

§ 2. And if a man purchase land in fee simple and die without issue, he which is his next cousin collateral of the whole blood, how far so ever he be from him in degree, may inherit and have the land as heir to him.

§ 3. But if there be father and son, and the father hath a brother that is uncle to the son, and the son purchase land in fee simple, and die without issue, living his father, the uncle shall have the land as heir to the son, and not the father, yet the father is nearer of blood; because it is a maxim in law that inheritance may [lineally]¹ descend, but not ascend. Yet if the son in this case die without issue, and his uncle enter into the land as heir to the son, (as by law he ought,) and after² the uncle dieth without issue, living the father, the father shall have the land as heir to the uncle, and not as heir to his son, for that he cometh to the land by collateral descent, and not by lineal ascent.

§ 4. And in case where the son purchaseth land in fee simple, and dies without issue, they of his blood on the father's side shall inherit as heirs to him, before any of the blood on the mother's side: but, if he hath no heir on the part of his father, then the land shall descend to the heirs on the part of the mother.³ But, if a

¹ Throughout this edition brackets in the text indicate that according to the best French texts the inclosed words are spurious.

² *I. e.* afterwards.

³ In some of the later French texts there is here inserted the following passage:—

“And this was the opinion of all the justices, M. 12 E. IV. But it was there held, if land descend to a man on the part of his father, who dies without issue, that his next heir, on the part of

man marrieth an inheritrix of lands in fee simple, who hath issue a son, and die, and the son enter into the tenements, as son and heir to his mother, and after dies without issue, the heirs of the part of his mother ought to inherit, and not the heirs of the part of the father. And, if he hath no heir on the part of the mother, then the lord, of whom the land is holden, shall have the land by escheat. [In the same manner it is, if lands descend to the son of the part of the father, and he entereth, and afterwards dies without issue, this land shall descend to the heirs on the part of the father, and not to the heirs on the part of the mother. And if there be no heir of the part of the father, the lord of whom the land is holden, shall have the land by escheat.] And so see the diversity, where the son purchaseth lands or tenements in fee simple, and where he cometh to them by descent on the part of his mother, or on the part of his father.

§ 5. Also if there be three brethren, and the middle brother purchaseth lands in fee simple, and die without issue, the elder brother shall have the land by de-

his father, shall inherit to him, that is to wit, the next who is of the blood of the father on the part of the father of the father: and for default of such heir, those who are of the blood of the father on the part of the mother of the father, viz. the grandmother, shall inherit. And if there is no such heir on the part of the father, then the lord shall have the land by escheat.”

Coke does not print this interpolation; and Hargrave and Butler's notes to Coke upon Littleton say of it: “But this passage is not in any edition prior to Redman's, and seems an addition to Littleton by another hand, and to be an opinion extracted from 12 E. IV. 14, pl. 12, which is indeed cited in the margin of Redman.”

scient and not the younger, &c. And also if there be three brethren, and the youngest purchase lands in fee simple, and die without issue, the eldest brother shall have the land by descent and not the middle, for that the eldest is most worthy of blood.

§ 6. Also, it is to be understood, that none shall have land of fee simple by descent as heir to any man, unless he be his heir of the whole blood. For if a man hath issue two sons by divers venters, and the elder purchase lands in fee simple, and die without issue, the younger brother shall not have the land, but the uncle of the elder brother, or some other his next cousin shall have the same because the younger brother is but of half blood to the elder.

§ 7. And if a man hath issue a son and a daughter by one venter, and a son by another venter, and the son of the first venter purchase lands in fee and die without issue, the sister shall have the land by descent, as heir [to her brother,] and not the younger brother, for that the sister is of the whole blood of her elder brother.

§ 8. And also, where a man is seised of lands in fee simple, and hath issue a son and daughter by one venter, and a son by another venter, and die, and the eldest son enter, and die without issue, the daughter shall have the land, and not the younger son, yet the younger son is heir to the father, but not to his brother. But if the elder son doth not enter into the land after the death of his father, but die before any entry made by him, then

the younger brother may enter, and shall have the land as heir to his father. But where the elder son in the case aforesaid enters after the death of his father, and hath possession, there the sister shall have the land, because *possessio fratris de feodo simplici facit sororem esse hæredem*. But if there be two brothers by divers venters, and the elder is seised of land in fee, and die without issue, [and his uncle enter as next heir to him, who also dies without issue,] now the younger brother may have the land as heir to the uncle, for that he is of the whole blood to him, albeit he be but of the half blood to his elder brother.

§ 9. And it is to wit, that this word (*inheritance*) is not only intended where a man hath lands or tenements by descent of inheritance, but also every fee simple [or tail] which a man hath by his purchase may be said an inheritance, because his heirs may inherit him. For in a writ of right which a man bringeth of land that was of his own purchase, the writ shall say, *quam clamat esse jus et hæreditatem suam*. And so shall it be said in divers other writs which a man or woman bringeth of his own purchase, as appears by the Register.

§ 10. And of such things, whereof a man may have a manual occupation, possession, or receipt, as of lands, tenements, rents, and such like, there a man shall say in his count countant, and plea pleadant, that such a one was seised in his demesne as of fee. But of such things, which do not lie in such manual occupation, &c., as of

an advowson of a church and such like, there he shall say, that he was seised as of fee, and not in his demesne as of fee. And in Latin it is in one case, *quòd talis seisitus fuit in dominico suo ut de feodo*, and in the other case, *quòd talis seisitus fuit, &c., ut de feodo*.

§ 11. And note, that a man cannot have a more large or greater estate of¹ inheritance than fee simple.

§ 12. Also, purchase is called the possession of lands or tenements that a man hath by his deed or agreement, unto which possession he cometh not by title of descent from any of his ancestors, or of his cousins, but by his own deed.

¹ Instead of "of," the best French texts authorize "or."

CHAPTER II.

FEE TAIL.

§ 13. Tenant in fee tail is by force of the statute of Westminster II.,¹ *cap.* 1; for before the said statute, all inheritances were fee simple; for all the gifts which be specified in that statute were fee simple conditional at the common law, as appeareth by the rehearsal of the same statute. And now by this statute, tenant in tail is in two manners, that is to say, tenant in tail general, and tenant in tail special.

§ 14. Tenant in tail general, is where lands or tenements are given to a man, and to his heirs of his body begotten. In this case it is said general tail, because whatsoever woman; that such tenant taketh to wife, (if he hath many wives, and by every of them hath issue,) yet every one of these issues by possibility may inherit the tenements by force of the gift, because that every such issue is of his body engendered.

§ 15. In the same manner it is, where lands or tenements are given to a woman, and to the heirs of her body; albeit that she hath divers husbands, yet the issue,

¹ 13 E. I. (1285).