

12 Co. Case of Stan-
neries.

Mir. des Justic. 1. sect. 3.
Customs de Normandy.
cap. 28.

Stat. de 16 R. 2. cap. 5.
14 El. Dy. 213. a. Lib. 1. 47.
in Alton Wood's Case.
1 Cro. 82.

Bract. lib. 1. cap. 8.

Post 189. a.
Brit. f. 207, 208. Fleta
lib. 5. c. 5. & lib. 3. c. 8.
Bract. lib. 4. 263.
4 Inst. 202.
Domesday. Mir. des Just.
c. 2. sect. 15, 17. Bract. l. 2.
c. 5, 6, 7. Brit. c. 34. f. 89.
Flet. lib. 3. c. 2. 8 & 9.
& lib. 5. cap. 5.
[a] Bract. f. 263, & 207.
18 H. 8. 3. b. 18 Aff. 5.
18 E. 3. 46. 24 E. 3. 28.
9 E. 4. 18. 16 H. 7. 4.
22 R. 2. Disc. 50. 12 E. 4. 3.
15 E. 4. 8. 12 H. 8. 8.
The Case of a Person
which hath a qualified
Fee, fee in the Title of
Desc.
2 Inst. 296.
* Vide Sect. 4.
[b] Bract. l. 4. f. 263.
Flet. l. 5. c. 5. 9 Co.
34. b.
[c] 2 Aff. 4. 12 Aff. 38.
12 E. 3. tit. Hors de soh
fee 28. Hob. 108.
Rot. Par. 13 E. 1.
Doc. plac. 132, 216.
7 Co. 33. Nevill's Case.

the King. For in the Law of
England we have not pro-
perly, Allodium, that is,
any Subjects Land that is
not holden, unless you will
take Allodium, for Ex solido,
as it is often taken in the
Book of Domesday: And
Tenants in Fee-simple are
there called Alodarii or
Aloarii. And he is called a
Tenant, because he holdeth
of some superior Lord by
some Service. And there-
fore the King in this Sense
cannot be said to be a Te-
nant, because he hath no Su-
perior but God Almighty;
Prædium Dni. Regis est di-
rectum dominium, cuius
nullus Author est nisi Deus.
And as Bract saith, Omnis
quidem sub eo, & ipse sub
nullo nisi tantum sub Deo.

The Possessions of the King are called Sacra Patrimonia and Domi-
nica Coronæ Regis. But though a Subject hath not properly Directum, yet hath he Utile Do-
minium. Of these Tenants our Author speaketh in his second Book. 3. Also Tenere signifieth
Performance, as in the Writ of Covenant, Quod teneat conventionem, that is, That he hold or
perform his Covenant. 4. And likewise it signifieth to be bound, as it is said in every common
Obligation, teneri & firmiter obligari. 5. Lastly, It signifieth to deem or judge, as in 38 E. 3.
c. 4. It shall be holden for none (that is) judged or deemed for none, and so we commonly say,
It is holden in our Books. And these several Significations do properly belong to our Tenant
in Fee-simple. For he hath the Estate of the Land, he holdeth the Land of some superior Lord,
and is to perform the Services due, and thereunto he is bounden by Doom and Judgment of
Law. Of the several Estates of Land our Author treateth in his first Book, and beginneth
with Fee-simple, because all other Estates and Interests are derived out of the same.

Fee-simple. Fee cometh of the French Fief, (i. e. prædium beneficiarium) and legally
signifieth Inheritance, as our Author himself hereafter expoundeth it. And simple is added, for
that it is descendible to his Heirs generally, that is, simply, without Restraint to the Heirs of
his Body, or the like. Feodum est quod quis tenet ex quacunque causa, sive sit tenementum, sive
redditus, &c. In Domesday it is called Feodum. [a] Of Fee-simple, it is commonly holden that
there be three Kinds, viz. Fee-simple absolute, Fee-simple conditional, and Fee-simple quali-
fied, or a base Fee. But the more genuine and apt Division were to divide Fee, that is Inheri-
tance, into three Parts, viz. simple or absolute, conditional, and qualified or base. For this Word
(simple) properly excludeth both Conditions and Limitations, that defeat or abridge the Fee.
* Hereby it appeareth that Fee in our legal Understanding signifieth, that the Land belongs
to us and our Heirs, in Respect whereof the Owner is said to be seized in Fee; and in this
Sense the King is said to be seized in Fee. [b] It is also taken, as it is holden of another by
Service, and that belongeth only to the Subject; Item dicitur feodum alio modo ejus qui alium
feoffat, & qd' quis tenet ab alio, ut si sit qui dicat, talis tenet de me tot feoda per servitium mili-
tare. And Fleta saith, Poterit unus tenere in feodo quoad servitia, sicut Dominus capitalis, &
non in Dominico; alius in feodo & Dominico, & non in servitio, sicut libere tenens alicujus.
[c] And therefore if a Stranger claim a Seignior, and distress and abow for the Service, the
Tenant may plead, That the Tenancy is extra feodum, &c. of him, (that is) out of the Sei-
gnior, or not holden of him that claimeth it, but he cannot plead extra feodum, &c. unless he
take the Tenancy, that is, the State of the Land upon him. [1] Of Fee in the first Sense
our Author treateth in this first Book; and as it is taken in the second Sense, in his second
Book: And of the Third you shall read in our Author, Sect. 13, 643, 644, 645. and plenti-
fully in our Books quoted in the Margent.

Terres or Tenements. Here is to be observed, That a Man may have a Fee
simple in three Kinds of Hereditaments, viz. Real, Personal, and Mixt: Real, † as Lands
and Tenements, whereof our Author here speaketh. Personal, as King Edward the first,
in the thirteenth Year of his Reign, Concessit Edmundo fratri suo charissimo, quod ipse & hæ-
redes sui habeant ad requisitionem suam in Cancellaria nostra & hæredum nostrorum Justi-
ciarios

† By the Word Tenement a Reversion will pass. Pl. Com. 155. a. And Offices, Rents, Commons, Profits
apprender, &c. Post 6. †