Retour, or Extent or the Valuation Nunc et tempore Belli. The Nature and rise of both Old and New Extent are fully Explained in the third Volume. So the Meaning of the Article of the Brief is, What is the Value of the fee now, or what is the Extent or Retour thereof formerly Made in time of War, which is Expressed the present time Nunc, and hath been always since Continued, Because the Stile of Brevers is not to be Altered. And what is the old Extent of the lands, or what was the Value thereof in time of peace, that is, in peaceable days. The Reason for Inserting this Article in the Brief, is because in Wardholdings the only proper and Ancient feed, there is due to the Superior some times a Years Retoured duty and sometimes a share thereof, for the entry of the heir, called Relief. Vid Sup. pag. 635. The Extent of lands holden ten, is the feed duty. And the annualrent by Infeftment was formerly Retoured to the full Value of the Annualrent liberorum quod Vulgo sic ipsum: They are now Retoured only to the Blench or other duty Contained in the Heritable bond or Infeftment of Annualrent Relief. a Par. W. & M.

6/ As to the sixth head of the Brief, whether the heir be of Lawfull age, ward holdings are Distinguished from others. For in Simple Ward holdings the heir male is not of Lawfull age, and Cannot enter till he is Twenty or twenty one years Complete, nor an heir female till she is fourteen years old: because till then the Superior hath Right to the profits of the fee. Vid Sup. 661. Which Lawfull age must be either obvious and notour to the Inquiry by Inspection of the person V. G. where an old or Gray headed heir Claims to be served; or it must be Instructed by witnesses, or other Sufficient Evidence. But if the King or other Superior hath Dispenced with the age of the Vassals heirs, the service will proceed without production to the Benefit of the Ward which is Reserved to the Superior by the Dispensation. A person Claiming to be heir of lands holden Simple ward of the King gets a Dispensation and Remission from the Exchequer, Reserving in Gremio his Majesties Casualty the Stile whereof is in Dalles pag. 456. But a Charter and Infeftment of lands holden tacit ward of the Sovereign Contains ordinarly a Special Dispensation to serve and Infeft such an heir, notwithstanding the Minority or Nature of the Fee. And if such a Dispensation be omitted in the Charter it must be Supplied by a Dispensation in Manner aforesaid from the Exchequer. Stair lib. 3 tit. 5 § 39. In other holdings as Blench Feu or Burgage, any heir is of lawfull age and the heir may be served at any time. Stair ibid.

7/ The seventh head of the Brief, in whose hand the fee is, that is to whom the present profit and Benefit thereof doth belong. Ordinarly the fee is in the hands of the Superior by Reason of Non entry; sometimes in the hands of the Superior's Superior, when the Superior hath left the Ward altied of Superiority during his life, and sometimes in the hands of a Liferenter by Conjunct fee or life rent holden of the Superior, or possessed by a second husband in Virtue of the Courtesy of Scotland. Which two Reasons non entry, doth not hinder the heir to Enter to the fee, which may sometimes necessary for him to do for Securing his Creditors, Stair ibid § 40. The Remaining Articles, from what time, how, by what Person by whom and thro' what Cause, do not Make distinct heads of the Brief

Nor are always Necessary to be Retoured, as the former heads, but are commonly Circumstances Relative to the last head: for 1/ Knowing how long the fee hath been in Non entry, or in the hands of the Immediate Superior or of a liferenter. 2/ how it fell in Such hands, as if it be in Non entry by the Vassals death; Or in the hands of the Mediate Superior, but the Contumacy of the Immediate Superior in Refusing to enter his Vassal; and in the hands of a liferenter, by the liferent Infeftment granted by the Superior. 3/ The Kind of Service which Relates to the Case of a fee liferented: Because a liferent Infeftment is often Held in a Different Manner from the fee, and ordinarly Bench and it is the Superior's Interest to know what sitch service it, by whom and thro' what Cause the fee is in the hands of such a person, Stair ibid.

According as the Inquest finds the points aforesaid Cleared and Instructed, or not Cleared and Instructed, they Serve the Claimant heir affirmative, or Negative. Which Service is Retoured to the Chancery whose it is Recorded and left for the Warrand of the Retour; and an Extract or Vera Copia of the Service Attested by the Director or his Deputies gives to the heir, as in the Case of a General Service. Which Extract, called a Special Retour, Completes the Service and makes an Active title to the heir. A General Service doth not Include a Special Service. But a Special Service Includes a General Service as part thereof. Mackenzie Instit. lib. 3 tit. 8 § 30. As Homo doth Include Animal. This a Special Retour of one as heir in an Infeftment of Annualrent granted to him whatsoever, was Sustained to Import a General Service, tho it bore not Expressly that he was heir General, but only in that Annualrent 9 feb. 1676 Drummond contra Stirling.

The heir Specially served and Retoured, if the lands hold immediately of the King, obtains a precept out of the Chancery of course to the Sheriff or other Judge ordinary Whose Charge, to Infeft him, Capiendo Securitatem for a Sum Equivalent to the Non entry duties of the lands, [illegible] for the Relief. At the Discovery of which precept to the party, the Director of the Chancery Inserts in the Respondendo book a Note of the Sums for which the Sheriff or other Judge ordinary is to take Surety thus: Respondebit Vici Comes &c. (or other Judge) pro summa &c. Rationes Solving &c. Dando tali &c. de terris &c. Craig Feud. lib. 2 tit. 19 § 8. Hope Maj. Prat. tit. of Ward & new Entrie. p. 129. These cannot be Compounded or transacted, but all that is due must be exacted. Not only the Sheriff and other Judge and their Deputies are Charged Yearly to Account for the same in Exchequer, according to the Respondendo Book; but all the said Sums may be Changed upon the obtainer of the precept, the a Discharge from the Judge will Exoner him act 73 Par. 11 K. C. And because of the Clause Capiendo Securitatem, the ground was found liable for the same, the Infeftment was never taken Stair lib. 3 tit. 5 § 46. If upon such precept Seisin be not taken before the Next term after the Heir must take out a New precept before he can Infeft. May the Sheriff or other Judge ordinarly, albeit the precept be not presented to him Nor Seisin given, is