

land, and all the general laws of other Nations, the eldest son challenges a prerogative called the right of primogeniture which by the Mosical law is a double portion. Deuter. 21. 17. In the European Nations it is some where the whole and else where the half or some greater part of the Inheritance, Guelin de jure Nobil. lib. 2. Cap. 13. Generally in England the eldest son is heir alone & by generally, because of those particular reasons in Kent which Inheritance Sons alike to the Inheritance called Gavel kind quasi Gavel kind that is give to each child his part as the Custom in England, which passes the youngest to the eldest, for he is preferred in law to be left able to shift for himself by the law of Moses failing sons and their descendants, the Inheritance goes to the daughters of the Deceased Numb. 27. & Equally, without distinction of first or last born, provided such as are married to the family of the tribe of their father Numb. 36. 6. That Inheritance might not remove from tribe to tribe, which would destroy Confusion among them, In some places as in Sweden, the Male Younger children get two parts, and the female one; in other places the eldest son of a Marriage first or second, succeeds to all the land the parents had during such a Marriage, Guelin lib. Account of Sweden Chap. 3. It is common in France for women to have upon Marriage to Reserve all right of succession in favour of the males and their issue, which doth bind their children & so doth Civiles &c. Rom. 1 part. l. 1. Tit. 1. l. 2. p. 1. The Portions given them in hand is in lieu of the Inheritance, hopes of all successions that might hereafter fall to them: In order to preserve the estates in the families, the Daughters who are married finding in the family of their husband the same advantages which they have to their brothers and their descendants when they go out of their own family. In Scotland the Rule of Inheritance with respect to Descendants is this: The eldest son among them is preferred to all his brothers by right of primogeniture, Craig Feud. lib. 2. tit. 1. § 11 & 13 for designing up the name of the family; and all the sons are preferred to the daughters, if there be only Daughters, they succeed all equally to the estate in so far as it is divisible, unless it be otherwise provided in the Investiture, Craig lib. 2. tit. 14. § 2 p. 1. The eldest or Daughters be of different Marriages, Craig lib. 2. § 3 who are preferred to the sons, as in England they go by the name of Barons &c. of the property be succeeded to have sons and grand children by his eldest son the grand children will by the right of Representation come in place of their father & exclude all his brothers; and among such grand children, the eldest male is preferred, and all the males to the females Craig lib. 2. tit. 14. § 13. If there be only females they succeed equally, save only that the visible rights go to the

1) It is the same in some parts of France, Spain, &c. 2) In the Republics, the whole is divided equally. 3) In some parts of France, the eldest son is preferred.

eldest, as in the case of female children. When daughters succeed as heirs portions die, each of them having left sons and Daughters, it would seem that the eldest son of any of them should not exclude the rest of the children. Because primogeniture subsists for the preservation of families, should not last place in succession females; a woman being capable of fine families; and there is better reason for having respect to it in success of Grand Daughters, than in success of Grand Sons. But in such a case all the children of an daughter, if possible, should not be brought in Equally, but the eldest son only should Represent her and come in her place as he is heir portions to the grand father's estate. Feud. lib. 2. tit. 1. § 14. 2) By the Mosical law, if a Man hath 90 issue of a 10. Nor any Descendants, his Estate is to be divided among Numb. 36. 7. that is upon supposition that his father is dead. For if he is alive, he is the Inheritance, as the Jewish doctors say with great probability, Returns to him upon his death, but not only, since the Widows of the country is married to a surviving brother, Deuter. 25. 5. Sisters of both the Wives take upon Numb. 27. 2. Fair Reason why the Law makes no mention of the father, may be: Because the Israelites not having power to Alienate their estates any longer than till the Year of Jubilee; when it returned to them again or to their heirs, for of all Inconveniences, Levitic. 25. 13 Lands passed amongst them by the ordinary course of Succession from fathers to Children, which implied the father to be dead before the son succeeds, so as he could not be heir to his son. By the Civil law the descending line succeeds when the Descending line is at an end. In which the nearest person excludes him who is more Remote, right of Representation being allowed among descendants, as there is among Ascendants; for it would look strange to say, that the grand father should Represent his son &c. Novels. 115. Cap. 2. By the Spanish, German, and Dutch Law, the eldest succeeds, when the descending line is exhausted. In Scotland when the descending line is spent, Succession goes to the collateral lines. In which the whole blood excludes the half blood Craig lib. 2. tit. 15. § 6 that is, those who are equally Related by both their parents to the Deceased, are preferred to those who have only one parent in Common, tho in a nearer degree. For if there be only one brother German, he and his descendants succeed to both the whole & the half. 2) The eldest or his last German and his portions; and their Descendants, 3) failing brothers & Sisters German &c. 4) to be brother by their father's side, and his Descendants have access to the Succession. 4) A Sister or Sister by the father's side and their Descendants. But in England those of the half blood are never included in the Succession to lands of Inheritance, Coheir. Inst. 14. Item 3. Page 161. l. 1. f. 40. 41. States Part. of the Common Law of England pag. 286 ff.