

Laws of Her Majesty's Province of Newfoundland, passed in the year 1856.

19 Victoria – Chapter 17

An Act to provide for the Compromises or Compositions of Partners and Joint Debtors. (Passed 12th May, 1856.)

Be it enacted by the Governor, Legislative Council and Assembly of Newfoundland, in Legislative Session convened, as follows:—

I. Whenever any Co-partnership Firm shall be Dissolved by Mutual Consent or otherwise, it shall and may be lawful for any one or more of the Individuals who was or were embraced in such Co-partnership Firm, to make a separate Composition or Compromise with any one or all of the Creditors of such Co-partnership Firm; and such Composition or Compromise shall be a full and effectual Discharge to the Debtor or Debtors making the same, and to them only, of and from all and every Liability to the Creditor or Creditors with whom the same is made or incurred by reason of his or their connection with such Co-partnership Firm.

II. Every such Debtor or Debtors making such Composition or Compromise, shall take from the Creditor or Creditors with whom he may make the same, a Note or Memorandum in writing exonerating him or them from all and every Individual Liability incurred by reason of such connection with such Co-partnership Firm: which Note and Memorandum may be given in Evidence by such Debtor or Debtors under the general issue, in bar of such Creditors' right of recovery against him or them; and if such liability shall be by Judgment in any Court of Record in this Island, then on a production to and filing with the Clerk thereof, the said Note or Memorandum in writing duly acknowledged by the Party or Parties making the same, in the same manner as satisfaction of Judgment is now required by Law to be acknowledged, such Clerk shall discharge said Judgment of Record so far as the said Compromising Debtor or Debtors shall be concerned.

III. Such Compromise or Composition with an Individual Member of a Firm shall not be so construed as to discharge the other Co-partners, nor shall it impair the rights of the Creditor to proceed at Law or in Equity against the Members of such Co-partnership Firm as have not been discharged. And the Member or Members of such Co-partnership Firm so proceeded against shall be permitted to set off any demand against said Creditor or Creditors which could have been set off had such suit been brought against all the Individuals composing such Firm; nor shall such Compromise or discharge of an Individual of a Firm prevent the other Members of such Firm from availing themselves of any defence at Law or Equity, that would have been available had not this Act been passed, except that they shall not set up the discharge of one Individual as a discharge of the other Co-partners, unless it shall appear that all were intended to be discharged.

IV. Such Compromise or Composition of an Individual of a Firm with a Creditor of such Firm, shall in nowise affect the rights of the other Co-partners to call on the Individual making such Compromise for his rateable proportion of such Co-partnership Debt, the same as if this Act had not been passed.

V. The above provisions, in reference to Co-partners of a Firm, shall extend to Joint Debtors, who are hereby authorised individually to Compound or Compromise for their Joint Indebtedness with the like effect in reference to Creditors and to Joint Debtors of the Individuals so Compromising, as is above provided in reference to, Co-partners.