

first. No doubt the dispossession of the tenants was regarded by the tenants themselves and by most observers as a violation of customary right; no doubt also many tenants were evicted by the strong hand, the term of whose tenure was such that they could have maintained themselves had they been able to go to law. But I hope to be able to show that, so far as the mass of copyholders were concerned, they had, at the beginning of the period, *no legal security*; that the lords knew this and acted upon it; and that the government knew it and were influenced by it. It follows from this that the law as we find it toward the end of the period in Coke, which does give the customary tenant a security of tenure, must be regarded as itself the product of the *Sturm und Drang* of the preceding century and a half.

There was a time, we can hardly doubt, when the great body of villeins all over the Midland and Southern counties¹ held their lands on much the same terms, whatever these may have been. But with the growth of royal courts of justice, and of a body of professional lawyers, distinctions came to be drawn between the tenure of this or that villein, this or that district. All their holdings were still nominally "at the will of the lord," "ad voluntatem domini,"—a phrase which must surely have meant what it says at some time.² But some were now expressly "for life," "ad vitam"; while other customary tenants, still more fortunate, held "to themselves and their heirs."³ The

¹ This limitation is added to avoid the necessity of considering for the present the peculiar tenures of some parts of Eastern and Western England.

² There seems no reason, if we put aside the unproved "mark theory," why we should not agree with what Coke says in the matter, especially as he seems to point to a survival of the earlier conditions as existing in his own time: "These tenants in their birth, as well as the Customary Tenants upon the Borders of Scotland who have the name of Tenants, were mere Tenants at will; and though they kept the Customs inviolate, yet the Lord might, sans contrail, eject them."—Complete Copyholder. Sec. 32, ed. 1663, p. 67.

³ This is found as early as 1328, *e. g.*, in a surrender of that date, "ad opus Martini et Alicie uxoris ejus et heredum suorum, teneum in vilenagio, ad voluntatem domini," in Cressingham Court Rolls, priv. printed by H. W. Chandler, 1885, p. 18.