common element of manhood which is recognized and cherished by our institutions. The basis of our free society is our landed system. The failure of the first aristocratic efforts at colonization upon the basis of feudalistic social organization now appears as an event giving decisive advantages to the development of freedom. Under the charter of King James I, the lands of the first and second colonies of Virginia were to be held by the mildest form of tenure, of free and common socage, which in many of the States of the Union has been transferred into allodial proprietorship.

AMERICAN LAND TITLES—ALLODIAL TENURES.

In the celebrated ordinance of 1787 of the old Continental Congress "for the government of the territory of the United States northwest of the Ohio River," which is the first general legislation of Congress on the subject of landed property, the leading incidents of feudalism were specially repealed. The second section is an epitome of progressive and revolutionary legislation, embracing many of the points on which the issues between social progress and reactionary conservatism have turned. It ordained and enacted "that the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to and be distributed among their children and the descendants of a deceased child in equal parts, the descendants of a deceased child or grandchild to take the share of their deceased parent in equal part among them; and where there shall be no children or descendants, then in equal part to the next of kin in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parent's share; and there shall in no case be a distinction between kindred of the whole and half blood; saving, in all cases, to the widow of the intestate her third part of the real estate for life and one-third part of the personal estate; and this law, relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be (being of full age) and attested by three witnesses; and real estate may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person being of full age in whom the estate may be, and attested by two witnesses, provided such wills be duly proved and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrate's courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskias, St. Vincent's, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them relative to the descent and conveyance of property." This noble statute struck the key-note of our liberal system of land law, not only in the States formed out of the public domain, but also in the older States of the Union. The doctrine of tenure is entirely exploded; it has no existence, even in theory. Though the word may be used for the sake of convenience, it is with an accommodated signification from which the last vestige of feudal import had been eliminated. The individual title derived from the Government involves the entire transfer of the ownership of the soil.

It is purely allodial, with all the incidents pertaining to that title as substantial as in the infancy of Teutonic civilization. Following in the wake of this fundamental reform in our State land laws are several others which constitute appropriate corollaries. The statute of uses was never adopted in the public-land States, and hence the complex distinction between uses and trust has never embarrassed our jurisprudence. We have, however, adopted one of the methods of conveyance to which that statute gave rise, to wit: the method of bargain and sale. Feoffments, fines, and recoveries are entirely dispensed with, as also livery of seisin and its consequences. A conveyance is completed by the execution and delivery of the deed; entailments and perpetuities are barred by the statute, which renders void all limitations beyond persons in being and their immediate issue, and which provides that an estate tail shall become a fee-simple in the heirs of the first grantee. All joint interests in land are reduced to tenancies in common. Joint tenancies never had an existence, and coparceners are now on a footing of tenants in common. Real actions, with their multitudinous technicalities, never had an existence in our western jurisprudence, though some of the fictions of this form of action are tolerated, *e. g.*, the allowance of fictitious parties to a suit. Ejectment is now the universal remedy, being the only action for the recovery of lands. Action by ejectment is limited to twenty-one years, but refractory tenants may be more speedily dispossessed by the action for forcible entry and detainer. A dispossessed claimant may, at the option of the ejector, either pay for the land, or receive pay for the improvements. For waste the party is liable in simple damages, and no more. A tenant in dower forfeits the place wasted. In the older States we see evidences of the reflex benefits of the land legislation of our public-land States. The Pennsylvania supreme court (5 Rawle, 112) holds that "our property is allodial, and escheat takes place, not upon principles of tenure, but by force of our statutes to avoid the uncertainty and confusion inseparable from the recognition of a title founded in priority of occupancy." Chancellor Kent says that tenure to some extent pervades real property in the United States. The title is essentially allodial yet designated by the feudal terms fee-simple and free, and common socage. These technicalities mar the municipal jurisprudence of several States, though no vestige of feudal tenure remains, and ownership, free and independent, is the real character of individual title to the soil. By the statute of February 20, 1787, New York abolished all military tenures, transferring them into free and common socage and making all State grants entirely allodial.

The revised statutes going into effect in 1830 abolished the last shadow of feudal tenure and made allodial proprietorship the sole title to private land, and this property liable to forfeiture only by escheat.

In other States these tenures have either been formally changed into allodial; or if they retain the technicalities of feudalism, the latter receive an allodial signification. An estate in fee-simple means one of inheritance, having lost its beneficiary or usufructuary character.

It will be seen from the facts recited that the liberal principles embodied in our public-land policy have reconstructed to a great extent the legal basis of our social order by liberalizing the ideas of land ownership.

The General Government set this glorious example, and the justice and expediency of its policy in this respect are now universally admitted.