

Lib. II. Cap. IV. Of Knight's Service. Sect. 112.

but his Executors or Administrators may have an Action of Debt, and cannot distrain.

[a] Stat. de i E. 2. de Militibus. Vide lib. 9. fol. 124. Lowe's Case. 2 Inst. 596. b. Ante 69. b.

And it [a] is to be understood that feodum militis, a Knight's Fee, consisteth of twenty Pound Land, and he payeth for his Relief for a whole Knight's Fee, the fourth Part of his Fee, viz. five Pound, and so according to the Rate.

Baronia, a Barony, or a Baron's Fee consisteth of thirteen Knight's Fees, and the third Part of a Knight's Fee, which amounts to four hundred Marks per Annum, and the Baron for an entire Barony payeth for his Relief an hundred Marks, which is the fourth Part of the Value of his Barony.

2 Rol. 516.

Comitatus, an Earldom, or an Earl's Fee, consisteth of a Barony, and the third Part of a Barony, which includeth twenty Knight's Fees, amounting to four hundred Pound Land per Annum; and he payeth for his Relief for an entire Earldom the fourth Part of his Revenue, and that is an hundred Pound. All which appeareth by the Statute of Magna Charta, cap. 2. made in the ninth of Henry the Third, at which Time there was neither Duke, Marquess nor Viscount in England, as before is said. But there be Precedents in the Exchequer, that a Dukedom consisting of two Earldoms, viz. eight hundred Pound Land by the Year, payeth two hundred Pound, and a Marquess consisting of two Baronies, viz. eight hundred Marks Land per Annum, and of an Earldom and a half, payeth two hundred Marks for his Relief. What the Viscount shall pay in certain I have not heard. Before the making of the Statute of Magna Charta, the King had rationabile relevium of Noblemen, and it was not reduced to any Certainty, yet ought it to have been reasonable and not excessive.

Glanvil, lib. 9. cap. 4. 6. Bracton, lib. 2. fol. 83. Britton, fol. 178. Ockam 42. F. N. B. 83. 256. Fleta, lib. 3. cap. 17. Magna Charta, cap. 2. 14 H. 4. in recordo longo. 10 H. 7. 19. 28 E. 3. Aff. 122. tit. Avowry 126. 18 Aff. pl. ultimo. 22 E. 3. 8.

I have seen the Record of a Charter made in 20 H. 6. to Henry Beauchampe, Earl of Warwick, whereby he was created King of the Isle of Wight, to him and the Heirs Males of his Body; his Relief was uncertain, and not limited by the Statute of Magna Charta.

It is to be observed, that the Words of the Statute of Magna Charta be *Hæres Comitatus de Comitatu integro, & hæres Baronis de Baronia integra, &c.* Now what an entire Earldom, and an entire Barony is, hath been declared before.

16 E. 3. Exchange 2. 46 E. 3. Forfeiture 18.

It is also to be observed, that at and before the Statute of Magna Charta, all Earldoms and Baronies were derived from the Crown, and were holden of the King in Capite, and the King would not suffer them to be divided or severed. And such entire Earldoms and entire Baronies are within the Statute; but at this Day Earls and Barons are without such Earldoms and Baronies of the King's Gift in Chief. For at the Creation of an Earl, he hath sometimes an Annuity granted unto him, and sometimes nothing; so as such Earls and Barons so created, are clearly out of the Statute of Magna Charta, and are to pay such Reliefs as other Men that hold of the King in Capite. For as the Heir of a Knight shall not pay Relief unless he hath a Knight's Fee, &c. so neither the Earl nor Baron shall pay any Relief by this Statute, unless he hath an Earldom, &c. or Barony, &c.

24 E. 3. 24. 26 H. 3. 32 H. 3. cap. 2. in fine.

*Son heire de pleine age, s. de 21 ans.* And yet in some Case the Heir shall pay Relief when he was within Age at the Time of the Death of his Ancestor. As if a Man holdeth Lands of the King by Knight's Service in Capite, and of a Common Person other Lands by Knight's Service, and dieth, his Heir being within Age, the King hath all in Ward by his Prerogative until the full Age of the Heir. In this Case the Heir shall pay Relief to the other Lord, for that the King had the Wardship of Body and Lands. And the Lord upon every Descent ought to have either Wardship or Relief.

1 E. 3. 6. Pl. Com. 229. 33 E. 3. cir. Gar. Statham. 2 Co. 68. a.

But if there be Lord and Tenant by Knight's Service, and the Tenant dieth, his Heir being within Age, the Lord waiveth his Wardship, as he may, and taketh himself to his Seignior; in this Case the Lord shall not have Relief at his full Age, because he might have had the Wardship of the Body and Land. Lord and Tenant of two Manors by divers Tenures, by Knight's Service, the Tenant is disseised of the one, and the Disseisor dieth seised, and the Tenant dieth seised of the other, his Heir within Age, the Lord seised the Body and Lands of that Manor, and after the Heir at his full Age recovereth the other Manor against the Heir of the Disseisor, he shall pay Relief for that Manor, and so one Lord of the Heir of one Tenant, shall have both Wardship during his Minority, and Relief at his full Age.