

**SHORT LECTURES  
EXPLANATORY OF OUR LAND  
LAWS; DELIVERED AT THE  
WORKING MEN'S COLLEGE**

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Short lectures explanatory of our land laws; Delivered at the working men's college by Thomas Lean Wilkinson

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**THOMAS LEAN WILKINSON**

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EXPLANATORY OF  
OUR LAND LAWS

*DELIVERED AT THE WORKING MEN'S COLLEGE*

BY  
THOMAS LEAN WILKINSON

*OF THE INNER TEMPLE, BARRISTER-AT-LAW*

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THE following LECTURES were delivered during the present month to the Students of the Working Men's College, Great Ormond Street, London. The author's object was humble: it was merely to give such a concise and simple sketch of the main outlines of a portion of our law, now receiving much public attention, as would interest non-professional men, to whom even the admirable class books of Mr. Joshua Williams are unknown.

*February, 1873.*

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# OUR LAND LAWS.

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## LECTURE I.

Necessity of some knowledge of the history of the land laws—Manner of holding land in England before the Conquest—Effect of the Conquest on the holding of land—Introduction of the Feudal System—Fundamental principle of the land laws—Tenure—History and description of tenures—Different classes of estates: Freeholds—Copyholds—Leases for terms of years—Varieties of freehold estates—Estate for life.

THE LAW relating to the land of this country cannot be rightly understood without some previous knowledge of its history. It is not alone that its subtle theories, fine distinctions, restrictions, forms, and terminology cannot be made clear without some reference to their origin; but the law itself is very ancient, many of its rules having come down to us from the days when the foundations of our jurisprudence were laid. Some of the commonest every-day dealings with land derive their validity from Acts of the Parliaments of Edward I. and decisions of the Judges of Edward IV., while the modern changes in the law have touched the ancient system so lightly that an acquaintance with it is necessary before the very changes can be understood.

When the bands of Teutonic invaders first settled in

England, their manner of dealing with the lands they conquered was very simple. They settled on the tract which their swords had cleared of its old owners, and occupied it as their own territory or *mark*. A large portion was set aside for the general benefit of the little community, to be enjoyed in common, or to be let on such terms as the public voice might decide, and the remainder was allotted in separate portions to the individual conquerors; the extent of each portion being, no doubt, determined by the rank or prowess of the warrior who received it, but, at the same time, care being taken that each freeman had a share of the soil he had helped to win. As the swarms from the North grew more numerous, the quantity of land thus divided increased, until it included most of ancient England.

Lands thus held by individual men were held 'allodially,' that is, the holder had no over-lord. In regard to his land, he knew 'no superior but God and the law.' This is the nearest approach to absolute property in land which can be found recognised in the whole range of English jurisprudence. But all the lands which were held allodially were not acquired by so rude a form of grant. They were not all mere booty. As English society became more settled, and shires grew out of the aggregation of marks, kingdoms out of the like aggregation of shires, and finally the supremacy of Wessex became established, the land which had been reserved for the common benefit of its conquerors—the *folkland*, as it was called—passed into the guardianship of the king and his witan. With this guardianship passed the right of giving the land away—a right very freely exercised. Numbers of

grants were made by which holdings were carved out of the common land of the realm and given to individuals. From the fact that these holdings were granted by charter they were known as *bookland*, a term which, in contradistinction to *fokkland*, came to be applied to all land held by an Englishman as his own.

But these later gifts of *bookland* were not all purely allodial. The nearer we approach the Conquest the oftener we find lands granted upon condition that the grantee should perform certain services. In fact, we reach the time when the doctrine of tenures, which forms so fundamental a portion of our land laws, had its origin. By the most ancient common law of England which has come down to us, all *bookland* was liable to three burthens: the obligation of the owner to serve against the enemy, and to contribute to the repairs of the fortresses and bridges of the kingdom. These obligations were due altogether to the commonwealth, and were imposed by the law of the land; and Englishmen who held their lands by right of the earlier allotments or grants, held them subject to these obligations only. But the services on the performance of which many later grants were made conditional were very different. They were personal services to the king or some great lord, not due by common law, but rendered as a return for a gift of lands.

The growth of the aristocracy of thegnhood and of the custom of commendation powerfully influenced this change in the manner in which the land of England was held. Thegns were not an aristocracy of blood, like the eorls. They derived their nobility from their place amongst the personal following of the king