

**THE ENGLISH LAND LAWS:
BEING AN ACCOUNT OF THEIR
HISTORY, PRESENT FEATURES,
AND PROPOSED REFORMS**

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The English Land Laws: Being an Account of Their History, Present Features, and Proposed Reforms by Samuel Moss

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BY

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INTRODUCTION.

THE Land Question is one which before very long must hold the foremost rank in the line of English politics. It is a question which materially affects the well-being of our working population generally: but it must be of more special interest to those of the rural districts,—to those “two millions”—who, by reason of their late political enfranchisement, have become a power in the state which neither party can afford to despise. They are no longer compelled to obey laws in the making of which they have had no voice: and legislation concerning the soil they till is no longer at the mercy of those whose interest it was to make laws for the benefit of a class and to maintain the unjust privileges of a landed aristocracy. The Agricultural Labourers are now indeed responsible citizens of a great country,—responsible because they at last form part of that democracy into whose hands we have placed the destinies of England. And if the great questions of the day are clearly placed before them, at any crisis of our nation’s history, I do not think we shall ever have reason to doubt the wisdom or the patriotism of their decision.

That the existing state of our Land Laws is unsatisfactory, both political parties—Liberal and Conservative—are, I think, agreed. But they differ as to the method and extent of the Reforms. They approach the question, too, from a different standpoint. The Conservative, naturally mindful of the enormous strength and additions which his party has obtained from the many privileges and social

power and position of the great landowners during the past, is likely to approach the question with a strong bias in favour of the existing state of things; while the Liberal, in a great measure freed from these associations, would be more inclined to legislate in accordance with the wishes of a peasant democracy of his own creation. At the last election, the "Irish Problem" appeared to absorb everything else. But whenever this is settled, possibly before, it is quite probable that the country may be called upon to decide which party shall attempt to pass (amongst other things) an extensive measure of Land Law Reform. But on whichever party the duty of Reform may ultimately fall, the general public (and especially the Agricultural Labourers), in order to enable them to come to a right conclusion in the matter, should in the meantime be put in possession of all the facts of the case, and more especially with those features of it which may hereafter be made the subject of Reform.

To contribute to this object, although on a very small scale, and in a very humble manner, is the purport of the following pages. They originally formed a series of three lectures, which were delivered to an audience almost entirely agricultural; and they afterwards appeared in *The Wrexham Advertiser*, from which they are, for the most part, reprinted.

S. M.

CHESTER.
November, 1886.

THE ENGLISH LAND LAWS.

PART I.—THEIR ORIGIN;

OR

LAND-TENURE IN ENGLAND FROM THE CONQUEST TO THE YEAR 1660.

To understand thoroughly the present features of any land system (and one should understand these in order to know what reforms, if any, may be desirable), one should know something of its origin and history. And to give an account of the origin of the English Land System is to give an account of Feudalism, because this forms the basis or sub-structure on which has been built, generation after generation, the complicated pile of English Real Property Law. Much that is now vague and indefinite, much that we cannot at first sight understand, and much that seems in its present form stupid and absurd, will, by a knowledge of the system from which it has all sprung, at once seem, at any rate in ancient times, to have been systematic and reasonable, and to have sprung from the needs of the times. The present defects will be seen to arise from the absurd mistake of maintaining the remnants of a system which belongs to the age of the remote past, to an age of ignorance and barbarism, when might was right, and the strongest baron and his retainers the only law. The Feudal System is best considered under four aspects: (i.) its origin; (ii.) its essential features; (iii.) its incidents or abuses; (iv.) the different kinds of estates or tenures held under it.

I.—ITS ORIGIN.

There has been much discussion as to the origin of Feudalism; but we may here state that the *tendency* of most European countries was to develop a system, similar in some respects to that of Feudalism, prior to the time when this system was actually established. We find traces of this in the Roman Law, which of all others has left us the most perfect records of ancient times. For example, the Roman system of *colonatus*, by means of which persons (termed "*coloni*") were attached to the soil in a kind of honourable servitude; the Roman practice (in more modern times adopted by Austria) of establishing a *military frontier*, by means of which the Emperors parcelled out lands on the frontier to hired foreigners, who, in return for the enjoyment of the land, would defend it against all aggressors,—chief of whom were the Germans; and the Roman system of *Emphyteusis*, by means of which proprietors, in order to get their lands cultivated, would grant them to other persons in perpetuity on payment of a small annual rent called *pensio*; and so long as this was paid the tenant could not be evicted. All these are supposed by some to contain traces of Feudalism.

But the real beginning of this system dates from the first part of the fifth century, when the barbarous hordes from Germany poured across into the Roman provinces, subjugated their peoples, and took possession of their lands. Having conquered a province, the conqueror after a time would retain the greater portion of the appropriated lands for himself, and divide the rest (with the exception of a meagre allowance to the natives) among his soldiers, as *free and independent shares*. This they held free from all feudal burdens. All that was required of them was to bear arms in defence of the country against hostile attack. This was called *Allodial property*, i.e. property held free from all