ſuch eſtates of the ſubject as are not holden of any ſuperior. So that at the firſt glance we may obſerve, that our lands are either plainly feuds, or partake very ſtrongly of the feo­dal nature.

All tenures being thus derived, or ſuppoſed to be derived, from the king, thoſe that held immediately under him, in right of his crown and dignity, were called his *tenants in ca­pite, or in chief ;* which was the moſt honourable ſpecies of tenure, but at the same time ſubjected the tenants to greater and more burdenſome ſervices than inferior tenures did. And this diſtinction ran through all the different sorts of tenure.

There ſeem to have ſubſiſted among our anceſtors four principal ſpecies of lay tenures, to which all other may be reduced : the grand criteria of which were the natures of the ſeveral ſervices or renders that were due to the lords from their tenants. The ſervices, in reſpect of their quality, were either *free* or *baſe* ſervices : in reſpect of their quantity and the time of exacting them were either *certain* or *uncer­tain.* Free ſervices were ſuch as were not unbecoming the character of a ſoldier or a freeman to perform ; as to ſerve under his lord in the wars, to pay a ſum of money, and the like. Baſe ſervices were ſuch as were fit only for peaſants or perſons of a ſervile rank ; as to plough the lord’s land, to make his hedges, to carry out his dung, or other mean em­ployments. The certain ſervices, whether free or baſe, were ſuch as were ſtinted in quantity, and could not be exceeded on any pretence ; as, to pay a ſtated annual-rent, or to plough ſuch a field for three days. The uncertain depend­ed upon unknown contingencies ; as, to do military ſervice in perſon, or pay an aſſessment in lieu of it when called up­on ; or to wind a horn upon the appearance of invaders ; which are free ſervices ; or to do whatever the lord ſhould command ; which is a baſe or villein ſervice.

From the various combinations of theſe ſervices have ariſen the four kinds of lay-tenure which ſubſiſted in England till the middle of the laſt century ; and three of which ſubſiſt to this day. Oſ theſe Bracton (who wrote under Hen­ry the Third) ſeems to give the cleareſt and moſt compen­dious account of any author ancient or modern ; of which the following is the outline or abſtract : “ Tenements are of two kinds, f*rank-tenement,* and *villenage.* And of frank- tenements, ſome are held freely in conſideration of homage and knight-ſervice ; others in free-ſocage, with the ſervice of fealty only. And again, of villenages, ſome are *pure,* and others *privileged.* He that holds in pure villenage ſhall do whatſoever is commanded him, and always be bound to an uncertain ſervice. The other kind of villenage is called *vil­lein-ſocage ;* and theſe villein-ſocmen do villein-ſervices, but ſuch as are certain and determined.” Of which the ſenſe ſeems to be as follows ; firſt, where the ſervice was free, but uncertain, as military ſervice with homage, that tenure was called the *tenure in chivalry, per ſervitium militare,* or by knight-ſervice. Secondly, where the ſervice was not only free, but alſo certain, as by fealty only, by rent and fealty, &c. that tenure was called *liberum socagium,* or *free ſocage.* Theſe were the only free holdings or tenements ; the others were villenous or ſervile ; as, thirdly, where the ſervice was baſe in its nature, and uncertain as to time and quantity, the tenure was *purum villenagium,* abſolute or pure villenage. Laſtly, where the ſervice was baſe in its nature, but reduced to a certainty, this was ſtill villenage, but diſtinguiſhed from the other by the name of *privileged villenage, villena- gium priνilegiatum ;* or it might be ſtill called *ſocage* (from the certainty of its ſervices), but degraded by their baſeneſs into the inferior title of *villanum ſocagium,* villein-ſoc­age.

1. The military tenure, or that by knight-ſervice, was done away by ſtat. 12 Car. IT. For an account of this ſpecies of tenure ſee feodal *System,* and Knight*-Service; ;* and for its incidents, ſee Relief, Primer-seisin, Ward­ship, Marriage, Fines, and Escheat.

2. The ſecond ſpecies of tenure or free-ſocage, not only ſubſiſts to this day, but has in a manner abſorbed and ſwal lowed up (ſince the ſtatute of Charles the Second) almoſt every other ſpecies of tenure. See Socage.

The other grand diviſion of tenure, mentioned by Bracton, is that of villenage, as contradiſtinguiſhed from *liberum tenementum,* or frank-tenure. And this (we may remember) he ſubdivides into two claſſes, pure and privileged villenage: from whence have ariſen two other ſpecies of our modern tenures.

3. From the tenure of pure villenage have ſprung our preſent copyhold tenures, or tenure by copy of court-roll at the will of the lord ; in order to obtain a clear idea of which, it will be previouſly neceſſary to conſult the articles Manor and Villenage.

As a farther conſequence of what has been there explain­ed, we may collect theſe two main principles, which are held to be the ſupporters of a copyhold-tenure, and with­out which it cannot exiſt; 1. That the lands be parcel of and ſituate within that manor under which it is held. 2. That they have been demiſed, or demiſable, by copy of court-roll immemorially. For immemorial cuſtom is the life of all tenures by copy ; ſo that no new copyhold can, ſtrictly ſpeaking, be granted at this day.

In ſome manors, where the cuſtom hath been to permit the heir to ſucceed the anceſtor in his tenure, the eſtates are ſtyled *copyholds of inheritance;* in others, where the lords have been more vigilant to maintain their rights, they re­main copyholds for life only ; for the cuſtom of the manor has in both caſes ſo far ſuperſeded the will of the lord, that, provided the ſervices be performed or ſtipulated for by feal­ty, he cannot in the firſt instance refuſe to admit the heir of his tenant upon his death ; nor, in the ſecond, can he re­move his preſent tenant ſo long as he lives, though he holds nominally by the precarious tenure of his lord’s will.

The fruits and appendages of a copyhold-tenure, that it hath in common with free tenures, are fealty, ſervices (as well in rents as otherwiſe), reliefs, and eſcheats. The two latter belong only to copyholds of inheritance ; the former to thoſe for life alſo. But, beſides theſe, copyholds have alſo-heriots, wardſhip, and fines. Heriots, which are agreed to be a Daniſh cuſtom, are a render of the beſt beaſt or other good (as the cuſtom may be) to the lord on the death of the tenant. This is plainly a relic of villein tenure ; there being originally leſs hardship in it; when all the goods and chattels belonged to the lord, and he might have ſeized them even in the villein’s lifetime. Theſe are incident to both ſpecies of copyhold ; but wardſhip and fines to thoſe of inheritance only. Wardſhip, in copyhold-eſtates, par­takes both of that in chivalry and that in socage. Like that in chivalry, the lord is the legal guardian, who uſually assigns ſome relation of the infant tenant to act in his ſtead : and he, like guardian in ſocage, is accountable to his ward for the profits. Of fines, ſome are in the nature of primer- ſeiſins, due on the death of each tenant, others are mere fines for alienations of the lands ; in ſome manors, only one of thoſe sorts can be demanded, in ſome both, and in others neither. They are ſometimes arbitrary and at the will of the lord, ſometimes fixed by cuſtom ; but, even when arbi­trary, the courts of law, in favour of the liberty of copy­holders, have tied them down to be reaſonable in their ex­tent ; otherwiſe they might amount to diſheriſon of the eſtate. No fine therefore is allowed to be taken upon deſcents and alienations (unleſs in particular circumſtances) of