

(16)

1854.]

BILL.

[No. 3.

An Act for the better Administration of the Estates of deceased persons.

WHEREAS the law relating to the administration of the Estates of deceased persons is greatly defective, and it is necessary that some improvement should be made therein :—Be it therefore enacted, &c. that—

Preamble.

From and after the passing of this Act, no action or suit of any nature or kind soever shall abate or be discontinued by reason of the death of any of the parties to such action or suit whether the plaintiff or defendant, demandant or tenant, or by whatever name such parties may be called, but the same shall and may be proceeded with by or against the personal representative of the party so dying, the death of such party being suggested on the proceedings, and the said suit or action being continued and carried on by *scire facias* in such form as the Judges of the Superior Courts of Common Law shall by any rules, from time to time to be made, direct and appoint.

Actions not to abate by death of parties : how continued.

II. No personal representative of any deceased person shall be bound to plead or answer in any action, suit or bill, commenced, brought or prosecuted against such personal representative, to enforce the payment of any debt, claim or demand alleged against such deceased person, after the expiration of one year from the death of such deceased person.

Actions against Personal representative to be brought within a year.

III. Before any personal representative of any deceased person shall be required to pay any debt, claim or demand made, prosecuted or brought against or on account of such deceased person, it shall and may be lawful for such personal representative, if he shall think fit so to do, to require that the said debt, claim, or demand, shall be verified by the oath or affirmation made before any commissioner for taking affidavits, or any magistrate, of some person cognizant thereof, who shall swear or affirm that the said debt, claim or demand is correct, and has not been settled, or reduced below the amount claimed, by payment or set-off, or in any other manner whatsoever.

Personal representative may demand that the claim be sworn to before paying the same.

IV. All persons having any claim, debt or demand against any deceased person or the estate of any deceased person, whether such claim, debt or demand arise from or out of any record, specialty, simple contract, wrongful act or other cause whatsoever, shall be entitled to be paid equally out of the assets of such deceased person, without any preference or priority by reason of the nature of such claim, debt or demand, having regard only to the amount thereof: Provided always, that every such claim, debt or demand, verified as aforesaid, shall be filed within six calendar months from the time of administration granted to the estate and effects of such deceased person, in the Probate or Surrogate Court by which such administration shall be granted; for the filing of which claim, debt or demand

All debts to be paid equally out of assets.

Provided the claim be filed within six months.