



Common Law Procedure Act 1852

1852 CHAPTER 76

Joinder of Parties

XXXIX Provision in the Case of subsequent Proceedings against the Persons named in a Plea in Abatement for Nonjoinder of Defendants.

In all Cases after such Plea in Abatement and Amendment, if it shall appear upon the Trial of the Action that the Person or Persons so named in such Plea in Abatement was or were jointly liable with the original Defendant or Defendants, the original Defendant or Defendants shall be entitled as against the Plaintiff to the Costs of such Plea in Abatement and Amendment; but if at such Trial it shall appear that the original Defendant or any of the original Defendants is or are liable, but that One or more of the Persons named in such Plea in Abatement is or are not liable as a contracting Party or Parties, the Plaintiff shall nevertheless be entitled to Judgment against the other Defendant or Defendants who shall appear to be liable ; and every Defendant who is not so liable shall have Judgment, and shall be entitled to his Costs as against the Plaintiff, who shall be allowed the same, together with the Costs of the Plea in Abatement and Amendment, as Costs in the Cause against the original Defendant or Defendants who shall have so pleaded in Abatement the Nonjoinder of such Person: Provided that any such Defendant who shall have so pleaded in Abatement shall be at liberty on the Trial to adduce Evidence of the Liability of the Defendants named by him in such Plea in Abatement.