

44. Where the legal plaintiff in any suit entered for the use of any person shall die before judgment, the person for whose use the same may be entered, or his representative, may prosecute the same to judgment as if the legal plaintiff had not died

Id s 4
1830, c 165, s 2
Legal plaintiff
dying, *cestui que*
use may prosecute
suit
40 Md 439

45. The surety in any bond or other obligation for the payment of money or promissory note, or the indorser of any protested bill of exchange, who shall pay or tender the money due thereon, whether the whole be due or part has been previously paid, shall be entitled to an assignment thereof; and may, by virtue of such assignment, maintain an action in his own name against the principal debtor

Id s 5
1764, c 23, s 7
Surety paying
bond, etc., en-
titled to assign-
ment
41 Md 573, 580,
7 Gill 34

May sue thereon
in his own
name.

46. Where any person shall recover a judgment against the principal debtor and surety, and the judgment shall be satisfied by the surety, the creditor shall assign the same to the surety; and such assignment being recorded in the court where the judgment was rendered, the assignee shall be entitled to execution in his own name against the principal.

Id s 6
1763, c 23, s 8
Surety paying
judgment en-
titled to assign-
ment
41 Md 573, 581,
3 Wheat 520.

May issue exe-
cution in his
own name

47. Where any judgment shall be rendered against several securities, and one of them shall satisfy the whole, the plaintiff shall be obliged to assign such judgment to the surety satisfying the same, who shall be entitled to execution against the other sureties in the judgment for a proportionable part of the debt or damage paid by such assignee; *provided*, that no defendant shall be precluded or debarred of his remedy against the plaintiff by *audita querela*, or other equitable course or proceeding.

Id s 7.
1763, c 23, s 8,
1864, c 243.
Assignment of
judgment to
surety

Remedy against
plaintiff

48. 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 against the obligee in such obligation, unless the assignee be a surety therein; *provided*, that where any debt shall be lost by the negligence or default of the assignee, the assignor shall not be liable.

Id 9, s 8
1763, c 23, s 9
Assignee of
seal'd instru-
ment may sue
obligor
43 Md 452,
7 Gill 34

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49. No action shall be maintained in the name of any assignee upon any assignment mentioned in the last preceding section, upon the default of the obligor, unless the obligee shall have made or shall make oath, to be indorsed on such bond or obligation, before some justice of the peace, that he hath received no part of the sum mentioned in such obligation, or but such part thereof as shall be mentioned in such oath, at the time of making such assignment.

Id s 9
1763, c 23, s. 10
Oath to be made
by obligee be-
fore action can
be maintained
by assignee
43 Md 452,
2 H & McH 477

50. 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

1864, c 243
How judgment
of State satisfied
by a surety,
shall be entered
to his use, and
he be entitled to
proceed against
principal or