

The Quantity of this Casualty of Relief varies according to the Nature of the Holding. In Blench or Fee Holding, it is only the Double of the Blench or Fee Duty Craig Feid. Hope Feid. According to Sir Thomas Hope (Feid. §. 12.) and Sir John Skene (Feid.) the Relief in Ward Fees is always a Year's reoured Duty of the Lands. But Sir Thomas Craig (Feid.) the Laird Stair (Lib. 2. Tit. 4. §. 20.) and Sir George Mackenzie (Lib. 2. Tit. 5. §. 22.) make it the full Rent of the Lands when the Superior is in Possession at the Vassal's Entry; and only the reoured Duty if he be not then in Possession; or a Share of the Reour of any Barony or Tenement where of the Fee is a Part. And this is the common Practice; albeit of old no Relief was due in Scotland after the Ward. One of the King's Vassals having made Application to the Lords of Treasury for changing the Holding of his Barony from simple to tack Ward and obliged himself to enter his own Subvassal in the Lands of his Property for a proportionable Part of the Expenses together with what further the Subvassal should please to determine and appoint for his Entry, to whose Determination he referred and submitted himself. This Reference was not found to be made to the Vassal or Arbitrator who ought to determine according to Law and Equity, by which a Year's Rent is due for the Entry of a singular Successor; but that it might be an absolute Arbitrator at the Vassal's Pleasure, yet so as the Vassal should determine somewhat for the Entry, that the Reference might be of some Effect. Therefore the Lords appointed one of their Number to speak with the Vassal as to the Quota. 22 July 1673 L. Ross contra Maxw.

By the Law of England the Value of Relief in Socage is the Double of what the Tenement is hable to pay or perform by the Tenure; and in military Fees or Ward Holdings is taken to 100 Pound Sterling for an Earl, 50000 Marks for a Barony and 5 Pound Sterling for any other Fee, that obligeth the Tenant or Vassal to maintain one Soldier, and proportionably for lesser Fees, obliging only to a Share of a Soldier's Entertainment 9 Hen. 3. cap. 2. Mag. Chart. By the Custom of France the Heir of a Barony pays in Name of Relief 100 Franks, and Heir of lesser Fees 15; and when the Fee answers not to the Entertainment of a Soldier the Relief is destinated to 12 Deniers for every Acre. If the Vassal owe no military Service, his Heir for Relief, doubles what the Tenement obligeth to pay or perform Craig Feid. Lib. 2. Tit. 20. §. 14. Stair Feid. §. 1. Vers. Relief. But in France and England, tho' a Superior gets Relief from an Heir of a Ward Vassal, who is Major at his Predecessor's Death, yet the Heir if then Minor pays no Relief, for the same is held sufficiently compensated by the Profits of the Fee over and above the necessary Maintenance of the Heir, that during his Minority go to the Superior Craig Feid.

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The Sheriff of the Shire, Stewart or Baillie to whom a Precept is directed out of the Chancery, to give Seisin to an Heir served and reoured in Lands held of the Crown, doth conform to a Clause in the Precept take good Security from the Heir, if he get not present Payment, for a Sum equivalent to the Nonentry Duties of all Years that the Lands appear by the Reour to have been in Nonentry; and also for a Year's reoured Duty for the Relief of the Lands held Ward, and for the Double of the Fee or Blench Duty if they hold Fee or Blench. But when a full Year's Rent is due for Relief, viz. to a Ward Superior in Possession the Sum of the Entry, the Sum for which the Sheriff or other Judge must take Security, is to be determined, in a Process of Liquidation.

Relief is not presumed to be remitted or past from by the Superior's entering his Vassal Craig Feid. §. 14. in fin. and when due to the King, cannot be gifted Act 73. Par. 11. §. 6. But is still exacted in Exchequer, tho' gifted. Nor can it be compounded or transacted, but all that is due must be paid. Not only the Sheriff or other Judge and their Deputies are charged yearly to account for the same in Exchequer according to the response Book: But also the Oblainers of the Seisin may be charged for it, tho' the Sheriff's Discharge will exoner him d. Act 73. But it will not exoner either the Sheriff or him, that Payment of the Relief was made to the King's Donatory; because the Casualty cannot be gifted d. Act 73. The Payment of Nonentry Duties to a Donatory would be sustained in Exchequer, to free the Sheriff and the Party from answering for these.

The Relief is not only debitum fundi but also affects the Vassal personally, who takes out the Precept for investing himself, tho' he never takes Investment thereupon d. Act 73. 12. March 1628 L. Lauriston contra Sheriff of Merne. But in Ward Lands the Relief is only debitum fundi for determining the reoured Duty, and not when the full Rent is due for it, seeing then the Superior enjoys the whole Benefit of the Fee as in Ward Feid. §. 20. If the Fee be possessed by a Widow conjunct Fiar, or a Husband by the Courtesy of Scotland the Vassal's Heir needs not to enter during the Lifetime of such Liferenters, but he may enter notwithstanding if he stands for, and his Estates necessary for him to do so for securing his Creditors. In which case the Superior gets Security by sufficient caution for a Year's reoured Duty, to be paid after the conjunct Fiar's Death, Feid. §. 30.

### Sect. 3. of Escheat.

Escheat in general, signifies any Confiscation of one's Property, from