

entitled, which they promised to deliver up; and they also admitted that the defendant was entitled to credits which had not been given to him; that the defendant attended for some hours on the day, and at the place appointed, and the plaintiff not appearing, he went home, soon after which the plaintiff came to the defendant's house, having the negro girl, mentioned in the decree, with him, for the purpose, as he said, of delivering her up; and soon after they went upon the land in the possession of Thomas Henry, a tenant of the plaintiff's, when the plaintiff pulled down a part of the fence, rode into the field, and desired the defendant to take possession of the land, if he knew where it was, observing, that a part of it was in that field, and another part in woods; that the plaintiff did not pretend to deliver possession of any particular part, or to turn his tenant out of possession, who then persisted in holding possession until the expiration of his lease in November following; the plaintiff soon after went off, taking with him the negro girl; that the plaintiff had been enjoined by this Court not to dispute the possession of his tenant. That the defendant is a citizen of, and resides in Montgomery County, which has been the place of his residence for several years; and the attachment was served * on him by the sheriff of Anne Arundel County, in
15 the City of Annapolis; and the defendant denies that he intended any contempt, &c.

KILTY, C., 10th July, 1816.—This petition was argued by counsel on each side. Those parts of the answer, respecting further credit, could not have any influence on the question, and were not relied on in the argument. But it appears, that Crapster had not such a possession of the land as to enable him to make a valid tender of it, under the decree; and, supposing, as contended, that Griffith was unwilling to comply with the decree, he ought not to be compelled so to do, without receiving what he is entitled to, which he might otherwise have to seek for after a compliance on his part. The objection as to the manner of offering the possession, would not be material, if Crapster held the land; because Griffith must have known where it lay.

As to the objection on the ground of residence, it appears, that by the practice in England, a person found in London may be attached there, though residing in a different county. I do not know, that a case of the kind has ever before occurred here; but it is not material in the present case, as, for the reasons above stated, the respondent Lyde Griffith, is discharged from the attachment, leaving the decree to be proceeded on hereafter, so as to have it finally executed.

After which, on the 31st of May, 1817, this plaintiff, Basil Crapster, filed another original bill against the defendant Lyde Griffith;