

Laws of Her Majesty's Province of Upper Canada, passed in the year 1838. York: Robert Stanton, 1838.

1 Victoria – Chapter 7

An Act to amend the Law with respect to the liability of the Legal Representatives of Joint Contractors, and of Defendants on Joint Judgments. Passed 12th January, 1838.

Whereas by the Laws of this Province, if one or more of several Defendants against whom a Joint Judgment shall have been entered, or if one or more of several Joint Contractors, Obligors or Partners, shall die, the representative of such Defendant, Joint Contractor, or Obligor or Partner, is not liable under such judgment, contract, obligation or promise; for the remedy whereof, Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Couucil 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 if any one or more of any Joint Contractors, Obligors or Partners, shall die, it shall and may be lawful for the person interested in such contract, obligation or promise, entered into by such Joint Contractor, Obligor or Partner, to proceed by action against the Representatives of such Joint Contractor, Obligor or Partner, in the same manner as if the said contract, obligation or promise, had been joint and several, notwithstanding there may be another person liable under such contract, obligation or promise, still living, and an action pending against such person.

II. And be it further enacted by the authority aforesaid, That if any one or more of the Defendants in any action, against which a joint judgment may have been entered in any Court of Record in this Province shall die, it shall and may be lawful for the Plaintiff or Plaintiffs, or the Survivor or Survivors of them, or the Executor or Administrator of such Survivor, to proceed by Writ of Scire Facias against the Representatives of such Defendant or Defendants respectively, so dying, notwithstanding there may be another Defendant still living, and against whom the said judgment may be in force: Provided always, that nothing in this Act contained shall be construed to extend to authorise the collection of a greater sum than the debt or damages justly due, with interest and costs: Provided always, that the property and effects of Stock-Holders in Chartered Banks, or the Members of other Incorporated Companies, shall not be rendered liable to a greater extent than they would have been if this Act had not been passed.