

Upon this decree the plaintiffs demanded of the defendant payment of their costs, which he failed or refused to pay. 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.

12th January, 1829.—BLAND, *Chancellor*.—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 *feri facias*, or attachment, and sold for the satisfaction of his debts in like manner as his personal property. (b) 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 *feri facias*, nor can *choses in action* be made liable to creditors at common law, (c) otherwise than by an original or judicial attachment; (d) but the acts of Assembly, which direct the manner of suing out attachments, have in express terms treated them as process ancillary to the judicial powers of the courts of common law only; have authorized the use of them by any individual *inhabitant* of the United States who may be entitled to sue here; and have limited the extent of them to the taking of the lands, tenements, goods, chattels, and credits of the debtor in cases at common law only. (e) In England it is laid down, that *choses in action*, stock, debts, &c. are not liable to creditors; and that they cannot be taken on a *feri facias*, or under a sequestration from chancery,

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(b) 5 Geo. 2, c. 7; 1810, ch. 160; *Ford v. Philpot*, 5 H. & J. 315; *Barney v. Patterson*, 6 H. & J. 182.—(c) *Harding v. Stevenson*, 6 H. & J. 267.—(d) *Ford v. Philpot*, 5 H. & J. 317.—(e) 1715, ch. 40; 1795, ch. 56; 1825, ch. 114.