wills are required to be recorded, has been recognized and affirmed by positive legislative enactments. (*g*) But it appears, that those originals have been very carelessly preserved; for, in some of the counties there are long spaces of time within which, under the Provincial government and since, there are no original wills to be found; although the records of them in the same offices are in a good state of preservation.

It seems, that in Scotland and in Ireland also, the original will itself, when proved, is retained in the office of the court in which it has been authenticated in regard to moveables; and, therefore, if the same will makes any disposition of property in England, it may be proved in the Ecclesiastical Court there by producing a copy only. (*h*)

But the mere copy of a will made and deposited among the records of a court of another state is not here deemed sufficient to warrant a probate, and the granting of letters testamentary upon it. (*i*) And, although it is declared by our law, that the Orphans Court may take the probate or cause to be proved any last will or testament, although the same concern the title of lands; (*j*) yet such a probate has been held to be no more than *prima facie* evidence; and, consequently, if the validity of the will be denied, it must be regularly established here, as in England, according to law. (*k*) It would, therefore, seem clearly to follow, that here, as in England, if it became necessary to establish a will of real estate, that, on application, this court would lend its aid, and order the register, if the original will were then in his keeping, to deliver it to the applicant, on his giving bond for its safe return, for the purpose of having its validity investigated and determined upon in due course of law; or, considering the original will as being a part of the public records of the state, relief might be had by a special legislative enactment. (*l*)

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(*g*) 1798, ch. 101, sub ch. 2, and sub ch. 15, s. 9; Carroll's Lessee *v.* Llewellin, 1 H. & McH. 162; Smith's Lessee *v.* Steele, 1 H. & McH. 419; Collins' Lessee *v.* Nicols, 1 H. & J. 400; Hall *v.* Gittings, 2 H. & J. 121.—(*h*) Toller Execu. 71; Robertson on Succession, 281.—(*i*) Ratrie *v.* Wheeler, 6 H. & J. 94; Armstrong *v.* Lear, 12 Wheat. 169.—(*j*) 1715, ch. 39, s. 2, and 29.—(*k*) Carroll's Lessee *v.* Llewellin, 1 H. & McH. 162; Belt *v.* Belt, 1 H. & McH. 409; Collins *v.* Elliott, 1 H. & J. 1; Collins *v.* Nicols, 1 H. & J. 400; Cheney *v.* Watkins, 1 H. & J. 533; Massey *v.* Massey, 4 H. & J. 142; Darby *v.* Mayer, 10 Wheat. 465.—Since affirmed by 1831, ch. 315, s. 1—passed 14th March, 1832.

(*l*) The Register of Wills of Baltimore was authorized by a special act of Assembly, to deliver the original will of Robert Burney, deceased, to his heirs, to enable