and pleadeth that he hath nothing by Discent.

Thirdly, That the Mue of the Son Mall recover by a Writ of Cosinage, Aiel and Be-And lastly, That the Peir of the Wife after the Death of the Father and Mother shall saiel. be barred of his Altion to demand the Heritage of the Mother by Arit of Entry, which his Father aliened in the Time of his Mother, whereof no Kine was levied in the King's

[a] 11 E. 2. tit. Gar. 83. 4 E. 3. Gar. 63. 18 E. 3. 51. Pl. Com. 110. 7 E. 3. 53 Temps E. 1. Gar. 87. 27 E. 3. 89. 14 E. 4.

148. a. 22 Ast. 9, & 37. Temps been made in vain. E. I. Gar. 86.

* 11 H. 7. cap. 20. Post 380. a. 381. a.

18 E. 3. 9. Ante 352. a. Hob. 31. 8 Co. 54. a.

21 R. 2. Judgment 263. 2 Roll. 776. 8 Co. 53. b. Ante 326. b. Post 38. a. Dr. and Stud. 44. b. I Leon. 261. 11 H. 7. cap. 20. Vide Sect. 595. See this Statute of 11 H. 7. C. 20. well expounded, Lib. 1. Lib. 3. f. 59, 60, 61, 62. Lincoln Col. Case, Pl. Com. fol. 56. 20 El. Dyer 362. Doct. & Stud. 55. 8 El. Dyer 248. 19 El. Dyer 354. zi El. lb. 362. lib. 3. fo. Fitzh. Case. 27 H. 8. 23.

[b] Mich. 13 Jac. inter Harley & West, in Ejedione firmæ in Communi Banco, Lincoln, 2 Cro. 174. 2 Cro. 475. 4 Co. 10. Ante 360. a. 115. a. Post 369. a. 381. a. Dyer 64. b. + 10. 31. + Hob. 332. ‡ Cro. El. 2. ‡ 2 Cro. 475. ‡ Ben. 40. 13 & 254. ‡ Pal. 21, 32, 216. ‡ Cro. Car. 244. pl. 464.

Court. Concerning the First, there be two Points in Law to be observed: First, Albeit the Statute in this Article name a Writ of Morrouncestor, and after Writs of Cosinage, Aiel and Besaiel, [a] yet a Writ of Right, a Formedon, a Writ of Entry Ad Communem Legem, and all other like Astions, are within the Purview of this Statute, for those Astions are put but for Grampies.

Decondly, Where it is said in the said Aft, (if the Tenant by the Curtesy alien) pet this Gar. 5. Dyer 4 Mariæ Beteale with Marranty to a Wisseisoz, &c. is within the Purview of the Statute, foz that it is in equal Mischief; and if that Evasion might take Place, the Statute should have

If Tenant by the Curtely be of a Seigniozy, and the Tenancy elcheat unto him, and after he alieneth with Marranty, this Chall not bind the Issue, unless Assets descend, for it is in equal Mischief. Wut notwithstanding this Statute, if Feme Tenant in Dower had aliened in Fee with Marranty, and died, the Warranty had bound the Heir until the Statute * of 11 H. 7. Ance our Authoz wzote; by which Statute the Heir may enter notwithstanding such Marranty.

Wut note, There is a Diversity between a Warranty on the Part of the Mother, and an Estoppel. Foz an Estoppel, of the Part of the Wother, Chall not bind the Heir, when he claimeth from the Father. Is if Lands be given to the Husband and Wife, and to the Heirs of the Husband, the Husband make a Gift in Tail, and died, the Wife recovereth in a Cui in vita against the Donce, supposing that she had Fee-simple, and maketh a Feostment, and dieth, the Donce dieth without Mue, the Mue of the Husband and Wife bying a Formedon in the Reverter against the Feossee; and notwithstanding that he was Heir to the Estoppet, and the Mother was estopped; yet foz that he claimed the Land as Heir to his Father, he was not estopped. Note; That Marranties are kaboured in Law, being Part of a Man's Asturance, but Estoppels are odious.

If a Feme, Peir of a Willeisoz, infeosfeth me with Warranty, and marrieth with the Wis keisee, if aster the Disseisee bzing a Præcipe against me, I shall rebut him, in respect of the Mildmay's Case, 3 & 4 Marranty of his Mise, and pet he demandeth the Land in another's Right. And so if the Ph. & Mar. Dyer 146. Pusband and Mife demand the Right of the Wife, a Warranty of the collateral Ancestoz of the Husband Chall bar.

If a Moman had been Tenant koz Like, the Remainder oz Reversion to her next Heir, and the Moman had aliened in Fee, and died, this Marranty had barred her Heir in Bemainder oz Reversion; but it is partly holpen by the said Ast of 11 H. 7. viz. where the Moman hath any Estate for Like, of the Inheritance or Purchase of her Husband, or given to her by any of Brown's Case, lib. 5. f. 79. the Ancestozs of the Husband, oz by any other Person seised to the Ase of her Husband, oz of any of his Ancestors, there her Alienation, Release or Consirmation with Marranty shall not bind the Heir.

To the Authorities quoted in the Margent, which may serbe as Commentaries upon the said Statute, I will only add two Cases, the one was: [b] A Man seised of Lands in Fee, levied a fine to the Ase of himself for Life, and after to the Ase of his Wife, and of the Heirs Males of her Wody by him begotten, koz her Jointure, and had Mue Male, and after he and his Wife levied a sine, and lustered a Common Recovery, the Husband and Wife died, and the Mue Male entred by Force of the said Stat. of 11 H. 7. And it was holden by the Justices of Assise (the Case coming down to be tried by Nisi prius) that the Entry of the Siderf. 24. Plowd. 105.a. Mue Male was lawful; and yet this Case is out of the Letter of the Statute, for the neither ledied the Fine, &c. being sole, oz with any after-taken Husband, but is by her self with her Husband, that made the Jointure. Sed qui hæret in litera hæret in cortice; and this Case being in the same Mischief is therefoze within the Remedy of the Statute by the ‡2 lott. 681. ‡W.Jo. Intendment of the Makers of the same, to aboid the Wisherison of Heirs, who were provided for by the said Jointure, and especially by the Husband himself that made the Jointure, which (as it was said) is a Aronger Case than the Example set down in the Statute. The