

SAMUEL SMITH, ESQUIRE, ADMINISTRATOR.

CHAP. III.

An Act to enable Robert Cartwright, Son of the late Honorable Richard Cartwright, Deceased, to surrender certain Lands in the Town of Kingston to His Majesty, his Heirs and Successors.

[Passed 1st April, 1818.]

Preamble.

Recital—That the late Hon. R. Cartwright in his life time contracted to surrender to His Majesty, Lot No 263, in the Town of Kingston, for the consideration of £750.

Death of the said R. Cartwright, before the said Contract was fulfilled.

His Will—whereby the said Land is devised to Robert Cartwright, his Son.

Proviso.

Devisee being an Infant, & incapable of fulfilling the Contract.

Enabled by this Act to Surrender to His Majesty, according to the Contract of R. Cartwright, deceased.

WHEREAS the Honorable Richard Cartwright, late of the Town of Kingston, in the Midland District of the Province of Upper-Canada, deceased, entered into an Agreement previous to his Death, with the Commander of His Majesty's Forces in British North America, for and on the behalf of His Majesty, to surrender to His Majesty, his Heirs and Successors, forever, in consideration of the Sum of Seven Hundred and Fifty Pounds, of lawful money of Upper-Canada, a certain Lot or parcel of Land in the said Town of Kingston, being commonly known as, and described on the Map of the said Town of Kingston, Lot Number Two Hundred and Sixty-three, containing by admeasurement, Two-fifths of an Acre or thereabouts, and more particularly described as follows: That is to say, commencing on the North-East side of Barrack Street, nearly opposite to King-street, and at the distance of One Chain from the South-West side of Barrack-street, and at the Southerly Angle of the said Lot Number Two Hundred and Sixty Three; North, Thirty-Five Degrees Forty Minutes East, Two Chains then North, Fifty Four Degrees Twenty Minutes West Two Chains; then South, Thirty-five Degrees Forty Minutes West, Two Chains, to Barrack Street; then South Fifty-four Degrees Twenty Minutes East Two Chains, more or less, to the place of beginning. And whereas the said Richard Cartwright, soon after the period of making the said agreement, and previous to the surrender of the said Lot, and without having received the said Sum of Seven Hundred and Fifty Pounds, or any part thereof, departed this Life, having first made and published his Last Will and Testament in Writing, duly executed, and attested in such manner as by Law is required, and bearing date the Eighteenth day of May, in the Year of our Lord One Thousand Eight Hundred and Fifteen, whereby the said Richard Cartwright did give, devise and bequeath, to his Son Robert Cartwright his heirs and assigns for ever, the said Lot Number Two Hundred and Sixty-three, in the aforesaid Town of Kingston, with a proviso in the said Will contained, that if any one or more of his Children therein named, of whom the said Robert Cartwright is one, shall die before they attain the full age of Twenty-one years, then the said Testator did by his said Will, devise and bequeath the respective shares or parts of the real and personal Estate therein devised, of such Child or Children respectively so dying, unto the rest and other of his Children that shall survive such as so die respectively, and to his, her or their Heirs for ever, as nearly as may be in shares of equal value. And Whereas the said Robert Cartwright the Devisee in the said Will named, is desirous of surrendering the said Lot of Land to His Majesty, upon the Terms originally intended, but being an Infant under the age of Twenty-one years, is incapable of carrying into effect the aforesaid agreement: 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 Upper-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the Fourteenth Year of His Majesty's Reign, entitled, "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 by the authority of the same, that from and after the passing of this Act, it shall and may be lawful for the said Robert Cartwright, Devisee as aforesaid, to surrender to His Majesty, his Heirs and Successors, the said Lot or Parcel of Land, the said Sum of Seven Hundred and Fifty Pounds, being previously paid by way of consideration for the same, to the Executors and Trustees named and appointed under the Will of the said Richard Cartwright, deceased, and such surrender, so to be had and made as aforesaid, shall be as good and effectual in Law to all intents and purposes whatsoever, as if the said Robert Cartwright was at the time of making the same of the full age of Twenty-one years, any Law, Custom or Usage to the contrary thereof in any wise notwithstanding.

II. And

II. *And be it further enacted by the authority aforesaid,* That the Sum of Seven Hundred and Fifty Pounds, the consideration money of and for the said Lot or Parcel of Land, shall be paid at the time of the execution of the said Surrender to his said Majesty, into the hands of the Honorable and Reverend John Strachan, of the Town of York, in the Home District, Doctor in Divinity, and Alexander Thomas Dobbs, of the Town of Kingston, in the Midland District, Esquire, as Executors and Trustees named and appointed in the said Will of the said Richard Cartwright, deceased, and to be by them laid out at interest to and for the use and benefit of the said Robert Cartwright, Devisee as aforesaid, and to be payable to the said Robert Cartwright when he shall attain the age of Twenty-one Years, and in case of his Death, previous to his attaining that age, then the same shall go and be paid unto the rest and other of the Children of the said Richard Cartwright, deceased, that shall survive him the said Robert Cartwright, and to his, her, or their Heirs, for ever, as nearly as may be in Shares of equal value, in the same manner as the real and personal Estate, by the said Will devised and bequeathed to the said Robert Cartwright, is limited, in the event of his so dying, by the Proviso of the said Will hereinbefore recited.

To whom the consideration is to be paid.

How to be disposed of

CHAP. IV.

An Act to regulate the Costs in certain Cases in the Court of King's Bench.

[Passed 1st April, 1818.]

WHEREAS the District Courts, established in the several Districts of this Province, were intended as well to relieve Defendants from the charge of answering in the Superior Court, as to facilitate the Suitor; and whereas Suits of the proper competence of the said District Courts, are frequently brought into the Court of King's Bench, having concurrent jurisdiction, to the great increase of Costs and Charges to the Parties: For remedy whereof, 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 Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the Fourteenth Year of His Majesty's Reign, entitled, "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 by the authority of the same, that in any Suit hereafter to be brought in the Court of King's Bench, which Suit may be of the proper competence of the District Court, no more Costs shall be taxed against the Defendant, than would have been incurred in the District Court, in the same Action, unless the Judge, who tried the Cause of such Suit or Action, shall certify in open Court at the Trial, that it was a fit Cause to be withdrawn from the District Court, and Commenced in the Court of King's Bench.

Preamble.

In Actions hereafter brought in the King's Bench which the District Courts are competent to try, none but District Court Costs shall be Taxed against the Defendant, unless the Judge certifies, &c.

II. *And be it further enacted by the authority aforesaid,* That the Defendant's Costs taxed between Client and Attorney in such Suit not so certified, or so much thereof as shall exceed the Costs taxable in the District Court, in such case shall be set off, against the Plaintiff's Costs taxed, to be recovered from Defendant.

And so much of Defendant's Costs taxed against him by his Attorney as exceed the Costs in the District Court, shall be charged to the Plaintiff.