

HOUSE....No. 265.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, April 4, 1870.

The Committee on the Judiciary, to whom was committed the Order to inquire into the expediency of amending the laws relating to attachments of property, have duly considered the subject, and report the accompanying Bill.

Per order of the Committee,

T. H. SWEETSER.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Seventy.

AN ACT

Providing for the Attachment of certain kinds of Property and for the Dissolution of Attachments.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:—

1 SECT. 1. The shares or interest of a stockholder
2 in any corporation organized under the laws of the
3 United States, and located or having a general office
4 in this state, may be attached on mesne process in the
5 same manner as the shares or interest of a stockholder
6 in corporations organized under the laws of this state
7 may be attached.

1 SECT. 2. When an attachment of real or personal
2 property has been made and the defendant in the
3 action desires to release the property attached, or
4 some part thereof, from attachment, and does not desire
5 to give the bond required by section one hundred

6 and four of chapter one hundred and twenty-three
7 of the General Statutes, if the parties to the
8 action do not agree upon the value of the property,
9 the defendant, or some one in his behalf, may make
10 written application to a master in chancery in the
11 county where the property is, stating the names of
12 the parties to the action, the name of the officer who
13 made the attachment, and a description of the prop-
14 erty which he desires to release from attachment.
15 The master shall forthwith cause written notice of
16 the application to be served upon the plaintiff, if he
17 resides in the county; if not, upon the officer who
18 made the attachment, appointing a time and place for
19 hearing the parties. Said notice shall be served
20 twenty-four hours, at least, before the time appointed
21 therein for a hearing, and as much further time as
22 the master, in his discretion, may order. At the time
23 and place appointed, after hearing the parties, the
24 master shall appoint three disinterested persons to
25 examine and appraise the property described in the
26 application, who shall be sworn to appraise the same
27 at its fair market value, and who shall make return
28 of their doings in writing to the master, at a time
29 and place fixed by him, to which the hearing shall be
30 adjourned. At such adjourned hearing, the defendant
31 may give bond to the plaintiff, with sufficient sureties,
32 to be approved by the master, with condition to pay
33 the sum which has been so ascertained to be the
34 value of the property, within thirty days after final
35 judgment against him, or so much thereof as will
36 satisfy the judgment and costs. Said bond shall be
37 filed with the clerk of the court to which the writ is

38 returnable, or in which it is pending, within ten days
39 after its approval by the master.

1 SECT. 3. When an attachment of real property
2 is made under the provisions of sections fifty-five
3 and fifty-six of chapter one hundred and twenty-
4 three of the General Statutes, the person in whose
5 name the record title of the property attached
6 stands, or some one in his behalf, may, before final
7 judgment in the action, dissolve the attachment by
8 giving bond to the plaintiff, with sufficient sureties,
9 conditioned to pay the sum ascertained to be the value
10 of the land, or so much thereof as shall satisfy the
11 judgment and costs, if any, which plaintiff shall
12 recover, provided the plaintiff shall establish his title
13 to the land in a writ of entry against the person having
14 the record title thereto at the time of the attachment.
15 All proceedings required in the preceding section to
16 be taken to dissolve an attachment, shall apply to a
17 dissolution of attachment under this section. Said
18 bond, with the master's approval thereon, shall be
19 recorded in the registry of deeds in the county or dis-
20 trict where the land is, within thirty days after the
21 date of the approval of the bond, and so recorded
22 shall be conclusive evidence of the dissolution of the
23 attachment: *provided, however*, that in the trial of
24 a writ of entry brought by plaintiff in the suit to try
25 his right to said land, for the purpose of establishing
26 his right to recover on said bond, the record of the
27 attachment and final judgment in the suit upon which
28 the attachment was made shall be *prima facie* evidence
29 of legal seisin in him, without proof of levy of
30 execution upon the land.

1 SECT. 4. Masters in chancery may adjourn the
2 hearings authorized and required to be held by them
3 under this act, from time to time, as they may deem
4 necessary.

5 They shall be allowed one dollar for each citation
6 and two dollars for each hearing and each adjourn-
7 ment thereof. The fees of the appraisers shall be
8 determined by the masters according to the circum-
9 stances of each case. The applicant shall pay all
10 fees in the first instance ; but in case of final judg-
11 ment in his favor he shall be allowed to tax them as
12 a part of his costs. The master's certificate of the
13 amount shall be required by the clerks of courts to
14 be filed in the case before allowing said fees as a part
15 of the taxable costs.

SECT. 5. This act shall take effect upon its passage.

