cause, that statute is a defence given to a debtor against a creditor; and here it is not the creditor himself who makes the claim. Yet the result of what this defendant claims a right to do would be the same as if the executor of Walter Clagett were here, as plaintiff, asking payment and to have his claim sustained against these parties as defendants. And, consequently, whatever defence they would, in such case, be permitted to make, they ought, as plaintiffs, to be allowed to have the benefit of in the form in which the matter is now presented, at least so far as to bind this defendant.

I am therefore of opinion, that the circumstances, and lapse of time raise a conclusive presumption, that this claim of Walter Clagett either never existed or has been satisfied.

Whereupon it is decreed, that the injunction heretofore granted in this case be and the same is hereby made perpetual; and it is further decreed that the defendant pay unto the plaintiffs their costs to be taxed by the register.

*Upon this decree the plaintiffs demanded of the defendant payment of their costs, which he failed or refused to pay. **533** After which by their petition they stated, that they knew of no property which belonged to the defendant, excepting what might be reached by an attachment under the Act of 1715, ch. 40, s. 7, and therefore prayed that such an attachment might be granted to them.

BLAND, C., 12th January, 1829.—The solicitor of the plaintiffs having been heard in support of their petition, the proceedings were read and considered.

This petition exposes one of the still subsisting deficiencies of our Code. It may be inferred from the general spirit of our laws, that all the property of a debtor, of every description, should be liable to be taken by his creditors in satisfaction of their claims. By the common law, the personal property of the debtor, with the rents and profits of his real estate only, were liable; but by statutes derived to us from England, with some additional legislative enactments of our own, the real estate of a debtor has been subjected to be taken in execution by *fieri facias*, or attachment, and sold for the satisfaction of his debts in like manner as his personal property. 5 Geo. 2, c. 7; 1810, ch. 160; *Ford* v. *Philpot*, 5 *H. & J.* 315; *Barney* v. *Patterson*, 6 *H. & J.* 182. There are, however, still several kinds of property, which a debtor may hold, laying beyond the reach of his creditor's execution.

Public stock, the stock of banks, of turnpike road companies, and the like, cannot be taken in execution under a *fieri facias*, nor can *choses in action* be made liable to creditors at common law, *Harding* v. *Stevenson*, 6 *H. & J.* 267, otherwise than by an original or judicial attachment; *Ford* v. *Philpot*, 5 *H. & J.* 317; but the Acts