use of the husband and wife in tail, remainder to another of his daughters, remainder to his own heirs. The marriage took place, the husband died leaving issue, and the wife aliened by fine. It was resolved not to be within the Statute notwithstanding the 400*l.* paid by the husband's father, for the land moved from the wife's father, and the preferment of his blood showed that the husband's heirs should not be preferred, but the wife's. And the Bishop of Exeter's case, Ward v. Walthew, Cro. Jac. 173, was cited, where the Bishop, in consideration of kindred to the wife and service done by the husband, gave them land in tail, remainder to his own heirs, and it was adjudged that the wife might after her husband's death sell the land. And the same was held in Kynaston v. Lloyd, Cro. Jac. 624, where the conveyance was in like terms, although the consideration paid by the husband was the full value of the land. So in Watkins v. Lewis, Tamlyn, 447, land purchased by the husband subject to a mortgage with money of a half-sister of the wife was, on her marriage, settled on the husband and wife for their lives and the life of the survivor of them, remainder to the heirs of the body of the wife, remainder to the right heirs of the husband. The husband died, the widow and eldest son sold and conveyed part of the lands, and the son alone levied a fine. Some years after, the son being dead, the widow also levied a fine, *and it was held that the estate was not within the Act, and that **269** the plaintiffs, the issue of a second son, were barred by the fine with proclamations of the widow.

In Foster v. Pitfall, Cro. Eliz. 2, A. devised to his wife in tail general, remainder to a stranger, the wife with her second husband aliened the land by fine and died, and it was held that her son could not enter by the Act; for, said the Court, the Act is only intended of land given by the husband for the advancement of the wife; no inheritance is given to the heirs of the husband, and the meaning of the Statute is that she shall not prejudice the heirs of the husband so that the land shall not descend to them, S. P. Hughes v. Clubb, Com. Rep. 369. And so it was said by the Ch. J. in Gretton v. Haward, 2 Marsh. 7, that where a husband devised to his wife in tail general, he deserts the benefit given him by the Statute. But see Symson v. Turner *supra*, so that the law seems otherwise if the reversion is in the husband's heirs. In Maryland estates in tail general are now virtually estates in fee simple, and such never were within the Statute, 4 Rep. 36.[1]

In Sir George Brown's case *supra*, it was held that he who hath the immediate title, interest or inheritance at the time of the forfeiture is entitled to enter under the Statute. There the issue in special tail, with remainder to him in fee, levied a fine with proclamations, and the mother in his life-time leased for three lives and thereby committed a forfeiture; the conusee was the person to enter, for the estate tail was extinct by the fine, and the conusee was the person to whom the interest, &c. belonged after the death of the widow. But if the reversion in fee had been in another, the conusee, taking nothing by the fine but estoppel, could not enter: nor could the heir, because he was concluded by the fine, Ward v.

[1] See note to 13 E. 1, Stat. 1, c. 1.