

At common law the whole penalty of the bond was recoverable upon breach of any of the conditions in the bond. In fact only one breach could be assigned, upon proof of which the plaintiff was entitled to judgment for the whole penalty (*a*). Courts of Equity, however, gave relief to the obligor upon his paying the amount really due or upon payment of the damages arising from the breach of the condition. The above statutes aimed at giving courts of law power of granting similar relief in certain cases.

Under the 8 & 9 Wm. III, c. 11, judgment is entered for the whole penalty and costs, but the plaintiff is entitled to execution only for the damages assessed and costs (*b*). The defendant is not entitled to have satisfaction entered up upon showing payment of damages and cost, because the plaintiff is entitled to the judgment as security for future breaches (*c*).

The statute does not extend to a bond for the payment of a sum certain at a day certain (*d*); nor a common money bond (*e*) or a bond for the payment of money at a given rate of interest in the meantime by instalments, with a clause that the whole sum shall be due on default of payment of interest (*f*); or a bond to replace stock (*g*); or bonds where the damages assessed are calculated to satisfy the entire condition (*h*).

This statute did not extend to bail bonds (*i*); or a replevin bond (*j*); because courts of law could afford relief in such cases to the defendant without his being compelled to file a bill in equity, and such cases therefore did not fall within the rule which called for the Act.

- (a) *Steward v. Greaves*, 10 M. & W. 715, per Parke B; *Hardy v. Bern*, 5 T. R. 636.
- (b) *Carlisle v. Hostel*, 7 L.J. 99; *Wilde v. Clarkson*, 6 T.R. 303; *Welch v. Ireland*, 6 East. 613.
1 Wm. Saunders, 1871 ed. pp. 75 et seq.
- (c) *Hill v. Hill, et al.* 1 P.R. 268; *Carlisle v. Hostel*, 7 L.J. 99; *Randall v. Burton*, 23 U.C.R. 268
- (d) *Murray v. Earl of Stair*, 2 B. & C. 82, 89, 3 D. & R. 278; *Cardozo v. Hardy*, 2 Moore 220.
- (e) 4 & 5 Anne, c. 3. *Gerrard v. Clowes*, (1892), 2 Q.B. 11.
- (f) *James v. Thomas*, 5 B. & Ad. 40. *Van Sandau v. —* 1 B. & Ald. 214.
- (g) See *Savile v. Jackson*, 13 Price, 715.
- (h) *Savile v. Jackson*, 13 Price, 715; *Smith v. Bond*, 10 Bing, 125.
- (i) *Moody v. Pheasant*, 2 B. & P. 446.
- (j) *Belcher v. Burn*, 24 U.C.R., 259; *Middleton v. Bryan*, 3 M. & Sel. 155.