

By Mr. Serlin of Boston, petition of I. Edward Serlin for increasing a spouse's share of property not disposed of by will. The Judiciary.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Sixty-Eight.

AN ACT INCREASING A SPOUSE'S SHARE OF PROPERTY NOT DISPOSED OF  
BY WILL.

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

1 Chapter 190 of the General Laws is hereby amended by  
2 striking out section 1, as recently amended by section 1 of  
3 chapter 316 of the acts of 1956, and inserting in place thereof  
4 the following:—

5 *Section 1.* Spouse's share of property not disposed of by will.  
6 A surviving husband or wife shall, after the payment of the  
7 debts of the deceased and the charges of his last sickness and  
8 funeral and of the settlement of his estate, and subject to chap-  
9 ter one hundred and ninety-six be entitled to the following  
10 share in his real and personal property not disposed of by  
11 will:

12 (1) If the deceased leaves kindred and no issue, and it ap-  
13 pears on determination by the probate court, as hereinafter  
14 provided, that the whole estate does not exceed fifty thousand  
15 dollars in value, the surviving husband or wife shall take  
16 the whole thereof; otherwise such survivor shall take fifty  
17 thousand dollars and two thirds of the remaining personal  
18 and two thirds of the remaining real property. If the personal  
19 property is insufficient to pay said fifty thousand dollars, the  
20 deficiency shall, upon the petition of any party in interest, be  
21 paid from the sale or mortgage, in the manner provided for  
22 the payment of debts or legacies, of any interest of the de-  
23 ceased in real property which he could have conveyed at the  
24 time of his death; and the surviving husband or wife shall be

25 permitted, subject to the approval of the court, to purchase  
26 at such sale, notwithstanding the fact that he or she is the  
27 administrator of the estate of the deceased person. A further  
28 sale or mortgage of any real estate of the deceased may later  
29 be made to provide for any deficiency still remaining. When-  
30 ever it shall appear, upon petition to the probate court of any  
31 party in interest, and after such notice as the court shall or-  
32 der, and after a hearing thereon, that the whole amount of  
33 the estate of the deceased, as found by the inventory and upon  
34 such other evidence as the court shall deem necessary, does  
35 not exceed the sum of fifty thousand dollars over and above the  
36 amount necessary to pay the debts and charge of administra-  
37 tion, the court shall itself by decree determine the value of said  
38 estate, which decree shall be binding upon all parties. If ad-  
39 ditional property is later discovered, the right or title to the  
40 estate covered by such decree shall not be affected thereby,  
41 but the court may make such further orders and decrees as are  
42 necessary to effect the distribution herein provided for.

43 (2) If the deceased leaves issue, the survivor shall take fifty  
44 thousand dollars and two thirds of the remaining personal  
45 and two thirds of the remaining real property.

46 (3) If the deceased leaves no issue and no kindred, the sur-  
47 vivor shall take the whole.