

Writ. which was found payable by the plaintiff; and the writ of execution may be for the delivery of the goods.

How it shall be executed.

IV. In case the goods or any part thereof cannot be found, then (unless the Court or Judge otherwise orders) the sheriff or coroner shall, at the option of the plaintiff, either distrain the defendant by all his lands and chattels within the county or united counties in which the sheriff or coroner has authority, till the defendant deliver the goods, or cause to be made of the defendant's property the assessed value or damages or a due proportion thereof. 5

Separate writ for damages, costs, &c.

V. The plaintiff shall also by either the same or a separate writ of execution be entitled to have made of the defendant's goods or lands the damages, costs and interest in the suit. 10

The consideration for a written promise to answer for another need not be expressed in the writing.

VI. No special promise of any person to answer for the debt, default, or miscarriage of another, hereafter made in writing, signed by the party to be charged therewith or by some other person thereunto lawfully authorised, shall be deemed invalid to support a suit or other proceeding, by reason only that the consideration for the promise does not appear in writing. 15

Surety, &c., to be entitled to an assignment of securities when he pays the debt.

VII. When any person who is surety for a debt or duty of another, or is liable with another for any debt or duty, pays the debt or performs the duty, he shall be entitled to have assigned to him or to a trustee for him, every judgment, specialty, or other security, held by the creditor in respect of the debt or duty, whether such judgment, specialty or other security would or would not (independently of this Act,) be deemed at law to have been satisfied by such payment or performance : 20 25

And the person so discharging the debt or duty shall be entitled to stand in the place of the creditor, and to use all the remedies, and (if need be and upon giving a proper indemnity) to use also the name of the creditor, in any suit or proceeding at law or in equity, in order to obtain from the principal debtor, the co-surety, co-contractor, or co-debtor, indemnification for the advances made and loss sustained by the person who so paid the debt or performed the duty : 30

And such payment or performance by him shall not be pleadable in bar of any action or other proceeding by him : 35

But no co-surety, co-contractor, or co-debtor shall, by the means aforesaid, recover from any other co-surety, co-contractor or co-debtor, more than the just proportion to which, as between those parties themselves, the latter may be justly liable.

Creditor to be entitled to assignment of counter securities held by surety, &c., from the debtor.

VIII. In case any person who is surety for any debt or duty of another or is liable with another for any debt or duty, do hereafter obtain from such other a counter-security to indemnify him against or in respect of the suretyship or joint liability, the creditor or person to whom the debt or duty is owing shall, on discharging the surety, co-debtor, or co-contractor from or in respect of the debt or duty for which the counter security is held, be entitled to an assignment of the counter security whether the same would or would not (independently of this Act) be deemed to have been satisfied by such discharge ; 40 45