ANNO TRICESIMO OCTAVO

GEORGII III. REGIS.

C A P. LXXXVII.

An Act for the Adminiſtration of Aſſets in Caſes where the Executor to whom Probate has been granted is out of the Realm. [28th *June* 1798.]

Preamble.

WHEREAS the Laws now exiſting are not ſufficient to enforce a ſpeedy Diſtribution of the Aſſets of deceaſed Perſons where the Executor to whom Probate of the Will hath been granted is out of the Juriſdiction of His Majeſty's Courts of Law and Equity; be it therefore enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That, at the Expiration of Twelve Calendar Months from the Death of any Teſtator, if the Executors or Executor to whom Probate of the Will ſhall have been granted, are or is then reſiding out of the Juriſdiction of His Majeſty's Courts of Law and Equity, it ſhall be lawful for the Eccleſiaſtical Court which hath granted Probate of ſuch Will, upon the Application of any Creditor, next of Kin, or Legatee, grounded on the Affidavit herein-after mentioned, to grant ſuch Special Adminiſtration as herein-after is alſo mentioned; which Adminiſtration ſhall be written or printed upon Paper or Parchment ſtamped only with One Five Shilling Stamp, and ſhall pay no further or other Duty to His Majeſty, His Heirs or Succeſſors.

If, after a certain Period, the Executor to whom Probate is granted, ſhall not reſide within the Juriſdiction of His Majeſty's Courts, on Application of a Creditor, &c. Special Adminiſtration may be granted, for which a 5 s. Stamp Duty ſhall be paid.

II. And be it further enacted, That the Party applying to the Spiritual Court to grant ſuch Adminiſtration as aforeſaid, ſhall make an Affidavit in the following Words, or to the Purport and Effect following:

The Party applying to make the following Affidavit.

I *A. B.*

Affidavit.

'I *A. B.* of do ſwear, That there is due and owing to me, upon Bond or Simple Contract, or upon Account unſettled, as the Caſe may happen to be, (in which latter Caſe he ſhall ſwear to the beſt of his Belief only), from the Eſtate and Effects of deceaſed, the Sum of and that *C. D.*, the only Executor capable of acting, and to whom Probate hath been granted, hath departed this Kingdom and is now out of the Juriſdiction of His Majeſty's Courts of Law and Equity, and that this Deponent is deſirous of exhibiting a Bill in Equity in His Majeſty's Court of for the Purpoſe of being paid his Demand out of the Aſſets of the ſaid Teſtator.'

Adminiſtration to be granted in the following Form.

III. And be it further enacted, That the Adminiſtration to be granted purſuant to this Act ſhall be in the Form herein-after mentioned; (that is to ſay),

' by Divine Providence, Archbiſhop of *Canterbury*, Primate of all *England* and Metropolitan, to our well-beloved in Chriſt Greeting: Whereas it hath been alledged before the Worſhipful Doctor of Laws, Surrogate of Doctor of Laws, Maſter, Keeper, or Commiſſary of our Prerogative Court of *Canterbury*, lawfully conſtituted by you the ſaid That did, whilſt living and of ſound Mind, Memory, and Underſtanding, make and duly execute his laſt Will and Teſtament in Writing, and did therefore nominate, conſtitute, and appoint, his Executors, (*or*, ſole Executor), who in the Month of proved the ſaid Will by the Authority of our ſaid Court, and now reſide (*or*, reſides) out of this Kingdom, and out of the Juriſdiction of His Majeſty's Courts of Law and Equity, (as in and by an Affidavit duly made and ſworn to by and brought into and left in the Regiſtry of our ſaid Court, (Reference being thereunto had will more fully and at large appear): And whereas the Surrogate aforeſaid, having duly conſidered the Premiſes, did, at the Petition of the ſaid decree Letters of Adminiſtration of all and ſingular the Goods, Chattels, and Credits of the ſaid deceaſed, to be committed and granted to you the ſaid named by or on the Behalf of the ſaid a Creditor, (Legatee) or (One of the next Kin) of the ſaid Deceaſed, (*as the Caſe may be*), limited for the Purpoſe, to become and be made a Party to a Bill or Bills to be exhibited againſt you in any of His Majeſty's Courts of Equity, and to carry the Decree or Decrees of any of the ſaid Court or Courts into Effect, but no further or otherwiſe, (Juſtice ſo requiring): And we being deſirous that the ſaid Goods, Chattels, and Credits, may be well and faithfully adminiſtered, applied, and diſpoſed of, according to Law, do therefore, by theſe Preſents, grant full Power and Authority to you, in whoſe Fidelity we confide, to adminiſter, and faithfully diſpoſe of the ſaid Goods, Chattels, and Credits, according to the Tenor and Effect of the ſaid Will, limited as aforeſaid, ſo far as ſuch Goods, Chattels, and Credits of the Deceaſed will thereto extend, and the Law requires, you having been already ſworn, well and faithfully to adminiſter the ſame, and to make a true and perfect Inventory of all and ſingular the ſaid Goods, Chattels, and Credits, ſo far as the ſame may come to your Hands, and to exhibit the ſame into

'the Regiſtry of our ſaid Prerogative Court of *Canterbury*, on or before 'the next enſuing, and alſo to render a juſt and true Ac- 'count thereof: And we do by theſe Preſents ordain and conſtitute you 'Adminiſtrator of all and ſingular the Goods, Chattels, and Credits, of 'the ſaid Deceaſed, limited as aforeſaid, but no further, or otherwiſe.

'Given at *London*, the Day of in the 'Year of our Lord . and in the 'Year of our Tranſlation.'

Court may appoint Perſons to collect outſtanding Debts.

IV. And be it further enacted, That it ſhall be lawful for the Court of Equity in which ſuch Suit ſhall be depending, to appoint (if it ſhall be needful) any Perſons or Perſon to collect in any outſtanding Debts or Effects due to ſuch Eſtate, and to give Diſcharges for the ſame, ſuch Perſons or Perſon giving Security in the uſual Manner, duly to account for the ſame.

Stock belonging to the Eſtate of the Deceaſed, may be transferred into the Name of the Accountant General in Chancery, in Truſt for ſuch Purpoſes as the Court ſhall direct in any Suit.

Executors returning to reſide within Juriſdiction of the Court, to be made a Party in ſuch Suit.

V. And be it further enacted, That it ſhall be lawful for the Accountant General of the High Court of Chancery, or for the Secretary, or Deputy Secretary, of the Governor and Company of the Bank of *England*, to transfer, and for the Governor and Company of the Bank of *England* to ſuffer a Transfer to be made of any Stock belonging to the Eſtate of ſuch deceaſed Perſon, into the Name of the Accountant General, in Truſt, for ſuch Purpoſes as the Court ſhall direct, in any Suit in which the Perſon to whom ſuch Adminiſtration hath been granted, ſhall be, or may have been, a Party: Provided nevertheleſs, That if the Executors or Executor capable of acting as ſuch, ſhall return to and reſide within the Juriſdiction of any of the ſaid Courts pending ſuch Suit, ſuch Executors or Executor ſhall be made Party to ſuch Suit, and the Coſts incurred by granting ſuch Adminiſtration, and by proceeding in ſuch Suit againſt ſuch Adminiſtrator, ſhall be paid by ſuch Perſon or Perſons, or out of ſuch Fund as the Court where ſuch Suit is depending ſhall direct.

Where an Infant is ſole Executor, Adminiſtration to be granted to the Guardian, &c.

VI. And whereas Inconveniences ariſe from granting Probate to Infants under the Age of Twenty-one; be it enacted, That where an Infant is ſole Executor, Adminiſtration, with the Will annexed, ſhall be granted to the Guardian of ſuch Infant, or to ſuch other Perſon as the Spiritual Court ſhall think fit, until ſuch Infant ſhall have attained the full Age of Twenty-one Years, at which Period, and not before, Probate of the Will ſhall be granted to him.

who ſhall have the ſame Power as where Adminiſtration is granted *durante minore ætate* of the next of Kin.

VII. And be it enacted, That the Perſon to whom ſuch Adminiſtration ſhall be granted, ſhall have the ſame Powers veſted in him as an Adminiſtrator now hath by virtue of an Adminiſtration granted to him *durante minore ætate* of the next of Kin.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1798.