

SENATE.....No. 44.

Commonwealth of Massachusetts.

IN SENATE, Feb. 10, 1834.

Ordered, That the Committee on Probate and Chancery be instructed to inquire whether any, and what further provisions of law are necessary respecting the disposition and management of the estates of persons dying testate, during the pendency of any suit at law, wherein the sanity of the testator is drawn in question, or the probate of his or her will may be contested.

Attest,

CHAS. CALHOUN, *Clerk.*

IN SENATE, Feb. 21, 1834.

The vote adopting the above Order is re-considered, and it is again adopted with the following addition thereto, to wit—"And also, whether any further provisions of law are necessary, respecting the form and manner of giving bonds by Executors and Administrators."

Attest,

CHAS. CALHOUN, *Clerk.*

Commonwealth of Massachusetts,

IN SENATE, Feb. 23, 1834.

The Committee on Matters of Probate and Chancery, who were instructed to inquire, among other things, into the expediency of making further provisions of law relative to the management of the estates of persons dying testate, during the pendency of any suit at law, wherein may be drawn in question the sanity of the testator, have duly considered the subject, and ask leave to report a Bill.

GEO. BLAKE, *Per Order.*

Commonwealth of Massachusetts.

In the Year of our Lord One Thousand Eight Hundred
and Thirty-Four.

AN ACT

In addition to an Act to Regulate the Jurisdiction and
Proceedings of the Courts of Probate.

1 SEC. 1. **BE** *it enacted by the Senate and House*
2 *of Representatives in General Court assembled, and by*
3 *the authority of the same,* That whenever it shall hap-
4 pen that the probate of any last will, or instrument
5 purporting to be the last will and testament of any
6 person deceased, shall be delayed or hindered by a
7 suit or controversy, on account of the alleged insanity
8 of the testator or testatrix, or for any other cause ad-
9 ministration upon the estate of such deceased person,
10 to be limited in duration to the existence of such suit
11 or controversy, and in its object to the collection of
12 the debts and personal property of the deceased per-
13 son, and the payment of his or her just debts, shall

14 and may be granted by the several Judges of Probate
15 in their respective counties, at the request of any
16 person interested therein.

1 SEC. 2. *Be it further enacted,* That the person or
2 persons who shall receive letters of administration, in
3 virtue of this Act, shall make and return to the Court
4 of Probate, a perfect inventory of the goods, effects,
5 credits, and real estate belonging to the deceased
6 person, which shall come to the knowledge and pos-
7 session of him or them, in the same manner as other
8 administrators are required by law to do ; and it shall
9 be his or their duty to pay and satisfy the just debts
10 which the deceased person owed at the time of his or
11 her decease, and to lay out and invest all monies
12 which shall remain after the payment of debts is made,
13 at interest, in such public stocks or funds, or upon
14 such real securities as shall be designated by the Judge
15 of Probate, which stocks, funds and securities, shall
16 be held and managed as a trust fund during the con-
17 tinuance of such administration.

1 SEC. 3. *Be it further enacted,* That existing laws
2 which affect the rights of creditors of persons deceased
3 to prosecute their claims against their estates and
4 representatives, shall begin to run and have effect
5 from the time of granting limited administration in
6 virtue of this Act ; and all suits and actions at law or
7 in equity, which shall be depending when such limited
8 administration shall cease, in, or to which any admin-
9 istrator appointed under this Act shall be a party,
10 shall, and may be prosecuted by or against the execu-
11 tor or administrator who shall have received letters
12 testamentary or of administration, at the termination
13 of the controversy respecting the probate of the will.

1 SEC. 4. *Be it further enacted*, That administra-
2 tion under this Act shall not be granted to any per-
3 son or persons directly or indirectly interested in de-
4 feating or establishing the will in controversy.

1 SEC. 5. *Be it further enacted*, That the bonds now
2 required of executors and administrators, when taken
3 from an administrator or administrators appointed
4 under this Act, shall be so varied and altered in the
5 condition, as to bind such administrator or administra-
6 tors to the collection of the debts and personal estate
7 of the person deceased—to the due care, preservation,
8 and management thereof, and to the due accounting
9 for the same, at the termination of the suit or contro-
10 versy respecting the probate of the will. And the
11 Judge of Probate may order and decree, that said
12 administrator or administrators shall transfer, deliver,
13 and pay over to the executor or administrator who,
14 at the termination of such suit or controversy, shall
15 receive letters testamentary or of administration, all
16 the monies, stocks, funds, chattels, and other property
17 which he or they have received in the course of such
18 administration, and which then remain in his or their
19 hands or possession.

1 SEC. 6. *Be it further enacted*, That in all cases,
2 Judges of Probate are empowered, when they grant
3 letters testamentary or of administration to two or
4 more persons, to take a separate bond from each per-
5 son, with sufficient surety or sureties to each.

