

An Act to amend the law of Upper Canada, in certain particulars affecting the relation of Debtor and Creditor.

HER MAJESTY by and with the advice and consent of the Legislative Council and Assembly of Canada enacts as follows: Preamble.

I. In every action in either of the Superior Courts of Common Law or in any County Court, for breach of contract to deliver specific goods for a price in money, on the application of the plaintiff and by leave of the Judge before whom the cause is tried, the jury, if they find the plaintiff entitled to recover, shall find by their verdict—

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What the Jury shall find on a verdict for Plaintiff in actions for specific delivery of goods sold:

1. What are the goods in respect of the non-delivery of which the plaintiff is entitled to recover, and which remain undelivered.

10 2. What (if any) is the sum which the plaintiff would have been liable to pay for the delivery thereof:

3. What damages (if any) the plaintiff would have sustained if the goods should be delivered under execution as hereinafter mentioned: and

15 4. What damages, if not so delivered.

II. In case judgment is given for the plaintiff, the Court or any Judge thereof may, on the application of the plaintiff, order an execution to issue for the delivery of the goods on payment of the sum (if any) which was found payable by the plaintiff; and the writ of execution may be for the delivery of the goods.

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Judgment in such case.
Writ.

III. 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.

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How it shall be executed.

IV. 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.

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Separate writ for damages, costs, etc.

V. 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 discharged 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.

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