

HOUSE No. 789.

[Bill accompanying the petition of E. P. Kendrick. Probate and Insolvency.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety-nine.

AN ACT

Relative to the release of Estates of Tenancy by curtesy, and rights by Statute, by the Guardian of an Insane Married Man.

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 one of chapter two hun-
2 dred and forty-five of the acts of eighteen hun-
3 dred and eighty-six is amended by inserting after
4 the word "curtesy," in the fourth line, the words
5 "and rights by statute in said real estate;" and
6 after the word "curtesy," in the eighth line, the
7 words "and rights by statute," so that said sec-
8 tion shall read as follows:—

9 *Section 1.* When the wife of an insane man is
10 desirous of conveying any of her real estate,
11 whether absolutely or by way of mortgage, she
12 may by petition, describing the same, ask leave of
13 the probate court that the estate of the husband
14 as tenant by the curtesy and rights by statute in
15 said real estate, may be released, setting forth the
16 facts and reasons why her prayer should be
17 granted. After notice in some newspaper to all
18 persons interested and a hearing thereon the
19 court, if satisfied that such estate by curtesy and
20 rights by statute ought to be released, shall au-
21 thorize the guardian of the husband to make such
22 release by joining in any deed of conveyance to
23 be made within five years thereafter, either by the
24 wife or by a trustee for her, and whether such
25 deed passes the whole or only separate parcels or
26 lots of said real estate.

1 SECTION 2. Section two of chapter two hun-
2 dred and forty-five of the acts of eighteen hun-
3 dred and eighty-six is amended by inserting after
4 the word "curtesy," in the second line, the words
5 "or rights by statute," so that said section shall
6 read as follows:—

7 *Section 2.* If the guardian is so authorized
8 to release the estate by curtesy or rights by
9 statute of his ward, and the probate court deems
10 it proper that some portion of the proceeds of
11 such real estate, or of a sum loaned on mortgage
12 thereof, should be reserved for the use of such
13 ward, the court may order that a certain portion of

14 such proceeds or sum actually to be realized from
15 such sale or mortgage, exclusive of any encum-
16 brance then existing on the estate, shall be set
17 aside and paid over to such guardian to be in-
18 vested by him for the benefit of the husband if he
19 survives his wife; the income of such sum to be
20 received and enjoyed by the wife during the life
21 of her husband, or until otherwise ordered by the
22 court upon good cause shown, and the principal
23 to be hers and to be paid over to her if she sur-
24 vives him, and if she does not survive him, to be
25 paid over to her heirs, executors or administrators
26 upon his decease.

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

