

maintained and preserved in all his rights and privileges. The prayer of the declaration is, that, by the Judgment of the Court, it be declared and adjudged that at the time of the decease of the said late Gabriel Christie, he, the Plaintiff, was the lawful heir of the said Gabriel Christie for *one half* of all the property held *en Fief*, whereof the said Gabriel Christie died seized and possessed in this Province of Lower Canada, and for *one third* of all other property whereof the said late G. Christie died seized and possessed in the said Province, and that the bequest and devise thereof in the aforesaid will contained, of all the said property so situate in Lower Canada, to the natural children of the said late Gabriel Christie, and particularly to the said Defendant and to his heirs male, was at the time of such bequest and still is illegal, null, invalid, and of no effect, and that it be in consequence adjudged *that the said Plaintiff is* the owner and lawful proprietor of the said shares and portions above mentioned of the real and other property and estates situate in Lower Canada, whereof the said Gabriel Christie died seized and possessed.

To this action which was returned into the Court of King's Bench at Montreal, so far back as the June term of the year 1834, the Defendant appeared and fyled several pleas, which containing allegations of facts, need not now be particularly noticed, the case having been ultimately dismissed in that Court, upon the preliminary hearing on the Defense au fonds en droit or general demurrer to the demand contained in the declaration as subsequently amended.

The Plaintiff with this Declaration fyled Exhibits, the Exhibit No. 1, being the last will and testament of the late Gabriel Christie, Esqr. dated the 13th May 1789, the other, No. 2, being the Baptismal Certificate of the Plaintiff. This Court cannot but notice en passant the extraordinary circumstance, that the will Exhibit No. 1, forms no part of the record sent up tho' originally duly fyled in the Cause in the Court below!! We however merely notice the fact as neither party has, in this Court, seen fit to alledge any diminution in the record.