

(Covel Inst Jur Angl. Lib. 2 Tit. 16. D. 3. ubi dicitur quod dicitur de Roman Law b. 11.)

Having thus explain'd the different Kinds of limited Property, all
 Fees, I shall now set forth those lesser Interests burdening Property
 termed Liferents

Tit. 3.

of Liferents in general.

The Practice of settling the Liferent of a Thing without the Pro-
 perty, is natural in Society, not only because of the indefiniteness of Liberty,
 all Sorts of Contracts, but also because of the Usefulness of settling
 on many Occasions the Right of Property from that of the
 present Enjoyment.

A Liferent is a Right to use and enjoy a Thing which is not
 our own, for Life, without destroying, spoiling or diminishing it, called in the
 Roman Law Usufruct l. 4. ff. de Usufruct.

Seeing it is the Nature of all Liferents to use the Subject Liferent
salva ipsius substantia, Liferentors must give the necessary Security
 to the Proprietor not to destroy the Buildings, Orchards Woods, Stacks
 Parks, Meadows or Dovecotes (that is, Pigeon-Houses;) but to preserve
 take the same Care of them as a good Husband would do of what belongs to
 him, and to hold them in the same Case they receive them. Act 25. Par. 2.
 J. 4. Act 15. Par. 4. J. 5. Act 22. 6. Par. 14. J. 6. This Surety, called
 the civil Law cautio usufructuaria, is to be taken by the proper Sheriff
 Stewart ~~or Bailie~~ Bailie of the Royalty or Regality or Magistrate
 of the Burgh, when required by the Feor, under the Pain of being liable
 to him for Damages thro' not exacting Surety, and the Sheriff or other Offi-
 cial is empowered to charge the Liferentor personally, or at the head
 of the Burgh of the Shire where the Lands lie, to find Surety within 23 Days
 under the Pain of losing the Profit of the Lands to the King till Surety
 be found. Act 15. Par. 4. J. 5. All Liferentors by Force or Court
 as well as by Paction, are obliged to find Caution. Stat. Lib. 2. Tit. 6. ff.
 Liferentors by Tack for an inconsiderable or trifling Duty must also
 give Surety. 23 January 1635. L. Caddel contra Boid. For if it were not
 so, the Law about finding Caution might be disappointed by Persons
 taking such Tacks in lieu of Liferent Investments. But this is not to
 be extended to those who have Liferent Tacks for Payment of an equi-
 valent Duty to whom the Feoror is rather obliged to keep up the House
 than they should be able to do it for him. M. Kenzie Observ. on Act 15. Par.
 4. J. 5. The Donatory of a Tackman's Liferent Escheat is bound

as the Tackman himself to find Surety 23 January 1635. L.
 Caddel contra Boid. Consequently the King is liable for the
 the Liferent Escheat in his own Hand: Seeing it were hard that the King
 should be in a worse Case, and have his Estate exposed to Mismanage-
 ment by a Liferentor's Rebellion or Crimes. But Peregrinus (de jure
 fisci Tit. 1. n. 35) is of Opinion, that *usufructu fisco legato, fisco
 non satisfacit de utendo fruendo boni viri et vitio*, as if Surety in that Case
 seem'd tacitly remitted by the Intention of the Testator. Albeit in
 some Cases cautio juratoria is allowed, and Perseus. 23 of
 Opinion, that it is receivable from Liferentors & offerors sit boni viri
 et probata vite: Yet there is no Reason for accepting such Caution
 from Liferentors. Tail 2 Observ. 47. M. Kenzie Jbid. Seeing it cannot
 secure the Feoror more than in the Case of Remainders. Nor is a Liferentor
 free from finding Caution, upon an Offer to quit the Possession to the
 Feoror for Payment of the Rent 23. March 1626. Foulis contra
 Allan: A Relief Liferenting all her Husband's Goods should sell the
 Horse Oxen and perishable Goods, to the End she may Liferent the same,
 and make the Money forthcoming after her Death to those having Interest.
 But a reasonable Time ought to be allow'd her for that Effect. And she is
 not liable for the Goods perishing in that Time 26 July 1666. Menzies contra
 Burnett observed by Dirlleton.

Where Liferented Lands within Burgh are ruinous or burnt, i. e.
 Magistrates must at the Instance of the Feorors take ^{summary} Cognition
 thereof by an Inquest of Neighbours, upon Citation of the Liferentor,
 and ordain him to repair them within a Year, after elapsing whereof with-
 out Performance by the Liferentor, the Feoror may enter to the Pos-
 session, upon finding Security to pay to the Liferentor the Rent the
 House might give the Time of the Cognition Act 22. 6. Par. 14. J. 6.
 The Feoror of ruinous or burnt Lands is, for maintaining the Policy of
 the Burgh, allowed to repair, he paying to the Liferentor the yearly Profit
 these Houses in such a decayed Condition can afford 23 March 1626
 Foulis contra Allan. Because a Liferentor, who has only a temporary
 Right cannot be obliged to repair ruinous or burnt Lands. But the Fee
 of a casually burnt Tenement repaired and rebuild'd by the Liferentor,
 is affected with the principal Sum expended in the Reparation 20
 Feb. 1706. Haldray and Temple contra Gardin of Greenhill as negoti-
 um gestum in rem verum to the Feor, but not with the Annual Rent
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