such judgment to the surety or sureties satisfying the same, who shall be entitled to execution in his or their names against the other sureties in the judgment, for a proportionable part of the said judgment so paid by the said assignee; provided, that no defendant shall be precluded or debarred of his remedy against the plaintiff, or his co-sureties by *audita querela,* or other equitable course of proceedings.

The design of this section was to place a surety in the same position as the creditor, and to clothe him with the latter's rights. Colegate *v.* Frederick Savings Inst., 11 G. & J. 122; Wallace *v.* Jones, 110 Md. 147.

This section applies only when a judgment has been rendered against the surety; hence where the surety dies before judgment, his administrators are not entitled to an assignment of the judgment recovered against co-sureties. Wilson *v.* Ridgely, 46 Md. 246.

Where a judgment in favor of the State is paid by a surety, the attorney for the State has no authority under this section to assign the judgment. But see section 8. Peacock *v.* Pembroke, 8 Md. 348; McKnew *v.* Duvall, 45 Md. 508; Wilson *v.* Ridgely, 46 Md. 245.

The act of 1763, ch. 23, only confers the right to make the assignment upon the original creditor, and not upon his equitable assignee. Neptune Ins. Co. *v.* Howard, 3 Md. Ch. 338; Creager *v.* Brengle, 5 H. & J. 239.

This section is to be construed in connection with sections 6 and 8. McKnew *v.* Duvall, 45 Md. 507.

Cited but not construed in Hickinger *v.* Hull, 5 Gill, 77.

1904, art. 8, sec. 8. 1888, art. 8, sec. 8. 1864, ch. 243.

8. In any case where judgment shall be recovered by the State against any principal debtor and a surety or sureties, and said judgment shall be satisfied by said surety or sureties, the same shall be entered by the attorney representing the State to the use of the surety or sureties satisfying the same, on the said attorney filing in the case a certificate of the comptroller stating that said judgment has been so satisfied, and said surety or sureties shall then be entitled to execution in his or their own name or names against the principal and the other sureties, in the same manner and subject to the same provisions contained in the two preceding sections.

This section applies only where a judgment has been rendered against the surety; hence where the surety dies before judgment, his administrators are not entitled to an assignment of the judgment recovered against a principal and co-sureties. Wilson *v.* Ridgely, 46 Md. 246.

This section is to be construed in connection with sections 6 and 7. McKnew *v.* Duvall, 45 Md. 507.

This section apparently grew out of the decision in Peacock *v.* Pembroke 8 Md. 352. See also, McKnew *v.* Duvall, 45 Md. 508.

Cited but not construed in Orem *v.* Wrightson, 51 Md. 46.

This section is substantially the same as art. 10, sec. 27.

Ibid. sec. 8, sec. 9. 1888, art. 8, sec. 9. 1860, art. 9, sec. 8. 1763, ch. 23, sec. 9.

9. The assignee of any bond or other obligation under seal that has been assigned under hand and seal may maintain an action in his own name against the obligor therein named—and if such obligor shall be unable to pay the debt mentioned in the obligation, or cannot be found in the place or county of his usual abode, or any other thing or casualty should happen whereby the assignee should not be able to recover his debt from the obligor, an action may be maintained by the assignee