

AN ACT TO AMEND ACT NUMBERED ONE HUNDRED AND NINETY, ENTITLED "AN ACT PROVIDING A CODE OF PROCEDURE IN CIVIL ACTIONS AND SPECIAL PROCEEDINGS IN THE PHILIPPINE ISLANDS," SO AS TO...

Act No. 397, May 09, 1902

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By authority of the President of the United States, be it enacted by the United States Philippine Commission, that:

SECTION 1. Section four hundred and fifteen of Act Numbered One hundred and ninety, entitled "An Act providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands," is hereby amended by striking out the period at the end of said section and substituting in lieu thereof a semicolon, and adding the following words: "and shall advance to the jailor, on commitment of the person arrested, sufficient money for the support of the prisoner for one week at the rate now or hereafter provided by law for such support, either before or after final judgement, and must make a like advance for each successive week of his imprisonment, and in case of failure to do so the jailor must forthwith discharge such prisoner from custody; and such discharge shall have the same effect as if made by order of the court or of the creditor. The costs of maintaining the defendant in jail shall be taxed as costs in the action."

SEC. 2. Said Act Numbered One hundred and ninety is hereby further amended by the insertion of a new section immediately after section four hundred and twenty-three, to be numbered four hundred and twenty-three (a), reading as follows;

"SEC. 423. (a) Release of poor judgment debtor.—If judgment be recovered by the plaintiff and the case is one of those mentioned in section four hundred and twelve, execution may issue against the person of the judgment debtor, committing him to the jail in the province until he pay the judgment with interest and costs of commitment and support, or be discharged according to law: Provided, however, The judgment debtor may at any time after judgment apply to the judge or justice of the peace who made the order of commitment or issued the execution on which commitment was made, or to the court in which the judgment was rendered, upon reasonable notice to the adverse party, to discharge the judgment debtor from arrest. Upon such application a judge, justice of the peace, or court, as the case may be, shall grant immediate hearing, after notice to the parties, and if it is made to appear that the judgment debtor has not any estate, real or personal, not exempt by law from being taken on execution, and has not any other estate or property conveyed, concealed, or in any way disposed of with the design unlawfully to secure the same to his own use or that of his family, or to defraud or delay the judgment creditor, the judgment debtor shall be discharged from further imprisonment upon subscribing the following oath, which shall be filed among the papers pertaining to the action:

" I, _____, do solemnly swear that I have not any estate, real or personal, except such as is by law exempt from being taken in execution; and that I have not any other estate or property now conveyed, concealed, or in any way disposed of with design to secure the same unlawfully to my use or that of my family, or to hinder, delay, or defraud my creditors. So help me God."

"The prisoner, after being so discharged, shall be forever exempted from arrest or imprisonment for the same

debt, but the judgment against him shall remain in full force against any estate which may then or at any time afterwards belong to him, and the plaintiff may take out a new execution against the goods and estate of the prisoner in like manner as if he had never been committed. The plaintiff in the action may at any time order the prisoner to be discharged and he shall not thereafter be liable to imprisonment for the same cause of action."

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, May 9, 1902.

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