

XII. And be it enacted, That no plea in abatement shall be allowed, nor shall any nonsuit be granted, nor verdict nor judgment on demurrer be entered for the defendant, nor shall any judgment be arrested or reversed on error or appeal, by reason of the misjoinder, or nonjoinder of any plaintiff or plaintiffs in any action or suit, but the defendant may, on application to the Court or a Judge, on sufficient cause shewn, compel the plaintiff to amend such action or suit, by making the proper parties plaintiffs therein, on such terms as such Court or Judge shall think fit to impose.

Misjoinder, or nonjoinder of plaintiffs how to be objected to and amended.

XIII. And be it enacted, That if in any action or suit there shall be any misjoinder of defendants, the plaintiff shall be entitled to recover against such defendant or defendants as shall be proved to be liable, in the same manner as if such defendant or defendants were the only defendant or defendants, and the other defendant or defendants misjoined shall be entitled to recover from the plaintiff, by judgment or rule as the case may be, the costs of defence that such defendant or defendants shall or may have incurred by reason of such misjoinder; but no such misjoinder shall be a ground of nonsuit, or entry of verdict for defendants generally, arrest of judgment, or reversal of judgment on error or appeal.

On Misjoinder of defendants, plaintiff may recover against those liable, and the others against him for costs of defence.

Misjoinder not to be ground of nonsuit, &c.

XIV. And be it enacted, That no motion to set aside any proceeding for irregularity shall be entertained by any Court or Judge, unless such motion shall be made within eight days inclusive, after the irregularity complained of has taken place, and unless also the party complaining of the irregularity shall have immediately given notice thereof to the opposite party, who shall have declined amending the same: Provided always, that the costs of such motion shall be in the discretion of the Court or Judge, who is hereby authorized to direct the payment of the same by the attorney of either party, if the Court or Judge shall think fit so to do.

Time within which advantage must be taken of irregularities.

Notice required.

Proviso: as to costs.

XV. And be it enacted, That after verdict for the plaintiff in any action or suit, no rule *nisi* shall be issued for a new trial, except for misdirection, admission or rejection of evidence, or other default or misapprehension of the Judge, until the defendant or party moving for such rule shall have first given security to the satisfaction of the said Court or a Judge thereof, for the payment of any judgment that may be ultimately recovered against him; and unless such security shall be so given within four days after the granting of such rule *nisi*, the plaintiff shall be at liberty to enter judgment as if such rule *nisi* had not been granted: Provided always, that the Court by which such rule *nisi* shall be granted, shall and may dispense with the giving of such security, when from any special circumstances appearing to such Court, it shall seem just and proper so to do.

Rule nisi for new trial, not to be allowed except on certain grounds, until security be given.

Proviso.

XVI. And be it enacted, That this Act shall be in force in Upper Canada only.

Extent of Act.