whether the conveyance be at common law or by limitation of an use, and a devisee is within its equity, see 2 Harr. Ent. 700; and so is a tenant for years of a moiety, third or fourth part *pro indiviso* of the land, and so are the tenants mentioned in the note to 52 H. 3, c. 23, s. 2. It is said, however, by Lord Coke, that if a woman lessee for life, take a husband who does waste and the wife dies, the husband shall not be punished by this law, for the words are, a man that holds for life, &c. and the husband did not hold for life, but only in right of his wife, and see Co. Litt. 54 a; Clifton's case, 5 Rep. 75 b. There are a great variety of cases mentioned in the books, in which a *feme-covert* is, and others in which she is not, held liable for waste committed by her husband, which need not be introduced in this place.

By Art. 93, sec. 290 of the Code, a widow committing waste in the lands of the deceased is liable to an action by the heir or devisee,[1] and if she marry a second husband, he shall be liable for any waste committed by her before marriage or by himself.

Action of waste in Maryland.—The records of the State show that the writ of waste and indeed the writ of *estrepement* were once in common use in Maryland, 1 Harr. Ent. 700, 701, 702; 2 Harr. Ent. 149, 800; Adams v. Brereton, 3 H. & J. 124; Act of 1763, ch. 18, secs. *89 and 94, and 1779, **85** ch. 25, sec. 2. The case in 1 Harr. Ent. 700, was compromised and in that on p. 702, the verdict was not guilty. In England the action of waste has been abolished by Stat. 3 & 4 W. 4, c. 27, s. 36, and there as here, long before the passage of the last mentioned Statute, it had fallen into disuse, an action on the case in the nature of waste being substituted as a much more expeditious and convenient remedy.[2] This latter may be brought by the reversioner or remainderman *for life or years*, provided the reversion continue in the same state as it was at the time of the waste done, McLaughlin v. Young, 5 H. & J. 113, where the plaintiff, having rented a tenement for one year, rented a room in it to the defendant for two years, taking the risk of obtaining another year's lease; the defendant committed waste, and it was held that the plaintiff having parted with his whole interest could not maintain this action; Green v. Cole, 2 Wms. Saund. 252, n. 7; see Bacon v. Smith, 1 Q. B. 345, where A. and his wife were seized for their joint lives and the life of the survivor; all the estate of A. vested in the defendant, who permitted waste during A.'s life; and it was held that the wife surviving could not maintain an action against the defendant for that waste; while

[1] "Or his guardian" added by the Act of 1880, ch. 253. (Code 1911, Art. 93, sec. 307.)

[2] In Dickinson v. Baltimore, 48 Md. 583, is found a clear explanation of the old action of waste and also of the action on the case in the nature of waste by which the old action has been supplanted. The case decides that privity is no longer necessary in the modern action, as it may be brought against a stranger; and that the plaintiff may maintain the action after alienation of his interest during its pendency to the party committing the waste.

A similar discussion of the old and the modern action is found in Woodhouse v. Walker, 5 Q. B. D. 404.