

tem 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. (*h*) 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. (*i*) 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. (*j*)

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 practiced under in Maryland; but none of them authorized the *selling* of lands so taken in execution in like manner as personal property. (*k*) In all cases, where, according to those English statutes, lands might be taken in execution and extended, the judgment gave to the plaintiff a general lien upon such lands as the defendant then held, or at any time

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(*h*) 3 Blac. Com. 418, 420.—(*i*) 2 Inst. 394.—(*j*) Rawlings v. Carroll, 1 Bland, 76, note; Dorsey v. Campbell, 1 Bland, 365; Swan v. Swan, 3 Exch. Rep. 443.—(*k*) 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; 2 Inst. 394; 3 Blac. Com. 418, 420; Kilty Rep. 143, 144, 151; 1715, ch. 23, s. 6.