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By Mr. Hays, petition of Frederic B. Dailey for legislation to restrict dower and curtesy claims. Legal Affairs.

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The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Fifty-Nine.

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AN ACT TO RESTRICT DOWER AND CURTESY CLAIMS.

*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. Chapter 189 of the General Laws is hereby  
2 amended by striking out Section 1 and inserting in place there-  
3 of the following section:

4 *Section 1.* A husband shall upon the death of his wife hold  
5 for his life one third of all land then owned by her or affected  
6 by a curtesy notice recorded by him as hereinafter specified.  
7 Such estate shall be known as his tenancy by curtesy, and the  
8 law relative to dower shall be applicable to curtesy, and no con-  
9 veyance by a married woman of real property shall, except as  
10 provided in section thirty-five of chapter two hundred and nine,  
11 extinguish or impair his tenancy by curtesy in property  
12 affected by his curtesy notice unless he joins in the conveyance  
13 or otherwise releases his right. A wife shall, upon the death of  
14 her husband, hold her dower at common law in land then  
15 owned by him or affected by a dower notice recorded by her  
16 as hereinafter specified. Such estate shall be known as her  
17 tenancy by dower. A curtesy notice or dower notice must state  
18 that the signer asserts an inchoate right of curtesy or dower,  
19 must state the name and place of residence of the spouse of  
20 the signer, must describe the land to be affected by the notice  
21 and must be acknowledged and recorded during coverture in  
22 the registry of deeds for the county or district in which the  
23 land lies. It shall affect the land described in the notice if the  
24 named spouse is the record owner of said land at the time of

25 recording of said notice. Any encumbrances on land at the time  
26 of the recording of such notice shall have precedence over  
27 curtesy or dower and any encumbrances at the time of the  
28 owner's death on land not affected by such notice shall have  
29 precedence over curtesy or dower. To be entitled to such cur-  
30 testy or dower the surviving husband or wife shall file his or  
31 her election and claim therefor in the registry of probate within  
32 six months after the date of the approval of the bond of the  
33 executor or administrator of the deceased, and shall thereupon  
34 hold instead of the interest in real property given in section  
35 one of chapter one hundred and ninety, curtesy or dower, re-  
36 spectively, otherwise such estate shall be held to be waived.  
37 Such curtesy and dower may be assigned by the probate court  
38 in the same manner as dower is now assigned, and the tenant  
39 by curtesy or dower shall be entitled to the possession and  
40 profits of one undivided third of the real estate owned by the  
41 deceased at death or affected by such notice from her or his  
42 death until the assignment of curtesy or dower, and to all  
43 remedies therefor which the heirs of the deceased have in the  
44 residue of the estate. Except as perserved herein, dower and  
45 curtesy are abolished.

1 SECTION 2. This Act shall take effect on March 1, 1960. It  
2 shall apply to rights then existing in land of persons then  
3 living but shall not apply to any rights in land of persons  
4 then deceased.