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SENATE.....No. 31.

Commonwealth of Massachusetts.

IN SENATE, FEB. 16, 1831.

Ordered, That the Committee on the Judiciary be directed to inquire into the expediency of so far altering the law relating to mortgages of personal property, as to render all such mortgages void unless recorded by the town clerk of the town in which the mortgagor resides, or otherwise amending the law on that subject.

Attest,

CHARLES CALHOUN, Clerk.

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COMMISSIONERS OF THE LAND OFFICE

In SENATE, Jan. 16, 1881.

Resolved, That the Commission on the Judiciary be directed to inquire into the expediency of so far altering the law relating to mortgages of personal property, and under all such mortgages will unless recorded by the town clerk of the town in which the mortgagor resides or otherwise amending the law on that subject.

Attest:

CHARLES CALHOUN, Clerk.

1881

Commonwealth of Massachusetts.

In the Year of our Lord One Thousand Eight Hundred
and Thirty-One.

AN ACT

To prevent Fraud in the transfer of Personal Property.

1 SECT. 1. **BE** *it enacted by the Senate and House of*
2 *Representatives in General Court assembled, and by*
3 *the authority of the same,* That no mortgage of per-
4 sonal property hereafter made, shall be valid against
5 any other person than the parties thereto, unless pos-
6 session of the mortgaged property be delivered to,
7 and retained by the mortgagee, or unless the said
8 mortgage be recorded in the office of the town clerk
9 of the town, where the mortgager shall reside at the
10 time of making the same; *Provided,* that nothing
11 herein contained shall affect any transfer of proper-
12 ty under bottomry or respondentia bonds, or of any
13 ship or goods at sea or abroad, if the mortgagee
14 shall take possession thereof as soon as may be after
15 the arrival of the same in this Commonwealth.

1 SECT. 2. *Be it further enacted,* That it shall be

2 the duty of town clerks, upon payment of their fees
 3 to record mortgages of personal property in a book
 4 to be by them respectively kept for that purpose,
 5 with the time when the same are received and re-
 6 corded. And the fees of town clerks for recording
 7 such mortgages and for certifying the time when,
 8 and the book and page, where the same may be re-
 9 corded, for making and certifying copies, and for
 10 entering discharges shall be the same as are now by
 11 law allowed to registers of deeds for similar services.

1 SECT. 3. *Be it further enacted*, That whenever
 2 any person, summoned as trustee of any debtor, shall
 3 in his answers disclose, that he is indebted to the
 4 principal, or has goods and effects of the principal
 5 in his hands or possession; and a third person shall
 6 claim to be the original creditor or the owner of such
 7 goods and effects, and shall move to be heard in re-
 8 lation to said claim before the court in which such
 9 answers are made, he shall be admitted to become a
 10 party to the suit, and his right shall be tried by the
 11 court, or by a jury, as the case may require, in which
 12 trial it shall be within the discretion of the court to
 13 admit the original defendant as a witness, on the ap-
 14 plication of either party. And the court may award
 15 legal costs against any of the parties, at its discre-
 16 tion; and either party may appeal from any judg-
 17 ment of the court as in other cases.