

Proviso.

be restored to the Proprietor or Proprietors, in such manner and on such terms and conditions as, under the circumstances of the case, shall appear to the Governor, Lieutenant-Governor, or person administering the Government, by and with the advice of the said Executive Council to be reasonable, and as they shall think fit to direct; and if the said Proprietor or Proprietors shall comply with the terms and conditions prescribed by the Governor, Lieutenant-Governor, or person administering the Government for the time being, by and with the advice of the said Executive Council, it shall not be lawful for the Officer or Officers of the Customs, or any other person or persons as aforesaid, who shall have seized such Goods or Commodities, Ships, Vessels, Boats, Horses, Cattle or Carriages, or any other person or persons whatever on his or their behalf, to proceed in any manner for the condemnation thereof; but if such Proprietor or Proprietors shall not comply with the terms and conditions prescribed by the Governor, Lieutenant-Governor, or person administering the Government as aforesaid, by and with the advice of His Majesty's Executive Council, such Officer or Officers, person or persons, shall be at liberty, and is and are hereby authorized to proceed for the condemnation of such Goods or Commodities, Ships, Vessels, Boats, Horses, Cattle or Carriages, as if this Law had not been made. Provided always, that if such Proprietor or Proprietors shall accept the terms and conditions prescribed by the Governor, Lieutenant-Governor, or person administering the Government for the time being, by and with the advice of the said Executive Council, such Proprietor or Proprietors shall not have, or be entitled to any recompence or damage on account of the seizure or detention of such Goods or Commodities, Ships, Vessels, Boats, Horses, Cattle or Carriages, or have or maintain any action whatever for the same; any Law, custom or usage to the contrary notwithstanding.

CAP. XV.

An Act to render valid certain Acts, Agreements in writing, and Contracts of Marriage, (*Contrats de Mariage sous seing privé*,) heretofore executed in the Inferior District of Gaspé, and to provide for the want of Notaries in the said Inferior District.

(9th March, 1824.)

Preamble.

WHEREAS it is expedient to render valid certain informal Acts or Agreements, in writing, and Contracts of Marriage, (*Contrats de Mariage*)
sous

sous seing privé, heretofore made and executed in the Inferior District of Gaspé, in which no public Notaries have hitherto resided,) and by the parties, *bonâ fide*, intended to be binding and to affect their property and estate, real and personal —Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, "*An Act for making more effectual provision for the Government of the Province of Quebec, in North-America*," and to make further provision for the Government of the said Province ;"—And it is hereby enacted by the authority of the same, that from and after the passing of this Act, it shall be lawful for any person being a party, or representing by inheritance, succession or otherwise, any party, to any Will, Act or Agreement in writing, of any nature or kind, Inventory, *Partage*, Donation, or Contract of Marriage (*Contrat de Mariage sous seing privé*,) made and executed, *bonâ fide*, before the passing of this Act, in the Inferior District of Gaspé, and by which it may have been intended by the parties having signed the same, or having made their mark thereto, to bind and affect their property and estate real, at the time of the making thereof, on making oath to that effect, before the Provincial Judge for the said Inferior District of Gaspé, upon Petition to him presented to that effect, to cause the same to be entered at full length, and recorded in a Book or Register to be kept for the purpose by the Prothonotary of the Provincial Court for the said Inferior District of Gaspé, among the Records of his Office, and which book shall be duly marked, (*paraphé*) throughout on every leaf, with the initials of the Christian and Surname of the Provincial Judge of the said Inferior District of Gaspé.

From and after the passing of this Act, persons having executed any will, &c. before the passing of this Act, intending to affect their property, at the time of making the same, making oath to that effect, to cause the same to be entered in a Book and Register to be kept for that purpose.

A certified copy from such Book to have the same effect as if the same were an authentic copy of an instrument executed before a Notary.

II. And be it further enacted by the authority aforesaid, that a certified copy from such Book or Register, under the hands of the Prothonotary of the said Provincial Court, of the entry and record which shall be made in pursuance of this Act, of each and every such Will, Act or Agreement, in writing, Inventory, *Partage*, Donation, or Contract of Marriage, (*Contrat de Mariage, sous seing privé*,) shall to all intents and purposes, avail and be of the same force and effect in every Court of Law in this Province, as if the same were an authentic copy of any instrument, to the like effect executed before a Notary.

Certain formalities to be observ-

III. Provided always, and be it further enacted by the authority aforesaid, that before any such Will, Act, or Agreement, in writing, Inventory, *Partage*, Donation,

ed before any will,
&c. is recorded.

Donation, or Contract of Marriage, (*Contrat de Mariage, sous seing privé,*) shall be entered and recorded as hereinabove-mentioned, it shall be lawful for the Provincial Judge of the aforesaid Inferior District, if he shall so think it expedient or necessary, to require the attendance of the several parties to the same, or in case that the parties, or any of them, having executed the same are dead, of such witnesses as were present at the time of signing or executing the same, or in default of witnesses, or in case of their death or absence, of such persons not being witnesses who may have had a knowledge of the facts and circumstances in question, and them severally to examine on oath, and if on full enquiry it shall appear to such Provincial Judge, that the Will, Act or Agreement, in writing, Inventory, *Partage*, Donation, or Contract of Marriage, (*Contrat de Mariage sous seing privé*) produced, was by the parties thereto *bonâ fide* made and executed at the time when the same may purport to have been made and executed, such Provincial Judge shall authorize and order the same to be entered and recorded as hereinabove-mentioned; but if, on the contrary, he shall have cause to believe that the same was not *bonâ fide* made and executed at the time when it may purport to have been made and executed, or that the same was made collusively, or for any illegal purpose whatever, then and in such case it shall be the duty of such Provincial Judge to reject, and to return the same to the party producing it, without entering or recording the same.

Appeal allowed
certain cases.

IV. Provided always, and be it further enacted by the authority aforesaid, that whenever such Will, Act or Agreement, in writing, Inventory, *Partage*, Donation, Contract of Marriage, (*Contrat de Mariage sous seing privé,*) shall have been rejected and returned by the said Provincial Judge, in the manner herein last mentioned and provided, the party producing the same shall and may have an appeal from the Judgement or decision of the said Provincial Judge in that behalf, to the Court of King's Bench for the District of Quebec, which Court shall have power to examine and revise such judgement or decision, and to affirm or reverse the same. Provided further, that no such appeal shall lie nor be granted, unless the same be notified and applied for to the said Provincial Judge within ten days after such judgement or decision shall have been made or rendered.

Proviso.

Persons declar-
ing their inten-
tions to appeal
from a judgment,
by which any will,
&c. has been re-
jected, or refused
to be entered and
recorded, the Pro-

V. And be it further enacted by the authority aforesaid, that when and as often as any person or persons shall declare his or their intention to appeal from any such judgement or decision of the said Provincial Judge, by which any such Will, Act or Agreement, in writing, Inventory, *Partage*, Donation, or Contract of Marriage, (*Contrat de Mariage sous seing privé,*) shall have been rejected or refused

Provincial Judge to cause the proceedings had before him, and all the evidences of such will, &c. to be reduced to writing, and to be transmitted, at the request of the parties, to the Court of King's Bench at Quebec.

refused to be entered and recorded as aforesaid, the said Provincial Judge shall cause to be reduced, to writing, the proceedings had before him, and all the testimony and evidence offered or adduced respecting such Will, Act or Agreements in writing, Inventory, *Partage*, Donation, or Contract of Marriage, (*Contrat de Mariage sous seing privé*,) which shall have been so rejected or refused to be entered and recorded as aforesaid; and a certified copy of the said proceedings, testimony and evidence, together with the petition of the party or parties who shall have presented such Will, Act or Agreement, in writing, Inventory, *Partage*, Donation, Contract of Marriage, (*Contrat de Mariage sous seing privé*,) and a statement of the reasons of the judgement or order by which the said Provincial Judge shall have rejected or refused to enter and record the same, shall, at the instance and request of the party or parties appealing or declaring his or their intention to appeal, be immediately transmitted by the said Provincial Judge to the Court of King's Bench at Quebec.

If appeal is made, and judgment be reversed by the Court of King's Bench, Court to make an order that the will &c. be entered and recorded, and that the proceedings be remitted to the Provincial Judge, to be entered and recorded.

VI. And be it further enacted by the authority aforesaid, that if upon any such appeal made as aforesaid, the judgement or order by which such Will, Act or Agreement, Inventory, *Partage*, Donation, or Contract of Marriage, (*Contrat de Mariage sous seing privé*,) shall have been rejected or refused by the said Provincial Judge, shall be reversed by the said Court of King's Bench, the said Court by whom such appeal shall have been determined, shall make an order that the said Will, Act or Agreement, Inventory, *Partage*, Donation, Contract of Marriage, (*Contrat de Mariage sous seing privé*,) shall be entered and recorded in the manner herein first before-mentioned, and shall cause the said order together with the said Will, Act or Agreement, Inventory, *Partage*, Donation, Contract of Marriage, (*Contrat de Mariage sous seing privé*,) and with all the proceedings evidence and testimony relating thereto, to be remitted to the said Provincial Judge of the said Inferior District, who shall cause the said Will, Act or Agreement, in writing, Inventory, *Partage*, Donation, Contract of Marriage, (*Contrat de Mariage sous seing privé*,) to be entered and recorded accordingly.

Certain fees allowed the Prothonotary.

VII. And be it further enacted by the authority aforesaid, that the Prothonotary for enrolling every such Will, Act or Agreement, in writing, Inventory, *Partage*, Donation, Contract of Marriage, (*Contrat de Mariage sous seing privé*,) if the same do not exceed one hundred words, shall be entitled to demand and receive the sum of two shillings and six-pence, currency; and for every hundred words exceeding one hundred, at the rate of six-pence, currency; and for every

every certified copy of any entry from such Book or Register, at the rate of one shilling, currency, for the first hundred words, and six-pence, currency, for every hundred words exceeding the first hundred words.

Nothing in this act to render valid any fraudulent act or contract, (sous seing privé) contrary to good morals, or prohibited by Law.

VIII. Provided always, and be it further enacted by the authority aforesaid, that nothing in this Act contained, shall be construed to render legal or valid any Act or Contract (*sous seing privé*) which may be found to be false or fraudulent, or which may be contrary to good morals or in any wise prohibited by Law.

Persons taking a false oath, to be subject to the penalties of wilful and corrupt perjury.

Saving of the rights of persons purporting to be a party or concerned in any act or agreement, (sous seing privé) who may have appeared when the same was attested.

IX. Provided always, and be it further enacted by the authority aforesaid, that any person who being sworn under this Act, shall falsely make oath or swear, shall on being thereof lawfully convicted, incur and suffer the pains and penalties of wilful and corrupt perjury, and provided also, that nothing in this Act contained, shall in any wise prejudice the rights of any person purporting to be a party or concerned in any such Act or Agreement, in writing, *sous seing privé*, who may not have appeared and admitted or affirmed the same before the Provincial Judge at the time when the same may have been attested, nor to prevent such person from taking his legal recourse against such Act or Agreement, in writing, *sous seing privé*, enrolled as above-mentioned, by an *inscription en faux*, or otherwise according to Law.

Any will, &c. executed before a Justice of the Peace or Minister or Curé, and two subscribing witnesses, or before the Prothonotary and two witnesses to bear mortgage.

Proviso.

X. And be it further enacted by the authority aforesaid, that during three years from and after the passing of this Act, any Will, Act or Agreement, in writing, Inventory, *Partage*, Donation, or Contract of Marriage, (*Contrat de Mariage*.) that shall be executed before any Justice of the Peace, or Minister, or Curé, or Missionary, and two subscribing witnesses, or before the Prothonotary of the Provincial Court of the said Inferior District and two subscribing witnesses shall bear mortgage (*portera hypothéque*) from the day of its execution, and shall, as well as the Copies thereof duly certified, be taken and received as valid and authentic in all His Majesty's Courts of Law in this Province, as if the same had been executed before Notaries. Provided always, that the originals or Minutes of all such Acts as aforesaid, shall, by the Justice of the Peace, Minister, Curé, or Missionary, having executed the same, be at the end of every year during the period aforesaid, or oftener, if necessary, in case of the death or removal from the said Inferior District of the person before whom the same may have been executed, be transmitted to the Prothonotary of the said Provincial Court,

Court, to be by him carefully preserved among the records and remembrances of his office, for such legal purposes as the same may serve pursuant to this Act.

Public Act.

XI. And be it further enacted by the authority aforesaid, that this Act shall be deemed a public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and all other persons whomsoever, without being specially pleaded.

CAP. XVI.

An Act to authorize the Commissioners appointed for the completion of the Canal between Lachine and Montreal, to effect a Loan for that purpose, and to establish rates of Tolls to pass thereon.

(9th March, 1824.)

Preamble.

WHEREAS it is expedient to adopt measures for the advancement and completing of the Lachine Canal, and for that purpose to enable the Commissioners for the said Canal to effect a Loan of Money under the authority of an Act of the Legislature;—Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, "*An Act for making more effectual provision for the Government of the Province of Quebec in North-America,*" and to make further provision for the Government of the said Province;"—And it is hereby enacted by the authority of the same, that the Commissioners for the Lachine Canal appointed under and in virtue of an Act of the first year of His Majesty's Reign, intituled, "An Act for making a navigable Canal from the neighbourhood of Montreal to the Parish of Lachine, and to appropriate a certain sum of money for that purpose, and to repeal a certain Act therein-mentioned," shall be, and they are hereby authorised for the purposes of the said Act and for none other, from time to time, as occasion may require, to effect a loan or loans of money not exceeding in the whole the sum of twenty thousand pounds, currency, at such rate of interest not exceeding legal interest, as they can obtain the same, to complete the said Canal

Commissioners empowered to effect a loan of money.

to