

return of a *feri facias* either for his own justification, or as an evidence of the title of the purchaser of the goods; although the sheriff might be required to make return of such an execution, so as to compel him to shew what he had done towards levying the debt as commanded, and so as to enable the plaintiff, if necessary, to proceed further against the defendant for the recovery of the whole or the residue of his claim. *Com. Dig. tit. Execution, (C. 7.)*

By an English statute passed in the year 1285, *West. 2, c. 18*, lands were partially subjected to be taken in execution under an *elegit*, and held until the debt should be levied upon a reasonable price or extent. *2 Inst. 394*. This statute having, however, prescribed no mode of proceeding, nor required of the sheriff any return of the execution; it was held, that what was a reasonable price or extent could only be ascertained by a jury; which inquisition by a jury, it was also held, the sheriff was bound to take and return; because it materially affected the title to the inheritance; and because, where an inquisition was thus required, it was fit and proper, that it should be returned to enable the Court to judge of its sufficiency and of the propriety of its being placed upon the same record with the judgment, to which it was the sequel. And hence it became the established law, that all writs of *elegit*, under the statute, should be returned; and that the inquisition and return should be filed as a part of the record of the case. Whence it is evident, that a title by *elegit* must be thus put in writing and recorded. *2 Inst. 396; Dyer Ca. 71; Fol. 100; Fulwood's Case, 4 Co. 67; Palmer's Case, 4 Co. 74; Hoc's Case, 5 Co. 90; Underhill v. Devereux, 2 Saund. 69, note 2.*

* This had been introduced as the law of Maryland, and was in regular and constant operation; *Kilty's Rep. 144; 590* when it was declared, by a British statute passed in the year 1732, *5 Geo. 2, c. 7*, that real estates, situate in the plantations, belonging to any person indebted, should be subject to the like process for selling and disposing of the same towards the satisfaction of debts as personal estate. This British statute appears to have been first introduced as the law of Maryland about the year 1740. *Davidson's Lessee v. Beatty, 3 H. & McH. 612*. This statute, however, specified no mode of judicial proceeding, nor designated any form of execution, but, like the previous English statute, under which the proceeding by *elegit* had been framed, it merely declared the rule, leaving its application to be made by the Courts of justice in such manner and form as they deemed best.

In Maryland, for the purpose of executing and conforming to this British statute, the writ of *feri facias* was so altered as to command, that the debt should be levied of "the lands and tenements," as well as of the goods and chattels of the defendant. And as an English statute passed in the year 1676, *29 Car. 2, c. 3, s. 3*, and which had been then adopted here, had declared, that no