

was due to the publick in the Pleas of his tenants, he was not altogether blameless; for the lords were Anciently in Many respects Unfavorable for the Misbehaviour of their tenants Vid. L. 1. c. 1. cap. 3. 41. 39. & 6 apud Lambard. And the law hath inflicted a penalty Much of the same kind up on the Mesne lord even when the tenant is guilty of felony only; for the land Escheats as by the feudal law it ought to the Immediate lord; yet as the Prince affects the Publick peace, and the lord may be supposed forward of due care in the Pleas of his tenant, to be in some measure blameable, the King shall have the land a Year and day, Magna Charta cap. 22 Boke 2 Just. 36. 37. Stat. de Praerog. Reg. 17 Edw. 2 cap. 16 Stamf. pl. Cor. lib. 3 cap. 30 to the prejudice of the lord. But the general Import of the word Escheat, as formed from the French word Escheoir to happen and primarily signifying any thing accidentally or by Chance, Spelman Gloss ad verb. Escheat, Comprehends Casual Obventions and forfeitures of all kinds. In which general sense, Sir Henry Spelman Great of Goods 37 Divides Escheats into Regal and Feodal. Regal says he are those obventions and forfeitures which belong generally to Kings, by Ancient Rights of their Crown and supreme Dignity. Feodal, which accrues to every Feodal lord as well as to the King, by reason of his feignory.

Thus I have Explained the Nature of Wardship, Marriage, Relief, aid, and Escheat, the Concomitants or Consequences of Feignory.

Feignories are Principally and Generally Divided into Feignories by Knights fervices, and in socage. Which Directly answers the Norman Division of Feignories into Griefs de haubert Lamb. Paramb. of Kent 64 6. Loyseau Traite des feignories 106. 157. Vid. Felton Notes on his Jan. 119 and Griefs de Roturiers, that is, the Gentleman and his hand Man or Plough man fee, Somner Great. of Great 36. 49. 50.

Feignories by Knights fervices were purely Military. It was subject to Relief and Escheat to Wardship and Marriage, and to almost all the Conditions and

Restrictions of an Original Feignory. It is observable, that the Author of the old Tenures and Littleton do both of them in the Description and order of their several tenures Confound Escheage and Knight fervice as several services and Under Distinct titles, and that Littleton doth notwithstanding Confound and blend them together in such Manner, that it is difficult to collect from him any Real Difference or Distinction between them. Nor have the Writers of the English law so clearly distinguished them, as might be wished or expected, but there appears to have been a considerable Difference between them. For 1 of Escheage was a service, but was not as Littleton intimates Sect. 95. 96 a Direct personal service of Attendance upon the King in his Ward, nor was it due upon all Military Occasions, as Knight fervice was, but it was a pecuniary Aid or Contribution approved by particular lords in stead or in lieu of personal service, Bracton lib. 2 cap. 16 Pol. 36 a. Littleton. sect. 13. 5, vid. Max. Hist. of Escheage. 452 to bear the Extraordinary Expence of their own Attendance and Warfare, when and as often as the King should Make War. In which View Escheage answers the Norman Aide d'ost, Custom. de Norm cap. 44 Pol. 66. b. Ghis Aid, and the fine or satisfaction that the King from time to time Received for and in lieu of the Actual service of such of his tenants in Capite, as they in these Expeditions were both of them called Escheage, a feuto quod assumitur ad servitium Militare. Journ. Gloss ad X. Script. Bract. lib. 2 cap. 16 Pol. 36 a. Gloten lib. 3 Pol. 196 Ghis one in respect of the feutum which the lord Actually bore, and the other in respect of the feutum which every such tenant ought to have bore to the lord. So that it is not likely in this View, that Knight fervice was as the lord Bouchard (Jud. 69 a) Intend to Escheage, or that Escheage was as Mr. Maxon (Hist. of Escheage. 432 in Marg.) Intend to Knight fervice; Escheage being a specific service of a different kind, in respect whereof the tenant on account of its sub servieny to the Military policy of the Nation, was only Escheaged as a Knight or Military Feignory. 2 of Ghis Escheage Confound as a species of Feignory might be