

According to the common law, as between individuals, lands were in no way liable to be taken in execution and sold for the payment of debts. *Bac. Abr. Tit. Execution, A.* This total exemption of real estate from any such liability, it is said, was a necessary consequence of the principles of the feudal system, which system, softened and divested of most of its odious and pernicious principles, having been incorporated into our Code, *Chart. Maryl. Art. 5, 18; Kilty Rep. 146; 1786, ch. 45, s. 1, Calvert's Lessee v. Eden, 2 H. & McH. 279, 366*, lands were, in like manner, exempted here as in England from being taken in execution and sold for the

**39** payment of debts. *Kilty Rep. 144.* According to the feudal system \* a feudatory was not permitted to alien the land so held by him, but was bound as tenant to render certain services to the king for the benefit of the public; and therefore it was held to be contrary to the nature of the tenant's holding, and prejudicial to the government, as interfering with the public revenue, to suffer the land to be taken in execution and sold for the payment of his debts; and also, because, looking to the inalienable nature of his real estate, it could not be presumed, that he had been trusted by his creditors any further than with a view to his personal estate. These reasons, it is obvious, ceased when the principles of the feudal system were so far relaxed as to allow to the fee simple owner of land an absolute and unqualified right of alienation at his pleasure; nevertheless, the exemption was continued in full force. *3 Blac. Com. 418, 420.* But apart from these reasons for exempting land from being taken in execution, derived from the feudal system, it is said, that a creditor was not, by the common law, permitted to take away, by execution, the possession of his debtor's lands; because it would hinder him from following his husbandry and tillage which are so beneficial to the commonwealth. *2 Inst. 394.* This being a reason for the exemption derived from the nature of things, applies as forcibly now and here as at any former time or other place. And although it may be admitted to be by no means a sufficient cause for a total exemption of lands from being taken in execution; yet it is certainly reasonable, that lands should not be so levied upon and sold as materially to interrupt their cultivation, or endanger the loss of a then growing crop. *Rawlings v. Carroll, 1 Bland, 76, note; Dorsey v. Campbell, 1 Bland, 365; Swan v. Swan, 3 Exch. Rep. 443.*

In England, the common law was, in this respect, so far altered as to allow the lands of a debtor to be taken under an *elegit* or otherwise, and delivered to the creditor at an extended, or estimated annual value, until the whole debt was paid. Those English statutes were introduced and practised under in Maryland; but none of them authorized the selling of lands so taken in execution in like manner as personal property. *11 Ed. 1; 13 Ed. 1, c. 18; 13 Ed. 3, stat. 3; 27 Ed. 3, c. 8 and 9; 36 Ed. 3, c. 7; 23 Hen. 8, c. 6;*