

shalled so as to satisfy all, or to leave the loss to fall where it must rest according to the positive rules of law; or by the aid of the general principles of equity arising out of some fraud or injustice practised, or participated in by the plaintiffs, or those under whom they claim.

It is a well settled general rule, that no one can be allowed to intrude himself upon another as his surety; and therefore if a man voluntarily pays the debt of another, without any agreement to that effect with the debtor, he cannot take the place of the creditor, or in any way recover the money so paid of the debtor; because the law does not permit one man thus, officiously, and without solicitation, to intermeddle with the affairs of another. (*y*) The only exception to this general rule is, where, on a bill of exchange being dishonored, a third person, not a party to it, may pay it for the honor of the drawer, or any of the endorsers. The reason of allowing this exception is, that it induces the friends of the drawer or endorsers to render them this service; and by that means preserves the honor of commerce, and the credit of the trader. (*z*) But where one, by express contract, becomes bound as a surety for the payment of the debt of another, or as an insurer against loss, then if the surety or insurer pays the whole debt, or reimburses the loser he thereby intitles himself to demand a full assignment or subrogation of all the securities of the creditor or insured; and has a right, in all respects, to be substituted for the creditor or insured, so as to enable him to obtain re-imbusement from his principal. (*a*)

This general right of a surety has, to a certain extent, been affirmed by an act of assembly, (*b*) and this court has so entirely approved of the doctrine as to allow a surety, who had paid the whole purchase money, to have the benefit of the equitable lien of the vendor; (*c*) and also to allow a surety in a custom-house bond,

(*y*) *Stokes v. Lewis*, 1 T. R. 20.—(*z*) *Chitty on Bills*, 164.—(*a*) *Randal v. Cockran*, 1 Ves. 98; *Ex parte, Rushforth*, 10 Ves. 414; *Pothier Obli.* p. 2, c. 6, art. 4; *Just. Inst. by Cooper*, 612.—(*b*) 1763, ch. 23, s. 8.

(*c*.) *MELUY v. COOPER*.—This bill was filed on the 7th of December, 1803; it states that a mill, &c. the property of James Tilghman, had been sold under a decree of this court, by Hugh Sherwood, as trustee; that James Cooper became the purchaser, who agreed to receive the plaintiff, Meluy, as a joint purchaser with him of the one half; each to pay one half of the purchase money; that Cooper took possession and died, without having paid any part of the purchase money; that the whole purchase money had been since paid by the plaintiff, but no deed had been obtained from the trustee, Sherwood; and that the plaintiff has a lien on Cooper's half for the purchase money, which he, the plaintiff, became bound as surety to pay,