

manors of the ancient demesnes there are pure villeins both by blood and tenure, who may be ousted from their tenements and deprived of their chattels at the will of the lord."¹

With the next century the position is changed by the oft-recurring plague. Instead of ousting tenants, lords of land found it hard enough to retain them, even with lightened services. We can readily understand that during such a period the custom of tenant-right would tend to become law; and we might anticipate that when the question came to be raised once more, under the Lancastrian and Yorkist kings, the attitude of lawyers would be different. And accordingly we find Littleton, who writes in 1473, expressing himself as follows: "Although that some such tenants have an inheritance according to the custom of the manor, yet they have but an estate but at the will of the lord, according to the course of common law. For it is said that if the lord do oust them, they have no other remedy but to sue to their lord by petition. . . . But the lord cannot break the custom which is reasonable in these cases." This was the unsatisfactory position in which the law was left in a text-book of great repute, which was speedily printed and passed through several editions: a vague declaration that the lord must not break a reasonable custom, with no explanation what "reasonable" meant, or how the custom was to be enforced.

In the text of Littleton, as commented upon by Coke, appears, indeed, the following addition, which has become

¹ Ed. Nichols, 1865, ii. p. 13. Coke in his Commentary on Littleton, 61 a, makes a most unwarrantable use of the passage here cited concerning villeins on ancient demesne. Referring to what Littleton says of customary tenants *generally*, he adds: "Britton speaking of these kind of tenants saith thus"; when clearly Britton regards those of whom he speaks as occupying an exceptional position. Oddly enough, in his Complete Copyholder, p. 67, Coke justly refers to Britton as confirming his opinion of tenure at will. As to the difference described by Britton between the privileged villeins on royal demesne, and all other villeins, the key to it may perhaps be found in the similar difference between the *coloni* and *servi* in the later days of the Roman Empire. See Fustel de Coulanges, *L'Alleu et le Domaine Rural*, pp. 55, 71.