

enforce payment, and thus to obstruct or pervert the administration of the assets, after a decree to account for that purpose, he may be enjoined, and so compelled, to come here to obtain satisfaction; (n) first, however, deducting the costs of the suit here, which has been thus made to enure to his benefit, from the fund brought in, and which may be thus exhausted by his lien. (o) But, where the claim of a creditor, who voluntarily comes in under the decree, is contested, the costs of such contest are not charged upon the estate to the prejudice of other creditors. (p) If a mortgagee, a vendor, holding an equitable lien, or a judgment creditor, having a general lien, fails or refuses to come in, the property may be sold subject to his lien, leaving it unimpaired; so that he may have the same remedy against the estate as before the decree and sale. (q) But, although such a creditor cannot be compelled, merely on the usual notice to creditors, to come in and receive satisfaction in discharge of his lien, yet, any other creditor, upon the general principles of the court in the administration of assets, may, by an original, amended, or supplemental bill, make him a party to a creditor's suit, so as to have his incumbrance cleared away, and the surplus applied for the benefit of the general creditors. (r) And this may be done, not only at the instance of any one who is then an actual creditor of the deceased, but by one who, from the peril in which he stands, as executor, administrator, or surety, has a right to be substituted for, and to take the place of an actual creditor. As where certain property was charged by will with the payment of a particular debt, which the devisee, taking under the will, failed to pay, the executor of the devisor was allowed, by a bill *quia timet*, to compel the devisee to pay in order to save the personalty of the devisor; (s) or where a judgment had been obtained against the surety on a bond, such surety, before he had paid any part of the debt, was permitted to file a bill against the representatives of the deceased, and to have the realty sold for the satisfaction of his principal's debt to save himself harmless. (t)

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(n) *Sumner v. Kelly*, 2 Scho. & Lefr. 398.—(o) *Kenebel v. Scrafton*, 13 Ves. 370; *Bluett v. Jessop*, 4 Cond. Cha. Rep. 112; *Winter v. Hicks*, 5 Cond. Cha. Rep. 490.—(p) *Abell v. Screech*, 10 Ves. 356; *Watkins v. Maule*, 4 Cond. Cha. Rep. 45; *Young v. Everest*, 4 Cond. Cha. Rep. 499; *Rowland v. Tucker*, 4 Cond. Cha. Rep. 591.—(q) *Barrett v. Blake*, 2 Ball. & Bea. 354.—(r) *Greenwood v. Taylor*, 4 Cond. Cha. Rep. 381; 2 Mad. Chan. 657; *Millar v. Baker*, 1 Bland, 147, note.—(s) *Pue v. Dorsey*, 1 Bland, 139, note.—(t) *Howard v. Harris*, 1 Vern. 193; *Antrobus v. Davidson*, 3 Merival, 570; *Arthur v. The Attorney General*, ante 246.