

It is, however, with the question of imprisonment under committal orders under the judgment summons clauses of the Division Courts Act that we propose to deal shortly in these pages. Some time ago this journal invited discussion on the utility of these clauses, and several communications were received and published from County Court Judges, who were concerned with the practical working of the Act. They were all of opinion, and it will be found to be that of the majority, that these clauses provide a speedy and inexpensive method of making collections of a considerable amount of money which otherwise could not be collected at all, and of making fraudulent debtors and deadbeats (a numerous class unfortunately in our cities and towns) pay up small accounts owing to tradesmen and mechanics, who could ill afford to lose the money.

When a suitor has recovered judgment for debt, damages, or costs, for an amount within the jurisdiction of the Division Courts, he has two courses open to him. He may proceed either against the goods or against the person of his debtor. If the debtor is a poor man the usual course is to proceed against him personally. A large proportion of his chattels are now exempt from seizure, and what is not exempt may be of no value, or may be claimed by some third person, sometimes justly, but more usually unjustly, to protect the debtor. Small traders often have a friendly bill of sale or chattel mortgage covering their goods, or an obliging landlord with rent in arrear, and some very small people take refuge under the Married Woman's Property Act. If the judgment is against the husband, the goods are claimed by the wife, and if against the wife, the husband puts in a claim. It is impossible for a creditor, without the tedious and expensive process of interpleader, in which he may not be successful, to find out under which thimble the pea really is. His usual course, under such circumstances, is to take advantage of the judgment summons clauses of the Division Courts Acts. By section 235 of the Act a judgment debtor may be examined upon oath before the judge at the instance of his creditor, touching his estate and effects, and the manner and circumstances under which he contracted the debt or incurred the damages or liability which formed the subject of the action, and as to the means and expectation he then had, and as to the property and means he still has of discharging the debt, and as to the disposal he has made of any property: provided the creditor or his agent shall, before the issue of the summons, make and file with the Clerk of the Court, an affidavit stating that the judgment remains unsatisfied, his belief that the debtor is able to pay the debt, and that he is liable to be examined under the Act. If the party so summoned does not attend on the examination, or attends and refuses to be sworn, or refuses to make satisfactory answers on the matters above mentioned; or if it appears to the judge, from the examination of the debtor or by other evidence that the creditor obtained credit or incurred the liability under false pretences, or by means of fraud and breach of trust, or has made or caused to be made any gift, delivery, or transfer of any property, or has removed or concealed the same with intent to defraud his creditors or any of them; or it appears to the satisfaction of the judge that the debtor had, when summoned, or since judgment, sufficient means and ability to pay the debt, the judge may, if he thinks fit, order such party to be committed to the