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HOUSE.....No. 46.

Commonwealth of Massachusetts.

Amendment to the Bill concerning Arrest and Imprisonment in Civil Actions.

PROPOSED AMENDMENTS :

Between the 3d and 4th Sections of the bill, insert the three following sections :—

1 “ *Be it further enacted*, That the Governor, with
2 the advice of the Council, shall appoint and com-
3 mission, in due form, certain learned, able and dis-
4 creet persons, consisting of not less than four, nor
5 more than ten, in each county in the Common-
6 wealth, to act as special Justices, whose duty it
7 shall be to take the examination and administer the
8 oath prescribed by law to the poor debtors who may
9 be imprisoned for debt upon execution, or who may
10 have given bond, as herein before is provided ;

11 which special Justices shall be commissioned for
 12 the same period of time, and shall hold their office
 13 by the same tenure, as other Justices of the Peace ;
 14 and from and after the day when this act shall take
 15 effect, no other Justices shall thus take the exam-
 16 ination and administer the oath to poor debtors.
 17 And any two of said special justices, no others be-
 18 ing present, may take the examination and adminis-
 19 ter the oath to such poor debtor, and it shall be
 20 their duty to attend to such service upon request of
 21 any debtor or creditor, and upon receiving therefor
 22 one dollar for each special Justice in each case,
 23 and if the same shall occupy more than one day,
 24 then one dollar for each additional day to each spe-
 25 cial Justice. And any creditor may require the at-
 26 tendance of any of said special Justices to act with
 27 those employed by the debtor, not exceeding the
 28 number attending at the request of the debtor, to
 29 take the examination and administer the oath as
 30 aforesaid ; and the oath shall not be administered
 31 to the debtor, and he shall not be discharged there-
 32 upon except by the decision and order of the major
 33 part of the special Justices present and acting at
 34 such examination. And said special Justices may
 35 be appointed and commissioned at any time after
 36 the passing of this act.”

1 “ *Be it further enacted,* That said special Justices
 2 shall in no case administer the poor debtor’s oath to any
 3 person imprisoned upon execution, or who may have
 4 given bond as herein before is provided, unless it
 5 shall satisfactorily appear, upon examination, that
 6 the debt, from which such debtor wishes to be dis-
 7 charged, was contracted in good faith, and that said

8 debtor, at the time of contracting the same, had a
 9 reasonable expectation of paying and satisfying the
 10 same, and that he has been prevented from so doing
 11 by sickness, misfortune, or unavoidable accident,
 12 happening since the contracting of said debt;—and
 13 in said examination, said special Justices shall strict-
 14 ly inquire of such debtor, as to the means which he
 15 possessed, and upon which he relied for such pay-
 16 ment, and how and in what manner he has been de-
 17 prived of the same; and the creditor shall be ad-
 18 mitted to his oath to give evidence in such case,
 19 and such other testimony may be adduced, as either
 20 party may desire.”

1 “ *Be it further enacted*, That if it shall appear to
 2 said special Justices, upon such examination, that
 3 the debtor has sold, transferred, or disposed of any
 4 goods, effects, credits, choses in action, or other
 5 property, fraudulently, or for the purpose and with
 6 the intent to hinder or delay any creditor, or to put
 7 the same beyond the reach of legal process, or that
 8 he has lost at gaming any sum or sums equal in the
 9 whole to ten dollars, since the contracting of the
 10 debt upon which said execution issued, or upon
 11 which, said mesne process issued and he has given
 12 bond as aforesaid, in any such case, said special
 13 Justices shall not administer said poor debtor’s oath
 14 to the person so imprisoned or giving bond, and
 15 said debtor shall not be released or discharged from
 16 said debt, bond, or imprisonment.”

At the end of the 4th section, insert the following
 words:—

1 “And the foregoing provisions of this act shall not be

2 applied to, or in any way affect causes of action or
 3 contracts now existing, or that may exist before this
 4 act takes effect."

After the last section, insert the following additional
 section :—

1 *Be it further enacted*, That an act entitled "An
 2 Act to abolish imprisonment for debt in certain ca-
 3 ses," approved by the Governor on the nineteenth
 4 day of March, in the year of our Lord eighteen
 5 hundred and thirty-one, be and the same hereby is
 6 repealed.