to have been reached that tenants for years are liable (for permissive waste), but not tenants for life." For the proposition that tenants for years are so liable is cited Davies v. Davies, 38 Ch. D. 499.

This decision proceeds upon the authority of Yellowly v. Gower, 11 Ex. 274, in which it is thus held: "We conceive that there is no doubt of the liability of tenants for terms of years, for they are clearly put on the same footing as tenants for life, both as to voluntary and permissive waste, by Lord Coke, 1 Inst. 53, Harnet v. Maitland, 16 M. & W. 257:" at p. 294.

The question as to a tenant for life or for years being liable for permissive waste was treated as an open one in Woodhouse v. Walker, 5 Q. B. D. 404.

In Davies v. Davies, supra, Kekewich, J., held that a tenant for years was so liable, but in a later case of Re Cartwright, 41 Ch. D. 532, where the same liability was argued to attach to a tenant for life and one for years, it was held that the tenant for life was not liable to an action for permissive waste. The closing words of Mr. Justice Kay are: "At the present day it would certainly require either an Act of Parliament or a very deliberate decision of a Court of great authority to establish the law that a tenant for life is liable to a remainderman in case he should have permitted the buildings on the land to fall into a state of dilapidation:" p. 536. That case was followed by North, J., in Re Parry and Hopkin, [1900] 1 Ch. 160.

Upon this state of authorities in England it is said in the last edition of Ringwood on Torts (1906), p. 169, that, in view of the conflicting cases, the point as decided in Davies v. Davies cannot be considered as clear.

Re Cartwright was followed by me in Patterson v. Central Canada Loan and Savings Co., 29 O. R. 134, so far as relates to a tenant for life, and also by Mr. Justice Teetzel in Monro v. Toronto R. W. Co., 9 O. L. R. at p. 305, 3 O. W. R. 14, but he held that the lease in that case was void under the authority of Davies v. Davies, without adverting to the uncertainty as to the present authority of that decision. However, in the Monro case the acts permitted by the lease were clearly such as involved actual waste—as it sanctioned the cutting down of trees for park purposes—and it would be a void instrument under sec. 42 of the Settled Estates Act, at the option of the remaindermen.