

or possession they may be found. March, 1778, c. 9, s. 6; November, 1787, c. 40. By which legislative enactment the State's lien, as in England, relates not merely to the date of the judgment, but to the commencement of the action. Whence it follows, that the liability of the real estate of a debtor to the State to be taken in execution, and the lien of the State, incident to such liability, are founded upon the common law and the Acts of Assembly passed in express relation to debts due to the State.

But the general rule of the common law in regard to the liability of real estate to be taken in execution as between party and party, was modified by a statute passed in the year 1285, 13 *Ed. 1, c. 18*, which made such estates liable to be partially taken in execution. This statute, which gave the writ of *elegit*, enlarged the remedy of the creditor by declaring, that, when a debt was recovered or damages adjudged, it should be in the election of the plaintiff to have a *fiery facias*, or to have all the debtor's chattels and the one-half of his lands delivered to him until the debt was levied to a reasonable extent; 2 *Inst.* 394; which gave the election immediately that the debt was recovered; and therefore the whole land was held to be bound from the day of the rendition of the judgment; and those concerned, it was presumed, might easily ascertain from the record by what judgments the lands of the debtor were thus bound. *Gillb. Execu.* 37. But as some inconvenience arose, because, according to the common law, judgments took effect by relation from the first day of the term, it was in the year 1676 declared by the Statute of Frauds, 29 *Car. c. 2, s. 14 & 15*, that the day on which judgments were rendered should be entered upon the record; and that purchasers should be charged from such time only, and not from the first day of the term whereof the judgment was entered. This then was the nature and extent of the judicial lien, as between party and party, with which the real estate of a debtor

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part.—*Chan. Records, Lib. P. L.* 68, 317, 387, 392, 812, and 892; *Kilty's Rep.* 75, 205.

This, and other similar cases which might be adduced from the records, shew, that the Court of Chancery of Maryland, before the Revolution, was, in many instances, resorted to as a Court of Exchequer. And, in relation to debts due to the State, it may be well to recollect, that, according to the English law, not only the real and personal estate of a public debtor are liable to be taken in execution and sold for the satisfaction of the debt, but that the State might also have, what is called, an extent in aid, or a process to be levied upon debts due from others to the public debtor to the fourth degree; thus taking in execution *choses in action*, and bringing the debtors of the State's debtor before the Court in a way similar to that of a garnishee under a foreign attachment. *Gillb. Exche. ch. 12; Petersd. Abri. tit. Extent B.* The Act of Congress of the 20th of April, 1818, ch. 78, s. 8, gives a similar right, as against corporations, to the United States. *The United States v. Robertson*, 5 Peters, 659.