

HOUSE No. 1031.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 8, 1906.

The committee on Probate and Chancery, to whom was recommitted the Bill relative to examination on civil process (House, No. 1006), report that the same ought to pass in a new draft herewith submitted.

For the committee,

EDWARD L. McMANUS.

Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Six

AN ACT

Relative to Arrest and Examination on Civil Process.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section twenty of chapter one hun-
2 dred and sixty-eight of the Revised Laws is hereby
3 amended by striking out the words “ unless one of
4 the parties requests that it be wholly or partially in
5 writing,” in the seventh and eighth lines, and in-
6 serting in place thereof the words: — *or in writing,*
7 *at the discretion of the court,* — so as to read as
8 follows: —

9 *Section 20.* If the judgment debtor appears be-
10 fore the magistrate at the time and place named, he
11 shall be examined on oath upon the charges speci-
12 fied in said notice to him. Such examination may
13 be in the presence of the magistrate or otherwise as
14 he shall order, and when completed, if in writing,
15 shall be signed and sworn to by the debtor, and
16 shall be preserved by the magistrate. The exam-
17 ination and hearing shall be oral *or in writing, at*

18 *the discretion of the court*, and either party may
19 introduce additional evidence. If the debtor fails
20 to appear at the examination or, if appearing, fails
21 to comply with all lawful orders of the magistrate,
22 or if the truth of one at least of charges two to six,
23 inclusive, specified in section seventeen, is proved
24 to the satisfaction of the magistrate, the arrest may
25 be authorized upon the original execution or upon
26 an alias or other successive execution issuing
27 on the same judgment. If the time for the return
28 of the execution expires while the examination is
29 pending, the arrest may be authorized upon an
30 alias or other successive execution, in like manner
31 and for the same reasons as upon the original exe-
32 cution. If the time for the return of the execution
33 or of an alias or other successive execution, issu-
34 ing on the same judgment, expires after a certifi-
35 cate authorizing an arrest has been affixed thereto,
36 and before such arrest has been made thereon, a
37 copy of said original certificate, made and certified
38 by the clerk of the court or by the magistrate issu-
39 ing such execution, shall be affixed to any such
40 alias or other successive execution, and such copy
41 shall have the same force and effect as the original
42 certificate.

1 SECTION 2. Line eight of section forty-one of
2 chapter one hundred and sixty-eight of the Revised
3 Laws is hereby amended by striking therefrom the
4 words “ shall, if required by either party, be,”
5 and substitute therefor the words: — *may be, at the*
6 *discretion of the court, oral or*; and by adding in
7 line nine of said section after the word “ which,”
8 the word: — *latter*,—so as to read: — If the defend-

9 ant or debtor has given notice that he desires to
10 take the oath for the relief of poor debtors, the
11 magistrate shall examine him on oath relative to
12 his property, the disposal thereof and his ability
13 to pay the debt or satisfy the cause of action for
14 which he is arrested, and either party may intro-
15 duce additional evidence. The plaintiff or creditor
16 may upon such examination propose to the defend-
17 ant or debtor interrogatories pertinent to the in-
18 quiry, and the examination *may be, at the discre-*
19 *tion of the court, oral or be in writing, in which*
20 *latter case it shall be signed and sworn to by the*
21 defendant or debtor, and preserved by the magis-
22 trate.

1 SECTION 3. This act shall take effect upon its
2 passage.