

duhly sealed to  
be held a suffi-  
cient probate.  
Circumstances  
required to  
render nuncu-  
pative wills  
good.

the disposal of any personal estate or effects, in all and every of his majesty's courts within this province, or wherever it may be necessary to produce the same.

V. *And be it enacted by the authority aforesaid*, That from and after the passing of this act, no nuncupative will, shall be good where the estate thereby bequeathed shall exceed the value of thirty pounds, that is not proved by the oaths of three witnesses at the least, that were present at the making thereof, nor unless it be proved that the testator at the time of pronouncing the same, did bid the persons present or some of them bear witness that such was his will, or to that effect, nor unless such nuncupative will were made at the time of the last sickness of the deceased, and in the house of his or her habitation or dwelling, or where he, or she hath been resident for the space of ten days or more, next before the making of such will, except when such person was surprized or taken sick being from his own home, and died before he returned to the place of his or her dwelling.

Period of time  
within which  
proof of nuncu-  
pative wills  
is admissible.

VI. *And be it further enacted by the authority aforesaid*, That after six months passed after the speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative, except the said testimony or the substance thereof were committed to writing within six days after making the said will.

Preliminary  
measures to be  
taken previous  
to granting  
probate of nuncu-  
pative wills.

VII. *And be it further enacted by the authority aforesaid*, That no letters testamentary, or probate of any nuncupative will shall pass the seal of any court until fourteen days at the least after the decease of the testator be fully expired, nor shall any nuncupative will be at any time received to be proved, unless process have first issued to call in the widow or next of kindred of the deceased, to the end that they may contest the same, if they shall be so advised.

Proof to be ad-  
duced of the  
decease of an  
intestate.

VIII. *And be it enacted by the authority aforesaid*, That no letters of administration shall be granted by the court of probate, or by any surrogate court, of the goods, chattels or credits of any person represented as having died intestate, until due proof be made before the said judge or surrogate, to his satisfaction, that such person is dead, and died intestate.

Steps to be ta-  
ken in grant-  
ing adminis-  
tration to per-  
sons not next  
of kin.

IX. *And be it further enacted by the authority aforesaid*, That when application is made for letters of administration of the goods, chattels and credits of any person dying intestate, by any person or persons not entitled to the same as next of kin to the intestate, the judge of the court of probate, or the surrogate to whom such application shall be made, shall before the granting of the administration, issue a citation to the next of kin to the intestate, summoning him or her to appear, and shew cause, if any they have, why the administration should not be granted to the person or persons so applying, which citation shall be served upon the next of kin to the intestate, residing within this province, and if the next of kin, nor any person of the kindred of the intestate shall happen to reside within this province, then a copy of such citation shall be affixed up in some public place in the town where the intestate did reside at the time of his death, at least ten weeks before the return thereof, and in case such intestate did not reside within this province at the time of his death, then a copy of the citation shall be published in the Upper-Canada gazette, once in every month during the space of eight months before the return thereof. Provided always, That in case the person next of kin usually residing within this province, and regularly entitled to administer, should happen to be absent from the province, it shall and may be lawful for the judge of probate, or surrogate, within the limits of his district, to grant a temporary administration, to the next of kin who shall be in the province, of the intestate, during a limited time, or to be revoked upon the return and application of such nearest of kin as aforesaid, and for that purpose to take sufficient bonds from the party to whom such temporary administration shall have been granted, for the surrender of such letters of administration, and to account for the same, in manner herein after to be mentioned.

temporary ad-  
ministration.

Bonds to be ta-  
ken of the per-  
sons

X. *And be it further enacted by the authority aforesaid*, That the judge of probate, and every surrogate in his several district, shall and may upon their respective granting and committing