

CHAP. XXV.

An Act to prevent the abatement of any Action against a Joint Obligor, Contractor, or Partner, on account of the other joint parties not being made Defendants.

[The Royal Assent to this Act was promulgated by Proclamation bearing date April twenty first, in the year of Our Lord one thousand eight hundred and twenty one, and second of His Majesty's Reign.]

Preamble.

WHEREAS by Law the several Defendants named in any Civil Suit or Action, must be personally served with Process, and whereas by Law if any Joint Obligor Contractor or Partner be sued in any Action without naming the other Joint Obligors Contractors or Partners, the Defendant may plead the same in abatement of such Action, to the great delay of Justice in such cases where one or more Joint Obligors Contractors or Partners reside out of the Jurisdiction of the Courts of this Province and cannot be served with Process, 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 Action to be brought in this Province against any Joint Obligor Contractor or Partner, the Action shall not abate for or on account of any Joint Obligor Contractor or Partner not being made Defendant; unless the party pleading such matter in abatement shall shew to the Court that such Joint Obligor Contractor or Partner is living within the Jurisdiction of the Court so to be served with its Process conformably to Law.

No action to abate by reason that any one or more of several joint contrary are not made Defendants unless the party pleading in abatement shall shew that the joint contractor not named is within the jurisdiction of the Court.

Joint obligation, contract or promise may be given in evidence against any one or more of the joint contractors, partners, &c. as if it were a sole obligation.

II. And be it further enacted by the authority aforesaid, That the joint obligation contract or promise may be given in evidence against any one or more of the Joint Obligors Contractors or Partners, and have the same force and effect as to any Judgment or Execution thereon as if the same was the sole obligation contract or promise of the Defendant, any Law usage or custom to the contrary notwithstanding.

No execution to issue upon a judgment against one of several joint obligors until the joint bond, contract, &c. be filed in Court.

III. And be it further enacted by the authority aforesaid, That for satisfaction of any Judgment against one or more of several Joint Obligors Contractors or Partners, no Execution shall issue until the bond, obligation or other written evidence on which Judgment shall be had be first filed with the Record of the said Judgment.