

reason why the process of attachment should not be so enlarged as to comprehend *all cases; *Yerby v. Lackland*, 6 H. & J. 451; *Harden v. Moores*, 7 H. & J. 4; and be allowed as a means **535** of obtaining satisfaction of a decree in equity as well as of a judgment at common law. (f) But this subject appears to have been, some years since, maturely considered by the Legislature, who at that time armed the Court of Chancery with all such new and additional process as was then deemed necessary to an effectual exercise of its powers; 1785, ch. 72, s. 25; and the common law process of judicial attachment was not then given. *Shivers v. Wilson*, 5 H. & J. 130. I am therefore of opinion, that no such attachment can be awarded as prayed.

Whereupon it is ordered, that the petition of the plaintiffs be and the same is hereby dismissed with costs.

ETCHISON v. DORSEY.

SPECIFIC PERFORMANCE.

If, on a bill for a specific performance, a decree be passed directing the defendant to convey on the payment of the purchase money; there cannot afterwards be a decree ordering the plaintiff to pay the purchase money without a cross bill; although such a reciprocal decree might have been passed in the first instance, had it been called for, without a cross bill.

This bill was filed on the 12th of September, 1827, by Ephraim Etchison, Odle Wheeler and Caroline his wife, Mortimer Dorsey,

Higginson, the defendant, is not to be found in his bailiwick; but, that he has left the subpoena for costs in this cause with Mr. Patrick Sympson, attorney in fact for the defendant. Therefore ordered, that attachment issue in the same manner as is directed out of the Courts of common law.—*Chan. Proc. lib. P. L. fol. 568.*

(f) The process of attachment to enable a creditor to obtain satisfaction of his debt, appears, by the Acts of 1647, ch. 3, and 1682, ch. 2, to have been engrafted into our Code among the earliest formations of its judicial proceedings; and has been in constant use, with few alterations, ever since. About the year 1705, in a report made by the then ex-Chancellor, Lord Somers, to the House of Lords, it was among other things proposed, that "the debts that any defendant hath owing unto him may be attached in execution, in satisfaction for debt and damages recovered against him; and a day shall be given to the debtor to appear, the Court shall give judgment for the plaintiff to recover so much as shall be attached, &c., as in London upon a foreign attachment."—*Parke's Hist. Co. Chan.* 274.

Since this decision was pronounced, it has been declared by the Legislature, that an attachment may be laid upon debts due the defendant upon judgments or decrees, 1831, ch. 321; and also that a *fieri facias*, or attachment, may be laid upon any interest which a defendant may have in the capital or joint stock of any corporation, or in the debt of any corporation transferable upon the books of such corporation; 1832, ch. 307.