

HOUSE No. 93.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, Feb. 11, 1890.

The committee on Probate and Insolvency who were instructed to inquire into the expediency of re-enacting section three of chapter 419 of the Acts of 1888, which was repealed by Section 3 of chapter 415 of the Acts of 1889, relating to the procedure in Poor Debtor Matters report the accompanying Bill.

For the Committee,

LOUIS A. COOK.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety.

AN ACT

Relating to the Procedure in Poor Debtor Matters.

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
2 hundred and sixty-two of the Public Statutes as
3 amended by section three of chapter four hundred
4 and fifteen of the acts of the year eighteen
5 hundred and eighty-nine, is hereby further
6 amended by adding at the end thereof the
7 following words:— If at the examination it
8 appears that, after the service of the notice
9 and pending the proceedings thereon, the debtor
10 has made a payment of money or a convey-
11 ance, assignment or transfer of any property of
12 his not exempt from being taken on execution,
13 with intent to prevent the same from being trans-
14 ferred or paid to the creditor, or applied by the
15 force of the said proceedings to the satisfaction

16 of the execution, such transfer, assignment, con-
17 veyance or payment shall be deemed to be made
18 in contempt of the court or magistrate, and the
19 debtor shall be liable in the discretion of the court
20 or magistrate to be committed as for a contempt,
21 and, when the court or magistrate makes a certifi-
22 cate therefor, shall be conveyed to jail and there
23 kept until discharged by said court or magistrate
24 or otherwise according to law; but payment of
25 debts for necessaries for support of himself and
26 family, debts due on executions upon which he
27 has already been cited to appear for examination
28 under the provisions of this chapter or any act
29 amendatory thereof or supplementary thereto,
30 and a reasonable sum for counsel fees, shall not
31 be deemed within the prohibition of this section,
32 so as to read as follows: — *Section 20.* — If the
33 judgment debtor appears before the magistrate
34 at the time and place fixed, he shall be examined
35 on oath touching his estate and effects and the
36 disposal thereof. Such examination may be in
37 the presence of the magistrate or otherwise as he
38 shall direct; and when completed, if in writing,
39 shall be signed and sworn to by the debtor, and
40 shall be preserved by the magistrate. The magis-
41 trate shall also hear any legal and pertinent
42 evidence which either party may offer. The
43 examination and hearing shall be oral, unless
44 the parties, or one of them, requests that the
45 same may be wholly or in part in writing. If
46 the debtor fails to appear at the examination, or
47 if appearing, he fails to obey all lawful orders

48 and requirements of the court or magistrate, the
49 arrest may be authorized either upon the original
50 execution or upon an alias or other successive
51 execution issuing on the same judgment. If the
52 time for the return of the execution expires while
53 the examination is pending, the arrest may be
54 authorized upon an alias or other successive
55 execution in like manner and for the same reasons
56 or defaults as upon the original execution. If
57 the time for the return of the execution or of
58 any alias or other successive execution issuing
59 on the same judgment expires after a certificate
60 authorizing an arrest has been affixed thereto
61 and before such arrest has been made thereon, a
62 copy of the said original certificate, certified by
63 the clerk of the court issuing such original
64 certificate and under the seal of said court,
65 shall be affixed to any alias or other successive
66 execution issuing on the same judgment, and
67 such copy shall have the same force and effect
68 as the original certificate. If, at the examination
69 it appears that, after the service of the notice
70 and pending the proceedings thereon, the debtor
71 has made a payment of money or a convey-
72 ance, assignment or transfer of any property of
73 his not exempt from being taken on execution,
74 with intent to prevent the same from being trans-
75 ferred or paid to the creditor, or applied by the
76 force of the said proceedings to the satisfaction
77 of the execution, such transfer, assignment, con-
78 veyance or payment shall be deemed to be made
79 in contempt of the court or magistrate, and the

80 debtor shall be liable in the discretion of the court
81 or magistrate to be committed as for a contempt,
82 and, when the court or magistrate makes a certifi-
83 cate therefor, shall be conveyed to jail and there
84 kept until discharged by said court or magistrate
85 or otherwise according to law; but payment of
86 debts for necessaries for support of himself and
87 family, debts due on executions upon which he
88 has already been cited to appear for examination
89 under the provisions of this chapter or any act
90 amendatory thereof or supplementary thereto,
91 and a reasonable sum for counsel fees, shall not
92 be deemed within the prohibition of this section.

1 SECT. 2. All acts and parts of acts incon-
2 sistent herewith are hereby repealed.

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

