

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

CHAP. 113.**CHAPTER 113.**

RELIEF OF POOR DEBTORS.

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ARRESTS ON MESNE PROCESS.

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No arrest on mesne process, on contract, &c.
 R. S., c. 148,
 § 1, 9.

CHAP. 113. the defendant, and he may be arrested and imprisoned thereon, or give bail as provided in chapter eighty-five.

ARRESTS AND DISCLOSURES ON LEAVING THE STATE.

Debtor about to leave the state may be arrested in certain cases.
5 Greenl. 291.
16 Maine, 398.
20 Maine, 77, 465.
28 Maine, 45.
38 Maine, 128.
R. S., c. 148, § 2.

SEC. 2. Any person, a resident within this state or not, may be arrested and held to bail, or committed to prison on mesne process on contract express or implied, if the sum demanded amounts to ten dollars, or on a judgment on contract, if the debt originally recovered and remaining due is ten dollars or more, exclusive of interest, when he is about to depart and reside beyond the limits of this state, with property or means of his own exceeding the amount required for his immediate support, if the creditor, his agent, or attorney makes oath before a justice of the peace, to be certified by such justice on said process, that he has reason to believe and does believe that such debtor is about so to depart, reside, and take with him property or means as aforesaid, and that the demand, or principal part thereof, amounting to at least ten dollars, is due to him.

Disclosure on such arrest.
5 Greenl. 484.
15 Maine, 55.
R. S., c. 148, § 3.

SEC. 3. On the arrest or imprisonment of any debtor by virtue of the preceding section, on request to the officer or jailer who has him in custody, he may be taken before two disinterested justices of the peace and quorum, to be selected as provided in section forty, to disclose the actual state of his affairs.

Notice to be given to plaintiff.
R. S., c. 148, § 4.

SEC. 4. Previous to the disclosure, he shall give due notice to the creditor or one of them, if more than one, his agent, or attorney, of his intention, and of the time and place for said disclosure, that he may be present and select one of the justices and be heard thereon; such notice shall not be less than one day for every twenty miles travel, exclusive of Sundays.

Mode of making disclosure.
R. S., c. 148, § 5.

SEC. 5. If the debtor makes a full disclosure, at the appointed time and place, to the satisfaction of said justices, of the actual state of his affairs, and of all his property, rights, and credits; answers all proper interrogatories in regard to the same; and signs and offers to make oath to the truth of his disclosure and answers before the justices, they shall administer to him such oath, and hear any other proper evidence, offered on either side.

Justices may adjourn.
R. S., c. 148, § 6.

SEC. 6. The justices may adjourn from time to time, if they see cause; and if either of them is not present at the adjournment, the other may adjourn to another time; but no such adjournment or adjournments shall exceed three days in the whole, exclusive of Sundays.

Adjudication of justices; effect of discharge.
14 Maine, 475.
R. S., c. 148, § 7.

SEC. 7. On such examination, the justices may discharge the debtor from arrest and imprisonment, or remand him into the custody of the jailer or other officer, as the case requires; and in case of such discharge, no execution, issuing on the judgment in the suit or process, shall run against his body, but against his property only.

Lien on property disclosed, how preserved.

SEC. 8. All attachable property disclosed by the examination, or so much as the creditor designates to satisfy his demand, shall be held as attached from the time of the disclosure,

until thirty days after final judgment, like other attachments; the officer shall make return thereof on the writ or process, certifying the fact that the property was so disclosed; if it is real estate, he shall certify it to the register of deeds, like other attachments; and if the creditor requires it, at any time before final judgment, he shall take into his custody any part of the personal property so disclosed, sufficient to secure the demand, and hold it as in other cases; and the provisions of section fifteen are also applicable to this class of disclosures.

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R. S., c. 148,
§ 8.

DISCLOSURES ON MENSE PROCESS BEFORE JUDGMENT.

SEC. 9. When a person is served with an original writ, or other mesne process, founded on such contract or judgment, in any other manner than by arrest of the body, he may, at any time before final judgment, appear before the court or justice, before whom such writ or process is pending, or a disinterested commissioner or commissioners, appointed by said court or justice, and submit himself to examination; and such court, justice, or commissioner shall give notice, and proceed to take his disclosure as provided in sections four, five, and six, and with like effect.

Defendant may
in all cases
disclose on
return of writ.
R. S., c. 148,
§ 10.

SEC. 10. On such examination, the court, justice, or commissioner, except as is provided in section fifteen, may determine that the execution, on the judgment recovered in the suit, shall run against the property only of the defendant, or otherwise, as justice requires, on the facts so disclosed or proved; and all attachable property so disclosed, from the time of the disclosure, shall be held attached as provided in section eight, and subject to the provisions of the two following sections.

Effect thereof;
lien on prop-
erty disclosed.
R. S., c. 148,
§ 11.

SEC. 11. If the disclosed property is real estate, the court, justice, or commissioner, shall deliver to the plaintiff a certificate thereof, stating the names of the parties, and the amount of the claim in the writ, which the plaintiff shall file with the register of deeds for the county or district where the estate lies, within five days after its date; and the register shall enter and file it as returns of officers making attachments on real estate, and be entitled to the same fees from the plaintiff.

Certificate of
real estate dis-
closed to be
filed in registry
of deeds.
R. S., c. 148,
§ 12.

SEC. 12. If personal estate liable to attachment is disclosed, and the plaintiff states that he is apprehensive that it may be removed or concealed, so that it cannot be taken on execution, the court in term time, or any justice thereof in vacation, or the justice of the peace before whom the suit is pending, may issue an order duly signed and sealed, directing any officer, authorized to serve processes in the suit, to take such property into his custody, and hold it as if originally attached; and he shall execute it accordingly.

How to pre-
serve lien on
personal
estate.
R. S., c. 148,
§ 13.

SEC. 13. At any time before or after the return day of any such writ or process, the parties to the suit, by a written agreement, may appear before a justice of the peace and quorum in the county where the suit is pending; and the defendant shall make the disclosures, and submit to the examination and proceedings required in section nine, and the record thereof shall be

Disclosure on
mesne process
by consent of
parties.
R. S., c. 148,
§ 14.

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returned to the court or justice before which the suit is pending, before final judgment, where the proceedings shall be the same as if the disclosure had been before a commissioner appointed for the purpose.

Execution to issue against the body, &c.
R. S., c. 148, § 15.

SEC. 14. If no such disclosure and examination are made before final judgment, or if the result thereof is adverse to the defendant's right to exemption from arrest, the execution shall run against his body.

Certain property, which cannot be come at to be attached, &c.
R. S., c. 148, § 16.

SEC. 15. If, on any disclosure and examination before judgment, it appears that the debtor possesses, has in his power, or, with intent to protect the same from his creditors, has assigned, secreted, or otherwise disposed of any bank bills, notes, accounts, bonds, other contracts, or property not exempted from attachment, but which cannot be reached to be attached from its nature or otherwise, the debtor, if under arrest, shall not be released; nor shall he be exempted from arrest on execution on judgment in such suit, unless he assigns and delivers to such person as the examining magistrate, court, or commissioner appoints, all such property, or so much of it as they adjudge sufficient security for the creditor, to be held by him, under the direction of the court or justice before which the suit is pending, in trust for the parties, that it may be applied and appropriated as provided in sections twenty-nine and thirty.

BONDS ON MESNE PROCESS AND DISCLOSURES AFTER JUDGMENT.

Persons arrested may give bond to disclose in a certain time after judgment.

4 Greenl. 10.
22 Maine, 483.
24 Maine, 361.
R. S., c. 148, § 17.
1848, c. 85, § 6.

SEC. 16. When a person is arrested or imprisoned on mesne process in a civil action, he may be released, by giving bond to the plaintiff in double the sum for which he is arrested or imprisoned, with surety or sureties, approved by him, or by two or three justices of the peace and quorum of the county where the arrest or imprisonment is made, selected and proceeding as prescribed in section forty, conditioned that within fifteen days after rendition of judgment, or after the adjournment of the court in which it is rendered, he will notify the creditor, his agent, or attorney, to attend at a certain place in the county, at a time not more than thirty, nor less than fifteen days after such notice, for the purpose of disclosure and examination; that he will then and there submit himself to examination; make true disclosure of his business affairs and property on oath; and abide the order of the justices thereon; and if the officer serving the writ takes such bond, he shall return it to the court or justice where the suit is pending.

Proceedings if debtor has given bond on mesne process.
R. S., c. 148, § 35.

SEC. 17. After judgment, he may apply in writing to a justice of the peace of the county where he was arrested, who shall issue a citation to the creditor, his agent or attorney; and an examination and disclosure may be had before two justices of the peace and quorum, within the time specified in the bond; and the same proceedings shall be had, and the same results follow, as in disclosures on bonds given on execution, except as provided in the following section.

Debtor may go at large thirty days,

SEC. 18. If the debtor, on such examination, does not entitle himself, in the opinion of the justices, to the benefit of the oath

hereinafter provided, and it appears that at that time he has any real or personal estate, liable to attachment, or any property such as is described in section twenty-nine, they shall permit him to go at large on his bond during the thirty days the creditor's lien exists on the property disclosed; and, during that time, the creditor may elect to arrest him on execution, or enforce his lien on the property.

SEC. 19. If the creditor elects to so arrest him, and the officer having the execution returns that he is not found, his bond shall be forfeited, and, on judgment thereon, execution shall issue for the amount of judgment in the original suit and interest. If the debtor is not arrested, within that time, and does not avoid arrest, no execution, issued or founded on such judgment, shall run against his body, but against his property only.

ARRESTS AND BONDS ON EXECUTION, AND DISCLOSURES THEREON.

SEC. 20. No person shall be arrested on an execution issued on a judgment founded on a contract, express or implied, where the debt is less than ten dollars, exclusive of costs; or on a prior judgment on contract, where the amount of the original debt remaining due is less than ten dollars, exclusive of costs; and the form of the process shall be varied accordingly.

SEC. 21. In all other cases, except where express provision is by law made to the contrary, an execution shall run against the body of the judgment debtor; and he may be arrested and imprisoned thereon for the purpose of obtaining a discovery of his property wherewith to satisfy it, as hereinafter stated. He shall not be required to give any bond for his release, but on request to the officer or jailer having him in custody, he may be taken before two disinterested justices of the peace and quorum to disclose the actual state of his affairs; who shall be selected as provided by law, and the proceedings before them, in making such disclosure and determining the result thereof, shall be subject to the provisions and regulations contained in sections four, five, six, seven, and eight, and also to the provisions contained in sections twenty-nine and thirty; and if one of the creditors, their agent, or attorney, lives in the same town in which he is arrested, it shall not be necessary to give more than twenty-four hours personal notice of the time and place for attending to such disclosure. If he is not discharged, the justices shall certify their doings on the execution, and the officer shall make return of costs so incurred, to be added to his fees and paid by the debtor; if he is discharged, they shall certify that fact on the execution, and the officer shall make his return thereon, and no execution on such judgment shall thereafter run against the debtor's body. If the officer fears that he cannot otherwise safely keep the debtor till after disclosure, he may commit him to jail.

SEC. 22. When a debtor is arrested or imprisoned on execution issued on a judgment in a civil suit, he may be released by giving bond to the creditor, in double the sum for which he is arrested or imprisoned, with surety or sureties approved in writ-

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during lien on property disclosed.

R. S., c. 148, § 36.

Effect of creditor's election to arrest on execution or otherwise.

R. S., c. 148, § 37.

No arrest on execution if debt is less than \$10.

R. S., c. 148, § 18.

Arrests in other cases, and mode of release.

R. S., c. 148, § 19.
1856, c. 256.
1857, c. 42, § 2, 3.

Bond may be given on such arrest, &c.

R. S., c. 148, § 20.
1848, c. 85, § 6.

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ing by the creditor, or by two or three justices of the peace and quorum, of the county where he is arrested or imprisoned, selected and proceeding as provided in section forty, conditioned that he will, within six months thereafter, cite the creditor before two justices of the peace and of the quorum; submit himself to examination, and take the oath prescribed in section twenty-eight; pay the debt, interest, costs, and fees, arising in said execution; or deliver himself into the custody of the keeper of the jail to which he is liable to be committed under said execution. (a)

Application by a debtor under bond or imprisoned, &c. Justice to appoint the time and place and cite the creditor.

R. S., c. 148, § 21, 22.

Citation, how served.

22 Maine, 400.
R. S., c. 148, § 23.-
1842, c. 31, § 19.

Examination before two justices, &c.
R. S., c. 148, § 24.

Mode of examination.
12 Maine, 415.
16 Maine, 386.
R. S., c. 148, § 25.

Same subject.
R. S., c. 148, § 26.

When the justices may administer the oath.
R. S., c. 148, § 27, 28.

SEC. 23. A debtor, who has given such bond, may apply in writing, within the time limited in his bond, to a justice of the peace in the county where he was arrested, claiming the benefit of the oath authorized in section twenty-eight; or if he is in jail on an execution in a civil suit, he may apply to a justice of the same county, or at his request, the jailer shall apply in his behalf; and in either case, the justice shall appoint a time and place for his examination, and issue a citation to the creditor, under his hand and seal. (b)

SEC. 24. The citation shall be served on the creditor, or one of them if more than one, by any officer qualified to serve civil process between the same parties, by reading it to him, or leaving an attested copy of it at his place of last and usual abode, or by giving it to him in hand, fifteen days at least before the time appointed for the examination, if the creditor is alive and in the state; otherwise it shall be so served on his attorney in the suit, his executor or administrator, or some known authorized agent; and if no such representative can be found in the state, such copy shall be left in like time with the clerk of the court or magistrate who issued the execution.

SEC. 25. The examination shall be before two disinterested justices of the peace and quorum for the county, who may adjourn as provided in section six. (c)

SEC. 26. They shall examine the citation and return, and if found correct, they shall examine the debtor on oath, concerning his estate and effects, their disposal, and his ability to pay the debt for which he is committed; and hear any other legal and pertinent evidence adduced by the debtor or creditor.

SEC. 27. The creditor may propose to the debtor any interrogatories pertinent to the inquiry, and if he requires it, they shall be answered in writing, and the answers signed and sworn to by the debtor; and the creditor may have a copy thereof certified by the justices, on paying therefor twelve cents a page.

SEC. 28. If, on such examination and hearing, the justices are satisfied that the debtor's disclosure is true, and they do not discover any thing therein inconsistent with his taking the oath, they may administer it to him as follows:

(a) 20 Maine, 465; 21 Maine, 385, 430; 24 Maine, 166, 451, 546, 551; 36 Maine, 419.

(b) 10 Maine, 334; 15 Maine, 33, 337; 17 Maine, 96, 398; 18 Maine, 120; 32 Maine, 27; 35 Maine, 158.

(c) 23 Maine, 144; 24 Maine, 166, 196; 25 Maine, 423; 39 Maine, 267.

I, ———, do solemnly swear (or affirm) that I have not any real or personal estate, or interest in any, except what is exempted by statute from attachment and execution, and what I have now disclosed; and that since any part of this debt or cause of action accrued, I have not directly or indirectly sold, conveyed, or disposed of, or entrusted to any person, any of my real or personal property, to secure it, or receive any benefit from it to myself or others, with an intent to defraud any of my creditors. So help me God; (or, this I do under the pains and penalties of perjury.)

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Form of the poor debtor's oath.

21 Maine, 53, 108.
22 Maine, 433.
24 Maine, 509.
25 Maine, 423.
26 Maine, 200.
27 Maine, 419.
39 Maine, 355.
R. S., c. 14S, § 28.

SEC. 29. When, from the disclosure of a debtor arrested or imprisoned on execution, it appears that he 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 creditor and debtor cannot agree to apply the same towards the debt, the justices hearing the disclosure shall appraise and set off enough of such property to satisfy the debt, cost, and charges; and the creditor or his attorney, if present, may select the property to be appraised. If the creditor accepts it, it may be assigned and delivered by the debtor to him, and applied towards the satisfaction of his demand. 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 in its nature, the creditor may take it, by paying the overplus to the debtor, or securing it to the satisfaction of the justices.

Certain property disclosed, which cannot be come at to be attached, may be appraised off to the creditor.

28 Maine, 310.
29 Maine, 368.
32 Maine, 458.
36 Maine, 494, 589.
38 Maine, 122, 215.
R. S., c. 14S, § 29.
1848, c. 85, § 5.

SEC. 30. If the creditor is absent, or does not so accept it, the debtor shall deposit with the justices a written assignment to the creditor of all the property thus appraised and set off; and they shall make a record of such proceedings, and cause such property to be safely kept and secured for the term of thirty days thereafter, to be delivered to the creditor with the assignment, on demand, within that time. If not so demanded, they shall be returned to the debtor.

Creditor may accept it within thirty days.
R. S., c. 14S, § 30.

SEC. 31. After the oath is administered and the property disclosed is duly secured, the justices shall make out and deliver to the debtor a certificate under their hands and seals in the form following:

Form of justice's certificate of administration of oath.

11 Maine, 238.
18 Maine, 340.
19 Maine, 452.
20 Maine, 435.
23 Maine, 439.
24 Maine, 196.
26 Maine, 444.
27 Maine, 153, 174.

STATE OF MAINE.

———, ss. To the sheriff of the county of ———, or his deputy, and to the keeper of the jail at ———, (or to any coroner or constable.)

[L. s.] We, the subscribers, two disinterested justices of the peace and quorum in and for said county of ———, hereby certify, that ———, a poor debtor arrested on a certain execution issued by (here insert the name and style of the court, or of the justice of the peace, and the amount of the judgment, and date of the judgment and execution,) and committed to the jail at ——— aforesaid, (or enlarged on giving bond to the creditor, as the case may be,) has caused ———, the creditor, to be notified,

30 Maine, 347.
33 Maine, 500.
34 Maine, 230.
R. S., c. 14S, § 31.

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according to law, of his desire to take the benefit of the one hundred thirteenth chapter of the revised statutes; that in our opinion he is clearly entitled to the benefit of the oath prescribed in the twenty-eighth section thereof; and that we have, after due caution, administered it to him.

Witness our hands and seals, this — day of —, in the year —.

— —, chosen by —.

— —, chosen by —.

Effect of such certificate.

20 Maine, 75.
24 Maine, 451.
R. S., c. 148,
§ 32.

SEC. 32. The debtor, on delivering the certificate to the prison keeper, or filing it in his office if imprisoned, shall be set at liberty, so far as relates to this execution; and his body forever after shall be free from arrest thereon, and on every subsequent execution issued on the judgment, or on any other judgment founded thereon, except as provided in sections thirty-six and forty-six.

Effect of voluntary release by creditor from arrest.

R. S., c. 148,
§ 59.

Officer may indorse release on the execution and proceed to levy on property.

R. S., c. 148,
§ 60, 61.

SEC. 33. A creditor may discharge his debtor from arrest, or imprisonment on execution, by giving to the officer or jailer having him in custody a written permission to go at large; and it shall have the same effect as a discharge or disclosure.

SEC. 34. A certificate of a discharge on execution in any of the modes hereby authorized, and of the cause of it, shall, at any time, at the creditor's request, be indorsed on the execution by the officer who had such debtor in custody; and if it is before the return day of the execution, it may still be levied on his property; if after, it may be renewed like other executions, against his property only; and the judgment may be revived or kept in force, with said execution, as judgments in other cases.

Preservation of creditor's lien on real estate disclosed.

31 Maine, 50.
R. S., c. 148,
§ 33.

SEC. 35. If an execution debtor discloses any real estate liable to be seized on execution, the justices shall give the creditor a certificate thereof, stating the names of the parties, and the amount of the execution; and the creditor shall have a lien thereon for thirty days thereafter, if he files the certificate with the register of deeds of the county or district where the real estate lies within five days from the date of the disclosure; and the register shall enter and file it like officers' returns of attachments.

Lien on personal estate disclosed, &c.

20 Maine, 222,
465.
21 Maine, 191.
R. S., c. 148,
§ 34.

SEC. 36. If he discloses personal estate liable to be seized on execution, the creditor shall have a lien on it for thirty days, or so much of it as the justices, in their record, judge necessary; and if the debtor transfers, conceals, or otherwise disposes of it within said time, or suffers it to be done, or refuses to surrender it, on demand, to any proper officer having an execution on the same judgment, the debtor shall have no benefit from the certificate described in section thirty-one; and the creditor may recover, in an action on the case against him, or any person fraudulently aiding in such transfer, concealment, or disposal, double the amount due on said execution; and any execution on a judgment in such action shall run against the body of the debtor and other persons so aiding; but the payment thereof shall be a satisfaction of the original debt.

SEC. 37. Every officer, taking a bond on an execution, shall return it with the execution for the benefit of the creditor, who may receive it on filing a copy with the clerk of court, judge, or justice to whom it is returned. He may also receive from the jailer any such bond in his hands on the like terms.

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Bond taken on execution to be returned, &c.
R. S., c. 148, § 38.

SEC. 38. If the debtor fails to fulfill the condition of such bond, judgment in a suit thereon shall be rendered for the amount of the execution, costs, and fees of service, with interest thereon, against all the obligors; and a special judgment against the principal, for a sum equal to the interest on said amount, at the rate of twenty per cent. by the year, after the breach of the bond. (a)

Amount recoverable thereon if forfeited.
R. S., c. 148, § 39.

ARRESTS FOR TAXES.

SEC. 39. Any person arrested or imprisoned by virtue of a warrant for the collection of a public tax; or any constable, collector, or deputy sheriff, arrested or imprisoned for default in collecting taxes committed to him, shall have the privileges, and be subject to the obligations of this chapter, as if arrested or imprisoned on execution for debt; and for all purposes relating thereto, the assessors who assessed the taxes shall be deemed the creditors; and corresponding verbal alterations shall be made in the oath and certificate of discharge.

Persons arrested for taxes, entitled to the privileges of this chapter.
Variation in form of oath and certificate.
19 Maine, 322.
R. S., c. 148, § 50, 51.

GENERAL PROVISIONS.

SEC. 40: One of the justices, to hear a disclosure, may be chosen by the debtor, and the other by the creditor, his agent, or attorney; and if, at the time appointed, he refuses, or unreasonably neglects to appoint, or to procure his attendance, the other may be chosen by an officer who has the debtor in charge, or if not in charge, who might serve the precept on which he was arrested; and in that case the justice chosen by the debtor, if he deems it necessary, may adjourn once, not exceeding twenty-four hours, Sundays excluded, to enable the debtor to procure the attendance of another justice. If the justices do not agree, they may choose a third; if they cannot agree on a third, such officer may choose him; and a majority may decide. (b)

Manner of selecting the justices to take the disclosure.
R. S., c. 148, § 46.
1844, c. 88, § 1.
1846, c. 215, § 1.
1848, c. 85, § 1.
1856, c. 213, § 5.

SEC. 41. The judge of a municipal or police court shall have the same powers, duties, and obligations under this chapter, as a justice of the peace and quorum of his county.

Municipal and police judges may act.
R. S., c. 148, § 62.

SEC. 42. No criminal conviction, or other disqualification to be a witness, shall preclude a debtor from relief under this chapter.

Persons incompetent as witnesses, not precluded.
R. S., c. 148, § 40.

SEC. 43. If a debtor fails in any application for a discharge from arrest or imprisonment, the creditor shall recover his costs as in actions before a justice of peace, and the justices shall issue execution therefor; but no such failure shall prevent his obtain-

Costs for creditor if debtor is not discharged.
R. S., c. 148, § 41.

(a) 15 Maine, 340; 16 Maine, 353; 18 Maine, 120; 20 Maine, 206; 22 Maine, 160; 23 Maine, 76, 101, 244; 24 Maine, 123, 166; 27 Maine, 97.

(b) 20 Maine, 206; 23 Maine, 26, 489; 24 Maine, 196; 26 Maine, 101; 27 Maine, 551; 28 Maine, 458; 39 Maine, 504.

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ing a discharge at any future examination, except as provided in sections thirty-four and forty-six.

Bond to be valid, though not taken for exact amount. Liability of officer.
R. S., c. 148, § 43.
Limitation of suits on bond.
10 Maine, 399.
R. S., c. 148, § 45.

SEC. 44. If by mistake or accident, the penalty of a bond taken by an officer under this chapter, varies from the sum required by law, it shall still be valid; and the officer shall not be responsible to either party beyond the actual damage. (a)

SEC. 45. No suit, on any bond herein authorized to be given, shall be sustained unless commenced within one year after the forfeiture; except that the provisions of sections one hundred and two and one hundred and three of chapter eighty-one are applicable to such suits.

FALSE DISCLOSURES AND AIDING IN FRAUDULENT CONVEYANCES.

Liability of a debtor if he discloses falsely.
R. S., c. 148, § 47, 48.

SEC. 46. When a debtor, herein authorized or required to disclose on oath, willfully discloses falsely, withholds, or suppresses the truth, the creditor may bring a special action on the case against him, whether he is criminally prosecuted or not, particularly alleging the false oath and fraudulent concealment of his estate or property; and, on oath, before a justice of the peace, may declare his belief of the truth of the allegations in the writ; such justice shall certify the oath on the writ; and thereupon the debtor shall be held to bail, or in default thereof, committed to jail to abide the judgment in the suit; and if the creditor prevails in the suit, judgment shall be rendered against the debtor, for double the amount of the debt and charges on the former judgment; and the debtor may be arrested, and committed to prison on any execution issued on the judgment last recovered, without the privilege of release or discharge, except by payment or consent of the creditor.

Liability of persons aiding in fraudulent concealment or transfer of property.
25 Maine, 249.
R. S., c. 148, § 49.

SEC. 47. Whoever knowingly aids or assists a debtor or prisoner in a fraudulent transfer or concealment of his property to secure it from creditors, and prevent its attachment or seizure on execution, shall be liable to any creditor suing therefor in an action on the case, in double the amount of property so fraudulently transferred or concealed, not exceeding double the amount of such creditor's demand.

DAMAGES ON BONDS.

In all actions upon a debtor's bond, &c.
28 Maine, 371.
30 Maine, 457.
32 Maine, 335.
33 Maine, 388.
36 Maine, 240.
1848, c. 55, § 2, 4.
1856, c. 263.

SEC. 48. In all actions on any bond given by a debtor to obtain his release from arrest on mesne process, execution, or warrant of distress for taxes, if it appears that, prior to the breach of any of its conditions, the principal had legally notified the creditor, or the assessors who issued such warrant, and had been allowed by two justices of the peace and of the quorum of the county where the arrest was made, having jurisdiction and legally competent to act in the matter, to take, and had taken the oath prescribed in the twenty-eighth section, the damages shall be assessed by the jury, at the request of either party; otherwise, by the court. The amount assessed shall be the real and

(a) 23 Maine, 101; 24 Maine, 546; 31 Maine, 350.

actual damage, and any legal evidence on that point may be introduced by either party. In any such action, evidence may be received to show that no legal service of the citation was made on the creditor or assessors, though it may contradict the record and certificate of the magistrates who administered the oath.

SEC. 49. If the whole amount due on the execution or warrant of distress is recovered in any such action, the new judgment shall be a discharge of said execution or warrant of distress; if only a part is recovered, it shall be a discharge of such part. If the amount of damage is not more than twenty dollars, the plaintiff's costs shall not exceed a quarter part of the damage, though the penalty of the bond is more than twenty dollars. If the verdict or judgment is that the creditor has sustained no damage, neither party shall recover costs.

The new judgment on such bond to operate as discharge of old judgment as far as it goes.
1848, c. 85, § 3.

WILLFUL TRESPASS.

SEC. 50. When, in the trial of an action of trespass on property, the court, jury, or magistrate, determines that such trespass was committed willfully, and the fact is recorded, and noted on the margin of the execution on such judgment, and the debtor is thereon arrested and committed to prison, he shall not be entitled to give any bond for his liberation; and if he applies to take the oath described in section twenty-eight, no notice shall be issued to the creditor till at least thirty days after his commitment.

Disability of persons committed for willful trespass.
R. S., c. 148, § 54.

SUPPORT OF DEBTORS IN JAIL.

SEC. 51. When a person is committed to prison on mesne process or execution, or delivers himself into the custody of the jailer to save the condition of a bond given on execution, and makes a written complaint, by him signed and sworn to, stating that he is unable to support himself in jail, and has not sufficient property to furnish security for his support, the jailer may require of any one of the creditors, their agent or attorney, security for his support; and unless it is satisfactorily furnished within eight days after the request, or money is paid in advance therefor from time to time, he may release him; but when a debtor is committed on more than one execution at the same time, the jailer shall be entitled to pay for board only on the first execution, to be paid for equally by all the creditors, on whose executions he is committed; and the first creditor may have an action against the other committing creditors for their proportion thereof; and if such debtor is discharged on the first, the jailer shall notify the next committing creditor of his liability to pay for his support, as on the first execution.

Prison keeper may require creditor to support debtor, &c.
29 Maine, 555.
36 Maine, 399.
R. S., c. 148, § 56.
1842, c. 23, § 1, 2.

SEC. 52. In case of dispute about the price of such support, the county commissioners may determine it, not exceeding two dollars and twenty-five cents a week.

Adjustment of price of support.
R. S., c. 148, § 57.

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PROVISIONS RELATING TO DEBTORS TO THE STATE.

Such debtor may apply to a justice of the supreme court. Notice to attorney general, &c.

R. S., c. 148, § 63, 64.

Proceedings and power to release the debtor.

R. S., c. 148, § 65.

Judge may discharge him or the debt, &c.

R. S., c. 148, § 66.

Duty of jailer.

R. S., c. 148, § 67.

Adjudication to be recorded.

R. S., c. 148, § 68.

Same powers vested in the county commissioners.

R. S., c. 148, § 69.

Application by such debtor to take the poor debtor's oath.

Notice to county attorney. Oath and certificate.

R. S., c. 148, § 70, 71, 72.

SEC. 53. Any person committed to jail in any county on execution, warrant of distress, or other final civil process for debt, penalty or costs, due to the state, may make application in writing to a justice of the supreme judicial court for relief, whether the court is in session or not; who shall appoint a convenient time and place to inquire into the circumstances of the petitioner; give such notice thereof as he thinks proper to the attorney general, or county attorney for the county where the commitment is made, to attend the hearing in behalf of the state.

SEC. 54. The justice shall consider all proper evidence offered on either side, and may require the oath of the petitioner to all or any of the facts by him stated; and if satisfied that the prisoner is unable to pay any part of the amount due on such process, may order his discharge from imprisonment, having first administered to him, if he thinks proper, an oath substantially in the form prescribed by the twenty-eighth section.

SEC. 55. If, on examination, it appears to the justice that the prisoner is able to pay only a part of the amount due, he shall order his release from imprisonment, and, if he thinks it more for the interest of the state, may order the whole debt to be discharged, upon his paying or securing such sum of money, or assigning to the state such securities or other property, at such time and in such manner, to be deposited with such public officer, as he directs.

SEC. 56. The jailer having charge of the debtor shall thereupon release him from confinement, or give him a full discharge from the demand on the terms prescribed.

SEC. 57. If such proceedings are had when the supreme judicial court is not in session for the county, the justice shall cause his adjudication and discharge to be entered of record as of the last preceding term of the court therein.

SEC. 58. The county commissioners, at a regular session, or a majority of them in vacation, on application, may exercise the powers, and their proceedings shall have the like effect, provided in the five preceding sections.

SEC. 59. A person committed on execution as mentioned in section fifty-three, desiring to take the oath provided in section twenty-eight, may apply to the jailer, who shall apply in writing to a justice of the peace in his behalf, and he shall issue a citation as herein before prescribed, to be served on the county attorney for the same county, who shall attend at the time and place, by himself or a competent substitute as attorney to the state, and a disclosure may thus be had, and all the proceedings and the effect shall be the same as in the disclosures of execution debtors to individual creditors; and the justices of the peace and quorum hearing it may, if they see cause, administer an oath, and grant a certificate to the debtor as hereinbefore provided, with verbal alterations to conform to the case.