



ANNO DECIMO ET UNDECIMO

VICTORIÆ REGINÆ.

CAP. VI.

An Act for compensating the Families of Persons killed by Accident, and for other purposes therein mentioned.

[ 9th July, 1847. ]

WHEREAS a person, who by his wrongful act, neglect or default may have caused the death of another person, should be answerable in damages for the injury so caused by him: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That whensoever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default, is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case the person who would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured and although the death shall have been caused under such circumstances as amount in Law to Felony.

Preamble.

Action given to recover damages for the death of any person caused by any wrongful act, neglect or default.

II. And be it enacted, That every such action shall be for the benefit of the wife, husband, parent and child of the person whose death shall have been so caused, and shall be brought by and in the name of the Executor or Administrator of the person deceased in Upper Canada, or of the personal representative, tutor or curator, or of the heir of such person deceased in Lower Canada, and in every such action the Jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action shall be brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the before mentioned parties in such shares as the Jury by their verdict shall find and direct.

For whose benefit and in whose name such action shall be brought.

What damages may be given.

Jury to direct the proportion in which the damages shall be divided.

III. And be it enacted, That when the death of any person or persons shall be caused by any wound or injury received in a duel, which wound or injury shall or may have been inflicted by the use of any description of Fire Arms or other deadly weapon whatsoever, then and in such case the person inflicting such wound or injury, and all persons present aiding or abetting the parties in such duel as seconds or assistants therein

An Action shall lie on the part of the representative of a party killed in a duel, although no action could

have maintain-  
ed by the par-  
ty himself if  
he had been  
wounded only.

therein shall and may be proceeded against under the provisions of this Act, notwithstanding no action for damages could have been brought by the said person or persons whose death shall or may have been so caused had death not ensued from the infliction of such wound or injury.

No more than  
one action to  
lie for the same  
cause.  
Limitation of  
time for bring-  
ing such ac-  
tion.

IV. Provided always, and be it enacted, That not more than one action shall lie for and in respect of the same subject matter of complaint; and that every such action shall be commenced within twelve calendar months after the death of such deceased person.

Plaintiff to  
serve on the  
Defendant  
notice of cer-  
tain particu-  
lars with the  
declaration.

V. And be it enacted, That in every such action the Plaintiff on the record shall be required, together with the declaration, to deliver to the Defendant or his Attorney, a full particular of the person or persons for whom and on whose behalf such action shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Interpretation  
clause.

VI. And be it enacted, That the following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter, that is to say: words denoting the singular number are to be understood to apply also to a plurality of persons or things; and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; the word "parent" shall include father and mother and grandfather and grandmother and stepfather and stepmother; and the word "child" shall include son and daughter and grandson and granddaughter and stepson and stepdaughter.

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