

DEBTOR AND CREDITOR.—*Continued.*

74. In cases of bankruptcy, wherever the creditor holds a double security he may make choice of either or pursue both, so he does not obtain a double satisfaction. *Ib.*
75. In such cases the creditor himself makes choice of the security from which he will obtain satisfaction, and the bankruptcy Court, so far from lessening the obligation of any of his securities, or driving him from any one of them, will assist him in enforcing his contract to the extent of its jurisdiction, so as to insure to him one complete satisfaction. *Ib.*
76. But in equity, in creditor's suits, the Court officiously interferes and throws upon the creditor the burden of showing whether the deceased was principal or surety, or co-surety; and then, unless he also proves, that the co-surety or principal debtor is insolvent, pushes the creditor partially or entirely away from that portion of his security by which the deceased's estate might have been made liable. *Ib.*
77. In the majority of cases it would be impracticable or difficult to procure any other proof of insolvency than that of general reputation in that part of the country where the debtor resides and is known. *Ib.*
78. The rules of equity in bankruptcy as applicable to a creditor's suit. *Ib.*
79. A man may make use of all the securities he has, until he has obtained satisfaction of his whole debt. *Ib.*
80. When the debt has been secured by a mortgage, a covenant to repay and a bond, the creditor may be allowed to pursue all his remedies at once. He may bring an action of covenant to repay the money: institute an ejectment against the tenant in possession: file a bill in equity to foreclose, and also maintain a suit upon the bond at the same time. *Andrews v. Scotton, 596.*
81. But he cannot have the mortgaged property awarded to him by a decree of foreclosure, and also recover the money or any part of it from the debtor by a suit upon the covenant or bond. *Ib.*
82. In a suit to foreclose or sell, if, by a sale, the whole debt should not be paid, the Court cannot pass a decree for the payment of the balance. *Ib.*
83. An appeal bond, on the decree being affirmed, becomes thereby an additional security for the debt. *Ib.*

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