

of heirs thereof. But Sir James Stuart (answering it) did
 this distinction grounded and not founded in law

Act. 2.

Active Interest of heirs at Law.

If there be no heir but that a sole heir of line enjoys the whole
 estate where there is no conquest and an heir of conquest. If there
 be several heirs of line, as when heirs portioned succeed, the estate
 is divided amongst them equally, so far as it may admit of division:
 but rights indivisible go to the eldest heir portioner, as an
 advantage over and above his equal share with the rest of
 the heirs, or he gets them by way of preference or distinction
 without requiring compensation any thing in kind, though
 to the other heirs their share is 3 parts of 5, the eldest appears
 to the eldest heir portioner are 1/2 of gilds of land, the
 eldest. I must answer to Dilect. doubts 2d. gilds of Honours.
 The eldest heir female may claim without Division Superior
 ties with the said at that thereof proceeding or subsequent to
 precedents death, as Ward, Relief, Marriage of King, Her entry
 life rent, relief, fees & uses &c. The reason is, that the said
 not put in a worse condition as be subjected to many dispen-
 sations by such Succession. Craig field. lib. 2. tit. 19. § 3. § 20. § 21.
 And where a Marshal had taken possession from several
 heirs portioners, his heir was not bound to take
 possession from them severally, but either from all jointly,
 or from the eldest by her prerogative of birth. 20. § 21.
 § 1. 18. § 2. In a case contra English. Craig field. lib. 2. tit. 14. § 3.
 It is to be said, as if they were to be divided amongst all
 the heirs portioners. But the former Reason of Indivisibility
 arising from the Vassals Interest reacheth few dis-
 tinguishes as well as others, and it is hard by conceiving
 the prerogative of Superiority should belong to the eldest,
 while the said duties suffer an Equal Division: The Right
 of Superiority being the only title of pointing the ground
 for these said duties. Yet because said duties are not held
 other said duties of Superiority, accidental, and Allegiance,
 Consanguinity and Clergy, the other heirs portioners ought to be
 compensated from the eldest for their parts their share
 § 1. 18. § 2. In a case contra English. Craig field. lib. 2. tit. 14. § 3.
 are several Superiorities of Feudal lands held by different
 Lords, these Lords should receive a Division, no particular Vassal
 being thereby put under more than one Superior, all

the eldest heir would be deemed to possess the Rest in Annual
 rents out of the fee corresponding to the shares of the feo-
 dary. And if this be allowed, I don't see any reason why the
 like Division or Equivalent should be refused in the case of
 other different Superiorities of Ward or Borough lands held by
 several Vassals. 3d. In George M. Lewis's case. 3. tit. 8. § 3.
 2d. Reason's Foundations among those Individual which
 the eldest heir female is entitled to. But Sir James Stuart
 answers to Dilect. doubts 2d. § 1. says, that upon a Bar-
 on's descent to heirs portioners, all of them will have
 right to the power of Bargaining, the dignity of Baron's land
 remain with the eldest. 4th. The principal Messuage or Country
 dwelling house being Governor of the whole, falls to the eldest heir
 of the line. But he has no right to her Progeny's houses within
 Borough or Ordinary Country houses: the former being free
 of the land they stand on, the latter being only a tenement
 or ward. Lettors principal dwelling house, the eldest heir by way
 of tower or for talide as in old times, where there were other
 houses beside for tenants on the ground, was found to belong
 to the eldest heir portioner, as her prerogative 2. § 1. 1707.
 Bowicour's Corvies, without any Compensation or Equiva-
 lent to be given to the younger heirs therefore 3. March 1707.
 Peter Espleins And an Orchard not having been before rent
 goes with the house as pertinent thereto to the eldest without
 any Accompanyment for it to the eldest 27. June 1708. Faber's Case
 5th. The eldest heir portioner is preferred to the eldest of the
 Wives and Rights of the Inheritance upon her granting and ob-
 ligation to make the same. first Commencing to or to allow trans-
 mits to be made upon the Charges of all Concerned 17. Ju-
 ly 1635. Denholms contra Denholms. 22. Feb. 1708. Forre's Case
 6th. A Corvie. But by the Law of England one's partnership is binding
 7th. When there are both an heir of line and an heir of con-
 quest, the eldest heir of line is preferred to one having
 an elder and younger brother, the eldest and divides the
 succession, all owing the former the eldest and the latter
 the younger.

The heir of line has right 1/2 of all heretofore right
 derived to the deceased from his predecessors requiring
 satisfaction to their accomplishment, whether perfected by
 satisfaction or not, and to all Reversions of such rights that
 the 5. 6. 27. To all lands persons or Annual prestations