

stated in the preamble. The 1st, 2d and 3d sections related to the proof in Great Britain of matters depending in suit in the province. The 4th made a considerable alteration respecting executions by *fieri facias*, which was by construction of the courts, extended further than the framers of it designed, and has settled into the practice which still prevails. The expressions were, that the houses, lands, negroes and other hereditaments and real estates within any of the plantations, belonging to any person indebted, should be liable to, and chargable with all just debts, &c. owing to his majesty or any of his subjects; and should be assets for the satisfaction thereof, in like manner, as real estates were, by the law of England, liable to the satisfaction of debts due by bond or other speciality. So far, the law and practice were not altered, as it had been the usual course to have lands extended under recognisances, and taken possession of by writs of *elegit* as in England. The concluding part was rather obscurely worded, as follows: "And shall be subject to the like remedies, proceedings and process in any court of law or equity, in any of the said plantations respectively, for seizing, *extending*, selling or disposing of any such houses, lands, negroes and other hereditaments and real estates, towards the satisfaction of such debts, &c. and in like manner as *personal estates* in any of the said plantations respectively, are seized, extended, sold or disposed of for the satisfaction of debts." Soon after this statute became known in the province, the practice began, of selling lands under writs of *fieri facias*, and the remedy by *elegit* ceased to be used. I have been informed that the provincial judges thought themselves authorized to extend the benefits of this statute to the native inhabitants when plaintiffs, as well as to the trading subjects of Great-Britain; and it is possible that they might have thought the former comprehended under the general description of subjects.

In the state of Virginia, negroes are considered as real property, and are not (nor are lands) liable to be taken by *fieri facias*, but are subject to the remedy by *elegit*.

As to this statute, the first 3 sections are not proper to be incorporated, &c. because we have passed an act expressly on the subject of such evidence—1785, Ch. 46. As to the 4th section, the practice is fully established, and is in a manner recognised by the act for the regulation of officers fees, and other acts, and ought so to remain; but whether by incorporating this section of the statute or otherwise, it will be for the legislature to determine.



6 George 2.—A. D. 1733.

CHAP. 14. An act for the more effectual preventing frivolous and vexatious arrests, &c. and for the obviating a doubt which has arisen upon an act made in the fourth year of his present majesty's reign, entitled, An act that all proceedings in courts of justice, &c. shall be in the English language.

See the note on 4 Geo. 2, Ch. 26.



7 George 2.—A. D. 1734.

CHAP. 15. An act to settle how far owners of ships shall be answerable for the acts of the masters or mariners.

There is some difficulty in determining as to this statute, because, although it appears to have been applicable to the circumstances of the people of the province, many of whom were concerned in ship-