

HOUSE No. 171.

HOUSE OF REPRESENTATIVES, Jan. 19, 1899.

[Introduced on leave by Mr. HAYWOOD of Lynn. Probate and Insolvency.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety-nine.

AN ACT

Relative to the Right of a Husband or Wife in the
Real Estate of a Deceased Husband or Wife.

*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. Section seventeen of chapter one
2 hundred and twenty-four of the Public Statutes,
3 as amended by chapter two hundred and thirty-
4 four of the acts of the year eighteen hundred and
5 eighty-nine, and by chapter one hundred and
6 seventy of the acts of the year eighteen hundred
7 and ninety-four, is hereby amended by adding at
8 the end thereof the following words: "Such

9 estate may be assigned out of any interest of said
10 deceased in real estate over which he had a gen-
11 eral power of disposal by deed or will," so as to
12 read as follows :

13 *Section 17.* When a husband or wife claims
14 to be entitled under the provisions of section one
15 or section three of this chapter to an estate in fee
16 in the real estate of a deceased wife or husband,
17 the probate court having jurisdiction of the estate
18 of said deceased shall, on a petition of any per-
19 son in interest and after such notice to all parties
20 interested as the court may order, give a hearing
21 thereon, and if upon the hearing said court shall
22 determine that said husband or wife is entitled to
23 such an estate in fee, it shall enter a decree to
24 that effect, which shall be binding upon all parties
25 and privies thereto; and cause such estate in fee
26 to be assigned and set out by metes and bounds
27 in the same manner as in other partitions of lands
28 of persons deceased, except that, when such
29 assignments cannot be made without greatly in-
30 juring the residue of the estate or of some speci-
31 fic part thereof, an undivided portion of such
32 real estate or of some part thereof may be set
33 off instead of a specific part. And in any case
34 in which by the petition the whole of the real
35 estate of said deceased is described sufficiently
36 for identification, and it is alleged, and appears
37 to the satisfaction of the court, that the same
38 does not exceed the value of five thousand dol-
39 lars, the court may itself assign and set out such
40 estate without other notice than is above pro-

41 vided. Such estate may be assigned out of any
42 interest of said deceased in real estate over which
43 he had a general power of disposal by deed or
44 will.

1 SECTION 2. This act shall take effect upon its
2 passage.

