

they should not only have the Disposal of their Wards in Marriage, ~~but~~ <sup>but</sup> the Disposal of their Marriages, I cannot say; The last that as Disparagement was the only restraint in Magna Charta (cap. 10) they thought themselves at liberty to Make all the Advantages they other Ways could of it: A Constructi- on so agreeable to the times, that it was immediately Com- mended, and in Effect Established by the Statute of Mor- ton cap. 6. 7.

Reliefs (what they are and why so called vid. Super- Præactor lib. 2 cap. 36 foet. 1. Glota lib. 3 cap. 77 foet. 1. Coke 1 Inst. 76. a. Spelman Great of Goods 33 & Glossed Verb. Relevancy) were not forreign but fruits of feodal tenor, brought into England with Goods according to the Custom of the feodal law, and of other Nations, and how so va- rious and Uncertain, that the Lords exacted what they listed for it when the feod fell into their hands upon the Death of their feodal tenant, Constraining the heir as it were to Make a New purchase of the feod, Spelman Great of Goods 33. But Reliefs seem to have been reduced some time after the Establishing of Ga- nerals, to some certainty by the Laws of William 1 and deter- mined by the Charters of Henry 1 King John & Henry 3. The Relief of Socage lands was fixed by the 40 Law of William 1 at a Yearly Rent, and Remains the same to this Day; Altho it is not taken Notice of in any of the Charters of Henry 1 King John or of Henry 3.

This called by Sir H. Spelman (Great of Goods 39) tributa, and by the old English Authors Auxilium, were more Beneficially rendered by a tenant to his superior or Lord in times of Difficulty or Distress, and were not of Direct feodal obligation, but first obtained out of a- pious Regard to the person, and Occasions of the Lord: The King therefore, as well as the Quantum of every Aid, was Originally ad Varium and Uncertain as the Par- ticular Occasions of every Distinct Lord, and as the Abili- ties and Disposition of every Particular Tenant. But as Beneficial or Aid grew more frequent, the more Usual renders of Regard, became in many Countries the Established renders of Duty held

man Clothed verb. Auxilium. Thus in Normandy, the three Most Usual and frequent Aids, that is to say, to Make the Lord Escheat for a Knight, to Marry his Escheat Daughter, and to Ransom his person, became due and payable to the Lord as fixed and Established aids, Custom. de Norm. cap. 35. fol. 57. b. The English became subject to these three Capital Norman Aids soon after Jan. 65. Epin. 15. M. dox Hist. of Escheat. 396. Which, tho certain by the Custom of Normandy (d. cap. 35 fol. 57. b. was Arbitrary and Uncertain in England, till the Statute of Westminster 1 cap. 36 & 25 Edw. 3 cap. 11 fixed the Aid of a Knight's fee at 20 shillings Sterling, and of Socage lands to the Value of 20 pound Sterling a Year at 20 shillings and so pro Bate.

When a feod or fee determines for want of heir or proper Beneficiary tenant, the Land falls back to the Lord, and the Land returning to the Lord upon such Determination of the fee or tenor is called an Escheat, and is as such reckoned by the English Lawyers (Hale Annal. 69) among the fruits or perquisites of the Lord, tho it cannot properly speaking be a fruit of the feod, the Land or lord self resulting to the Lord upon a Determination of the fee. So that Escheat, strictly speaking according to the legal Notion of it, imports something happening or returning to the Lord upon a Determination of the feod only; and in this sense all Escheats even to the King, are properly by feodal, and such lands or tenements as are not held immediately of the King, and yet happen to him upon the Commission of any treason, are not Escheats (tho the Lord Verulam in his Treatise of the use of the Law pag. 34 calls them Royal Escheats) but forfeitures 25 Edw. 3 cap. 2. Which were given to the King by the Common Law Hale Annal. 40. And do not depend upon the Law of feods and tenures, but upon the secular Laws,leges Civiles cap. 4. L. L. Canuti cap. 54 a. and Lambert de primis Angliæ leg. de saltem de Antiqu. Britt. leg. cap. 10. That were made long before the introduction of feods, and which prevail even at this Day. And tho they may seem severe upon the Meane Lord in Defeating his feodal Right, yet as he had failed of that Particular and Regard, that