

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 in all actions grounded on debts, promises, contracts and agreements of a mercantile nature, between merchant and merchant, trader and trader, so reputed and understood according to law, no acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract, whereby to take any case out of the operation of the said enactments, or either of them, or to deprive any party of the benefit thereof, unless such acknowledgment or promise shall be made or contained by or in some writing to be *signed by the party chargeable thereby*; and that where there shall be two or more joint contractors, or executors or administrators, of any contractor, no such joint contractor, executor or administrator shall lose the benefit of the said enactments, or either of them, so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed by any other or others of them: Provided always, that nothing herein contained shall alter or take away or lessen the effect of any payment of any principal or interest made by any person whatsoever: Provided also, that in actions to be commenced against two or more such joint contractors, or executors or administrators, if it shall appear at the trial or otherwise, *that the Plaintiff though barred by either of the said recited Acts or this Act*, as to one or more of such joint contractors or executors or administrators, shall nevertheless be entitled to recover against any other or others of the defendants, by virtue of a new acknowledgment or promise or otherwise, judgment may be given and costs allowed for the plaintiff as to such defendant or defendants against whom he shall recover, and for the other defendant or defendants against the plaintiff."

In characterizing this Act, as was intimated before, it is believed to be quite clear, that we must view it, either as declaratory of the old law, and *simul et semel* introductory of the amending Act, 9 Geo. IV, Cap. 14; or as enunciating a previous state of uncertainty as to the existence and operation of the Imperial Statute of Limitations in the Province of Lower Canada, (assigning the inconvenience resulting from these doubts, as a motive for the law), and formally and in express terms, introductory both of the old English Statute of Limitations, and the amendment. If, upon a careful examination of the terms and express provisions of the Act, neither of these positions be found tenable, we may then have recourse to an implied introduction of the old law, as a just and necessary consequence of the express introduction of the amending Act. Finally, and in connection with this view of the matter, we may consider the question, whether the fact of the Legislature having assumed and taken for granted the pre-existence of the Statute of Limitations, as a part of our law, (should such manifestly appear to be its impression), prove sufficient of itself to give that Statute force of law or not? In order to form a settled opinion upon the last two points, we must fall back upon the primary rules of construction, to