand inhabitants as shown by the last preceding census of the United States, shall be entitled to one such commissioner and not more than one, and for every additional five thousand inhabitants thus shown, an additional commissioner shall be allowed, provided that the total number of commissioners in any one town or city shall in no case exceed six. The office of disclosure commissioner as heretofore created under the former provisions of this section is hereby abolished, but nothing in this act shall be construed to affect the validity of executions or certificates thereon heretofore issued by such commissioners. Any commissioners appointed under this act shall have power to renew executions heretofore issued by any former commissioner within and for the same county, and executions heretofore issued by himself.'

Governor shall appoint disclosure commissioners.

—qualification and tenure.

—seal.

Number that may be appointed in any town.

—shall not exceed six.

—act shall not affect validity of executions heretofore issued.

—former executions may be renewed.

Sect. 2. The commissioners appointed under said section fifty-one of chapter one hundred and thirteen of the revised statutes, as amended by this act, shall perform the duties required by chapter one hundred and thirty-seven of the public laws of eighteen hundred and eighty-seven, and acts amendatory thereof and additional thereto.

Shall perform all duties required by chapter 137, laws, 1887.

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Sect. 3. Chapter one hundred and thirty-seven, section two of the public laws of eighteen hundred and eighty-seven, is hereby amended by striking out in the first line of said section the words "such a" and substituting therefor the word 'any' and by striking out the words "a judgment debtor's business affairs" and substituting therefor the words 'the business and property affairs of any judgment debtor,' and also by adding to said section the following words: 'but married women thus cited shall not be arrested except for contempt or upon capias issued to bring them before the magistrate as provided by section fourteen,' so that said section, as amended, shall read as follows:

Owner of judgment may cause debtor to disclose at any time.
 --married women shall not be arrested.
 --exception.

'Sect. 2. The owner of any judgment remaining unsatisfied in any part may have a disclosure of the business and property affairs of any judgment debtor, at any time, by proceedings as hereinafter provided, but married women thus cited shall not be arrested except for contempt or upon capias issued to bring them before the magistrate as provided by section fourteen.'

Section 4, amended.

Sect. 4. Section four of said chapter is hereby amended by inserting between the word "county" and "at" in the third line thereof, the words 'in the town in which the debtor, the petitioner, or his attorney, resides, or at the shire town of said county,' so that said section, as amended, shall read as follows:

Subpoena shall be issued to debtor to appear and disclose.

'Sect. 4. Such magistrate shall thereupon issue under his hand and seal a subpoena to the debtor, commanding him to appear before such magistrate within said county, in the town in which the debtor, the petitioner, or his attorney, resides, or at the shire town of said county, at a time and place therein named, to make full and true disclosure, on oath, of all his business and property affairs. Where plaintiff or his attorney of record resides in one county and defendant in another the debtor may be commanded to appear before such magistrate in any town in the county where the defendant resides. The application shall be annexed to the subpoena.'

--debtor in county where defendant resides.

Section 5, as amended by chapter 313, laws, 1893, further amended.

Sect. 5. Section five of said chapter as amended by chapter three hundred and thirteen of the public laws of eighteen hundred and ninety-three, is hereby further amended, so as to read as follows:

How subpoena may be served.

'Sect. 5. The subpoena may be served by any officer qualified to serve civil process in said county, by giving him in hand a certified copy of the subpoena, in which case the debtor shall

have twenty-four hours' notice for every twenty miles travel from his home or place of abode at the time of service, to the place of disclosure, or, said subpoena may be served by said officer by leaving at his last and usual place of abode a certified copy of the same seven days at least before the time appointed for the hearing.'

Sect. 6. Section seven of said chapter is hereby amended by adding thereto the following words: 'If the petitioner is absent or does not propose interrogatories, the commissioner shall conduct the examination,' so that said section, as amended, shall read as follows:

Section 7,
amended.

'Sect. 7. The petitioner may propose to the debtor any interrogatories pertinent to the inquiry, and if he requires it, they shall be answered in writing and signed and sworn by the debtor. If the petitioner is absent or does not propose interrogatories, the commissioner shall conduct the examination.'

Petitioner
may pro-
pose ques-
tions, and
require
sworn ans-
wers in
writing.

Sect. 7. Section nine of said chapter is hereby amended by inserting in the thirteenth line of said section after the word "demand" and before the word "if," the words 'except where the original debt was for necessaries, the debtor shall not be required to assign any sums due him as wages for his personal labor earned within one month next preceding the date of the disclosure and not exceeding twenty dollars,' so that said section, as amended, shall read as follows:

Section 9,
amended.

'Sect. 9. When from such disclosure it appears that the debtor possesses, or has under his control, any bank bills, notes, accounts, bonds or other contracts or property, not exempted by statute from attachment, which cannot be come at to be attached, and the petitioner and debtor cannot agree to apply the same towards the debt the magistrate hearing the disclosure, shall appraise and set off enough of such property to satisfy the debt, cost and charges; and the petitioner or his attorney, if present, may select the property to be appraised. If the petitioner accepts it, it may be assigned and delivered to him by the debtor, and applied towards the satisfaction of his demand. Except where the original debt was for necessaries, the debtor shall not be required to assign any sums due him as wages for his personal labor earned within one month next preceding the date of the disclosure and not exceeding twenty dollars. If any particular article of such property, necessary or convenient to be applied in satisfaction of the execution, exceeds the amount due thereon, and is not divisible

Attach-
able pro-
perty dis-
closed,
which can-
not be
come at,
how ap-
praised and
set off.

—except
necessar-
ies, the
debtor
shall not be
required to
assign
wages.

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Section 14,
as amended
by chapter
313, further
amended.

in its nature, the petitioner may take it, by paying the overplus to the debtor or securing it to the satisfaction of the magistrate.'

Sect. 8. Section fourteen of said chapter, as amended by chapter three hundred and thirteen, section three of the public laws of eighteen hundred and ninety-three, is hereby amended by inserting in the third line of said section after the word "shall" and before the word "issue," the words 'upon the request of the petitioner;' by striking out the word "executing" in the seventh line of said section and substituting therefor the word 'serving;' by striking out all after the word "capias" in the sixth line of said section and by adding to said section the words 'after the question of costs of issuing and serving said capias has been thus determined, such debtor or other person shall submit himself to the examination required by his original subpoena,' so that said section, as amended, shall read as follows:

If debtor
or other
person re-
fuses to ap-
pear, shall
be ad-
judged in
contempt,
and shall
pay costs.

'Sect. 14. If the debtor or any other person duly served with subpoena as above provided, refuses or neglects to appear, the magistrate shall upon the request of the petitioner issue a capias to bring said debtor or other person before him, and if upon hearing, said debtor or other person does not show good cause for his failure to appear, he may be ordered to pay the costs of issuing and serving said capias. After the question of costs of issuing and serving said capias has been thus determined, such debtor or other person shall submit himself to the examination required by his original subpoena.'

—he shall
then sub-
mit to ex-
amination.

Section 16,
amended.

Sect. 9. Section sixteen of said chapter is hereby amended so as to read as follows:

Disclosure
may be
taken be-
fore an-
other com-
missioner,
and hear-
ing may be
adjourned.

'Sect. 16. In case the commissioner who issued the summons is unable to attend, any other commissioner may attend and take the disclosure, and, for cause shown by either party, the examination may be adjourned from time to time.'

Section 20,
amended.

Sect. 10. Section twenty of said chapter is hereby amended by inserting after the word "debtor" and before the word "the" in the eighth line of said section, the words 'where the original debt, exclusive of costs, exceeds ten dollars and not otherwise,' and by adding to said section the words 'where the original debt, exclusive of costs, exceeds ten dollars, and not otherwise,' so that said section, as amended, shall read as follows:

If debtor
fails to ob-
tain bene-
fit of the
oath, fact

'Sect. 20. If upon such disclosure the debtor fails to obtain the benefit of the oath provided for in section eight, the magistrate shall, under his hand and seal, indorse a certificate of that

fact upon the execution in force at the time of said disclosure, and a copy of said certificate shall be indorsed on every subsequent execution issued on said judgment, or on any judgment founded thereon, and such subsequent execution shall run against the body of said debtor, where the original debt exclusive of costs exceeds ten dollars and not otherwise. The magistrate shall also issue a *capias* under his hand and seal, and annex the same to said execution in force at the time of said disclosure, and the debtor may be arrested and imprisoned on said *capias* and execution, the same as upon executions issued in actions of tort, where the original debt exclusive of costs exceeds ten dollars and not otherwise.

Sect. 11. Section twenty-one of said chapter is hereby amended by striking out the first three words of said section and substituting therefor the words, 'If a debtor cited to disclose on a judgment where the original debt exclusive of costs exceeds ten dollars,' and by striking out all after the word "subpoena" in the third line of said section and substituting therefor the words 'the petitioner may have a default recorded and then proceed as in section twenty, or, have a *capias* to bring in such debtor and proceed as in section fourteen,' so that said section, as amended, shall read as follows:

'Sect. 21. If a debtor cited to disclose on a judgment where the original debt exclusive of costs exceeds ten dollars, fails to appear and submit himself to examination, at the time and place named in subpoena, the petitioner may have a default recorded and then proceed as in section twenty or have a *capias* to bring in such debtor and proceed as in section fourteen, as amended.'

Sect. 12. Section twenty-six of said chapter, is hereby repealed and the following enacted in place thereof:

'Sect. 26. Every commissioner shall keep a correct and sufficient record of the proceedings under each citation, stating the names of the parties, the amount of the judgment on which the disclosure is sought, the dates of application, of the issuance of subpoena and of the return day thereof, and of all hearings, adjournments, and continuances; also whether the debtor appeared or was brought in on *capias* or was defaulted; whether a disclosure was had and if so what property was disclosed; whether the oath was administered or refused, and if refused the record shall state the reason for such refusal.'

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shall be
endorsed
on execu-
tion in
force, and
run against
the body.

—may be
impris-
oned.

Section 21,
amended.

If debtor
fails to ap-
pear, de-
fault may
be re-
corded.

—proceed-
ing.

Section 26,
repealed.

Commis-
sioner
shall keep
a full
record of
all pro-
ceedings.

CHAP. 331. Sect. 13. This act shall take effect May one, eighteen hundred and ninety-seven.

When act shall take effect.

Approved March 27, 1897.

Chapter 331.

An Act to correct a clerical error in Chapter two hundred fifty-nine of the Public Laws of eighteen hundred and ninety-seven, relating to the recording of attachments of personal property.

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

Chapter 259,
[242] laws,
1897,
amended.

Chapter two hundred and fifty-nine of the public laws of eighteen hundred and ninety-seven is hereby amended by striking out the word "twenty-seven" in the title thereof and substituting therefor the word "twenty-six." Also by substituting the word 'twenty-six' for the word "twenty-seven" in the first line thereof. Also by substituting 'twenty-six' for "twenty-seven" in the tenth line thereof, so that said chapter as amended shall read as follows:

'An Act to amend Section twenty-six of Chapter eighty-one of the Revised Statutes, relating to the recording of attachments of personal property.

Section twenty-six of chapter eighty-one of the revised statutes of Maine is hereby amended by adding thereto the words, 'provided there be an incorporated town adjoining such unincorporated place, and if there be no such adjoining town, such copy shall be filed and recorded in the office of the register of deeds, for the registry district in which said unincorporated place is located, and the fee for recording such an attachment shall be twenty-five cents, so that said section shall read as follows:

Attach-
ment of
bulky per-
sonal prop-
erty, how
to be
recorded in
town
clerk's of-
fice.

'Sect. 26. When any personal property is attached which by reason of its bulk or other special cause cannot be immediately removed, the officer may within five days thereafter, file in the office of the clerk of the town in which the attachment is made, an attested copy of so much of his return on the writ, as relates to the attachment, with the value of the defendant's property which he is thereby commanded to attach, the names of the parties, the date of the writ, and the court to which it is returnable, and such attachment is as effectual and valid, as if the property had remained in his possession and custody.