

HOUSE No. 364.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, May 2, 1884.

The Committee on Taxation, to whom was referred the Order relative to imposing a tax on testate and intestate estates, report the accompanying Bill.

For the Committee,

DANIEL W. WELLS.

Mr. TUFTS of New Braintree, of the House, dissenting.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Eighty-four.

AN ACT

To lay Taxes on Legacies and Successions.

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. All estates, real, personal and
2 mixed, of every kind whatsoever, within the
3 Commonwealth, passing from any person who
4 may die seized or possessed of such estate, either
5 by will or under the intestate laws of this Com-
6 monwealth, or any part of such estate or estates
7 or interest therein, transferred by gift, deed,
8 grant, bargain or sale, made or intended to take
9 effect in possession or enjoyment after the death
10 of the grantor or bargainer, to any person or
11 persons, or to bodies corporate or politic in trust
12 or otherwise, shall be and they are hereby made
13 subject to a tax or duty, at the rate hereinafter
14 provided, to be paid to the use of the Common-
15 wealth, and all executors and administrators and
16 their sureties shall only be discharged from
17 liability for the amount of any and all such duties

18 on estates the settlement of which they may be
19 charged with, by having paid the same over for
20 the use aforesaid as hereinafter directed.

1 SECT. 2. All such estates passing as aforesaid
2 to or for the use of lineal descendants, lineal an-
3 cestors, husband or wife of the decedent, or next
4 of kin, or any other person or persons; or to or
5 for the use of bodies politic or corporate, shall be
6 subject to a tax or duty at the rate of two per
7 cent. on the clear value thereof: *provided*, that
8 no estate, the clear value of which is less than
9 five thousand dollars, shall be subject to the tax
10 or duty.

1 SECT. 3. The tax or duty aforesaid shall be
2 assessed by the judge of probate for the county
3 having administration of the estate, or, if there be
4 no such administration, for the county in which
5 such estate is situated, and shall be due and pay-
6 able whenever the party interested in such legacy
7 or distributive share, or property or interest
8 aforesaid, shall become entitled to the possession
9 or enjoyment thereof, or to the beneficial interest
10 in the profits accruing therefrom, and the same
11 shall be a lien and charge upon the property of
12 every person who may die, as aforesaid, for five
13 years, or until the same shall, within that period,
14 be fully paid and discharged.

1 SECT. 4. Every executor or administrator,
2 before payment and distribution to the legatees

3 or any parties entitled to such estate or estates,
4 or any beneficial interest therein, shall pay to the
5 register of probate of the county having adminis-
6 tration of the estate, or in which such estate is
7 situated, the amount of the tax or duty assessed
8 upon such legacy or distributive share, or
9 interest, and upon such payment said register
10 shall give to such person paying such tax or
11 duty a receipt or receipts for the same in dupli-
12 cate. Such receipt or receipts, duly signed and
13 delivered by such register, shall be sufficient
14 evidence to entitle such executor, administrator,
15 trustee or other person to be credited and al-
16 lowed such payment.

1 SECT. 5. Every executor, administrator or
2 other person liable to pay a tax or duty under
3 this act shall give notice to the said judge of
4 probate of his liability to such tax, and shall at
5 the same time render to the register of probate
6 aforesaid a true schedule, list or statement of the
7 amount of such legacy, distributive share, inter-
8 est or succession subject to said tax or duty, to-
9 gether with the amount of duty which has accrued
10 or shall accrue thereon, verified by his oath, which
11 schedule, list or statement shall contain the names
12 of each and every person entitled to any bene-
13 ficial interest therein, together with the clear
14 value of such interest. And in case such execu-
15 tor, administrator or other person liable to pay
16 such duty shall neglect or refuse to render to said
17 register such schedule, list or statement under

18 oath as aforesaid for the period of one month
19 from the time the party interested in such
20 legacy, or distributive share, or property or in-
21 terest aforesaid shall become entitled to the pos-
22 session or enjoyment thereof, or shall render to said
23 register of probate a false schedule, list or state-
24 ment of such property, or give the names or rela-
25 tionships of the persons entitled to beneficial inter-
26 ests therein, untruly, or shall not truly set forth
27 and state therein the clear value of such interests,
28 he shall be liable to a penalty of not exceeding
29 one thousand dollars, to be recovered with costs of
30 suit; and the said register shall commence appro-
31 priate proceedings in his own name against such
32 person or persons as may have the actual or con-
33 structive custody or possession of such property
34 or estate, or any part thereof, and shall subject
35 such property or estate, or any portion of the
36 same, to be sold upon the judgment or decree of
37 the court, and from the proceeds of such sale the
38 amount of such tax or duty, together with all
39 costs and expenses of every description to be
40 allowed by such court, shall be first paid, and the
41 balance, if any, deposited according to the order
42 of the probate court, to be paid under its direction
43 to such person or persons as shall establish title
44 to the same. The deed or deeds, or any proper
45 conveyance of such property or estate, or any por-
46 tion thereof, so sold under such judgment or de-
47 cree, executed by the officer lawfully charged with
48 carrying the same into effect, shall vest in the

49 purchaser thereof all the title of the delinquent to
50 the property or estate sold under and by virtue of
51 such judgment or decree.

1 SECT. 6. Whenever no administration upon
2 the property or estate of a decedent is granted
3 or allowed under existing laws, and such prop-
4 erty passes directly to the next of kin, or
5 other person entitled to the possession or enjoy-
6 ment thereof, or to the beneficial interest in the
7 profit accruing therefrom without the intervention
8 of any trustee, it shall be the duty of the person
9 or persons receiving the same to make out a list
10 or statement of such property, and to file the
11 same with the register of probate for the county
12 where the deceased last dwelt, and to pay the tax
13 thereon, agreeable to provisions of this act; and
14 each beneficiary shall be liable to the same penal-
15 ties for neglect to file such list or statement, and
16 for filing an incorrect list or statement, and for
17 failing to pay the tax thereon, as are prescribed
18 for like neglect by executors, administrators, and
19 other trustees under provisions of this act.

1 SECT. 7. All the aforesaid duties, taxes and
2 penalties may be recovered by the register of
3 probate by an action of contract in his own name,
4 and he shall make returns, under oath, quar-
5 terly, to the state treasurer, of all moneys so
6 received, and all disbursements on account of
7 the same, and shall pay over all sums paid to or
8 recovered by him to the state treasurer on the first

9 secular day of January, April, July and October
10 in each year.

1 SECT. 8. The register of probate in each county
2 shall keep a book of record, open to the public,
3 containing all charges and credits for or on ac-
4 count of duties assessed under this act.

1 SECT. 9. If such taxes are not paid within one
2 year from the time when they become due, inter-
3 est on the same from the time of the decedent's
4 death shall be charged at the rate of ten per
5 cent., unless from unavoidable causes it is im-
6 possible within said period to ascertain and pay
7 the amount due, in which case the rate of in-
8 terest charged shall be six per cent.

1 SECT. 10. For the purposes of this act foreign
2 stocks and loans belonging to persons having at
3 the time of their decease a domicile in this Com-
4 monwealth, shall be deemed to be property within
5 this Commonwealth. If any foreign executors or
6 administrators shall transfer stocks or loans of
7 corporations within this Commonwealth, subject
8 to said tax, without payment thereof, the corpora-
9 tion permitting such transfer shall be liable for
10 the same.

1 SECT. 11. The treasurer of the state shall sea-
2 sonably provide and distribute to the different
3 judges and registers of probate in the state ap-

4 propriate books and blanks that may be requisite
5 for the due execution of this law.

1 SECT. 12. This act shall take effect from and
2 after the first day of October, eighteen hundred
3 and eighty-four, and shall not apply to the estates
4 of persons who shall have died before that date.