Land Company in the territory of New Mexico, while he was domiciled in that jurisdiction. We can attach no weight to the suggestion of counsel that a suit was first brought by Woodburn to recover the indebtedness in the courts of Colorado, and that the appeal bond was there executed, or to the further suggestion that, in the suit brought upon the appeal bond in New Mexico, Woodburn was described in the complaint as being at that time a citizen of Colorado. With reference to the first of these suggestions it is sufficient to remark that, if Woodburn's right to maintain the attachment suit is at all dependent upon the place where the indebtedness was contracted, then we must look to the origin of the indebtedness, and to his citizenship at that time, rather than to the form which the indebtedness subsequently assumed. And with respect to the second suggestion we deem it sufficient to say that the appellants are not estopped in this suit from showing that Woodburn was in reality a citizen and resident of New Mexico when he sued on the appeal bond, by the fact that he was inadvertently and erroneously described by his attorney as being a citizen of Colorado. The averment as to citizenship in the attachment suit was not jurisdictional in its character, and seems to have had no bearing upon Woodburn's right to maintain the action in the courts of New Mexico. We fail to perceive any reasonable ground, therefore, upon which an averment thus innocently and erroneously made could operate as an estoppel in this proceeding, whatever effect might be accorded to it in the suit in which the averment is found. Reynolds v. Adden, 136 U. S. 348, 10 Sup. Ct. Rep. 843.

The next question to be considered is whether Schindelholz, as assignee of the Woodburn judgment, has the same rights thereunder as his assignor. It is insisted by the appellee that Schindelholz is estopped from enforcing that judgment, and that the circuit court properly enjoined him from so doing, for the reason that Schindelholz is a citizen of Colorado, and a party to the suit in that state to wind up the Land Company, and because he was also instrumental in procuring the appointment of a receiver of all of its property, including the New Mexico lands. These may be, and we think they were, adequate reasons for restraining him from enforcing the judgment in his own behalf, which was recovered in the name of Benkleman; but they are insufficient, we think, to deprive him of the right of subrogation, with which he became vested when, as a surety for the Land Company, he paid the amount of the Woodburn judgment, and caused it to be assigned to Benkleman for his benefit. There is no element of estoppel in the conduct of the appellants, so far as we can discover. When Woodburn secured a valid lien on the New Mexico lands, which the other creditors of the Land Company were without power to divest, they had already sustained whatever loss or damage the enforcement of such lien could possibly entail. It was thereafter a matter of no concern to the receiver, and to the other creditors of the Land Company, whether such lien was en-

forced by Woodburn, or whether Schindelholz, by assignment of the judgment, became subrogated to his rights. In either event the result would be the same. It is obvious, therefore, that the right to compel Schindelholz to relinquish his lien under the Woodburn judgment, so that the lands may be sold, and the proceeds distributed ratably among the general creditors of the Land Company, must be predicated solely on the ground that he is a party to the suit wherein the receiver was appointed, and was instrumental in securing such appointment. With reference to that ground of recovery, we deem it sufficient to say that the fact that he was thus a party to the suit to wind up the Land Company did not deprive him of the right to purchase the Woodburn judgment. Neither does his connection with that suit give the other parties thereto a right to insist that he shall cancel the lien of the Woodburn judgment, to which he has become subrogated. As well might it be claimed that he should surrender other liens upon the property of the Land Company, lawfully acquired before the suit to wind up the company was instituted. Courts of equity have always gone to the extreme limit of their power in aiding a surety who has discharged the debt of his principal to obtain the benefit of securities, liens, and priorities held by the original creditor, but we are not aware of an instance where they have lent their aid to deprive a surety of such benefits. Hunter v. U. S., 5 Pet. 173; Lidderdale v. Robinson, 12 Wheat. 594; Thompson v. Taylor, 72 N. Y. 32; Fleming v. Beaver, 2 Rawle, 128; Rice v. Rice, 108 Ill. 199; Brandt, Sur. 271–274.

Our conclusion is that Schindelholz has succeeded to all of the rights of Woodburn with respect to the judgment recovered by the latter in the courts of New Mexico, including his right, which we think was unquestionable, to enforce it in the mode provided by the laws of that territory. The decree of the circuit court, divesting him of those rights, was therefore erroneous. With respect to the other judgment the appellants occupy a less favorable attitude, as we have heretofore intimated. That judgment was recovered by Schindelholz in the name of Benkleman, after the former had joined in the suit to wind up the Land Company, and to obtain an equitable distribution of its assets among all of its creditors. At his solicitation the circuit court was induced to extend the receivership over the lands located in New Mexico, and to make an order directing them to be advertised and sold. Under these circumstances, and without reference to the nature of the receiver's title, we think it was competent for the trial court to restrain the appellants from taking any action under the Benkleman judgment that would prevent the receiver from obtaining possession of the property in New Mexico, or that would obstruct him in any way in the discharge of his trust, or that would interfere with the proceeding to wind up the Land Company. The jurisdiction which the court had theretofore acquired over Schindelholz was fully adequate, in our judgment, to warrant the exercise of such coercive powers.

For the reasons indicated the case must be reversed and remanded, and all of the provisions of the decree from which the appeal was taken must be canceled, which in any wise interfere with the appellant's right to enforce the Woodburn judgment.

In view of possible future action which may be taken by the creditors of the Land Company, we think it would be unwise to require the appellants to execute a present release of the lien acquired under the judgment obtained in the name of Benkleman. Therefore the case will be remanded to the circuit court, with directions to vacate its former decree, and in lieu thereof to enter a decree restraining the appellants from taking any present action to enforce the judgment recovered in the name of Benkleman, or any future action in that behalf save such as may be first sanctioned and approved by the United States circuit court for the district of Colorado, and further requiring said appellants to take all such future proceedings with respect to said judgment as may be required of them by said court in the suit to wind up the Land Company.

FAILEY v. TALBEE et al.

(Circuit Court, D. Rhode Island. May 27, 1893.)

No. 2,380.

1. EQUITY JURISDICTION—RECEIVERS — POWER TO COLLECT FUNDS IN FOREIGN JURISDICTIONS.
   Where a court of competent jurisdiction has, by the appointment of a receiver, assumed the administration of the funds of an insolvent benevolent association, it is competent for a court of equity in another state, on a bill filed for that purpose by such receiver, to order the trustees of the local branch of such association to pay over the funds in their hands to the receiver.
2. SAME—BENEVOLENT ORDERS—REGULATIONS.
   It is no objection to making such an order that the fund in question constitutes a reserve fund which, by the rules of the association, the central authority could only call in at certain times and for certain purposes, and not for the general purpose of liquidating the whole trust fund; for while the rules of the association may impress different parts of its funds with different equities, yet its rules as to the manner of ascertaining and marshaling these equities are abrogated when it becomes insolvent and is placed in the hands of a receiver; and the methods of the court are then substituted for the methods provided by such rules.
3. PLEADING—DEMURRER.
   Although the bill filed by the receiver in such case does not set out the proceedings of the court in which he was appointed, for which reason it is impossible to determine the scope of the decree entered in that court, or whether the receiver is entitled thereunder to fully administer the whole trust, a demurrer to the bill will be overruled, as the matters in question can be made to appear by evidence at a hearing on the merits.
4. SAME.
   The safe rule on a general demurrer to a bill in equity is that the demurrer must be overruled unless it appears that on no possible state of the evidence could a decree be made.

In Equity. Bill by James F. Failey, receiver of the Supreme Sitting of the Order of the Iron Hall, against Henry C. Talbee