

* cross bill. But according to the present course of proceeding, as well in England as in Maryland, the Court may **537** if called on dispense with a cross bill, and pass a decree upon the whole case, as well in favor of the defendant as of the plaintiff; as that the one convey the property, and the other pay the purchase money. *Dorsey v. Campbell*, ante, 356. But a decree to redeem may result in a foreclosure without a cross bill to foreclose; as if a bill filed by a mortgagor for redemption is by decree dismissed, because of the money not being paid at the time directed by the decree to redeem, that operates as a foreclosure, and is equivalent to a decree for foreclosure; *The Bishop of Winchester v. Paine*, 11 Ves. 199; but the dismissal of such a bill merely for want of prosecution has not that effect. *Hansard v. Hardy*, 18 Ves. 460.

It appears, that this case was submitted, and such a decree prepared and presented to the Chancellor as the parties thought proper to have passed without opposition or contest, which was accordingly signed. A decree might have been passed against the plaintiff commanding him to pay, as well as against the defendants ordering them to perform their part of the contract by conveying the property, as had been stipulated, on the payment of the purchase money. But this decree is, according to the ancient course, only in favor of the plaintiff and against the defendant; and therefore this petitioner can only obtain the relief he asks by a bill in the nature of a cross bill, it being now entirely too late to alter the decree in any manner whatever.

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

After which the other parties filed a bill, in the nature of a cross bill, against Ephraim Etchison, for the amount of the purchase money so ascertained to be due, and it was on the 28th of March, 1829, decreed, that Etchison pay the balance then due, and upon the payment thereof, that the plaintiffs execute a conveyance to him for the land, &c.

* MULLIKIN v. MULLIKIN.

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TRUSTEES AND PURCHASERS AT CHANCERY SALES.—DISTRIBUTION.

A trustee, who had been appointed to make sale under a decree, ordered to bring the purchase money with the bonds and notes received or taken by him, into Court, and displaced, because of his misconduct. (a)

(a) Approved in *Sewall v. Costigan*, 1 Md. Ch. 210.