

Chap. VI. Sect. 56.

Tenant à Terme de Vie.

OU per terme
de vie dun
auter home.

Cro. Jac. 200.
Bract. lib. 2. c. 5. & c. 9.
fo. 26. Fleta, lib. 3. c. 12.
Britton, fo. 83.
Bracton, lib. 4. fo. 170.
Vide Sect. 381.

[a] Vide le Dean de
Worcester's Case, lib. 6.
fo. 37.
27 Aff. p. 31. 39 E. 3. 1.
27 H. 6. Recognizance.
Stattham pl. ultimo.
Post 249. b.
38 H. 6. 26. Bract. lib. 2.
fo. 9. Brit. fo. 84, 85.
† Ow. 39. † Cro. El. 407.
† Vaugh. 189.

Pl. Com. fo. 28. b. in
Colthorff's Case.
2 Rol. 50. 2 Cro. 201.
3 Cro. 57.
Mo. 664. 2 Cro. 282.

[c] Littleton 167.
17 E. 3. 48. 39 E. 3. 25.
7 H. 4. 46. 8 H. 4. 15.
2 Rol. 150, 151.

[d] Bract. lib. 4. fo. 222,
231, 232. and vide fol.
136, 137.
Fleta, lib. 4. cap. 19, 25,
26, 27. 21 E. 3. 41.
48 E. 3. 31. 21 H. 6. 46.
10 E. 4. 3.
F.N.B. 180. lib. 4. 86, 87.
in Luttrell's Case.
4 Co. fo. 85.
Vide Sect. 381.

Rosse's Cases, lib. 5. fo. 13.
5 Co. 9. b.

Now it is to be understood, that if the Lessee in that Case dieth, leaving Cestuy que vie, (that is, he for whose Life the Lease was made) he that first entreteth shall hold the Land during that other Man's Life; and he that so entreteth is within Littleton's Words, viz. Tenant pur auter vie, and shall be [a] punished for Waste as Tenant pur auter vie, and subject to the Payment of the Rent reserved, and is in Law called an Occupant (occupans) because his Title is by the first Occupation. And so if Tenant for his own Life grant over his Estate to another, if the Grantee dieth there shall be an Occupant. In like Manner it is of an Estate created by Law; for if Tenant by the Curtesy or Tenant in Dower grant over his or their Estate, and the Grantee dieth, there shall be an Occupant. But against the King there shall be no Occupant, because nullum tempus occurrit Regi. And therefore no Man shall gain the King's Land by Priority of Entry. There can be no Occupant of any Thing that lieth in Grant, and that cannot pass without Deed, because every Occupant must claim by a Que estate, and aver the Life of Cestuy que vie. It were [c] good to prevent the Uncertainty of the Estate of the Occupant to add these Words, [To have and to hold to him and his Heirs, during the Life of Cestuy que vie] and this shall prevent the Occupant, [11] and yet the Lessee may assign it to whom he will; or if he hath already an Estate for another Man's Life without these Words, then it were good for him to assign his Estate to divers Men and their Heirs during the Life of Cestuy que vie.

Note, That [d] to every Tenant for Life the Law, as incident to his Estate, without Provision of the Party, giveth him three kind of Estovers, (that is) Housbote, which is twofold, viz. estoverium edificandi & ardendi; Ploughbote, that is, estoverium arandi; and lastly, Haybote, and that is estoverium claudendi; and these Estovers must be reasonable, estoveria rationabilia. And these the Lessee may take upon the Land demised without any Assignment, unless he be restrained by special Covenant; for modus & conventio vincunt legem. Bote in the Saxon Tongue, and Estovers in the French, in this Case are all of one Signification, that is, to have Compensation or Satisfaction for these Purposes. Estovers cometh of the French Word Ekouer. And the same Estovers that Tenant for Life may have, Tenant for Years shall have.

You have perceived that our Author divideth Tenant for Life into two Branches, viz. into Tenant for Term of his own Life, and into Tenant for Term of another Man's Life: To this may be added a Third, viz. into an Estate both for Term of his own Life, and for the Term of another Man's Life.

As if a Lease be made to A. to have to him for Term of his own Life, and the Lives of B. and C. for the Lessee in this Case hath but one Freehold, which hath this Limitation; during his own Life, and during the Lives of two others. And herein is a Diversity to be observed between several Estates in several Degrees, and one Estate with several Limitations. For in the first, an Estate for a Man's own Life is higher than for another Man's Life, but in the second it is not. As if A. be Tenant for Life, the Remainder or Reversion to B. for Life, A. may

Tenant for Term of Life is, where a Man letteth Lands or Tenements to another for Term of the Life of the Lessee, or for Term of the Life of another Man. In this Case the Lessee is Tenant for Term of Life. But by common Speech, he which holdeth for Term of his own Life is called Tenant for Term of his Life, and he which holdeth for Term of another's Life is called Tenant for Term of another Man's Life.

Tenant pur terme de vie est, lou hōe leffa terres ou tenements a un auter pur terme de vie le lessee, ou pur terme de vie dun auter home, en tiel case le Lessee est Tenant a terme de vie. Mes per common parlance celuy que tient pur terme de la vie demesne, est appel Tenant pur terme de la vie, & cestuy que tient pur terme dauter vie, est appel Tenant pur tme dauter vie.