

HOUSE No. 341.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, April 29, 1875.

The Committee on the Judiciary, to whom was recommitted the Bill in relation to estates held on condition (printed in House Document, No. 225), with pending amendments (printed in House Document No. 312), have considered the same and report that the Bill ought to pass, with the amendments, amended as follows, namely:—

In section 2, strike out lines 8, 9 and 10; insert, "as the case may be."

In section 3, line 1, strike out "whenever"; insert, "when." Lines 5 and 6, strike out, "assigned or conveyed"; insert, "assigned, conveyed or released." Lines 8 and 9, strike out, "devise, assignment or conveyance"; insert, "devise, assignment, conveyance or release." Line 10, strike out, "right or interest conveyed"; insert, "estate or interest conveyed."

In section 4, line 3, strike out, "buy up"; insert, "purchase."

In section 5, strike out the first ten lines; insert, "Within the period prescribed by section one the owner of any right or interest reserved by a condition, or his attorney, may make and acknowledge a certificate in writing, setting forth

any alleged breach of the condition, and demanding possession of the estate for such breach; and may record the same in the registry of deeds for the county or district where the land lies, and serve a copy on the owner or tenant of the estate, personally or by leaving the same at his last and usual place of abode; and no forfeiture shall be complete until the expiration of one year from the date of recording such certificate." Line 16, strike out "forfeitures," insert "forfeiture."

In section 7, line 2, add, at the end, "or to conveyances in the nature of mortgages."

A draft of the Bill, with the amendments proposed, is herewith submitted.

For the Committee,

W. W. RICE.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Seventy-Five.

AN ACT

In relation to Estates held on Condition.

[House, No. 225, as it will be if amended as recommended by the Committee on the Judiciary.]

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. No estate, nor any right or interest
2 therein, hereafter devised or conveyed, subject to
3 any condition created by such devise or convey-
4 ance, shall become forfeited or be deemed or held
5 liable to forfeiture, by reason of any breach of
6 such condition, unless such breach shall occur
7 within twenty years from the time of the creation
8 of such condition.

9 Whenever any estate, or right or interest
10 therein, has been heretofore devised or conveyed,
11 subject to condition, and would be liable to for-
12 feiture for breach thereof, such liability shall not
13 continue longer than for the term of twenty years
14 from the passage of this act.

1 SECT. 2. The preceding section shall not affect
2 the continuance of any stipulations, agreements
3 or restrictions created or intended to be secured
4 by such condition, and compliance with such stipu-
5 lations, agreements or restrictions, may be enforced
6 even after the expiration of said term of twenty
7 years, by a bill in equity, or by a suit at law, as
8 the case may be.

1 SECT. 3. When any real estate has heretofore
2 been or shall hereafter be conveyed or devised on
3 condition, the rights or interest remaining in the
4 creator of the condition, or any fractional part of
5 such rights or interest, may be devised, assigned,
6 conveyed or released, in the same manner and
7 with the same formalities as are required by law
8 for the transfer of real estate; but no such devise,
9 assignment, conveyance or release shall pass any
10 right to enforce a forfeiture of the estate or inter-
11 est conveyed, but shall only give the right to en-
12 force compliance with any stipulations, agreements
13 or restrictions, as set forth in section two. And
14 no conveyance of a right to enforce compliance
15 with any such stipulations, agreements or restric-
16 tions shall at any time be made, except to some
17 person who is at the time interested as owner in
18 fee, in whole or in part, of the estate held subject
19 to such incumbrances; or shall continue in any
20 grantee thereof after he shall have parted with the
21 fee, otherwise than as trustee for the benefit of
22 the owner of the fee.

1 SECT. 4. Where an estate held subject to con-
2 dition is owned by two or more persons, either or

3 any of them may purchase the whole conditional
4 interest, or any part or parts thereof, in accordance
5 with the provisions of this act, and hold the same
6 as part of his or their title, and enforce compliance
7 with the same by any co-tenant who has not con-
8 tributed to such purchase.

1 SECT. 5. Within the period prescribed by
2 section one, the owner of any right or interest
3 reserved by a condition, or his attorney, may make
4 and acknowledge a certificate in writing, setting
5 forth any alleged breach of the condition and
6 demanding possession of the estate for such breach,
7 and may record the same in the registry of deeds
8 for the county or district where the land lies, and
9 serve a copy on the owner or tenant of the estate,
10 personally or by leaving the same at his last and
11 usual place of abode; and no forfeiture shall be
12 complete until the expiration of one year from the
13 date of recording such certificate and upon a bill
14 in equity filed within said term of one year, the
15 supreme judicial court shall have the right to
16 relieve against any such forfeiture, upon such
17 terms as may seem to the court, just and reason-
18 able, if the court is of the opinion that the damage
19 occasioned by such breach is not irreparable, and
20 that the further performance of said condition can
21 be enforced.

1 SECT. 6. The provisions of sections forty-nine
2 and fifty of chapter one hundred and thirty-four
3 of the General Statutes, shall be applicable to any
4 case in which the petitioner avers that he is cred-
5 ibly informed, and believes that the respondent

6 claims that the estate of the petitioner is subject
7 to some condition, restriction, stipulation or agree-
8 ment described in the petition; the proceedings
9 shall be held in conformity with said sections, and
10 the court may make decrees, as therein provided,
11 or dismiss the petition without prejudice to the
12 rights of either party.

1 SECT. 7. This act shall not apply to leases or
2 to mortgages, or to conveyances in the nature of
3 mortgages.



