

Sect. 595.

ENSEOFFA *un auter*, &c. Here is implied, or make a Gift in Tail, or an Estate for Life. Here Littleton putteth a third Example of a Discontinuance made by Tenant in Tail, so as his Issue is put to his Formedon in the Descender, which is given to the Issue in Tail by the Statute of 13 E. 1. cap. 1. because he cannot enter.

Fleta, lib. 5. cap. 34.
F. N. B. 211, 212. Register.
4 Co. 3. b.

Tenant en taile.

This extendeth as well to a Woman Tenant in Tail as

[a] 11 H. 7. ca. 20. 381. a.
1 Cro. 244. 1 Co. 102.
10 Co. 39. b.
† Bendl. 40. † Jo. 31.
† Cro. El. 2.

to a Man, and was generally good Law when Littleton wrote, but now by the Statute of [a] 11 H. 7. if the Woman hath an Estate in Tail jointly with her Husband, or only to her self, or to her Use, in any Lands or Hereditaments of the Inheritance or Purchase of her Husband, or given to the Husband and Wife in Tail by any of the Ancestors of the Husband, or by any other Person seized to the Use of the Husband, or his Ancestors, and shall hereafter being sole, or with any other after taken Husband, discontinue, &c. the same, every such Discontinuance shall be void; and that it shall be lawful for every Person to whom the Interest, Title, or Inheritance after the Decease of the said Woman should appertain, to enter, &c. So as if such a feme Tenant in Tail do make any Discontinuance in Fee, in Tail, or for Life, although it be without Warranty, yet this doth not take away the Entry after her Death, either of the Issue, or of him in Reversion, or Remainder. This Statute hath been excellently expounded by divers Resolutions and Judgments [b] which I have quoted in the Margent, and are worthy of due Observation.

[b] Dyer 3 & 4 Ph. & Mar. 146. Idem 8 El. 248.
17 El. 340. Idem 19 El. 354.
27 H. 8. 23. Lib. 5. fol. 79. Firzh Case.
Lib. 8. fol. 71, 72.
F. N. B. 211.
3 Co. 88.
F. N. B. 217.

If Lands were entailed to a Man and to his Wife, and to the Heirs of their two Bodies, and the Husband had made a Feoffment in Fee, and died, and then the Wife died, this had been a Discontinuance at the Common Law: For the Title of the Issue is as Heir of both their Bodies, and not as Heir to any one of them, and his Entry must ensue his Title or Action.

De Formedon. De forma donationis, so called, because the Writ doth comprehend the Form of the Gift. And there be three Kinds of Writs of Formedon, viz. The first in the Descender to be brought by the Issue in Tail, which claim by Descend per formam doni. The Second is in the Reverter, which lieth for him in the Reversion, or his Heirs or Assigns after the State-tail be spent. The Third is in the Remainder, which the Law giveth to him in the Remainder, his Heirs or Assigns, after the Determination of the State-tail; of all which you may read in the Register, and F. N. B.

Here Littleton sheweth that the Issue in Tail shall have a Formedon in the Descender; what other Actions Tenant in Tail may have, and not have, is good to be seen.

[c] 4 E. 3. 38. 43 E. 3. 25.
4 E. 4. 25. F. N. B. 124.
[d] 2 E. 2. Droit 28.

[c] Tenant in Tail shall have a Quod permittat.
[d] Tenant in Tail shall have a Writ of Customs and Services in le deber & solet, but shall not have it in the Debet only.

In like Manner he shall have a Secta ad molendinum in le deber & solet, but not in the Debet tantum.

[e] 21 E. 3. 11. 5 E. 3. 23.
11 H. 4. 49.

[e] Tenant in Tail shall have a Writ of Entre in consimili casu, and an Admeasurement, and a Nativus habendo, Cessavit, Escheat, Waste, and the like.

[f] 2 E. 3. Droit 28.
13 H. 7. 24. 5 E. 4. 2.
20 E. 3. Avowry 131.
F. N. B. 10. 46 E. 3. tit. Cui in vita 33.

[f] But Tenant in Tail shall not have a Writ of Right Sur disclaimer, nor a Quo jure, nor a Ne injuste vexes, nor a Nuper obiit, or Rationabili parte, nor a Mortdancestor, nor a Sur cui in vita; for these and the like, none but Tenant in Fee shall have: And the highest Writ that a Tenant in Tail can have is a Formedon.

ALso if Tenant in Tail of certain Land, thereof enfeof another, &c. and hath Issue and dieth, his Issue may not enter into the Land, albeit he hath Title and Right to this, but is put to his Action, which is called a Formedon en le descender, &c.