

tion, &c.
3 Mass. 20.
6 Met. 403.

every such posthumous child shall have right and interest in the estate of his or her father, in like manner as if he had died intestate, and the same shall accordingly be assigned and set out as the law directs for the distribution of the estates of intestates.

And whereas, through the anguish of the [*deceased*] [*diseased*] testator, or through his solicitous intention though in health, or through the oversight of the scribe, some of the testator's children are omitted and not mentioned in the will, many children also being borne after the making of the will, tho' in the life-time of their parents,—

Be it therefore enacted by the authority aforesaid,

And such as
have no legacy
given them.
1 Mass. 148-149.
2 Mass. 570.
14 Mass. 358.
2 Gray, 536.
3 Gray, 369.

[SECT. 2.] That any child or children not having a legacy given them in the will of their father or mother, every such child shall have a proportion of the estate of their parents given and set out unto them as the law directs for the distribution of the estates of intestates: *provided* such child or children have not had an equal proportion of his estate bestowed on them by the father in his lifetime.

And whereas, it sometimes happens that a man, having formerly made his will, doth afterwards marry a wife, and then dyes, and the will comes to be proved, to the injury of such wife,—

Widows not to
be prejudiced
by wills made
before mar-
riage.

[SECT. 3.] In all such cases, the widow shall have such proportion of her late husband's estate assigned her as if he had died intestate, as the law directs for the distribution of the estates of intestates, any law, usage or custom to the contrary notwithstanding: *provided*, that nothing in this [*law*] [*act*] shall extend to any estate[s] disposed of by will, already settled. [*Passed June 28; published June 29.*]

CHAPTER 5.

AN ACT IN ADDITION TO THE ACT FOR THE EQUAL DISTRIBUTION OF INSOLVENT ESTATES.

1696, chap. 8.

WHEREAS in and by the act intituled, "An Act for the equal distribution of insolvent estates," made and past in the eighth year of his present majestie's reign, amongst other things therein contained, it is enacted, "*That every judge of probate of wills and granting administrations within the respective countys be and thereby is fully authorized and impowred to call before him, and to require and administer an oath unto any person or persons probably suspected by any executor or administrator to have concealed, imbezelled or conveyed away any of the money, goods or chattels left by the testator or intestate for the discovery of the same. And in case any such suspected person was betrusted by the person deceased attended upon, or was otherwise conversant with, or near unto him in the time of sickness, or left in possession of the estate, whereby to strengthen and make the suspition more violent, and shall refuse to clear and acquit him- or herselfe upon oath, it shall and may be lawful for, and the judge is impowred to commit such person so refusing to swear, unto the goal of the county, there to remain until he or she shall comply to discharge him- or herselfe upon oath as aforesaid, or be released by [the] consent of the executor or administrator.*" And whereas it has been observed that sometimes executors or administrators have neglected their duty, or been too favourable in not complaining of persons of whom there has been just suspition of making concealments, embezelments or conveying away part of the estate belonging to their testator or intestate, whereby great wrong and injury has ensued; for remedy whereof,—

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

That every judge of probate be and hereby is alike impowred to call before him, and to require and administer an oath unto any person or persons probably suspected of making any concealment, imbezement or conveying away any of the moneys, goods or chattels of any person deceased, as well upon the complaint of any heir, creditor, legatary, or other person having lawful right or claim to or in such estate, as of the executor or administrator. And in case the party suspected (such suspition being strenghtned and made more violent for any of the causes before mentioned), shall refuse to discharge him- or herselfe upon oath, then to proceed against them by imprisonment as the afore-re cited act direct; saving to any person agrieved the liberty of an appeal from any such sentence to the governour and council, the appellant giving security to prosecute such appeal with effect in manner as is by law directed. [*Passed July 2; published July 13.*]

All persons interested may complain of embezzlement.

CHAPTER 6.

AN ACT PROHIBITING THE EXPORTATION OF RAW HIDES, UPPER-LEATHER AND TANN'D CALVE-SKINS FROM OUT OF THIS PROVINCE, OTHER THAN FOR ENGLAND.

WHEREAS the frequent shipping out of this province raw hides, upper-leather and tann'd calve skins for Holland and other places, hath been much to the damage of this province, not only by reason of the choicest of said hides and upper-leather going off, but the great quantities, that many times the necessity of the province cannot be supplied,—

Be it enacted by the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

[SECT. 1.] That from henceforth no raw hides, upper-leather or tann'd calve skins be laden on board any ship or vessel before the master give bond to the commissioner for impost or receiver for the time being, to the value of five hundred pounds, with sufficient surety, that the same shall be by the said ship or vessel carried for England, Wales, port or town of Berwick upon Tweed, and no other place, and be there landed and put on shore (the danger of the seas only excepted), and shall in eighteen months' time return a certificate of the same; and if any shall presume to lade on board any ship or vessel any raw hides, upper leather or tann'd calve skins, before bond be given as aforesaid, he shall forfeit the same, and the master of the vessel shall forfeit the value of all such raw hides, leather or tann'd calve skins that he shall know to be on board such vessel.

To give bond to land in England.

Hides otherwise laden to be forfeit.

[SECT. 2.] And if any ship or vessel shall carry from out of this province any raw hides, upper-leather or tann'd calve-skins before bond given as aforesaid, or any seizure be made, every master of such vessel knowing thereof shall forfeit and pay double the value of the same, and the shipper double the value of what shall be so shipped: *provided* that information, suit or prosecution for the same be had and made within the space of eighteen months next after the offence committed, and not afterwards.

Master knowing of it to forfeit double the value.

[SECT. 3.] The aforementioned several forfeitures to be recovered by action, bill, plaint or information in any of his majesty's courts of record within this province, and to be employed and disposed of one halfe thereof for and towards the support of his majesty's government within the same, and the other halfe to him or them that shall inform and sue for the same.