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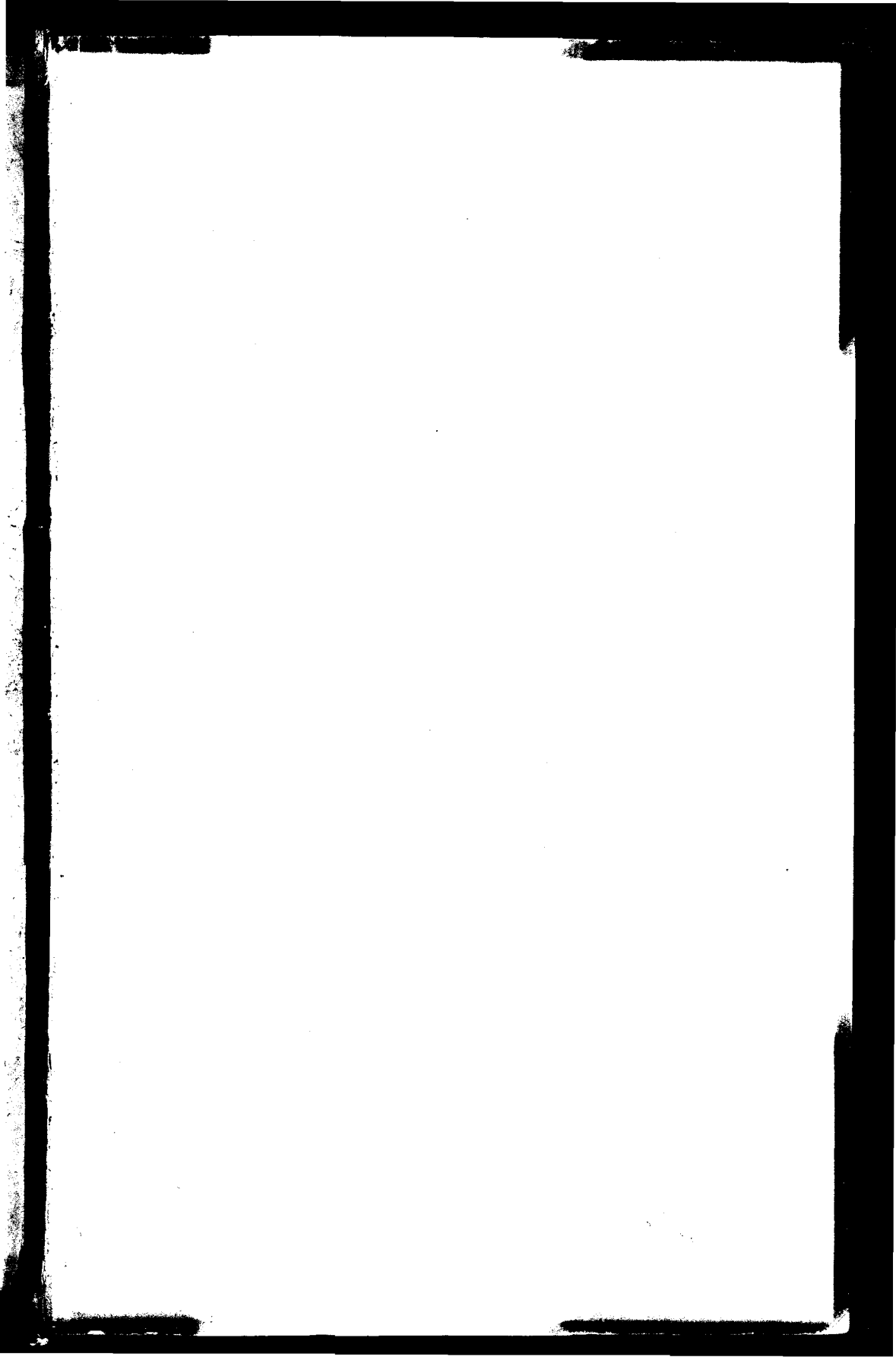
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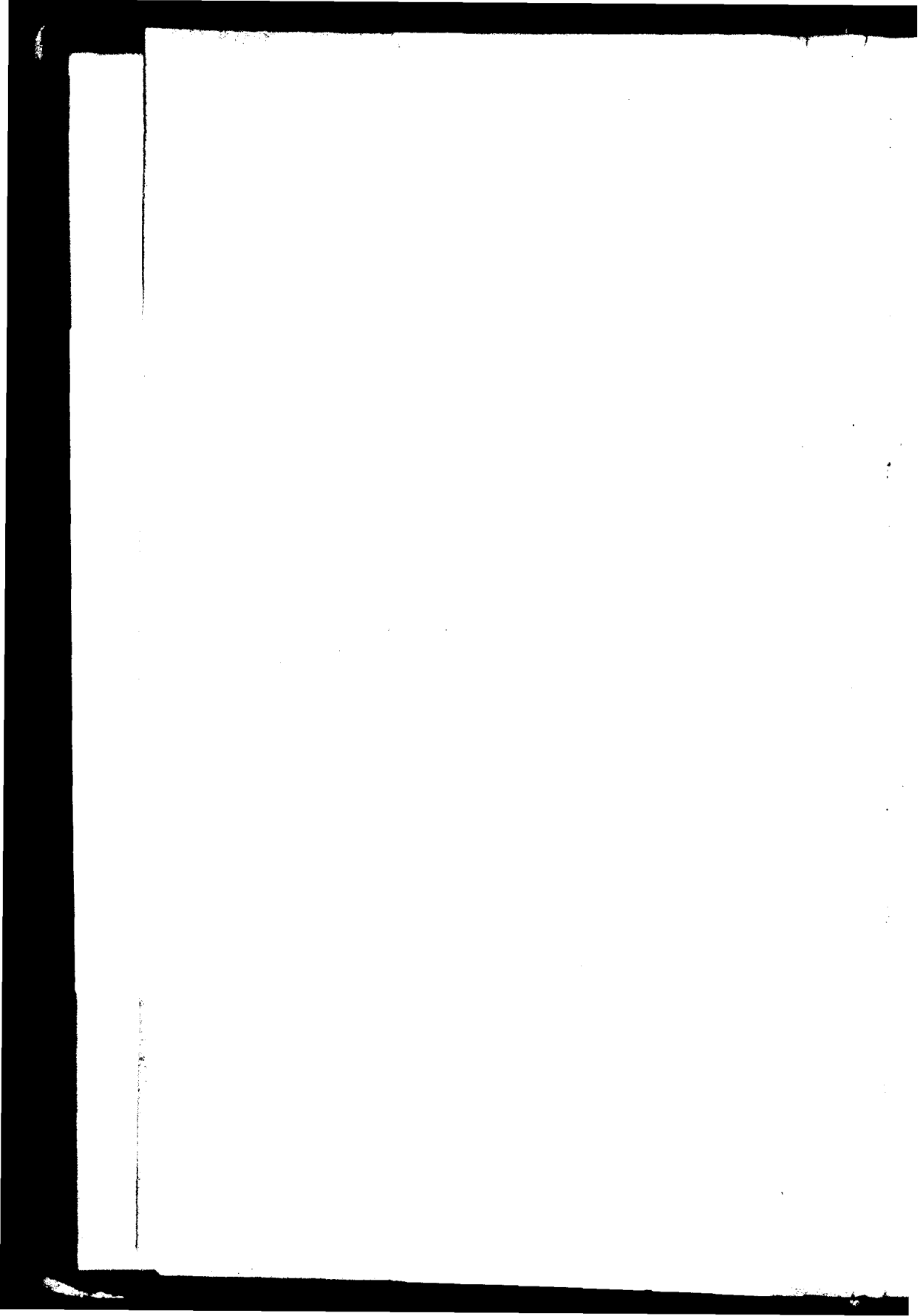
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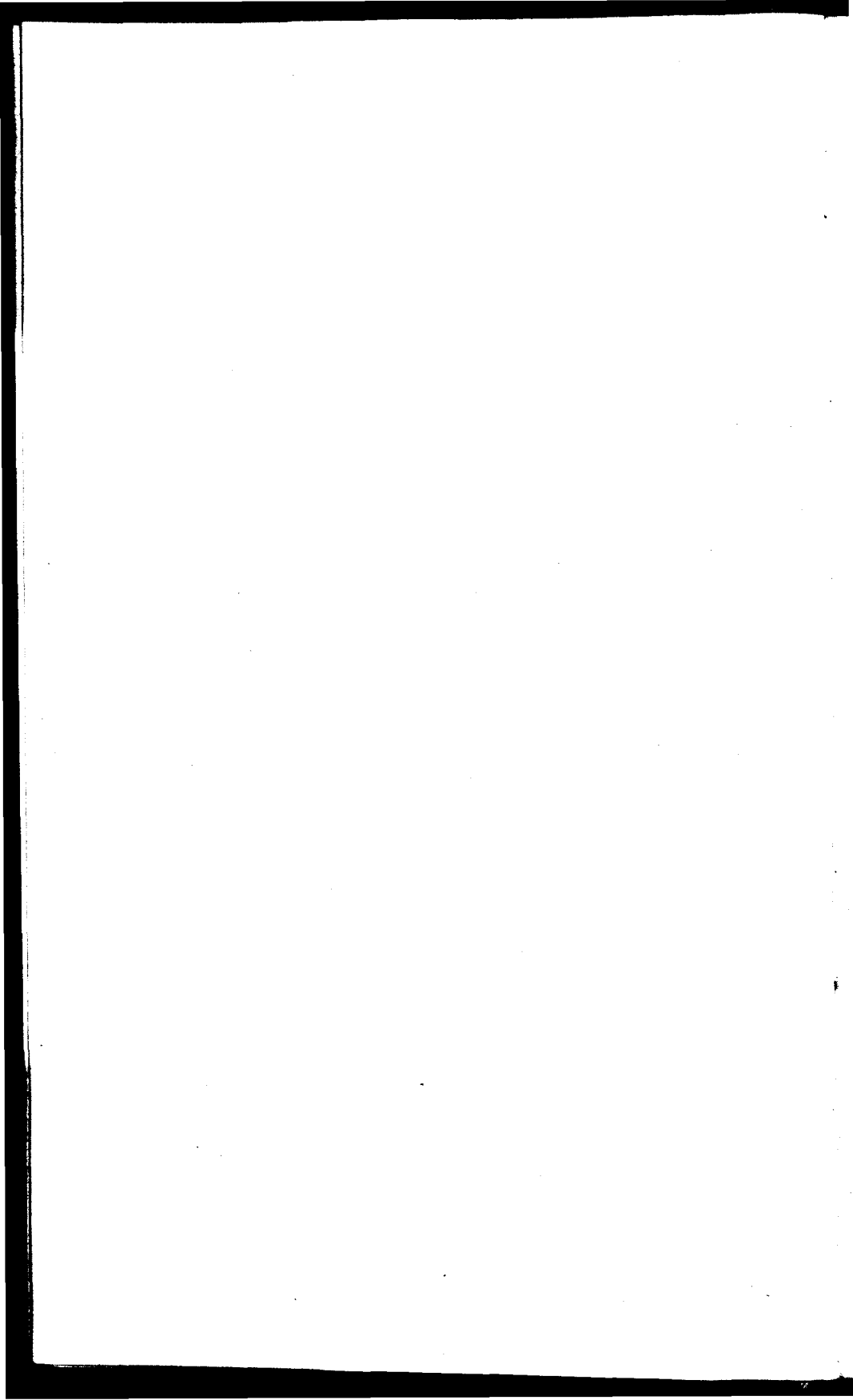
1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for transparency and accountability, particularly in financial matters. The text suggests that organizations should implement robust systems to track and report on their operations, ensuring that all data is up-to-date and easily accessible.

2. The second part of the document focuses on the role of leadership in driving organizational success. It highlights that effective leaders are those who can inspire and motivate their teams, set clear goals, and provide the necessary support and resources. The text stresses the importance of communication and collaboration, as well as the need for leaders to be adaptable and responsive to changing circumstances.

3. The third part of the document addresses the challenges of managing a diverse workforce. It notes that organizations must take into account the unique needs and perspectives of employees from different backgrounds and cultures. The text suggests that creating an inclusive and equitable work environment is crucial for attracting and retaining top talent, and for fostering innovation and productivity.

4. The fourth part of the document discusses the importance of continuous learning and development. It emphasizes that in a rapidly changing world, employees must be equipped with the skills and knowledge needed to succeed. The text suggests that organizations should invest in training and development programs, and encourage a culture of lifelong learning where employees are encouraged to take ownership of their own growth and development.

5. The fifth part of the document concludes by summarizing the key points discussed and offering final thoughts on the importance of these principles for long-term organizational success. It reiterates that a focus on transparency, leadership, diversity, and learning is essential for building a strong and resilient organization that can thrive in any environment.



TABLES
OF
DESCENT AND DISTRIBUTION
OF
REAL AND PERSONAL PROPERTY
AT
COMMON LAW
AND UNDER
MASSACHUSETTS STATUTES.

BY
CHARLES E. BURKE AND CHARLES W. FRENCH.



PITTSFIELD, MASS.

1886.

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P R E F A C E.

No part of the law seems to have met with so many changes as that relating to the descent and distribution of property, and some of these changes are full of significance. For they mark, decade by decade, the steady development of the modern and enlarged views, taken of the family and the rights of its individual members. Thus the law following close upon popular sentiment has put children on an equality, has shown the tendency to equalize the positions of husband and wife, and now prefers members of the family and their descendants to other relatives though nearer in degree of relationship. But these changes, however beneficial some of them may have been, are so numerous and various that they overburden and confuse the memory that would trust to itself for an exact legal determination of the rights arising on intestacy, and require in most of the numerous cases touching descent and distribution of property, a careful search of the statutes year by year in each case for matter relating thereto.

The following tables have been made with the view of condensing and putting in the most compact form the common law and the Massachusetts Statutes relating to this subject, of making each table clear and complete in itself, and of enabling any one at all familiar with the most elementary legal terms, to determine at a glance the law of this commonwealth, relating to descent and distribution of property at the present time, or at any time in the past.

Each table presents the law of descent and distribution of property as it stood at the date indicated in the heading of each tabulation, and each change occurring between the dates of two successive tables is set out in full or in substance under the heading of Statutes, or *Mass. Statutes*, with the chapter and year of its enactment. And such of these changes as remain unrepealed, are, of course, incorporated into the next succeeding table. So that the law relating to this subject for any given year, may be found by referring to the table of that year, or if there is no tabulation for that year, to the table immediately preceding that year and to the enactments subsequent thereto, down to the given year. The numerous provisions relating to this matter, scattered about in several chapters of the Public Statutes, together with such subsequent enactments, as relate thereto, are set out in two tables, one of personal property, the other of real estate. The Statutes and common law rules general in their character respecting this subject, are given under the head of General Notes, at the end of the tables, together with the

authorities, and these notes are intended to supplement the tables so as to present, so far as it can be done in a brief way, the whole subject of descent and distribution of property.

It is hoped that this tabulation will save much valuable time, and, in proving useful in many ways to all, will fully meet the end intended.

In conclusion we desire to acknowledge our indebtedness to William L. Smith, Esq., for his kindness in permitting us to make use of the table showing the value of a widow's dower, given in his valuable book on Probate Law, and in permitting us to make use of such matter as was needed in explaining the same.

PITTSFIELD, MASS. May 31, 1886.

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EXPLANATION OF THE FOLLOWING TABLES.

In the first column on the left of the tables is contained the intestate, and where the law attaches qualifications to such intestate those qualifications are specified. On each side of any column there may be dashes, blank spaces, or letters or characters of reference.

A dash denotes that there is no such relation as indicated at the head of that column in which it occurs; a blank space indicates that it is immaterial to the given case whether there is or is not such relation as indicated at the head of that column, and characters or letters referring to the bottom are there explained; all of which show the conditions under which relatives are entitled to take.

To find what a given person will take, first find by referring to the proper pages whether any changes have been made between the given date and the table immediately preceding that date relative to the given relation. Then look along the heads of the columns in such table for such relation, and down the column having such relation at its head for any provision contained therein. Look also down the column containing the intestates for the intestates standing opposite such provisions. Whichever of such provisions has opposite an intestate with the same qualifications, if any, and the same failure of relatives as in the given case, that provision is the one required.

For illustration, let it be required to find what real estate the mother of an intestate was entitled to in 1846, the intestate having left no wife, no issue, no father. It will be seen on page 12 that there is no separate table for that year, and that no changes were made relative to the mother's share subsequently to the Revised Statutes, tabulated on pages 10, 11. Therefore such provision for the mother as was made in the Revised Statutes was the provision in force at that date. Find now in the table of Revised Statutes under Descent of Real Property pages 10, 11, "Mother" at the head of the eighth column, and also find such intestate in the column at the left as is without the given relatives.

Such intestate is found in the seventh of that column, and opposite this in the column headed Mother it is found that she was entitled to take equally with the brothers and sisters and their deceased brothers and sisters' children who take by right of representation.

Except in the table of Descent of Real Property at common law (pages 2, 3), which is not included in this explanation, all relations expressed in these

tables are the relations of the intestate unless they expressly appear otherwise. And in all cases where brothers and sisters' children or issue are said to take by representation or right of representation, it must be understood that the reference is to children or issue of deceased brothers and sisters.

ABREVIATIONS.

Bros.,	- - - - -	Brothers.
C. and Chap.,	- - - - -	Chapter.
Gen. Sts.,	- - - - -	General Statutes.
P, S. and Pub. Sts.,	- - - - -	Public Statutes.
Rev. Sts.,	- - - - -	Revised Statutes.
St.,	- - - - -	Statute.

ERRATA.

Page 16, lines 8, 13, after "1876," read "c. 219."

" 40, heading of the five right hand columns, read "Next of Kin of the Half and Whole Blood."

" 45, line 13, for "§ 354," read "§ 324."

" 50, note, for "Sts. 1886," read "Sts. 1861."

PART I.

COLONY LAWS OF MASSACHUSETTS RELATING TO THE DESCENT OF REAL ESTATE.

STATUTES 1641, ANCIENT CHARTERS, CHAP. 37, Provides that the widow shall have dower in her husband's lands.

STATUTES 1641, ANCIENT CHARTERS, CHAP. 104, SECTION 3, Enacts that where the husband or parent dies intestate, the County Court of that jurisdiction where the party had his last residence, shall have power to assign to the widow such a part of his estate as they shall judge just and equal, also to divide and assign to the children or other heirs their several parts and portions out of the said estate: with these provisions, that the eldest son shall have a double portion, and if there are no sons the daughters shall inherit as copartners.

STATUTES 1646, ANCIENT CHARTERS, CHAP. 41, Provides that where no heirs appear, the estate is to escheat.

DESCENT OF REAL PROPERTY AND THE WIFE'S RIGHT THEREIN UNDER MASSACHUSETTS PROVINCE LAWS, ANCIENT CHARTERS, CHAPTER 8.

WILLIAM AND MARY 4, 1692.

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive, subject to his debts, the Real Estate of the intestate as given in the subjoined columns. The mark * denotes that there is no such relation as indicated at the head of the column in which it occurs.

	Wife.	Husband.	Eldest son surviving when there is no issue of an older son.	Children. (a)	Issue of a deceased child.	Father.	Mother.	Brothers and Sisters.	Children of deceased Brothers and Sisters.	Next of kin in equal degree.	No kindred.
Intestate.	$\frac{1}{3}$ (Dower.)		2 shares.	Residue equally and the whole when dower ends.							
do	*			Take equal shares in the residue and all when dower ends.	(b)						
do		(c)									
do	*					Whole.					

Intestate.	*	Whole.	Equal shares in the estate.	(c)	Equal shares in the estate.	(c)	Whole.	Escheats.
An intestate dying under age or before marriage.	*							
Intestate.	*							
do	*							
do	*							
Child dying intestate after the death of his father.		(d)	(d)	(d)	(d)	(d)		

MASSACHUSETTS PROVINCE LAWS, ANCIENT CHARTERS, CHAPTER 100, (ANNE 9, 1710) MADE THE FOLLOWING ADDITIONAL PROVISIONS.

*If a wife is living subtract dower and the residue will descend as if there was no wife.

- (a) Where there are no sons the daughters shall inherit as coparceners.
 - (b) The issue of deceased children take with the children by right of representation, and those taking property by representation take equally.
 - (c) The children of deceased Brothers and Sisters take by right of representation.
 - (d) The Mother takes equally with the Brothers and Sisters, and the children of deceased Brothers and Sisters take by right of representation.
 - (e) A tenancy by the curtesy seems not to have been given the husband by these statutes, but as curtesy is a common law right it would seem not to have been taken away by these statutes. 13 Pick. 290; 1 Bishop on Criminal Law, § 80.
- Note. Advancements made by settlement to children are to be deducted from such children's shares in the intestate's estate.
- Note. The widow is to have her dower at Common Law in the lands of her deceased husband of which he was seized during coverture, unless she is lawfully barred. Statutes of 1641.

**DESCENT OF REAL ESTATE AND THE RIGHTS THEREIN OF HUSBAND AND WIFE UNDER
MASSACHUSETTS STATUTES, 1783, CHAP. 36.**

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive, subject to his debts, the undivided Real Estate of the intestate, as given in the subjoined columns. The mark - denotes that there is no such relation as indicated at the head of the column in which it occurs.

Intestate.	Wife.	Husband.	Issue of deceased older Son.	Oldest Son surviving.	Children.	Issue of a deceased child.	Father.	Mother.	Brothers and Sisters.	Deceased Brother's and Sister's Children.	Boys and Sisters and such as legally represent them when the property would have come or came to the intestate from a parent of the intestate's own Bros. and Sisters.	Grandfather and Grandmother.	Uncles and Aunts, Nephews and Nieces.	Next of kin in same degree.	No Kindred.
do	$\frac{1}{3}$ (Dower).		2 shares												
do	$\frac{1}{3}$ (Dower)			2 shares.	Residue equally and whole when dower ends.	(a) (b)									
do	$\frac{1}{3}$ (Dower.)			2 shares in the whole when curtesy ends.	(a) (b)										
	Tenancy by the curtesy if a child is born alive.														

**DESCENT OF REAL ESTATE AND THE RIGHTS THEREIN OF HUSBAND AND WIFE UNDER
MASSACHUSETTS STATUTES, 1805, CHAP. 90.**

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive, subject to his debts, the undivided Real Estate of the intestate, and any interest therein in fee simple or for the life of another, as given in the subjoined columns. The mark * denotes that there is no such relation as indicated at the head of the column in which it occurs.

	Wife.	Husband.	Children.	Issue of deceased child.	Father.	Mother.	Brothers and Sisters.	Deceased Brother's and Sister's children.	Bros. and Sisters, and the issue of deceased Bros. and Sisters by representation, when the property came to the intestate from the intestate's own Bros. and Sisters.	Those claiming from same ancestor if they are next of kin.	Those claiming through ancestors removed in different degrees from the intestate.	No kindred.
Intestate.	$\frac{1}{3}$ (Dower.)		Residue, and whole when dower ends.									
do	$\frac{1}{3}$ (Dower.)		Take equally and with the lawful issue of deceased children in residue, and whole when dower ends.	Take by representation with the intestate's children.								
do		Tenancy by curtesy if a child is born alive.	Take equally and with the lawful issue of deceased children the whole when curtesy ends.	Take by representation with the intestate's children.								
do	*	†			All.							
do	*	†				(a)	(a)	(a)				

Intestate.	*	+	All.						
Intestate unmarried and under age.						(b)			
do						(b)			Equally to those of same degree.
Intestate.	*	+							Equally to those claiming through nearest ancestor.
do	*	+							
do	*	+							Escheats to the Commonwealth.

*If a wife is living, subtract dower, and the residue will descend as if there was no wife.
 †If, however, a child is born, and the husband be living, the husband on the death of his wife, has a tenancy in all the lands of the wife; the reversion will pass on the death of the husband as above indicated where the husband is dead.
 (a) The Mother takes equally with the Brothers and Sisters, if there are any; and the children of any deceased Brother and Sister take by representation.
 (b) The Brothers and Sisters take equally; if there is lawful issue of any deceased Brother and Sister, such issue take with the Brothers and Sisters by right of representation.

Note.—The widow is to have her dower at Common Law in the lands of her deceased husband, of which he was seized during coverture, unless she is lawfully barred.

MASSACHUSETTS STATUTES 1828, CHAP. 139,

Made an illegitimate child the heir of his mother, and provided that the mother shall take her illegitimate child's property, unless the mother afterward marries the child's father, and the father acknowledges such child as his child, in which case the child shall stand in relation to the father and mother only as a legitimate child.

DESCENT OF REAL ESTATE AND THE RIGHTS THEREIN OF HUSBAND AND WIFE UNDER MASS. REVISED STATUTES, (1836,) CHAP. 60, §§ 1, 17, AND CHAP. 61.

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive, subject to his debts, the devised Real Estate of the intestate, and any interest therein in fee simple or for the life of another, as given in the subjoined columns. The mark denotes that there is no such relation as indicated at the head of the column in which it occurs.

	Wife.	Husband.	Legitimate children.	Illegitimate children.	Legitimate issue of deceased children.	Father.	Mother.	Brothers and Sisters.	Deceased Brothers' and Sisters' children.	Broos, and Sisters and the issue of deceased Broos, and Sistr's when the estate descended to the intestate from the parent of the intestate's Broos, and Sisters.	Those claiming from the same ancestor if they are the next of kin.	Those claiming from different ancestors.	No Kinred.
Intestate.	$\frac{1}{2}$ (Dower.)		Residue, and when dower ends the whole.	(a)	(b)		Unmarried Mother.						
do		Tenancy by the curtesy if a child is born alive.	All when curtesy ends.	(a)	(b)								
do	*	+	Whole.	(a)	(b)								
Intestate unmarried, mother of an illegitimate child.				All.									
An illegitimate intestate child, without lawful issue, and whose parents have not intermarried.							All.						
Intestate.	*	+				All.							
do	*	+					Equally with Broos, and Sisters and their children by representation.	Equally with the mother and children of deceased Broos, and Sisters by representation.	Take with the mother and Broos, and Sisters by representation.				
do	*	+						Whole equally.					
do	*	+				Whole.							
do	*	+									Equally to those		
											in same degree.		

STATUTES RELATING TO THE DESCENT OF REAL ESTATE.

Massachusetts Statutes 1849, Chap. 87.

Provision for Widow.--“When any person shall die seized of any real estate, in fee simple, or for life of another, not having devised the same, and shall leave no kindred, so that such real estate would, by law, escheat to the Commonwealth, if such intestate shall leave a widow, such widow shall be entitled to take and hold such real estate, in the same manner as she would have taken the same had she been heir to the intestate.”

Massachusetts Statutes 1851, Chap. 211.

Provisions for Illegitimate Children.--“Every illegitimate child shall be considered as heir of his mother, and any maternal ancestor, and shall inherit the estate of such mother or ancestor, in whole or in part, as the case may be, and the same shall descend from such ancestor to the lawful issue of such illegitimate person in like manner as if he had been born in lawful wedlock.”

Massachusetts Statutes 1851, Chap. 324, §§ 6 and 7.

Provisions for Adopted Children.--§ 6. A child adopted according to the provisions of this Statute, §§ 1-5, “Shall be deemed, for the purposes of inheritance and succession by such child, custody of the person and right of obedience by such parent or parents by adoption, and all other legal consequences and incidents of the natural relation of parents and children, the same to all intents and purposes as if such child had been born in lawful wedlock of such parents or parent by adoption, saving only that such child shall not be deemed capable of taking property expressly limited to the heirs of the body or bodies of such petitioner or petitioners, [for adoption.]”

§ 7. “The natural parent or parents of such child shall be deprived by such decree of adoption of all legal rights whatsoever as respects such child; and such child shall be freed from all legal obligations of maintenance and obedience, as respects such natural parent or parents.”

Massachusetts Statutes 1853, Chap. 253.

Relating to Illegitimate Children.--“When, after the birth of an illegitimate child, his parents have intermarried, or shall intermarry, and

his father has acknowledged, or shall, after the marriage, acknowledge him as his child, such child shall be considered as legitimate, to all intents and purposes."

Massachusetts Statutes 1854, Chap. 406, §§ 1 and 4.

Provisions in Lieu of Dower.--§ 1. "When any man shall die seized of any lands, tenements or hereditaments, or of any right thereto or interest therein in fee simple, not having lawfully devised the same, and leaving a widow but no issue, the widow shall be entitled to one-half of the said estate during the term of her natural life."

§ 3 Provides that if there is no issue, and the personal estate after paying all debts amounts to not more than \$5,000, the widow shall be entitled to the whole personal estate; if it amounts to more than \$5,000 and less than \$10,000 in value, she shall be entitled to \$5,000 out of the same; if the residue amounts to \$10,000 and upwards, she shall be entitled to one-half thereof.

§ 4. "The foregoing provisions of this act shall be in lieu of the widow's dower, at her election; and her election of the provisions of this act, in preference to her dower, shall be presumed unless she files in the probate office her election to claim her rights of dower in lieu of the provisions of this act, within six months of the date of the letters of administration."

Massachusetts Statutes 1854, Chap. 428.

Rights of Widow on Waiver of Will.--"When any man shall die, having lawfully disposed of his estate by his will, and leaving a widow, the widow may, at any time within six months after the probate of the will, waive the provisions made for her in the will; and she shall in such case be entitled to such portion of the real and personal estate, as she would have been entitled to if her husband had died intestate: *provided, however,* that the widow shall not, in any such case, be entitled to receive more than ten thousand dollars out of the personal estate." Repealed by General Statutes, chap. 182, and similar provisions without the limitation to ten thousand dollars, were substituted. Gen. Sts., chap. 92, § 24.

The above Statutes, viz., 1849, chap. 87,

1851, " 211,

1851, " 324,

1853, " 253,

1854, " 406,

1854, " 428,

were repealed by General Statutes, chap. 182, and similar provisions were substituted.

DESCENT OF REAL ESTATE AND THE RIGHTS THEREIN OF HUSBAND AND WIFE UNDER THE MASSACHUSETTS GENERAL STATUTES, (1860,) CHAPS. 90, 91 AND 110.

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive, subject to his debts, the undivided Real Estate of the intestate and any interest therein in fee simple or for the life of another, as given in the subjoined columns. The mark denotes that there is no such relation as indicated at the head of the column in which it occurs.

	Wife.	Husband.	Legitimate children.	NATURAL.			BY ADOPTION.		KINDRED OF THE HALF AND WHOLE BLOOD.											
				Illegitimate children.	Legally adopted children.	Legitimate issue of decedent children.	Father.	Mother.		Father.	Mother.									
Intestate.	$\frac{1}{4}$ (Dower.)		Residue equally and all when dower ends.	(a)	(b)	(c)														
do	$\frac{1}{3}$ for life.*						Residue, and when life estate ends, all.	Unmarried Mother.												
An intestate unmarried mother of an illegitimate child.				All.																
An illegitimate intestate child without lawful issue, and whose parents have not intermarried. St. 1851, c. 211, (c)								All.												
An intestate legally adopted child. (St. 1851, c. 324, § 6.)							(d)		(d)											
Intestate.		Tenancy by the curtesy if a child is born alive.	Whole when curtesy ends.	(a)	(b)	(c)														
do			No child born.				Whole													
do	(g)								(f)											
do	(g)								All.			(f)	(f)							

An intestate who has never married and who has died under age.	do	Whole.	Whole.	(b)														
Intestate.	do	do	do	do	do	do	do	do	do	do	do	do	do	do	do	do	do	do
			(g)	(g)														

Equally to those in equal deg's

Equal to those in the same deg. claiming thro' the nearest ancestor.

Escheats to the Crown

*The widow in this case takes one-half for life in place of dower.

(a) If the parents of an illegitimate child intermarry, and the father acknowledges such child as his, such child shall be considered legitimate, and shall take property the same as a legitimate child. An illegitimate child shall also be heir of any maternal ancestor.

(b) A legally adopted child takes equally with the other children whose property comes from either parent by adoption, but he cannot claim from their lineal or collateral kindred by right of representation, nor can he take property expressly limited to the heirs of the body or bodies of such parents. Gen. Sts., c. 110, § 7.

(c) If some of the intestate's children are dead, their issue take with the surviving children by right of representation. If all the said children are dead, their issue take the estate equally, if they are in the same degree; if they are in different degrees, they take by right of representation.

(d) It does not seem clear whether under § 8, c. 110 of the General Statutes, the natural father or the father by adoption is in this case to take the property. For the legal rights as respects the child, of which rights the natural father is deprived, may not be construed to extend to the child's property.

(c) The lawful issue of an illegitimate person represents their illegitimate parent.

(f) The Mother takes equally with the Brothers and Sisters; and the children of any deceased Brothers and Sisters take with her by right of representation.

(g) If a wife is living, subtract dower and the residue will descend as if there was no wife.

(h) Such Brothers and Sisters take equal shares in the whole, and the issue of deceased Brothers and Sisters take with them by right of representation.

Note (1) Dower does not attach to wild lands.

Note (2) The lands are subject to the intestate's debts.

Note (3) Advancements are to be deducted. If the advancement is made in Real Estate, its value is to be considered a part of the Real Estate to which the person to whom the advancement is made is entitled; if from personal estate it is to be considered in like manner a part of the personal estate.

Note (4) For dower and curtesy see Table of Rev. Sts., page 11.

STATUTES RELATING TO THE DESCENT OF REAL ESTATE.

Massachusetts Statutes 1871, Chap. 310, §§ 8, 9.

Provisions for Adopted Children.--§ 8. A child or person adopted according to the provisions of this chapter, "shall be deemed for the purpose of inheritance, and all other legal consequences of the natural relation of parent and child, to be the child of the parent or parents by adoption, as if born to them in lawful wedlock, except that he shall not take property expressly limited to the heirs of the body or bodies of the parents by adoption, nor property from the lineal or collateral kindred of such parents by right of representation." Repealed by Statutes 1876, § 14.

§ 9. "Such adoption shall terminate all the rights, obligations and legal incidents and consequences of the relation of parent and child between the child or person and his natural parents, except the right of the child or person to take property as heir or next of kin of his natural parents or kindred directly or by right of representation." Repealed by Sts. 1876, §14.

Massachusetts Statutes 1874, Chap. 184, § 2.

The Husband is not to have curtesy in his wife's property mortgaged to secure the purchase money at the same time that the deed is given.--"When a deed of land is made to a married woman and at the same time she mortgages the same to the grantor to secure the payment of the whole or any part of the purchase money, or to a third party to obtain the whole or any part of such purchase money, the seizin of such married woman shall not give her husband any estate by the curtesy as against such mortgagee." This chapter was repealed by Public Statutes, chap. 324, but this same provision was substituted in Public Statutes, chap. 124, § 2.

Massachusetts Statutes 1876, Chap. 213, § 8.

The Descent of Property to and from Adopted Children.--"As to the inheritance of property any person adopted in accordance with the provisions of this act, shall take the same share which he would have taken if born to said adopting parent in lawful wedlock, of any property which such parent could have devised by will. In respect to inheritance also, he shall stand in regard to the legal descendants, but to no other of the

kindred, of his adopting parent in the same position as if born to him in lawful wedlock. In case the person adopted dies intestate, his property, acquired by himself, or by gift or inheritance from his adopting parent or the kindred of such parent, shall be distributed according to the provisions of chapters ninety-one and ninety-four of the General Statutes, among the persons who would have been his kindred if he had been born to his adopting parent in lawful wedlock; and any property received by gift or inheritance from his natural parents or kindred, shall be distributed in the same manner as if no act of adoption had taken place; such distribution to be ascertained in such manner as the court may decree. No person shall, by being adopted, lose his right to inherit from his natural parents or kindred."

The term Child embraces an Adopted Child in certain cases.--§ 9. "The term child or its equivalent in any grant, trust-settlement, entail, devise or bequest, shall be held to include any child adopted by the settler, grantor or testator, unless the contrary plainly appears by the terms thereof; but in no other case shall a child by adoption have, under such an instrument, the rights of a child born in lawful wedlock to the adopting parent unless it plainly appears to have been the intention of the settler, grantor or testator to include an adopted child: *provided, however,* that nothing in this act shall be construed to restrict any right to the succession to property which may have vested in any person already adopted in accordance with the laws of this Commonwealth."

Rights of Children adopted in another State.--§ 11. "Any inhabitant of any other State, adopted as a child in accordance with the laws thereof, shall upon proof of such fact, be entitled in this Commonwealth to the same rights, as regards succession to property, as he would have enjoyed in the state where such act of adoption was executed, except in so far as they conflict with the provisions of this act."

This chapter was repealed by Public Statutes, chap. 224, and provisions similar to §§ 8, 9, 11, were substituted in chapter 148 of Public Statutes, §§ 7, 8, 9, as the table of the Public Statutes will show. See page 20.

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DESCENT OF REAL PROPERTY.

Descent of Real Estate and the Rights therein of Husband and Wife under Massachusetts Statutes, 1876, Chap. 213, § 8, and Chap. 220, § 1, and the unreppealed provisions relating thereto.

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive, subject to his debts, the undivided Real Estate of the intestate and any interest therein in fee simple or for the life of another, as given in the subjoined columns. The mark * denotes that there is no such relation as indicated at the head of the column in which it occurs.

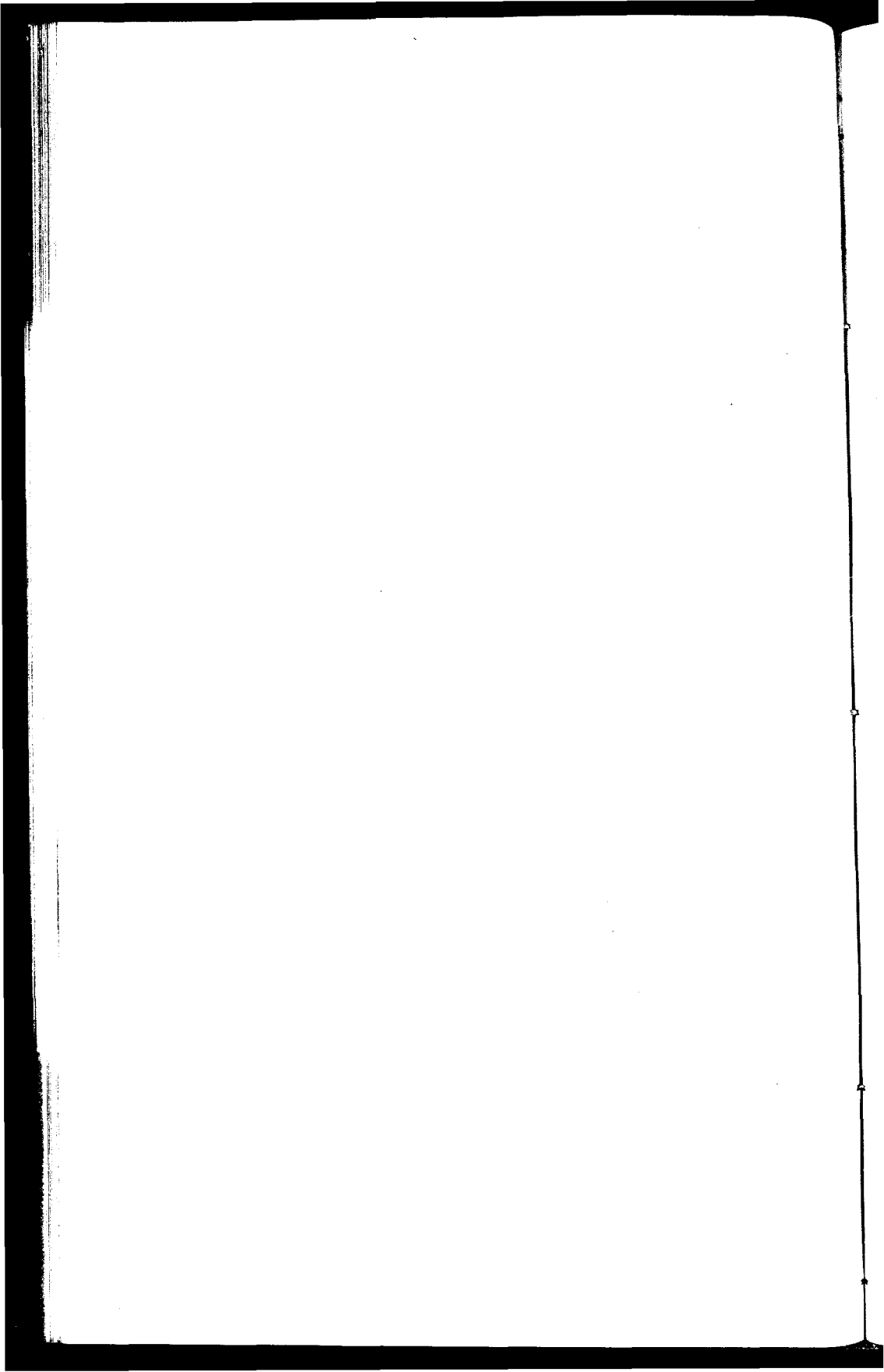
	BY NATURAL BLOOD.		BY ADOPTION.		KINDRED OF THE HALF AND WHOLE BLOOD.	
	Wife.	Husband.	Legitimate children.	Legitimate children.	Natural Bros. and Sisters and by adoption.	Issue of deceased Bros. and Sisters.
Intestate.	1/2 (dower).		Legitimate children.	Legitimate children.	Natural Bros. and Sisters and by adoption.	Issue of deceased Bros. and Sisters.
do		Residue, and when dower ends the whole.	Legitimate children.	Legitimate issue of deceased children.	Issue of deceased Bros. and Sisters.	Issue of deceased Bros. and Sisters.
do	2/3 for life.	Whole when the curtesy is born alive.	Legitimate children.	Legitimate issue of deceased children.	Issue of deceased Bros. and Sisters.	Issue of deceased Bros. and Sisters.
An intestate unmarried mother of an illegitimate child.		Whole when the curtesy ends.	Legitimate children.	Legitimate issue of deceased children.	Issue of deceased Bros. and Sisters.	Issue of deceased Bros. and Sisters.
An illegitimate intestate child without lawful issue whose parents have not intermarried.		Whole, (c)	Legitimate children.	Legitimate issue of deceased children.	Issue of deceased Bros. and Sisters.	Issue of deceased Bros. and Sisters.
An intestate legally adopted child.			Legitimate children.	Legitimate issue of deceased children.	Issue of deceased Bros. and Sisters.	Issue of deceased Bros. and Sisters.
Intestate.			Legitimate children.	Legitimate issue of deceased children.	Issue of deceased Bros. and Sisters.	Issue of deceased Bros. and Sisters.
do			Legitimate children.	Legitimate issue of deceased children.	Issue of deceased Bros. and Sisters.	Issue of deceased Bros. and Sisters.
do			Legitimate children.	Legitimate issue of deceased children.	Issue of deceased Bros. and Sisters.	Issue of deceased Bros. and Sisters.

Equally to those in same degree.

DESCENT OF REAL ESTATE AND THE RIGHTS THEREIN OF HUSBAND AND WIFE UNDER THE MASSACHUSETTS PUBLIC STATUTES, (1882,) CHAPS. 124, 125 AND 148.

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive, subject to his debts, the undivided Real Estate of the intestate and any interest therein in fee simple or for the life of another, as given in the subjoined columns. The mark denotes that there is no such relation as indicated at the head of the column in which it occurs.

	Wife.	Husband.	Legitimate children.	Illegitimate children.			NATURAL.				BY ADOPTION.		KINDRED OF THE HALF AND WHOLE BLOOD.				
				Legally adopted children.	Legitimate issue of dec'd child'n.	Father.	Mother.	Father.	Mother.	Brothers and Sisters by nature and adoption.	Dec'd Bros. and Sister's issue.	Those claiming through same ancestor if they are the next of kin.	Those in equal degrees claiming through different ancestors.	No Kindred.			
Intestate.	1/4(Dow'r)		Residue equally and all when dower ends	(a)	(b)	(c)											
do		Curtesy if a child is born alive.	Whole when curtesy ends.	(a)	(b)	(c)				Unmarried Mother.							
do	+	*															
A wife dying without having borne a live child to her husband.		+															
Intestate never married and mother of an illegitimate child.				All.													
An illegitimate intestate child without issue who can lawfully inherit his estate and where parents of the intestate have never intermarried.										All (d)							
An intestate legally adopted child.									(e)								
Intestate.									The Father and Mother take equally,								
do									Whole								
do									All.								
do												Whole.					
do												(j)					
do												All(g)					
do														Equal ly to those in equal degrees.			



PART II.

STATUTES 1 JACOBUS II, CHAP. 17.		Escheats.	
do	All.		
do	Take equal shares in the residue	(a)	
do	$\frac{1}{2}$		
do	$\frac{1}{2}$		
do	$\frac{1}{2}$	Equally with Bros. and Sisters.	Equally with mother.
do	Whole.	Whole.	
do		Equally with Bros. and Sisters children.	Equally with mother. (c)
do		Whole.	Take by right of representation.
do			Equal shares.
do			Equal shares.
do			Equal shares.
do			Equal shares.
do			Equal shares.
do			Equal shares.
do			Equal shares.

(a) Take by right of representation and the descending line excludes all others. (Vide 1 Ark. 457, 2 Kent's Comm. 422, 2 Black. Comm. 515.)

(b) 2 Kent's Comm. 422, 2 Williams on Executors, 128; Redfield on the Law of Wills, Pt. 2, page 904.

(c) See 1 Ark. 457.

NOTE: The debts are to be paid first and surplusage distributed.

NOTE: In the next of kin the paternal and maternal relatives are included. (Vide Christian's Note 1, Chitty's Black. Comm. 517.)

NOTE: Kindred of the half and whole blood share alike.

NOTE: Advancements made to children are to be deducted from their shares at the distribution.

COLONY LAWS OF MASSACHUSETTS RELATING TO THE DISTRIBUTION OF PERSONAL PROPERTY.

Statutes 1641, Ancient Charters, Chapter 104, § 3, Enacts that where the husband or parent dies intestate, the County Court of that jurisdiction where the party had his last residence, shall have power to assign to the widow such a part of his estate as they shall judge just and equal, also to divide and assign to the children or other heirs their several parts and portions out of the said estate: with these provisions, that the eldest son shall have a double portion, and if there are no sons, the daughters shall inherit as copartners.

Statutes 1646, Ancient Charters, Chapter 41, Provides that where no heirs appear the estate is to escheat.

Distribution of Personal Property under Massachusetts Province Laws, Ancient Charters, Chapter 8.

WILLIAM AND MARY 4, 1692.

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive the undivided personal property of the intestate as given in the subjoined columns, after payment of his debts. The mark * denotes that there is no such relation as is indicated at the head of the columns in which it occurs.

	Wife.	Husband.	Eldest son surviving where there is no issue of older son.	Children.	Issue of deceased children.	Father.	Mother.	Brothers and Sisters.	Children of deceased Brothers and Sisters.	Next of kin in equal degree.
Intestate.										
do	½	*	2 shares.	Take equal shares in the residue.						
do	¾			Take equal shares in the residue.	(a)					

DISTRIBUTION OF PERSONAL PROPERTY.

DISTRIBUTION OF PERSONAL PROPERTY UNDER MASSACHUSETTS STATUTES, 1783, CHAP. 96.

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive the undivided personal property of the intestate as given in the subjoined columns, after such allowances as the Probate Court may make, and after payment of his debts. The mark * denotes that there is no such relation as indicated at the head of the column in which it occurs.

Intestate.	Wife.	Husband.	Issue of Older Son.	Oldest Son Surviving.	Children.	Issue of deceased children.	Father.	Mother.	Brothers and Sisters.	Deceased Brothers and Sisters.	Brothers and Sisters, and such as legally represent them where the property would have come or came to the intestate from a parent, Bros. and Sisters, Grandfather and Grandmother.	Triples and Aunt's Nephews and Nieces.	Next of kin in the same degree.	No Kindred.
do	1/2	*	2 shares	2 shares	Residue.									
do	1/2				Residue.									
do	1/2				Take equal (a) shares in the residue									
do	1/2				Take equal (a) shares in the whole estate.		1/2							
do					All.	All.	All.							
do								All.		(b)				
do										(b)				
do										All.				Take such child's share.

An unmarried child dying under age and whose parents die intestate.

Intestate unmarried, having arrived at the age of twenty-one years.	Equally with the Bros. and Sisters in the share that came from the father.	The Brothers and Sisters take equally with the Mother.	Equally.	Escheat to the Commonwealth.
Intestate.		All.	Take equal shares	
do				
do				
do				

*No express provisions seem to have been made in these Statutes giving the husband the right to take his wife's personal estate, but the husband by Common Law is entitled to the wife's personal property by right of administration. 1 Williams on Executors 237, and by construction of Statutes general in terms, 93 Pick. 284, 290, 1 Bishop on Common Law. § 80) the husband's right seems unimpaired.

† (a) The issue of deceased children take with the children by right of representation, and those taking property by representation take equally.

(b) The Brothers and Sisters take equal shares of the whole estate, and

MASSACHUSETTS STATUTES, 1789, CHAP. 2.

Discontinued the provision made for issue of older son or oldest son surviving, but otherwise left the law of distribution the same as under Statutes 1783.

MASSACHUSETTS STATUTES 1802, CHAP. 93.

Enacted that when there was a surplus after paying the debts and funeral expenses of the intestate, the widow should be entitled to her apportioned such other allowance as the Judge of Probate deems necessary, in addition to her portion, the same as provided by St. 1783, c. 36. (See note above) when the estate is insufficient to pay the debts and funeral charges of the intestate.

DISTRIBUTION OF PERSONAL PROPERTY UNDER MASSACHUSETTS STATUTES 1805, CHAP. 90.

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive the undivided personal property of the intestate as given in the subjoined columns, after payment of his debts and after such allowance as the Probate Court may make. The mark \ast denotes that there is no such relation as indicated at the head of the column in which it occurs.

	Wife.	Husband.	Children.	Issue of deceased children.	Father.	Mother.	Bros. and Sisters.	Deceased Bros. and Sisters and children.	Bros. and Sisters and the issue of deceased Bros. and Sisters by representation when the property came to the intestate from the intestate's own Bros. and Sisters.	Those claiming from same ancestor if they are next of kin.	Those claiming through ancestors removed in different degrees from the intestate.	No Kindred.
Intestate.		Whole. \ast										
do	$\frac{1}{4}$		$\frac{3}{4}$	(a)								
do	$\frac{1}{3}$			(a)								
do	$\frac{1}{2}$				$\frac{1}{2}$							
do	Whole.		Take equal shares.	(a)								
do				(a)								
do					All.							
do						(b)	(b)	(b)				
do						(b)	(b)	(b)				
do												
Intestate unmarried and under age.										(c)		
do										(c)		

Intestate.						Equally to those of same degree.	Equally to those claiming through nearest ancestor
do							Escheats to the Commonwealth
do							

*These Statutes seem to have been the first to expressly provide that the husband should take his wife's personal estate.

(a) The lawful issue of deceased children, if any, take with the children by right of representation. Such issue, if there are no children, take equally where all are in the same degree, otherwise they take by right of representation.

(b) The Mother takes equally with the Brothers and Sisters if there are any; and the children of any deceased Brother and Sister take by representation.

(c) The Brothers and Sisters take equally; if there is issue of any deceased Brother and Sister, such issue take with the Brothers and Sisters by right of representation.

Note. Advancements are to be deducted. 17 Mass. 358. The debts, funeral charges, and charges for settling the estate are to be paid before the property is distributed. The provisions made for widow under Statute 1802, c. 93, (see page 31) are re-enacted.

MASSACHUSETTS STATUTES 1846, CHAP. 95,

Provided for a further allowance to the widow by the Judge of Probate where an allowance has already been made under the expectation that the estate is insolvent, but which estate subsequently proves solvent.

MASSACHUSETTS STATUTES 1828, CHAP. 139,

Made an illegitimate child the heir of his Mother, and provided that the Mother shall take her illegitimate child's property, unless the Mother afterward marries the child's father, and the father acknowledges such child as his child; in which case the child shall stand in relation to the father and mother only as a legitimate child.

Intestate.

do
Intestate not having been
married and under age.

do
Intestate.

do

do

Whole.

(c)

(c)

Equally to
those in the
same degree.

Equally to
those in the
same degree.

Whole equal-
ly to those
claiming
from nearest
ancestor

Escheats to
the Com-
m.wealth.

DISTRIBUTION OF PERSONAL PROPERTY.

(a) If the parents of illegitimate children intermarry, and the father acknowledges such children as his, such children shall take from the deceased parent equally with the legitimate children, and shall be considered legitimate, except that they cannot claim through their parents any inheritance from their lineal or collateral kindred. 108 Mass. 40, 42; 113 Mass. 430, 432.

(b) If some of the intestate's children are dead, such children's issue take with the surviving children by right of representation. The lineal descendants take equally where they are in the same degree of kindred; where they are not in the same degree, they take by right of representation.

(c) Such Brothers and Sisters take equal shares in the whole, and the issue of deceased Brothers and Sisters take with them by right of representation.

NOTE. The debts, funeral charges and charges for settling the estate are to be paid before the distribution. Advancements made to children are to be deducted. 17 Mass. 358.

Allowance.--The widow is to be allowed her articles of apparel or

ornament according to the degree and estate of her husband, and the minor children their articles of apparel. The wearing apparel of the deceased, not exceeding in value \$100, shall be distributed among the family of the deceased. Such provisions and other articles as shall be necessary for the reasonable sustenance of the widow, also of the family of the deceased for forty days after his death, shall be allowed, together with such further necessaries as the Judge shall order to be allowed the widow and minor children under her care. All this shall be omitted from the inventory, and shall not be considered assets. Rev. Sts., c. 65.

Half-blood.--The kindred of the half-blood shall inherit equally with those of the whole blood in the same degree. Rev. Sts., c. 61, § 5. This seems to be the first express enactment giving the kindred of the half-blood the same rights of inheritance as those of the whole blood. But this would seem merely declaratory of the Common Law; for those of the half-blood are kindred of the intestate, and only excluded from inheritance of land upon feudal reasons. 2 Black. Comm, 505; 2 Williams on Executors 960, and therefore under the previous statutes the half-blood would take equally with the whole blood.

STATUTES RELATING TO THE DISTRIBUTION OF
PERSONAL PROPERTY.

Massachusetts Statutes 1838, Chap. 145, §1 and 2.

Apparel and Ornament of Widow and Minor Children.—§1.

“The articles of apparel or ornament of the widow, and the apparel of any minor child of any deceased person, shall be considered in the settlement of the estate of such deceased person, as exclusively belonging to such widow and child respectively.”

Necessaries for Widow and Family.—§2. “Such part of the personal estate of any person deceased as the Judge of Probate, having due regard to all the circumstances of the case, may see fit to allow for necessaries to his widow, for the use of herself and family under her care, if any, and also such provisions and other articles as shall be necessary for the reasonable sustenance of the family of any person deceased for forty days after his death, shall not be deemed and taken as assets to be applied to the payment of debts, legacies, or charges of administration; but the same shall be allowed in the account of administration in discharge of so much of the inventory of the estate, when the same is contained therein, although it should thereby become necessary to sell real estate for the payment of debts, legacies, or charges of administration, and although the estate may be insolvent.”

Massachusetts Statutes 1842, Chap. 15.

Allowances to Minor Children where there is no Widow.—

“The second section of the one hundred and forty-fifth chapter of the statutes of the year one thousand eight hundred and thirty-eight, is hereby extended so as to empower Judges of Probate to make an allowance to the minor child or children of any deceased person, in cases where there is no widow; *provided*, that no allowance to any child shall exceed fifty dollars.”

Massachusetts Statutes 1851, Chap. 211.

Provisions for Illegitimate Children.—“Every illegitimate child shall be considered as heir of his mother, and any maternal ancestor, and shall inherit the estate of such mother or ancestor, in whole or in part, as the case may be, and the same shall descend from such ancestor to the lawful issue of such illegitimate person in like manner as if he had been born in lawful wedlock.”

Massachusetts Statutes 1851, Chap. 324, §§ 6 and 7.

Provisions for Adopted Children.—§6. A child adopted according to the provisions of this Statute, §§ 1-5, “shall be deemed, for the purposes

of inheritance and succession by such child, custody of the person and right of obedience by such parent or parents by adoption, and all other legal consequences and incidents of the natural relation of parents and children, the same to all intents and purposes as if such child had been born in lawful wedlock of such parents or parent by adoption, saving only that such child shall not be deemed capable of taking property expressly limited to the heirs of the body or bodies of such petitioner or petitioners, [for adoption.]”

§7. The natural parent or parents of such child shall be deprived by such decree of adoption of all legal rights whatsoever as respects such child; and such child shall be freed from all legal obligations of maintenance and obedience, as respects such natural parent or parents.”

— — —

Massachusetts Statutes 1853, Chap. 253.

Relating to Illegitimate Children.—“When, after the birth of an illegitimate child, his parents have intermarried, or shall intermarry, and his father has acknowledged, or shall, after the marriage, acknowledge him as his child, such child shall be considered as legitimate, to all intents and purposes.”

— — —

Massachusetts Statutes 1854, Chap. 406,

Provide that if there is no issue, and the personal estate after paying all debts amounts to not more than \$5000, the widow shall be entitled to the whole personal estate; if it amounts to more than \$5000, and less than \$10,000 in value, she shall be entitled to \$5000, out of the same; if the residue amounts to \$10,000, and upwards, she shall be entitled to one-half thereof. In addition she shall be entitled to one-half his undevise real estate for life (see page 13.) But these provisions are in lieu of dower.

— — —

Massachusetts Statutes 1854, Chap. 428.

Rights of Widow on Waiver of Will.—“When any man shall die, having lawfully disposed of his estate by his will, and leaving a widow, the widow may, at any time within six months after the probate of the will, waive the provisions made for her in the will; and she shall in such case be entitled to such portion of the real and personal estate, as she would have been entitled to if her husband had died intestate; *provided, however,* that the widow shall not, in any such case, be entitled to receive more than ten thousand dollars out of the personal estate.” Repealed by General Statutes, chap. 182, and similar provisions without the limitation to ten thousand dollars, were substituted. General Statutes, chap. 92, §24.

The above Statutes, viz., 1838, chap. 145.

1842, “ 15,

1851, “ 211,

1851, “ 324.

1853, “ 253.

1854, “ 406,

1854, “ 428.

were repealed by General Statutes, chap. 182.

**DISTRIBUTION OF PERSONAL PROPERTY UNDER MASSACHUSETTS GENERAL STATUTES,
(1860,) CHAPS. 94 AND 110.**

The living parties herein enumerated and whose relationship to the intestate the following headings indicate, will receive the undivided personal property of the intestate as given in the subjoined columns, after such allowances as the Probate Court may make, and after payment of his debts. The mark $\bar{}$ denotes that there is no such relation as indicated at the head of the column in which it occurs.

	NATURAL.							BY ADOPTION.		KINDRED OF THE HALF AND WHOLE BLOOD.							
	Wife.	Husband.	Legitimate Children.	Illegitimate Children.	Legally adopted Children.	Legitimate issue of deceased children.	Father.	Mother.	Unmarried Mother.	Father.	Mother.	Brothers and Sisters.	Deceased Bros. and Sisters' Children.	Bros. and Sisters, and the issue of deceased Bros. and Sisters, where the estate descended to the intestate from the parent of the intestate's own Bros. and Sisters.	Those claiming through same ancestor if they are the next of kin.	Those claiming through different ancestors.	No Kindred.
Intestate.		All.															
do	$\frac{1}{8}$		Residue equally.	(a)	(b)	(c)											
Intestate Mother of an illegitimate child.				All.													
An illegitimate intestate child without lawful issue, where the parents have not intermarried. Statutes 1851, c. 211, (i).								All.									
An intestate legally adopted child. Statutes 1851, c. 324, § 6.							(d)		(d)								
Intestate.	(e)																
do			Equal shares of the whole.	(a)	(b)	(c)											
do							All.										
do								(f)			(f)						
do								All.				(f)					
do												All. (g)					
An intestate who has never been married and has died under age.														(h)			
do														(h)			

Distribution of Personal Property under Massachusetts Statutes (1876,) chap. 213, § 8, and chap. 220, § 1, and the Unrepealed General Statutes.

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive the undivided personal property of the intestate as given in the subjoined columns, after such allowance as the Probate Court may make, and after the payment of his debts, funeral expenses and charges for settling the estate. The mark \emptyset denotes that there is no such relation as indicated at the head of the column in which it occurs.

	Wife.	Husband.	Legitimate Children.	Illegitimate Children.	Legally adopted Children.	Legitimate issue of deceased children.	NATURAL.		BY ADOPTION.		Natural Bros. and Sisters by adoption. (g)	Issue of deceased Bros. and Sisters.	Those claiming through same ancestor.	Those in equal degree claiming through different ancestors.	No Kindred
							Father.	Mother.	Father.	Mother.					
Intestate.		All.													
do	$\frac{1}{2}$		Residue equally.	(a)	(b)	(c)									
Intestate never married and Mother of an illegitimate child.				All.					All.						
An illegitimate intestate child without lawful issue, and where the parents have never inter-married. (Sts. 1851, c. 211.)							(d)		(c)						
An intestate legally adopted child.															
Intestate.	(f)		Whole equally.	(a)	(b)	(c)									
do							The Father and Mother take all equally.		(e)	(e)					
do							All.	(d)	(e)	(e)					
do											All.				
do															
do															

DISTRIBUTION OF PERSONAL PROPERTY UNDER MASSACHUSETTS PUBLIC STATUTES (1882,) CHAPS. 135, 148, AND STATUTES OF 1882, CHAPS. 132 AND 141.

The living parties herein enumerated, and whose relationship to the intestate the following headings indicate, will receive the undivided personal property of the intestate as given in the subjoined columns, after any allowances that may be made by the Probate Court to the widow or family, and after payment of his debts, funeral expenses and charges for settling the estate. The mark \dagger denotes that there is no such relation as indicated at the head of the column in which it occurs.

	Wife.	Husband.	Legitimate children.	Illegitimate children.	Legally adopted children.	Legitimate issue of deceased children.	NATURAL.		BY ADOPTION.		KINDRED OF THE HALF AND WHOLE BLOOD.	
							Father.	Mother.	Father.	Mother.	Bros. and Sisters by nature and by adoption.	Deceased Bros. and Sisters' Issue.
Intestate.		$\frac{1}{2}$ *	Residue equally.	(a)	(b)	(c)						
do		Whole.										
do	$\frac{1}{3}$	**	Residue equally.	(a)	(b)	(c)						
Intestate never married mother of an illegitimate child.				All.								
An illegitimate intestate child without issue who may lawfully inherit his estate, and where parents of the intestate have never intermarried.									All (d)			
An intestate legally adopted child.							(e)		(f)			
Intestate.							Father and Mother take equally.					
do	(g)											
do							All.					
do							All.					

Intestate.

do

do

do

do

do

All.

(i)

(i)

(ii)

Equally to those in equal degrees.

(i)

Escheats to the Commonwealth.

*Until the Statutes of 1882, c. 141 were enacted the husband took the whole.

**Compare clause 3, § 1, c. 135, Public Statutes, with Statutes of 1882, c. 141.

(a) If the parents of an illegitimate child intermarry, and the father acknowledges such child as his, such child shall take equally from the deceased parent with the legitimate children.

An illegitimate child shall be heir of any maternal ancestor.

(b) A legally adopted child takes equally with the other children where the property comes from either parent by adoption, but he cannot claim from their lineal ascendants or collateral kindred. Where an estate is granted in entail by some one other than a parent of such child, the adopted child shall not be considered heir by reason of such adoption, unless it plainly appear that said grantor so considered him. He inherits from his natural parents the same as if there had been no adoption. Public Statutes, c. 148, §§ 7, 8.

(c) The issue of deceased children take with the children by right of representation. If there are no children, the issue where they are in same degree take equally. If in different degrees they take by representation. The lawful issue of an illegitimate person represents him, and take such property as he would have taken if living.

(d) If there is no mother living, the maternal kindred are entitled to take the same as if the child had been legitimate. Statutes of 1882, c. 132.

(e) In this case the parent of a legitimate or legitimized child takes the property that came to the child from the other parent or parents' kindred, and, if no such parent is living, the kindred of such parents take the property the same as if there had been no adoption.

(f) A parent by legal adoption takes the property that came to the adopted child from the other adopting parent, or that came by gift from such adopting parent's kindred, and also the property that such child has acquired by himself. If no such parent is living, the kindred of such parent take such property the same as if the child had been born to the adopting parent in lawful wedlock.

(g) The widow in this case is entitled to the whole to the amount of \$5,000, and to one-half the excess above \$10,000.

(h) Such issue take equally if all are in the same degree; otherwise, they take according to the right of representation.

(i) The brothers and sisters by nature and by adoption take with the issue of deceased brothers and sisters; and the issue of deceased brothers and sisters take with the brothers and sisters by right of representation.

(j) Those claiming through the nearest ancestor take equally the property.

Allowances and Advancements.—Articles of apparel and ornaments of the widow and minor children of a deceased person shall belong to them respectively. Such parts of the personal estate as the Probate Court may allow as necessaries to the widow and family under her care or, in case there is no widow, to the minor children, not exceeding \$50, to any child, also such provisions and other articles as are necessary to the reasonable sustenance of the family of the deceased for forty days after his death, shall not be assets for the payment of his debts. Advancements made to children are to be deducted from their share in the estate. See General Notes, ADVANCEMENTS.

STATUTES 1884, CHAP. 301; 1885, CHAP. 255,

Provide by amendments to Public Statutes, Chap. 147, § 6, that a wife's will shall not without her husband's written consent deprive him of his tenancy by the curtesy in her real estate, or to the right to one-half of her real estate if they have had no issue born alive, or of more than one-half her personal property.

STATUTES 1885, CHAP. 276,

Amend the Public Statutes so as to give the whole of the personal property to the widow where there are no Kindred.

GENERAL NOTES.

Cestui que Trust's Estate.--An estate of a cestui que trust descends the same as the legal estate, 2 Washburn on Real Property, 182. At common law if the cestui que trust leaves no heirs, his estate will not escheat but will become absolute in the trustee. 2 Washburn on Real Property, 185. Perry on Trusts, § 327. Hill on Trustees, 270. But there has been doubt as to whether this rule was applicable under the statutes of distribution, generally adopted in the United States., Hill on Trustees, 270, note (4th American Edition). Husbands of wives having equitable interests in actual possession, have a right to curtesy in such equitable estates, including of course, cestui que trust estates, and equities of redemption. Perry on Trusts § 324, 3 Gray 398, 404. 1 Story's Eq. Jur. § 64a. 4 Kent's Comm. 30.

In Massachusetts a wife is not entitled to dower in her husband's equitable estates. 1 Perry on Trusts § 354. Reed et al. v. Whitney. 7 Gray 534. Loddell v. Hayes, 4 Allen 187.

Trustee's Estate.--It is almost an invariable rule that two or more trustees hold as joint-tenants and not as tenants in common. Perry on Trusts § 136. A power only does not survive, but ceases with the death of either of the trustees. 2 Washburn on Real Property, 197. Story's Equity Jur. § 1062. 4 Kents's Com. 325 The presumption is as to trustees, that a power coupled with an interest, was meant to survive. 2 Washburn on Real Property, 196. Story's Equity Jur. § 1062. If the authority be to two or more in an official capacity *ratione officii*, it will survive if either die. But if it be to them *nominatim*, or they are clothed with a special confidence of a personal nature, it will not survive. 2 Washburn on Real Property, 197. 13 Met. 226.

Quantity of a Trustee's Estate, and its Descent.--When a conveyance is in trust and the trusts are of such a nature that they do, or by possibility may, require a legal estate in the trustee beyond that of an estate for his own life, then without words of limitation in the conveyance to the trustee, he shall take a fee, 6 Cush. 403, 407; if the trustee's estate is undeviseed by him, it descends to his heirs in trust. Perry on Trusts, § 339.

Dower and Curtesy where there is a Trust Estate.--The wife of a trustee is not entitled to dower in the trust estate any further than the husband had a beneficial interest therein. 4 Kent's Com. 43. Perry on

Trusts, § 322. The husband is not entitled to curtesy in the estate held by his wife as trustee. Perry on Trusts, § 322

Wild Lands not Subject to Dower.--"A widow shall have no right of dower in wild lands of which her husband dies seized, except woodlots or other land used with his farm or dwelling house; nor in such land conveyed by him, although afterwards cleared." Public Statutes c. 124 § 4. General Statutes, c. 90, § 12. Revised Statutes, c. 60, § 12. It seems that she may take wild land for her life estate in half her husband's real estate under Public Statutes, c. 124 §§ 3 and 4. General Statutes, c. 90 § 15. See 121, Mass. 267.

Dower in Equity of Redemption.--A wife is entitled to dower in her husband's mortgaged premises, of which premises he died seized, against every one except the mortgagee and those claiming under him, though the mortgage be valid and effectual as against her, and though she has released all right of dower in the premises. Public Statutes, c. 124 § 5. General Statutes, c. 90, § 2. Revised Statutes, c. 60 § 2. See Henry's case, 4 Cushing, 257.

No Dower in Lands Mortgaged to Secure the Purchase Money.--When a husband takes a conveyance in fee and at the same time mortgages the land back to the grantor, or to a third person, to secure the purchase money in whole or in part, the wife is not entitled to dower out of the estate. 4 Kent's Com., 39. 4 Mass., 566. 4 Allen 510.

Cumulative Provisions for the Widow.--The provisions in Statutes 1880, c. 211, to the effect that the widow of a person dying intestate, shall take real estate of the deceased to the value of \$5,000, in fee, is cumulative and gives her this in addition to dower, homestead or provisions in lieu of dower. Elliot vs. Elliot, 137, Mass. 116.

Descent, etc., of Demises for 100 Years or More.--When land is demised for one hundred years or more, the term shall so long as fifty years of the same remain unexpired be regarded as an estate in fee simple, as to the descent and devise of the same and the right of dower therein. Public Statute, c. 121, § 1. General Statutes, c. 90, § 20. Revised Statutes, c. 60, § 18. Statutes of 1834, c. 162, § 1.

Rights of the Widow on Waiving her Husband's Will.--A widow may waive the provisions made for her in her husband's will within six months after probate of the will, or claim such portion of his estate as she would have been entitled to if he had died intestate, and shall be entitled to the same portion of his real and personal estate as if he had died intestate, except that if her share of the personal estate should be more than \$10,000, she will receive \$10,000, and the income for life of the excess of her share of such estate above that amount. Public Statutes, c. 127, § 18.

Statutes 1871, c. 200, gave the widow the right to claim her portion of the estate, real and personal, where she was unprovided for by the will.

Statutes 1861, c. 164, §1. provides that the widow may waive the provisions made for her in her husband's will, and in such case will be entitled to the same portion of the real and personal estate, as if he had died intestate, except if such share of the personal estate should exceed \$10,000. she will be entitled to the sum of \$10,000, and the income for life of the excess of her share of such estate above that amount.

General Statutes, c. 92, §24, provides that the widow may waive the provisions made for her in her husband's will, and that in such case she shall be entitled to the same portion of his estate, real and personal, as she would have been entitled to, if he had died intestate. Statutes 1854, c. 428 contained these provisions of the General Statutes. and added that in such case she shall not be entitled to more than \$10,000 out of his personal estate.

Revised Statutes, c. 60, §11. and Statutes 1783, c. 24, §8, gives the widow the right to waive the provisions of her husband's will and take instead, her dower in his lands.

She shall not be entitled to both the provisions and dower, unless such shall appear by the will, to have been the intention of the testator. Public Statutes, c. 127, §20. Statutes of 1861, c. 164, §1. General Statutes, c. 92, §24. Statutes of 1854, c. 428. Revised Statutes, c. 60, §11. Statutes 1783, c. 24, §8. See *Towle v. Swasey*, 106 Mass., 109; *Farnum v. Bascom*, 122, Mass. 282.

Next of Kin.--The next of kin is to be interpreted in a will, when nothing further appears to show the testator's intention, as the nearest of kin related to the testator by blood. 2 Williams on Executors, 960. Redfield on the Law of Wills, part 2, page 399. Relations *by marriage* are generally incapable of bringing themselves within the description of next of kin in a will. But it has been held competent and required, to look at the whole of the will to see if there was a manifest intention to include the wife as of the next of kin. 2 Williams on Executors, 960. In the ordinary sense neither husband nor wife can be said to be next of kin to each other. 2 Kent's Com. 136, 3 Vesey's Reports (Sumner's Edition), 244, note a; *Esty v. Clark et al.* 101 Mass. 38. Under the statutes of distribution, the next of kin are to be determined by the same rules as the right to administer under Statutes 31, Edward III, c. 11. 2 Williams on Executors, 1292. 2 Black. Com. 515. (See Table, page 25). In next of kin are included relatives both on the paternal and maternal sides. 2 Black. Com. 516, Christian's Notes.

In the Massachusetts laws of 1783, it was expressly provided that the degrees of kindred should be computed according to the rules of the Civil Law, and the same provision has been continued ever since by successive re-enactments. (P. S. C., 125, §2).

Computation of Degrees of Kindred.--By the Civil Law the degrees are computed by reckoning from the deceased up through the nearest common ancestor to the person whose degree of relationship to the intestate is to be determined. Each generation thus included in the two lines of descendants, forms a degree. 2 Black Com. 203, 208 note (Sharswood's Ed.) See table, page 25.

Whereas by the Canon Law the degrees are reckoned downward from the nearest common ancestor in one line only, and if the lines are unequal in the number of generations, the computation is by the longer line. *Ibid.* See table, pages 1, 2.

Children.--"The word 'children' does not in its *proper signification*, extend further than the immediate descendants of the person named, and consequently grand children or issue generally, are not ordinarily included in that term." 2 Williams on Executors, 942, 103 Mass. 287.

Adopted Children.--A child adopted under the provisions of c. 110 of the General Statutes, or c. 310 of the Statutes of 1871, has been held included in the words "child," "children," "issue," and "kindred" as used in the Statutes of Descents. *Sewall v. Roberts*, 115, Mass. 277. *Ross v. Ross*, 129, Mass., 267.

"The term child, or its equivalent in a grant, trust settlement, entail, devise, or bequest, shall be held to include a child adopted by the settler, grantor, or testator, unless the contrary plainly appears by the terms of the instrument; but when the settler, grantor, or testator, is not himself the adopting parent, the child by adoption shall not have, under such an instrument, the rights of a child born in lawful wedlock to the adopting parent, unless it plainly appears to have been the intention of the settler, grantor or testator to include an adopted child." Public Statutes, chap. 148, § 8. Statutes 1876, chap. 213, § 9. (*Ante*, page 17).

"An inhabitant of another state adopted as a child, in accordance with the laws thereof, shall upon proof of such fact, be entitled in this commonwealth, to the same rights, as regards succession to property, that he would have enjoyed in the state where such act of adoption was executed, except in so far as such rights conflict with the provisions of this chapter." Public Statutes, chap. 148, § 9. Statutes 1876, chap. 213, § 11. (*Ante*, page 17). *Ross v. Ross*, 129, Mass. 243.

Children Unprovided for by Parents' Will.--"When a testator omits to provide in his will for any of his children, or for the issue of a deceased child, they shall take the same share of his estate that they would have been entitled to if he had died intestate, unless they have been provided for by the testator in his life time, or unless it appears that the omission was intentional and not occasioned by accident or mistake." Public Statutes, c. 127, § 21. General Statutes, c. 92, § 25. Revised Statutes, c. 62, § 21. The same provision with the omission of "unless it appears that the omission was intentional and not occasioned by accident or mistake," is found in Statutes of 1783, c. 24, § 8, and Province Laws, William III, c. 12 (*Ancient Charters*, c. 70, § 2).

Posthumous Children.--"When a child of a testator, born after his father's death, has no provision made for him by his father in his will or otherwise, he shall take the same share of his father's estate that he would have been entitled to if his father had died intestate." Public Statute, c. 127, § 22. General Statutes, c. 92, § 26. Revised Statutes, c. 62, § 22. Statutes of 1783, c. 24, § 7. 12 William III, (*Ancient Charters*, c. 70, § 1.)

Devise or Legacy not Lapsed.—"When a devise or legacy is made to a child or other relation of the testator and such child or relation dies before, but leaves issue who survive the testator, such issue shall, unless a different disposition is made or required by the will, take the same estate that the person whose issue they are, would have taken, had he survived the testator." Public Statutes, c. 127, § 23. General Statutes, c. 92, § 28. Revised Statutes, c. 62, § 24. Statutes of 1783, c. 24, § 8. 18 Pick. 43.

Descent of Estates Tail.—Estates tail descend according to the rules of common law, that is, the oldest son takes to the exclusion of all the other children. 1 Gray, 284, 286.

Surplusage from Sale under a Power of Sale Mortgage.
—The general rule is if a sale under a power of sale mortgage takes place in the life time of the mortgagor, the surplus is personal estate; if after his death, it is real estate, as the equity of redemption descends to the heirs at law. 1 Williams on Executors, 577. Jones on Mortgages, § 1695. In Massachusetts the legal title to the proceeds of such sale, is held to be the executor or administrator, by force of the contract of mortgage, though when he has collected the money, he holds it in trust for the heirs or devisees, as the case may be. Jones on Mortgages, § 1695. 8 Allen, 158, 160.

Advancements.—"Any state, real or personal, given by an intestate in his lifetime, as an advancement to a child or other lineal descendants, shall be considered as part of the intestate's estate, so far as it regards the division and distribution of such estate among his issue, and shall be taken by such child or other descendants, towards his share of such estate; but he shall not be required to refund any part thereof, although it exceeds his share." Public Statutes, c. 128, § 1. General Statutes, c. 91, § 6. Revised Statutes, c. 61, § 6. excepts the following clause, "that he shall not be required to refund any part thereof, although it exceeds his share." Statutes 1805, c. 90, § 3. Statutes 1783, c. 36, § 7.

"All gifts and grants shall be deemed to have been made as advancements if they are expressed in the gift or grant to be so made, or if charged in writing as such, by the intestate, or acknowledged in writing as such by the party receiving them." Public Statutes, c. 128, § 3. General Statutes, c. 91, § 8. Revised Statutes, c. 61, § 9, Statutes 1805, c. 90, § 3. Under the statutes of 1783, § 7, the evidence required to prove an advancement, was that it should be charged in writing by the intestate or his order, or a memorandum made thereof, or delivered expressly or for that purpose before two witnesses who were bade to take notice thereof.

To constitute an advancement it must be proved to have been so intended, "and chargeable on the child's share of the estate by certain evidence prescribed." 17 Mass. 356, 358. An advancement cannot under the statutes, be proved by parol. 2 Pick. 337.

If two executors or administrators are appointed and one dies, the estate vests in the survivor. 1 Williams on Executors, 390.

Agreements for the Conveyance of Lands.—"Land articed and devised to be sold and turned into money, is reputed as money, and

money articulated or bequeathed to be invested in land, has in Equity, many of the qualities of real estate and is descendible and devisable as such." 2 Story's Eq. Jur., § 790.

"If a man has entered into a valid contract for the purchase of land, he is treated in Equity as the equitable owner of the land; and the vendor is treated as the owner of the money. The purchaser may devise it as land, even before the conveyance is made and it passes by descent to his heir as land." 2 Story's Eq. Jur., § 790.

Mortgaged Property in Trust.—When real estate is conveyed to a trustee in trust to permit a mortgagor to receive the rents and profits, and upon payment of the mortgage money to reconvey to the mortgagor, and upon default of payment, to sell the premises and pay over the residue to the mortgagor, after payment of the mortgage, then if no sale should be made until after the death of the mortgagor, it will pass by his devise to his devisee, or to his heir as real estate, and not as personality. 2 Story's Eq. Jur., § 790. 2 Hare, R. 38. Dalzell on the Law of Conversion, 89.

THE PRESENT VALUE OF LIFE ESTATES.

From the following table the present value of a life estate may be determined by the Wigglesworth or the "Combined Experience"* tables of mortality at six per cent. The Wigglesworth table, which was adopted many years ago by the Supreme Judicial Court, is an old table, and the results obtained from it are not as accurate as later tables afford. The "Combined Experience" table is based upon computations made by seventeen Life Insurance companies, and was deduced from 62,537 assurances under the supervision of a commission of accomplished actuaries. The latter table was published in 1843, and its results are considered very accurate.

In the following table the sums given opposite the numbers representing the ages will show the present value of a dower estate for every \$100 of the whole estate at six per cent. per annum. To find the present value of a dower estate from this table, multiply the sum found opposite the number representing the age by the number of hundreds in the entire estate, and the product will be the present value of the dower estate.

To illustrate, let the whole value of an estate be \$10,000, and the widow who is entitled to dower is 50 years of age. Look for 50 in the column headed age; opposite this number in the column headed Wigglesworth is the sum \$20.19 (the present value of a dower estate worth \$100,) multiply this sum by 100 (the number of hundreds in 10,000) and the product is \$2,019, which is the present value of her dower according to the Wigglesworth table. According to the "Combined Experience" table it is \$2,070.

As a dower estate is one-third of the entire real estate for life, the value of an estate by the curtesy, which is a life estate in the whole real estate, may be found by multiplying the value of a dower estate in the given estate by three.

So any life interest in a fractional part of the whole estate can be found by taking a corresponding part of the value of the estate by the curtesy.

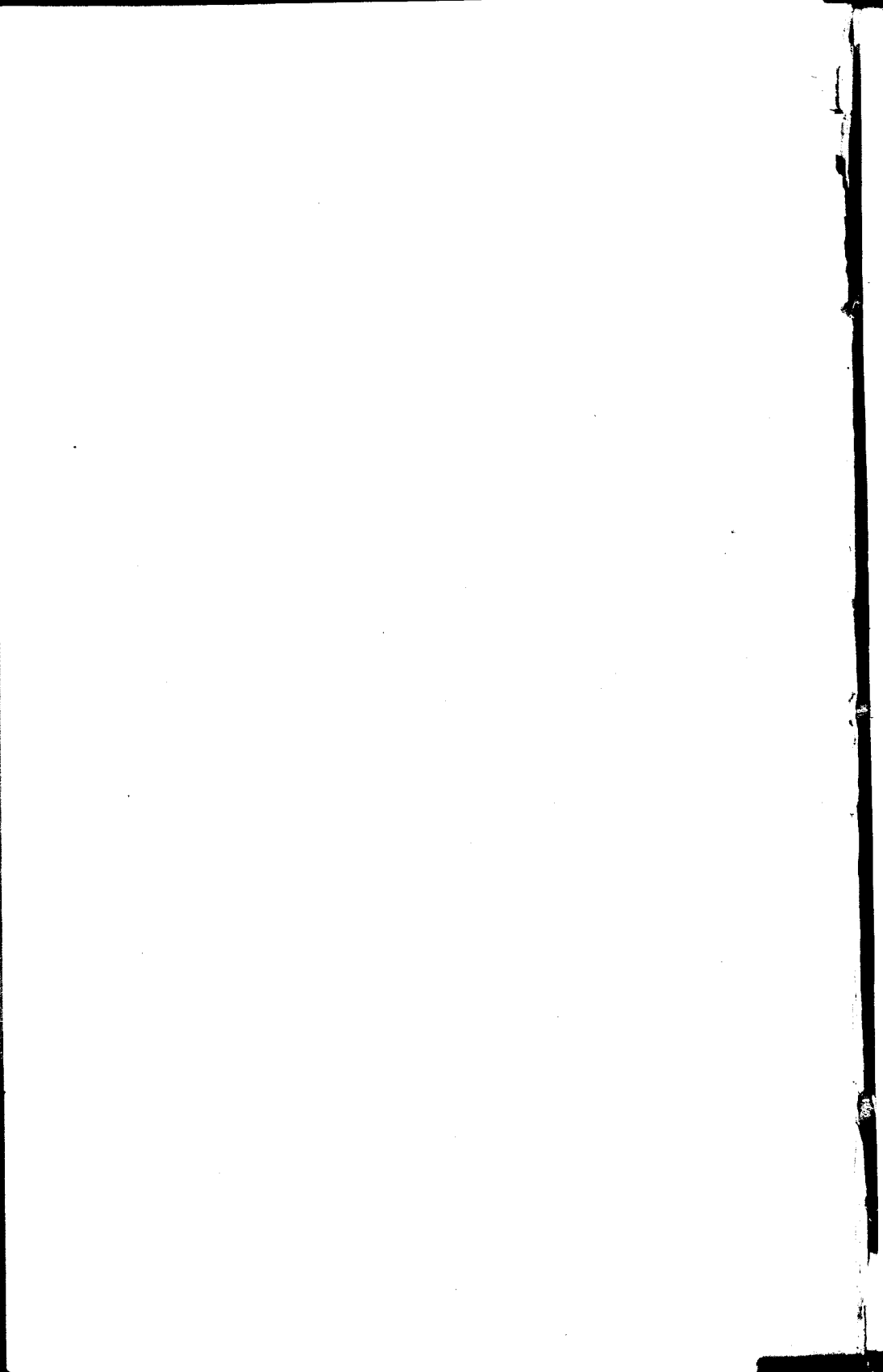
*"Combined Experience" or "Actuaries" Sts. 1886. c. 186.

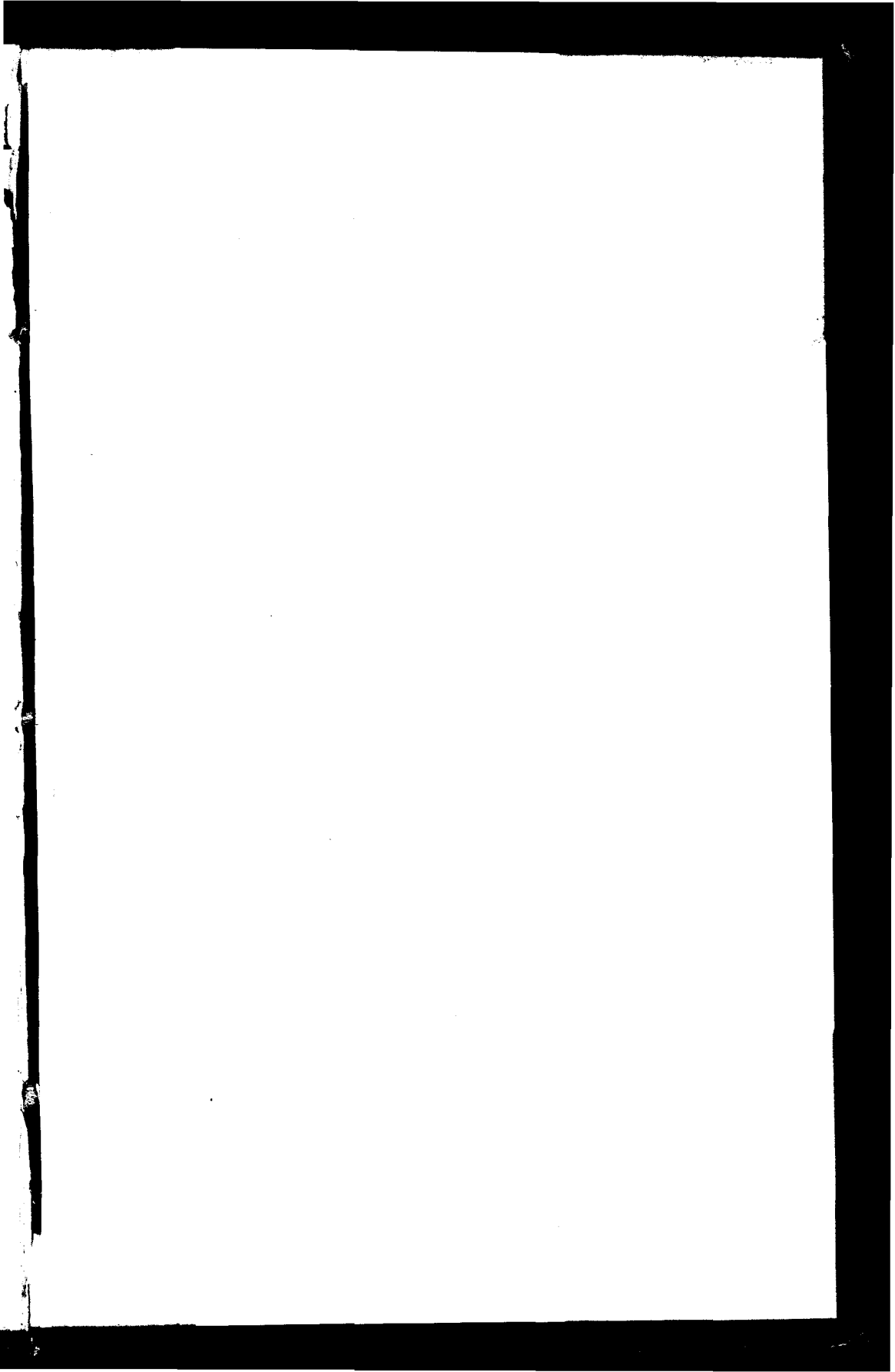
TABLE

(TAKEN FROM "SMITH'S PROBATE LAW.")

Showing the present value of a widow's dower in an estate worth \$100, at any age from 15 to 98 inclusive, computed at six per cent., according to the Wigglesworth and "Combined Experience" Tables of Mortality.

Age.	Wigglesworth.	Combined Experience.	Age.	Wigglesworth.	Combined Experience.	Age.	Wigglesworth.	Combined Experience.
15	\$24.71	\$28.30	43	\$22.30	\$23.22	71	\$12.45	\$10.87
16	24.63	28.20	44	22.21	22.90	72	11.98	10.40
17	24.56	28.11	45	22.10	22.56	73	11.50	9.92
18	24.49	28.00	46	21.88	22.21	74	11.04	9.46
19	24.42	27.90	47	21.65	21.85	75	10.57	9.00
20	24.36	27.79	48	21.41	21.47	76	10.08	8.55
21	24.30	27.67	49	21.17	21.09	77	9.59	8.10
22	24.23	27.55	50	20.91	20.70	78	9.10	7.66
23	24.16	27.42	51	20.63	20.30	79	8.63	7.24
24	24.10	27.29	52	20.35	19.88	80	8.19	6.82
25	24.05	27.15	53	20.05	19.46	81	7.72	6.41
26	23.97	27.00	54	19.74	19.03	82	7.27	6.00
27	23.88	26.85	55	19.42	18.59	83	6.88	5.61
28	23.78	26.69	56	19.08	18.14	84	6.60	5.21
29	23.69	26.53	57	18.72	17.69	85	6.53	4.82
30	23.59	26.35	58	18.34	17.22	86	5.01	4.42
31	23.50	26.17	59	17.94	16.75	87	5.55	4.03
32	23.42	25.98	60	17.53	16.27	88	5.23	3.63
33	23.33	25.79	61	17.08	15.79	89	5.08	3.24
34	23.25	25.58	62	16.61	15.30	90	5.46	2.86
35	23.17	25.36	63	16.12	14.81	91	4.84	2.48
36	23.09	25.14	64	15.59	14.31	92	4.10	2.11
37	22.94	24.90	65	15.03	13.82	93	3.37	1.76
38	22.83	24.65	66	14.63	13.32	94	2.65	1.43
39	22.72	24.39	67	14.22	12.83	95	2.04	1.14
40	22.61	24.12	68	13.80	12.33	96	1.46	.90
41	22.51	23.84	69	13.36	11.84	97	1.11	.72
42	22.40	23.54	70	12.91	11.36	98	.94	.47





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