The Courts of Justice in England with Respect to the Laws aforesaid, proceed differently. Those of Kings Bench, Common Pleas, and Inferior Courts depending on them observe the more Law of England. And in case of defect or difficulty therein the Judges have no Recourse to the Civil Law in Aid or for Explanation, and are left to their own Judgments and Consciences; but they refer great difficulties to the Parliament.

The High Court of Chancery proceeds according to Equity and Conscience, in which there are many things that agree with the Civil Law. In the Court of Chivalry, or Military Court Court of the Constable and Marshal are Judges, tho' the executive part is wholly in the Marshal) causes are tried by the Civil Law, and the Custom of Arms. In the Admiral court the proceedings are according to the Civil Law, and maritime Laws of Rhodes and Oleron, and customs of the Court. But Murders, Piracies, Robberies and Felonies committed at Sea, or within the Admirals Jurisdiction may be tried in a particular Manner by special commission to the Lord Admiral &c. 28 H. 8. cap. 15 junct. n. 8 & 12 W. 3. cap. 7. In the Ecclesiastical Courts Matters are determined by the Civil & Canon Laws, the provincial constitutions of Canterbury, and those of the popes Legates, and Acts of Convocation of the Clergy, confirm'd by the Soveraign.

And the Courts held in the two Universities of Oxford and Cambridge for determining Suits to which the Scholars, or members of the University are parties proceed according to the Rules of the Civil Law.

Introduction to the Laws of Genoa by Martin Wright of the Inner Temple Esq. 8vo. In the Savoy 1730.

Chap. 2.

Pass Difficult to determine precisely the time &c as in page 33 of my first volume.

The Monkish Historians, being prejudiced or misled by the large possessions of a sudden acquired by the Normans to the prejudice of the English, roundly assert that William I violently dispossessed the English of all their Lands, and that he disposed of them upon arbitrary Terms of Tenure to such of his followers, and in such proportions as he thought fit. Matth. Westminster Lib. 2 Fol. Matth. Paris ad an. 1067 fol. 5. Brompton int. Script. X. 963. Thorn int. Script. X. 1787 ad an. 1067. which Relations have been credited by later writers of Learning and note S. H. Spelman Gloss. verb. Feodum. Selden (a Cambden in Norm. Epin. 13. Cowell of the use of the Law 34. 35. But upon due Enquiry we may be satisfied that William I did not claim or possess himself of the Lands of England as Spoils of Conquest, nor did arbitrarily subject to a Feudal Dependence. But as the Feudal Law was at that time the prevailing Law in Europe and was then conceived to be the most absolute Law for supporting the Royal Estate, preventing Union, confirming, and suppressing Incendiaries and Rebellions, Spelman posthum. Treat. of Feuds 5. 6. William who had always observed this policy, with consent of the Commune concilium of the Nation, made a Law whereof Tenor is set down in Ord. Veldens Notes ad Eadmerum fol. 190 and Lamb. ad Prisciae Angl. Leg. 170. In enacting the Feudal Law itself, not so Nominatim, but in Effect, in so far as it requires the same Engagements to, and Introduces the same Dependances upon the King as Supreme Lord of all the Lands in England, as were supposed to be due to a Supreme Lord by the Feudal Law; so that it clearly enacts the Foundation at least of all the Deductions and Glosses that are now treated as part of that Law. This Law means the 52 Law of William I. which the Norman Interpreters expounded conformably to the Norman Reception and Notion of Feuds. H. Spelman Treat. of Feuds 45. So as to introduce and establish not only the Norman Wardship, but all the Feudal and Norman Fruits and Dependances of Fee or Tenure, considered as a possible Feud, that is to say, as an Estate or Interest in the Lords Lands Derived from the mere Bounty of the Lord, in Effect where the Tenant was obliged to make as large returns of Service and Gratitude as if supplied by such Bounty for the sole use and service of the Lord.

Wardship and Marriage were of Norman original, and came from Normandy, as a Branch of the Law of Feuds or Tenures. Custumes of Normandy cap. 33 fol. 52. Cambd. Introd. to his Brit. 187. Spelm. Treat. of Feuds 29 & Gloss. ad verb. Warda: This they were then a New Fribulus peculiar to Normandy, and altogether unknown to other Countries that were governed by the Feudal Law. Spelm. Treat. of Feuds 46. Wardship of the Land, that is to say the custody of the Feud itself was committed or rather retained by the Lord, that he might out of the Issues and profits thereof provide a fit person to supply the Infant Heir defect of Service until he should be of Age to do it himself. Spelm. Gloss. ad verb. warda. Craig. Feud. 284. Old Tenures Tit. Tenure 22 Service de Chevalier. Litt. Sect. 103. 1 Inst. 75 b. But there is no clear feudal Reason

to be given for the custody or wardship of the Body, and therefore we may suppose that the Nor-
mans might think it reasonable, rather in Regard to the Infant Heir, than we Respect to the Lord Guardian
that he who had the custody of the Estate and Liberty of the Heir, should likewise take the care of
his Body, and the Charge of his Maintenance. Besides the Lord was, no doubt the properest person
to have the care of his Education; because he was most likely to qualify him for the Services of the
Feud, in which (they were of publick concern) he was first supposed to be most immediately interested.
Ibid. Fortesc. de Laud. Leg. Ang. cap. 44. Sold. Notes on Fort. 46. Smith de Rep. Angl. 264. 265 Com. of
Just. Lib. 1. Tit. 17. Sect. 2. 1 Just. 75 b. Bacon Hist. of the Eng. Gov. 148. 149.

The Lords of English Fees might possibly take the Hint of Marriage from Normandy. Spelm. Treat.
of Feuds, 29. 30. tho' I must confess that in the Laws of the English Law in which it holds Sorts the
the Interest of the Guardian in bestowing a Ward in Marriage I find not so. and was understood to be
a Beneficial perquisite of Tenure, I can find no express Notices of it [illegible] earlier than the Sta-
tute of Merton cap. 6. 7. By the Custom of Normandy indeed a Female Ward might be married
with the Licence of the Lord and the joint consent of him her parents and Friends (Custumes Norm.
cap. 35 fol. 55 but the Lord had not the absolute disposal of her, nor had he any thing to do with the
Marriage of male wards, or any Interest in the Marriage of Females but a bare Approbation
of the person who was to be his Fellow-Servant, and of the Order of Henry Henry I. (Ch. H. cap. 1) which
says nothing of the marriage of Males, the daughter of any of the King's Tenants was not esteemed in her
Lord, or her Father to be marriageable without the King's Licence, tho' he was not entitled to the Profits
of the Marriage. And after the death of her Father the King claimed the Wardship and Marriage
of the Heiress. Glanvil. Other plainly shews that Regard was taken to the Marriage of Females only,
as a matter of publick concern, and not of profitable Advantage: our English Lords however from an
extraordinary construction of Magna Charta look upon them not only in a publick Marriage
of female wards, but also because they might marry a Coward to the publick Bredom.
Lib. 2 cap. 37 but of male too. But as to these there is no feudal Reason the Lords Con-
sent as to the marriage of them Sir Edw. cap. 28 Sect. 1. Nor is there indeed any
Reason, unless that as it was a part of the paternal care our English Lords were had the care
of their persons, might think themselves under an obligation to take care of their Marriage
and how it should come to pass that they should not only find disposal in later wards in Marriage
but the proof of their Marriage cannot say unless that of Wardships was the only restraint
in Magna Charta (cap. 6.) they thought themselves at Liberty to make all the Alienations they
otherwise could of it: a construction so agreable to the Times, that it was immediately commanded
and in Effect Statutorily by the Statute of Merton, cap. 6. 7.

Reliefs (what they are and why so called Ibid. Spelm. Brachon Lib. 2 cap. 37. Sect. 1. Fleta Lib. 3 cap.
77 Sect. 1. 1 Just. 76 a. Spelm. Treat. of Feuds 33 & Glossary ad verb. Relevamen) were not Services
but Fruits of Feudal Tenures, brought into England with Feuds according to the Custom of the
Feudal Law and of other Nations and were so burdensome and uncertain, that the Lords granted
them Liberty for a time when the Feud fell into their Hands upon the death of their Feudal Tenant
considering the Heir as it were to make a new Purchase of the Feud. Spelman Treat. of
Feuds 33. But Reliefs seem to have been reduced to some certainty by the Laws of William
1. and ascertained by the Charters of Henry 1 King John & Henry 3. The Reliefs of Sorrage Lands
was fixed by the 40 Law of William 1 at a year's Rent and remains the same to this day. Where it
is not taken Notice of in any of the Charters of H. 1. King John or of H. 3.

Aids, called by Sir H. Spelman (Treat. of Feuds 59) Tributa and by our old Authors Auxi-
lia were mere Benevolences granted by a Tenant to his Superior or Lord in Times
of difficulty or distress, and were not of direct feudal obligation, but first obtained out of a
pious Regard to the person and occasions of the Lord: The Kind therefore as well as the Quantum
of every Aid was originally as various and uncertain as the particular occasions of every distinct
Lord, and as the Abilities and disposition of every particular Tenant. But as Benevolences or Aids
grew more frequent, the more usual Rendors of Required became in many Countries the Established
Rendors of Duty. Spelm. Gloss. ad verb. Auxilium. Thus in Normandy the three most usual and frequent
Aids, that is to say to make the Lords eldest son a Knight to marry his eldest daughter and to Ransom
his person became due and payable to the Lord as fixed and established Aids, Custum. de Norm. cap. 35
fol. 57. b. were became subject to the same Capital Norman Aids. Sold. Jan. 65. Spelm. 18 Mador
Hist. of Exchequ. 396. which, the certain by the Custome of Normandy d. cap. 35 fol. 58 b. were arbitrary
and uncertain with us, till the Statutes of Westminster 1 cap. 36 & 25 Edw. 3 cap. 11 fixed
the Aid of a Knight's Fee at 20 Shill. and of Sorrage Lands to the value of twenty pounds a year at
20 Shill. and so pro rata.

When a Feud or Fee determines for want of Heirs or proper Selection Tenants, the Land falls back to the
Lord, and the Land returning to the Lord upon such determination of the Fee or Tenure is called an Escheat
and is as such reckoned by our English Lawyers Hale Annal 54 among the Fruits or Profits of
Tenure, that it cannot properly speaking be a Fruit of Tenure, the Land or Fee itself resulting to the
Lord upon the determination of the Fee. So that strictly speaking according to the Legal Notion the