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COMMONS FOR SALE.

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CENTURY NORTHERN SPAIN**

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ECONOMIC AND INSTITUTIONAL CHANGE IN NINETEENTH CENTURY NORTHERN SPAIN*

José-Miguel Lana Berasain*

SUMMARY

This study examines a facet of institutional change in 19th Century Spain. Empirical analysis of a zone in the Ebro valley confirms that the process of selling commons prior to the 1855 *Ley de Desamortización* (Disentailment Law) was of great significance. It evaluates the nature of the changes in property rights and identifies the main social protagonists of the era, with the aim of analysing the repercussions these had on production and on the distribution of agrarian income.

KEYWORDS:

Commons	Property-rights	Agriculture
Land-markets	Land-Reform	Social-Change
Privatisation	Land-Ownership	Agricultural-Institutions

JEL Codes: N43, N53, N93, Q15.

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I

Institutional changes associated with the development of capitalism in agriculture have been deemed worthy of considerable attention in the past. Based on a perspective that draws from the rich liberal or Marxist traditions and using either serial history methods or those of retrospective econometrics, the analysis of changes to property rights constitutes a crossroads of focuses and historiographical interests. You need look no further than at the copious literature that has accumulated on the British *Enclosures*, on the French *Biens Nationaux*, or on the Spanish *Desamortizaciones*.¹

During the decades of 1970 and 1980 many studies were conducted on the latter, all of which were based on one common and somewhat paradoxical denominator: the central administration of the State played the leading role in the process, but (like the witch's apprentice) it was powerless when it came to controlling the consequences of its own actions. It had the strength to undertake ambitious land reforms that were detrimental to powerful interests but was weak when it came to implementing them. An explanation for this paradox was thought to have been rooted in the problems of the Exchequer and in the political weakness of the bourgeoisie,

¹ The recent syntheses of Mingay, *Parliamentary Enclosure*, Bodinier & Teyssier, *L'événement le plus important*, and Rueda, *La Desamortización*, are provided by way of illustration only. For a complete overview of the offensive against communal property in Europe and America see Demélas & Vivier, *Les propriétés collectives*. An example of the diversity of focuses that may be taken on the theme can be seen in the recent articles of Clark, 'Common sense', and Birtles, 'Common land, poor relief', that deal with the English case from the perspectives of cliometry and social history respectively.

whereby initiatives that presumably had been embarked upon to liberalise and distribute property and create an extensive rural middle class dedicated to liberal revolution actually resulted in the consolidation of an agrarian oligarchy. This is one of the main arguments put forward to explain the *atraso* (relative economic backwardness) of contemporary Spain.²

This line of argument gives the so-called Madoz Law or *Ley de Desamortización General*, promulgated 1 May 1855, a leading role. On the one hand it meant the culmination of ecclesiastic disentailment (after the 1798, 1820, 1836 and 1841 laws, which primarily affected pious foundations and the regular clergy). On the other hand it meant the seizure, and subsequent auction, of the assets of civil institutions namely town halls, schools and hospitals (which was given the name of civil disentailment). So it involved a direct and general intervention of the State in land property structures, which also had repercussions on urban property and credit markets. Among the many and extensive consequences, Spanish historiography placed special emphasis on what it represented in terms of the break-up of the communal regime and the penetration of capitalism in agriculture. According to most of the studies done on the subject, the Law, declaring patrimonial assets (*bienes de propios*) and (with certain exceptions) the communal assets of the town councils as alienable would have suddenly altered the balance in country communities, encouraging the

² An introduction (a little outdated) to Spanish economic historiography in Harrison, 'The economic history'. For a more complete and updated view it is recommended that you read Ringrose, *Spain, Europe, and the Spanish Miracle*, and Tortella, *Development of modern Spain*. Centred on political aspects: Burdiel, 'Myths of failure'. Interpretations on the evolution of the agrarian sector fluctuate between the "pessimistic" vision of Simpson, *Spanish agriculture*, and the "optimistic" visions of Pujol *et al*, *El pozo*.

process of accumulation of wealth and the proletarianisation of the peasantry, and would have encouraged extensive agricultural growth by facilitating the cultivation of disposed of lands. In this way, the process of rural change can be interpreted from an exogenous variable, the State, and from a lineal perspective: the unstoppable advance of private, individual and total property.³

In view of this interpretation of unidirectional historic change “from above” this paper poses a different reading; a reading in which the Madoz Law constitutes one more link in a more comprehensive process which has been managed “from below”; an interpretation which attempts to avoid the simplification of considering the privatisation of property rights as an historically necessary, lineal and irreversible process. With regard to the first point, there are already some works that point in the same direction, mainly through the study of the disposal of communal assets during the Peninsular War, although a global view of the process, albeit on a regional scale, is still lacking.⁴

³ The distinction between *bienes de propios* and *comunales* has its roots in the fact that the former generated regular income for the municipal treasuries, through the renting or administration of same. Neighbours could use the latter freely and without charge. Among the abundant bibliography on the Madoz disentailment, restricted to a provincial scope, we can cite the works of Artiaga Rego, *A desamortización*, González Marzo, *La desamortización*, Díez Espinosa, *Desamortización*, Gómez Oliver, *La desamortización*, o Iriarte Goñi, *Bienes comunales*. All of them offer a rigorous quantitative reconstruction of the phenomenon and an identification of its social protagonists.

⁴ The first indications of this sale process prior to disentailment we owe to Fernández de Pinedo, ‘La entrada de la tierra’ and to Fontana, ‘La financiación’. The first in-depth studies were those of De la Torre, *Los campesinos*, and Otaegui, *Guerra y crisis*. However, there are no equivalent works for the period between 1820 and 1855.. A recent aspect of the question, focussed on public woodlands, can be found in Jiménez Blanco’s, ‘El monte’. The crisis of the municipalities in Comín & García, ‘Haciendas locales’.

With regard to the second consideration, this work connects with a sensitivity that is presaged in more recent Spanish agrarian historiography in the sense of not avoiding the complexity of the historic processes of change and of not underestimating the adaptative capacity to different contexts that characterises capitalism.⁵

This study sets out with a description and empirical analysis of the process involved in the conveyance of rights to cultivated land and large pasturelands, held in common ownership, in a specific geographical area – the Navarrese part of the Ebro valley – prior to the enforcement of the Madoz Law. The primary objective pursued here is to provide greater insight into the process of institutional change associated with the Spanish bourgeois revolution; hence attention is paid to the rate at which commons were disposed of and the driving forces behind this process. It also aims to identify the protagonists and beneficiaries of the process, and gauge the social and economic consequences of the same.⁶

II

⁵ The complex definition of property rights has been dealt with by Congost, 'Property Rights'. Both GEHR, 'Más allá de la propiedad perfecta', and Iriarte Goñi, 'Common Lands', have examined the compatibility between common property and agrarian capitalism.

⁶ The basic source used for this piece of work was the notary records of the localities in the southern half of Navarra that had been drawn up between 1826 and 1860 (Navarrese Notary Records Archive, henceforth AGN/P, Pamplona). Information was then completed with the inquiry prepared in 1862 by the Sales Committee of Navarra to exclude municipal estates from the process of disentanglement (Administrative Archive of Navarra, henceforth AAN, Pamplona, boxes 12086-12089), and with the statistics drawn up by the Autonomous Committee on Agrarian Reform in 1937-38 (AAN, boxes 32669-32670). I have converted

As in all Europe, the area between the Ebro River and the western Pyrenees was shaken by the long cycle of revolution and war that broke out in 1789. The war against the French Convention between 1793 and 1796 was followed by the Napoleonic military occupation in 1808 and the Peninsular War which lasted until 1813. The absolute monarchy was restored immediately through a *coup d'état* (1814). Six years later, the revolutionary movement of 1820 turned out to be the first attempt at liberal politics in Spain, finally putting into practice the work that had been carried out by the legislators at the Courts of Cadiz (1810-1814). Counterrevolutionary insurrection and international legitimism were to put an end to this brief interlude in 1823, but the new ideas saw their triumph one decade later, first in the form of a *charte otorgée* system (1834) that allowed integration of the more moderate sectors of liberalism and traditionalism; and soon after, in a more radical manner in the social unrest of 1835 and 1836 facilitated by the pressure of the 1833 *Carlist* counterrevolutionary uprising and the state of war that succeeded it lasting until 1839. So, twenty of the fifty years that passed from the time of the outbreak of the revolution in Paris to the final establishment of a Liberal State in Spain were occupied by war.

The financial cost of this agitated political movement reached proportions as yet unheard of in Navarra. On the basis of various studies, the amount collected by the legal authorities, by the rebelling powers or directly by the regular troops and the guerrillas can be estimated, between

the surface and monetary measurements to hectares and *reales de vellón* (henceforth *rvn*)

1808 and 1840, at a minimum threshold of 305.74 million *reales de vellón* (old Spanish coin worth a quarter of a peseta), but may have reached as much as 460 million. The minimum average annual figure of 9.5 million *reales* collected during this period stands in stark contrast with the contributive quota of 1.8 million, which had been set for the province since August 1841. In the absence of an efficient tax reform, the fiscal undertakings fell on the villages and individuals, in a notably arbitrary manner, through supplies and direct taxes, loans, fines, and looting.⁷

The public funds crisis and the growing fiscal pressures experienced in the first three decades of the nineteenth century, which were marked by military crises, are the primary factors in explaining the outflow of municipal patrimonies that preceded the Madoz Law, but were not the only ones. This process cannot be properly understood unless we include, amongst the driving forces behind it, the attitudes adopted by the social groups involved in face of the collapse of the absolutist institutions, the increasing integration of agrarian markets, and the triumph of a wealth criteria of social distinction. Also of relevance was the pervasion into society of a paradigm of economic thinking, with liberal inspirations, that understood private property and free markets as the main regulators of

made up of 34 *maravedis*.

⁷ Of the sum checked, 169.5 million *reales* correspond to contributions and supplies to troops during the Napoleonic occupation (1808-13) and 105.67 million to that collected during the civil war (1833-39). The financial cost of this latter episode (particularly that collected by the defeated side) is what we know least about. It has been possible to partially reconstruct the figures based on De la Torre, *Los campesinos*, p.29, Del Río, *Orígenes*, p.135-146, Del Río, 'Los antecedentes', Del Río, *Revolución liberal*, p.382-388. Key analysis of the social history of the Napoleonic war in De la Torre, *Lucha antifeudal*, and in

productive and distributive activities. The outcome was the accumulation of legal provisions which since 1811 had been giving legal visibility and channels to these processes throughout a long legislative cycle, the pinnacle of which was the *Ley de Desamortización General* of 1 May 1855.⁸

The chronology of sales⁹ and their characteristics are a good indication of the multiplicity of factors involved in the privatisation process. The collapse of the State in 1808 and the weight of military control over the population precipitated a massive wave of municipal land sales. Up to 1820, the process affected more than four thousand estates in Navarra, covering a surface area of 18,122 hectares. As would be the case again at a later stage, the types of properties sold were wide-ranging: *suertes* or small plots of land of equal size for crop growing; land already occupied under private possession but pending legalisation (*roturos*); pasture lands with or without woodland, close to rivers and where crops could be grown (*sotos*); or, finally, large pasturelands often with steppe vegetation used for itinerant flocks of sheep (*corralizas*). The high average price per hectare of the properties sold during these years reflects the fact that cultivable land was

Tone, *The fatal Knot*. The financial relations between Navarra and the State, in De la Torre & García Zúñiga, 'Hacienda foral'.

⁸ Authors such as Cruz, *Gentlemen*, negate the existence of a social revolution in Spain from 1750-1843, limiting it to the political sphere. Others emphasize the social and cultural changes consolidated during this period; see Ruiz Torres, 'La historiografía'. For a recent synthesis of the privatisation of commons see Perez Picazo, 'Propriété collective'.

⁹ In addition to the period 1808-20 studied by De la Torre, *Los campesinos*, I have compiled the series in five chronological periods that deal with the latter years of absolutism (1826-33), the civil war and the immediate post-war period (1834-40), the first years of the *foral* (autonomous) regime (1841-46), the years that separate the ephemeral moderated law on the sale of municipal property and the progressive law on general disentanglement (1847-55), and the years in which this last regulation was suspended (1855-60).

sold in abundance. The State, unable to regulate the process, as revealed in the various resolutions made from 1811 to 1814, saw its only solution in sanctioning sales and legalising them a posteriori.¹⁰

During the decade of 1820 the process of privatisation did not come to a halt, although the amount disposed of was much less, as villages were weighed down with the requirements of creditors and the Exchequer. The second great wave of privatisation struck in 1834. Up to the end of the *Carlist* War 25,000 hectares were sold under conditions of absolute necessity. This explains why final sales prices were, on average, almost 30% less than their assessed values, whereas during the previous war period these had been exceeded by almost 6 percent. In addition, prior to this occasion the State had established a legal framework that allowed villages to proceed with sales according to their requirements: in August 1834 and March 1835 the regulations laid out the administrative procedures and priorities for use of funds collected in this manner and, after the summer riots of 1835, the reinstatement of the liberal laws enacted by the Courts of Cadiz and those of the constitutional regime (1820-23) were to offer even greater possibilities.¹¹

Thus, the legal framework defined by the Liberal State allowed for a process of privatising common property that would spread in line with local resolve. The only peculiarity, in the case of Navarra, was the ample power that the Law of 16 August 1841 bestowed on the provincial council

¹⁰ In December 1818, Fernando VII legalised the sales of 1808-14. Four months previously, the *Cortes* of Navarra had implemented the same for Navarra. Fontana & Garrabou, *Guerra y hacienda*, pp.131-149.

(*Diputación*) both in respect of this and other matters. The elite of the region was thus given ample independence in respect of government actions¹². From the consolidation of the liberal regime to the enactment of the Madoz Law almost 20,000 hectares were disposed of, providing the municipal treasuries with somewhat more than 4.6 million *reales*, with a modest increase in bidding.

Table 1: Balance of the sale of municipal property in Navarra before the Madoz Law was applied

Period	Estates no.	Size ha.	Size %	Valuation rvn. (10 ³)	Sale price rvn. (10 ³)	Price (rvn/ha) Val. Sale		Δ %
1808-20	4,261	18,122	23.0	10,351	10,956	571	605	5.8
1826-33	197	3,598	4.6	620	884	172	246	42.5
1834-40	891	25,031	31.8	5,236	3,669	209	147	-29.9
1841-46	1275	16,240	20.6	4,019	4,303	248	265	7.1
1847-54	762	2,887	3.7	311	334	108	116	7.2
1855-60	850	12,808	16.3	3,215	4,487	251	350	39.6
Total	8,236	78,686	100	23,753	24,634	302	313	3.7

Val.= average price assessed in *reales de vellón* per hectare; Sale= average auction or sale price in *reales de vellón* per hectare.

The figures for 1834-60 are the balance of sale and repurchase at each stage.

In cases where there was no prior valuation, I have assigned the sale price as the valuation.

Sources: De la Torre, *Los campesinos*, for the period 1808-20; AGN/P (deeds pertaining to various notary's offices) for the remainder.

The general disentailment of public property, decreed in May 1855, did not commence until some years later, pending political hard bargaining that delayed the approval of the regulations on the application of the law. But this did not curtail the process that we have been observing. Moreover, the prospect of the State selling these properties, retaining 20 per cent of the

¹¹ A review of legislation in favour of the sale of commons in Nieto, *Bienes comunales*, pp.848-872.

¹² Law 16/8/1841 regulated the institutional acceptance of what up to this time had been the Kingdom of Navarra in the liberal nation State, safeguarding some jurisdictions on fiscal and municipal matters at the same time it alleviated the depleted regional funds and provided guarantees to those with public debt in Navarra. This marks the beginning of what is known as the autonomous regime or *régimen foral*.

auction price and submitting the remaining 80 per cent to the town councils as public debt, encouraged many villages to get there first so that the full amount of the sales could be kept and cash payment guaranteed. Furthermore, in so doing they had firm support from the provincial council, resentful of the loss of authority that the Madoz Law entailed. It was in this manner that more than ten thousand hectares were disposed of in the five years during which the application of the Law of 1 May 1855 was suspended. Coinciding with a generally expanding economy on this occasion the auctions allowed the councils to conduct sales under better conditions and with better results, as shown by the increase of almost 40% in auction prices over and above the assessed values.¹³

The disposal procedures used by the councils throughout this period throw more light on the conditions in which the process developed. Table 3 distinguishes four kinds: sale by public auction with expert assessment and prior advertising, which can be considered the legal and most popular procedure; sale by private tender without auction but with prior objective assessment; private sale without auction or advertising and often in the absence of a prior assessment; and legal appropriation for non-payment of debts. The prevalence of this latter method during the absolutist decade reflects the categorical breakdown of local treasuries and the

¹³ Law 1/5/1855 was suspended on 14/10/1856 and was not reinstated until 2/10/1858. Eight months later (24/5/1859), after arduous negotiations between the provincial council and the Exchequer, it was declared applicable in Navarra, with the exception that 20% of the amount retained by the State would remain there for the villages. It was not until 6/6/1861 that its enforcement was ordered in the province. (Iriarte Goñi, *Bienes comunales* p.170-176). Gómez Urdáñez, 'Doctrinas y realidades', has examined the political debates that prepared this intervention from 1835 onwards.

impossibility of alleviating this situation within a general context of deflation. Private deals made between corporations and capitalists were frequent throughout this period, but during the exceptional climate of the civil war it reached considerable proportions. Acts like these, which we should describe at the very least as irregular, were justified by the pressing cash flow problems experienced in the councils and were agreed on previous offers from wealthy buyers, who were often of the same kin or had other affinities with mayors or councillors. Of less importance were the sales by private tender and without auction that were carried out with prior assessment of the land. Generally speaking these were collective sales of land already ploughed or designated for ploughing that benefited the people in the villages. They were conducted, thus, on the basis of a broad consensus between the actions of the council and the wishes of local residents, and they tended to reinforce rather than weaken community bonds. These methods were not mutually exclusive, whereby in the same locality public auctions with sales to the highest bidder coincided with closed and assessed price sales.

Table 2: Navarra, 1826-60. Conveyance procedures for rural properties sold by the municipalities. Data in thousands of rvn.

Periods	Public auction		Assessed Sale		Dealings		Embargo		Total	
	rvn	%	rvn	%	rvn	%	rvn	%	rvn	%
1826-33	1769	20.0	4.6	0.5	98.0	11.1	604.7	68.4	884.2	100
1834-40	3,048.8	74.5	6.2	0.2	704.1	17.2	100.0	2.4	4,094.1	100
1841-46	5,188.3	87.0	71.5	1.2	228.6	3.8	143.9	2.4	5,964.9	100
1847-54	2,437.6	88.4	13.2	0.5	153.7	5.6	0	0	2,758.6	100
1855-59	4,381.1	90.4	76.5	1.6	258.9	5.3	131.0	2.7	4,847.5	100
Total	15,232.882.1		171.9	0.9	1,443.2	7.8	979.5	5.3	18,549.3100	

There is no record for the sales to the value of 721.732 rvn.

Sources: AGN/P (deeds pertaining to various notary's offices)

Another aspect that allows us to provide a better outline of the process is the methods used for payment of the properties. It can be confirmed that payment in hard cash, that is, direct injection of cash flow into the municipal coffers, was more of an exception than a rule. Between 1826 and 1860 less than two-fifths of the sale value of properties was paid by this method. The three remaining fifths were settled by means of submission of municipal debt papers and receipts for supplies to troops, of loans against local funds or, to a lesser extent, by means of payments in kind and deferred payments. During the civil war, payment in kind - both immediate and payment by instalments - had certain relevance. However, the majority of payments were made by submitting supply receipts or loans, either from the buyer himself or acquired from other neighbours and often at a rate much lower than nominal values.

Table 3: Navarra, 1826-60. Methods of payment for rural properties sold by the municipalities. Data in percentages.

Periods	A	B	C	D	E	F	G	H	Total
1826-33	10.79	0	0	0	79.98	0	0	9.23	100
1834-40	28.69	1.46	5.08	1.32	35.40	3.37	3.50	21.19	100
1841-46	37.32	1.20	0	0	28.96	8.29	16.21	8.01	100
1847-54	50.19	18.30	0	0.06	2.02	0.18	23.32	5.94	100
1855-60	49.85	2.94	0	0	17.05	0	19.50	10.65	100
Total	39.34	4.20	1.12	0.30	25.70	3.44	14.55	11.36	100

A= immediate payment in cash; B= cash payment in deferred instalments; C= immediate payment in kind; D = deferred payment in kind; E= payment by means of submission of supply receipts or debt recognised by the council directly with the buyer; F= payment by means of submission of supply receipts or credits acquired by the buyer from third parties; G= *encargamiento* or express substitution on the part of the buyer of one or various mortgage debts on the municipality; H= No method of payment recorded.

Sources: AGN/P (deeds pertaining to various notary's offices)

During the post war period the same trend continued, with the town councils transferring more third party debts to buyers who accepted *encargamiento* or formal substitution in the mortgage which until that time had been levied on corporations. At times, the councils even agreed to

partially finance the buyers, agreeing to cash payments – rarely in kind – in one or various instalments during the months or years following the signing of the deeds. This phenomenon became quite prevalent in the years prior to the enactment of the Madoz Law, representing up to 18 per cent of the sale value of properties. It is thus fitting to ask, whether the financial predicaments of the municipalities were perhaps more an alibi than an imperative in the development of a strategy of privatising common property on the part of the local and provincial elite. In this and subsequent stages, the municipal treasuries obtained high levels of direct cash flow, but this did not exceed half the value of the properties sold. Basically, the local treasuries could cope with their financial needs by selling patrimony that tended to replace old debts and transfer mortgage charges rather than guarantee liquidity; in short, more to reduce liabilities than to increase liquidity.

Table 4: Navarra, 1834-60. Balance of the sale of large pasturelands (*corralizas*) in *carta de gracia* (sale with repurchase option).

	<i>Carta de gracia</i> Sales				Repurchases carried out			
	No.	ha.	rvn (10 ³)	*	No.	ha.	rvn (10 ³)	**
1834-40	144	30,375	2,988.3	91.8	35	8,926	426.4	22.1
1841-46	83	14,320	2,712.1	47.6	71	15,001	1,666.8	40.3
1847-54	19	4,737	696.6	27.6	72	14,367	2,370.9	54.8
1855-60	10	2,780	467.6	13.9	12	1,314	380.6	43.1
Total	256	52,211	6,864.6	46.3	190	39,607	4,844.7	46.0

*.- percentage represented by *carta de gracia* sales over the total sale of *corralizas* (calculated on auction prices)
 **.- proportion of the amount of repurchases that had been paid in cash and in hard currency (%).
 Sources: AGN/P (deeds pertaining to various notary's offices)

The slide from a process of unleashed sales for financial motives towards another, inspired more by sociological or doctrinal motives, can also be perceived in the sales methods used throughout the period. Sales of a definitive nature were the exception during the civil war, with an

abundance of orders for properties, seasonal cessations and what were known as *venta en carta de gracia* (sale with repurchase option). In the early forties definitive sales were used for half of all operations and ended up being the absolutely predominant method used during the fifties. The advance of sales in perpetuity only confirms the change that was taking place in the expectations and criteria of those involved.

From a financial point of view the process had an added characteristic, which in principle was rather unfavourable for the local coffers. Just under half of the sales (particularly of the large pasturelands known as *corralizas*) were made using the contractual method of *venta en carta de gracia*. This meant that the buyer granted the seller the option of recovering the property by returning the capital paid within a stipulated period of time. In exchange, the seller accepted a reduction in the initial auction starting price, which the law limited to one third of the assessed value. The sale thus operated as a credit instrument and, under this criterion, was amply used by villages during the dramatic situation of the civil war. In turn, some buyers showed greater interest in generating a large amount of liquid capital than in accumulating real estate.

It was not rare for the same property to be sold and recovered several times by a council. On these occasions, the buyer/lender tended to conduct a lucrative business: the property was paid, to a large extent, with devalued municipal debt papers, the capital could then be recuperated in a few years, but in immediate cash and for the full registered value. Moreover, if it were a rich landowner to whom the contributions would go if the council decided to reorganise its accounts fiscally, the operation could

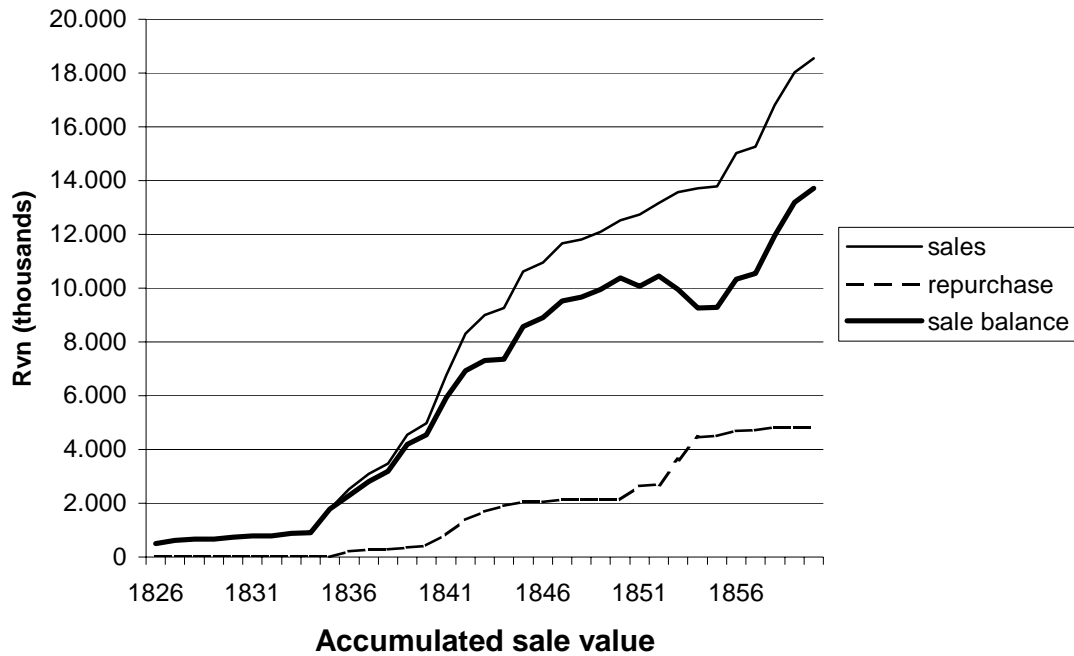
not have been more lucrative. From the point of view of the municipality, the sale served to alleviate the liabilities of local treasuries at a more or less critical time, at the cost of high value patrimonial assets, which in a more favourable climate could have been recovered through disposal of liquid assets.

It is true that a substantial portion, roughly one forth, of these repurchase option sales were carried out due to the incapacity or unwillingness of the councils to raise the necessary capital to recover the property. And of the repurchases carried out during this period, one part served to proceed immediately to the sale of the property in perpetuity.¹⁴ An accurate assessment of the process we are analysing should take into consideration these chains of sales and repurchases that exaggerate the amount of surface areas sold and capital mobilised. The figures reflect this synthetically, allowing a distinction to be made between the sales climate – an uninterrupted process with some acceleration already commented on – and those that during the early forties and mid fifties, for different reasons, allowed certain recuperations.¹⁵

¹⁴ It was thus that 34 *corralizas* occupying 11,188 hectares were sold once again, the majority before 1846. The councils only managed to recover 156 estates covering 28,419 hectares. All in all, the councils were able to recover around half of the large estates sold with the option to repurchase.

¹⁵ The repurchases of the early forties are in keeping with a context of local financial rationalisation after the war and the rectification of sales made without the due formalities or in flagrant illegality. During the fifties, they have more to do with the tensions that had arisen, in a growing economy, between agricultural uses and livestock use of space. In any case, it is important to point out that not only were pasture or cultivation rights sold; also included were houses, inns, farmyards, plots of land, saltmines, olive-oil mills, and flour mills.

Figure 1.
Navarra, 1826-60: Sale and Repurchase of commons.



Sources: AGN/P (deeds pertaining to various notary's offices)

The description of the process for selling municipal property carried out up to here has allowed some of its most significant details to be taken into account, but many questions are still left unanswered. Why, despite the costs involved in the operation, did some municipalities strive to recover property sold? Or, on the contrary, if they had done bad business selling by means of *carta de gracia*, why did other municipalities not try to resolve this fact? Why was a great quantity of sales made in some areas, while in other villages that were weighed down by debts hardly anything was sold? The answer to these questions refers to the transformations,

tensions and resistance experienced in local communities during this period, and requires us to examine the nature of the sales and the identity of the buyers.

III

In common with other regions of inland Spain, the geographical area of Navarra most affected by the process we are studying, the southern half, has a habitat with medium sized villages (an average of 1,636 inhabitants in 1860). The social makeup of these *villas* was often complex. The plebeian sectors were made up of salaried workers (*jornaleros*) and farmers (*labradores*) with owned or leased land, together with some centres of craftspeople and shopkeepers. The *privilegiados* included a small group of ancestral lineage supported by the institution of the *mayorazgo* (entailed estate with rigid order of hereditary succession); a larger group of people known as *nobles* or *hidalgos* when it came to exempting themselves from paying certain taxes or to access public posts; and a large number of ecclesiastical institutions that offered places for the disinherited sons of these families. Apart from these collectives, some individuals were worthy of note for their wealth (traders, manufacturers) or their merit (lawyers, doctors, and civil servants). This diverse complexity did not inhibit strong community cohesion (yet far from being egalitarian) supported by ample collective resources and manifesting itself in elaborate political and institutional forms.

The process of institutional change, which commenced in 1808, had an effect on this social structure. Not everyone participated equally in the opportunity offered by the crisis of the *Ancien Régime*. If we go on the amounts paid by the different social sectors in the south of Navarra, the main protagonists of the purchases were those that sources label as “*hacendados*”, thus defined for their precondition as proprietors, which made them worthy of the distinction of the title *don* that preceded their names. The majority of them were nobles, the lesser were titleholders of some *mayorazgo*, but in general they were far removed from the feudal lords and the high aristocracy residing in Court.

Table 5: Navarra, 1826-60. Classification of the buyers of municipal property according to social categories.

Category	Buyers		Estates	Surface (ha.)		Sale price	
	no.	%	no.	arable	pasture	rvn (10 ³)	%
Clergy	6	0.4	27	53	3,712	797.35	4.3
Aristocracy	4	0.3	6	56	245	369.95	2.0
Landowners	203	15.2	747	560	50,059	8,317.12	45.4
Traders	22	1.6	103	322	16,412	4,367.70	23.8
Livestock breeders	64	4.8	130	85	17,672	2,445.98	13.3
Peasants	1,025	76.6	3,574	2,026	2,175	1,404.05	7.7
Civil servants	9	0.7	20	11	1,635	327.53	1.8
Associations	5	0.4	14	0	2,798	307.61	1.7
Total	1,338	100	4,620	3,113	94,707	18,337.30	100

Note: The figures corresponding to pastureland (*corralizas*) should be taken with care, as the balance of sales and repurchases has not been calculated. Thus, in some cases we will come across double or triple entries. For the analysis being carried out here this fact does not pose a problem.

Sources: AGN/P (deeds pertaining to various notary offices)

Following them, the business classes – traders, bankers, manufacturers – showed notable activity, making up almost one-fourth of the total value. Large cattle farmers also participated to a large extent. Some of them were highlanders that raised sheep, moving from the Pyrenean pastures in the summer to the meadows of the Ebro in winter. Others were cattle farmers from the plains with sheep breeding ranches

some of whom – since the end of the 18th Century – had also gone into the business of breeding fighting bulls. For both groups, the bidding for the pastures became a defence against the offensive plough, efficiently contained until that time by the institutional framework of absolutism but from 1808 became overwhelming. The pastures were also useful in the face of growing competition for grass among the various alternatives offered by livestock companies and in the face of the boom in bull ranches and horse breeding for farm work and riding.¹⁶

The three groups mentioned acquired the bulk of the pastures sold (89%), although this probably did not imply substantial changes in the social use of such land as previously it was also the great private cattle ranchers who monopolised the land. The participation of the peasantry as purchaser of assets acquired greater significance in the case of cultivated fields, representing two thirds of the surface disposed of. It involved lands previously occupied by the persons concerned or their ancestors and *suertes* (pieces of land) distributed or auctioned amongst the local people. However, although they represented the majority (76%) of the buyers, if we bear in mind the population volume of the zone studied (24,251 families in 1852), it is difficult to say it was a good opportunity for the farm workers. A smaller role was played by the *privilegiados* (clergy and aristocracy), the civil

¹⁶ The early forties, during which numerous *corralizas* were sold, coincided with a good climate for bull breeding. Where during 1826-30 each 4 to 5 year old bull had been sold for 1,052 rvn on average, in 1841-45 the rate had gone up to 2,306 rvn; meanwhile, the price of wheat had only risen by 21.4% and table wine had dropped by 3.8%. It is during these years that bullfighting became the main recreation industry in mainland Spain, pervading popular culture (Shubert, *Death and money*). Prices are calculated based on Pérez de Laborda, *Historia*, p.28-138, and Lana, *El sector agrario*, p.211-212.

servants (notary publics, teachers, and State employees) and some proprietors' associations.

From the outset, a process such as that described, increasing the patrimony of the best situated segments of the rural population in detriment to the rural masses, stripped of their customary rights to common resources, must have subjected the communities to unprecedented tensions. If former equilibriums were devastated by the succession of wars, changes in the political system, more pronounced social differences, and the loss of collective rights to resources, what was the extent of this upheaval in the traditional balance? Assuming the extent was considerable, how could a minimally stable social order be re-established?¹⁷

Part of the answer is to be found in the changes brought about by the liberal revolution in political organisation at a local level. The old mechanisms that guaranteed the exercise of seigneurial powers, the hereditary possession of public charges, and status representation in local entities were definitively abolished between 1810 and 1840 by municipal and seigniorial laws. In their place, a uniform system of electoral representation, based on a restricted electoral register, was established to create local councils. The new structure of political power inspired (and in part also corresponded to) the fusion of the local elite, regardless of origin or measure, into one sole class of proprietors (*hacendados*). It was on these rural *notables* that the responsibility fell for taking decisions on matters that

¹⁷ Nor should we fall into an idealisation of communal goods as a safe haven for the poor farmer. Shaw-Taylor, 'Parliamentary Enclosure', warned of this recently in contrast to the interpretation by Neeson, *Commoners*. For a wider perspective see, Moor, Shaw-Taylor & Warde, *The management*, and in the case of Spain Iriarte, 'Common Lands'.

affected the local funds or municipal patrimony. Thus, the capacity to resolve the crisis of local treasuries by disposing of assets, in detriment to alternatives such as direct taxation, resided in the rural bourgeoisie.

However, the political and social control of this new class was not absolute, nor could it be exercised without a minimum of community sanctioning. An abrupt and complete disintegration of traditional criteria for access to resources, for the benefit of a small number of the newly privileged, ran the risk of destroying any remains of a sense of identity and collective recognition making the most elemental social cohesion unfeasible. This is not to say that social conflict was absent during this period, or that the repressive efforts of the authorities were not serious. On the contrary, tensions between different groups in the rural world in relation to access to and use of resources marked the limits of what could be achieved with regard to redefining property rights. These limits were not necessarily uniform, given the different configuration of the social classes and correlations of strength at a local level in each context.¹⁸

It is only thus that we can understand the unusual and complex nature of the property rights that came into being during this period. The complete conveyance of absolute rights to a property was more the exception than the rule. When cultivated land was divided among the peasants or auctioned, the councils often reserved the right to use the pastures once the crops had been harvested. Or vice versa, when they sold the rights of use to grass in well-demarcated and fenced in pastureland

¹⁸ Izquierdo, *El rostro de la comunidad*, deals with collective order using community recognition mechanisms. In 'Los campesinos navarros', Gastón verifies the intensity of the social struggles between 1840 and 1868.

(*corraliza*), they subjected them to various conditions which, to varying degrees, limited the potentials of the new owners to the benefit of communities or individuals. Thus, the new owners were often obliged to respect the rights acquired by those who had ploughed or planted vine within the perimeters of the estate. At other times wool, grass, rushes, manure, stone, lime, gypsum or hunting were reserved in favour of the residents for their own consumption. The right of way or public access to water sources was often established for people and livestock. And there were often limitations that affected the pastures being sold: on occasion, the privatised right was subject to restrictions on the time during which the proprietor could use same, banning use in summer. Frequently, conditions were stipulated that allowed certain livestock use for the neighbours, either for collective use by community herds, or individual use for the horses of those that worked inside or outside the perimeter of the estate. Thus, the conditions under which common property was sold did not prove very detrimental to the traditional practices that were characteristic of the open-field system. This was despite the fact that in the decree of 8/6/1813, the Courts of Cadiz had already established the freedom of landowners to fence off and close their estates and grasslands keeping their livestock separate.

Did this slow down the dynamic of agricultural growth? It is difficult to offer an answer. To a certain degree, the sale of *corralizas* did slow down the ploughing process that had been unleashed at the end of the 18th Century. In the majority of cases, whilst appropriation of common land by ploughers was being consolidated –(and indirectly legalised), obliging grass buyers to respect these possessions, new ploughing was prohibited. In

certain cases, the buyer managed to arrange evacuation of the occupied land, but at times the buyers also had to yield the right to plough or plant vines to neighbours, or they were expressly prohibited from ploughing the land themselves. Thus, although some land was sold for cultivation by the buyers, the process of disposal could substantially limit the growth in the supply of agricultural land that had been possible during the first thirty years of the 19th century. This had come about as a result of the downfall of what Llopis called the “anti-ploughing front”, a group of social sectors dominant under the belated feudalism (aristocracy, clergy, large cattle farmers, property rentiers that had obstructed the increase in the amount of land being cultivated during the 18th century. The pressure of the plough did not disappear as a result, but from then on, agricultural growth would depend perhaps more on specialisation and investment than on the mere addition of productive factors.¹⁹

The approximate appraisal that we can carry out in relation to agricultural production development during the nineteenth century would support this statement. Taking as reference official statistics of different origins at the beginning and end of the century²⁰, the balance differs partially if we take the whole province or only its southern district, where

¹⁹ Llopis, ‘Expansión, reformismo’, p. 129. The area worked in Navarra rose at an annual rate of 0.61% between 1818 and 1857, decreasing to 0.40% between this latter date and 1900 (Lana, *El sector agrario*, p.91-103). Iriarte Goñi, *Bienes comunales*, p.308-351, has documented the ploughing and distribution of 54,325 hectares in common lands between 1866 and 1935, most of which took place after 1906.

²⁰ Physical production figures are calculated on the basis of Lana, *El sector agrario*, p. 137-146, and Gallego Martínez, ‘La producción agraria’, p.1019-1024. The Gross Agricultural Product has been calculated using the prices from the year 1857, published in Sanz Baeza, *Estadística*, p. 98-101.

the sale of municipal assets was more intense. For the whole of Navarra, gross agricultural product grew by almost 60 per cent, supported by viniculture specialisation, the development of leguminous plants, linked to the substitution of the fallow field by the sown field, and the production of oil. In the southern sector, growth in production was far superior with a more intense improvement in the production of wine and oil and a significant diffusion of maize in irrigated fields. Part of this agricultural growth was absorbed by the demographic growth, but even so, gross agricultural product per person grew by 20 per cent for the whole province and by more than 40 per cent for the district of Tudela. A definitive growth in agricultural production was seen, following partly the old view of adding more land and more labour to the production process, but also thanks to the increased specialisation and investment in ligneous plantations intended for the market. Hence, there was also an increase in productivity, despite the fact that agriculture at the turn of the century sustained an overwhelming portion of the active population.

Table 6. A balance of the gross agricultural product in Navarra and in the district of Tudela, 1799-1890.

Product	Units	Navarra			Tudela (22 villages)		
		1799-1807	1886-90 f.		1800-06	1882-90 f.	
Wheat	hl (10 ³)	693.6	848.8	1.22	81.0	115.2	1.42
Rye	hl (10 ³)	18.3	11.4	0.62	3.2	1.4	0.44
Maize	hl (10 ³)	115.3	134.3	1.16	1.2	15.4	12.83
Barley	hl (10 ³)	200.8	203.4	1.01	37.4	40.1	1.07
Oats	hl (10 ³)	109.5	142.7	1.30	4.4	5.5	1.25
Cereals	hl (10 ³)	1,143.0	1,340.6	1.17	127.2	177.6	1.40
Pulses	hl (10 ³)	67.7	112.7	1.66	4.8	5.7	1.19
Wine	hl (10 ³)	380.8	1,060.6	2.78	39.2	207.5	5.29
Oil	hl (10 ³)	9.4	15.2	1.62	4.2	12.9	3.07
GAP	rvn (10 ⁶)	146.54	233.58	1.59	17.3	40.9	2.36
Population (10 ³)		226.47	304.12	1.34	28.49	47.13	1.65
GAP/Pop. rvn		647	768	1.19	605	868	1.43

f.: multiplication factor

Production data in thousands of hectolitres and of population in thousands of inhabitants. Gross Agricultural Product (GAP) valued at 1857 prices and expressed in millions of *reales vellón*.

Sources: For population figures, García-Zúñiga, *Hacienda*, pp.162-177, Mikelarena, *Demografía*, p.88. For agricultural product Lana (1999), Gallego (1985), and J.C.A., *Avance*, p. 489-491.

The institutional change that preceded the Madoz Law was, without doubt, more transitional than radical. The use of the figure of *venta en carta de gracia* made it possible to regulate the privatisation process, maintaining an illusion of reversibility. Moreover, the definition of property rights assumed the concurrence of different usage rights on the same space and ended up being given a hierarchical structure with a law that was predominantly in favour of landowners, and rights being reduced to *servidumbres* (subaltern rights) for the neighbours. But this would be a task for successive generations who, particularly between 1880 and 1936, were immersed in a fierce struggle of a structural nature as to the exclusive definition of these property rights.

For the moment, the process evolving between 1808 and 1860 favoured the emerging classes in rural areas without completely shattering, in the short term, the community equilibrium on access to resources and without severing the possibilities of agricultural growth.

IV

The preceding paragraphs have allowed us to examine a somewhat unknown aspect of the institutional change that took place in 19th century Spain during the liberal revolution. Underlining the spontaneous nature of the process and its upward trend, we can gain a better understanding of the political decisions that led to nationalisation and the auction of village properties from 1855. Progressive legislators, brought to power by the

revolution of 1854, did not bring about the commencement of a new process; they merely ordered and regulated it with the aim of controlling its processes and results. In this manner, they probably hoped to achieve a more in-depth liberalisation of property, participation of the Exchequer in the profits, and greater access to the land for social sectors of mid to lower extraction.²¹

But mobilisation of the land market did not have to wait for the application of the Madoz Law. Against the backdrop of war and the bankruptcy of municipal treasuries, that tended to split the rural communities, the gradual enlargement of markets for agricultural products and the permeation into society of a utilitarian individualism, systematised by the Enlightenment, were the driving forces behind the transformation of land into a commodity.

However, what place did the process being analysed occupy in the cluster of transformations backed by the liberal revolution? Even though it is of a provisional nature and limited to only one region, we can try to evaluate the direct impact of these events on rural land ownership. Taking into consideration ecclesiastic property alone and that of public entities, the amount of land mobilised in the process under study is of considerable proportion. In Navarra, at least, it represented two-thirds of the land

²¹ It is significant that the changes introduced by the Progressives of 1855 in respect of the ephemeral law of 25/9/1847 promoted by the Moderates to privatise the municipal property included: the division of estates into plots (wherever this did not imply a loss in value); payment conditions that were more favourable (from 4 instalments in 3 years to 15 instalments in 14 years, with the first instalment being reduced from 50% to 10%); and payment in cash in place of deed titles. In theory, this should have allowed greater access to small fortunes in the auctions, but it would not ensure that they would be sold off cheaply.

auctioned by the State and the councils between 1806 and 1923. Worth particular note is the fact that the application of the Madoz Law accounts for only one-fourth of the original common land that was disposed of during the nineteenth century. In relation to the territory, the proportions are equally outstanding: commons disposed of between 1825 and 1860 represented 5.7% of the 10,425 km² that the province occupies, reaching up to 16.3% if we restrict ourselves to the plains of the Ebro, where the process studied had greater impact.

Table 7. A balance of the disentailment in Navarra. Surface area in hectares and valuation and auction in constant pesetas of 1913.

	Estates No.	Surface Ha.		Valuation Ptas	Sale price Ptas.	Δ %	Auction %
<i>Ecclesiastical disentailment</i>							
1806-1808	3,708	871	0.7	n.d.	n.d.	-	-
1820-1823	555	801	0.7	n.d.	n.d.	-	-
1838-1854	5,590	5,760	4.9	10,556,159	18,318,692	+73.5	58.2
1855-1893	6,398	2,374	2.0	2,088,865	4,043,868	+93.6	12.8
Total	16,251	9,806	8.4	12,645,024	22,362,560	+76.8	71.0
<i>Sale of common property and civil disentailment</i>							
1808-1820	4,261	18,122	15.6	n.d.	n.d.	-	-
1826-1833	197	3,598	3.1	167,639	237,725	+41.8	0.7
1834-1840	891	25,031	21.5	1,419,008	990,540	-30.2	3.1
1841-1846	1,275	16,240	14.0	1,304,467	1,393,407	+6.8	4.4
1847-1854	762	2,887	2.5	52,376	73,616	+40.6	0.2
1855-1860	850	12,808	11.0	865,449	1,212,379	+40.1	3.9
1862-1923	1,997	27,736	23.7	2,782,590	5,175,615	+86	16.4
Sum	10,253	106,422	91.6	6,591,529	9,083,282	+37.8	28.9
Total	26,504	116,228	100	19,236,553	31,445,842	+63.5	100
*.- The data referring to municipal assets refers only to rural properties, the figures corresponding to disentailment of clergy property also includes urban estates.							
n.d.: no data available							
Sources: See note xxii.							

In contrast, the proportion was much smaller in terms of mobilised capital, although we lack information to tally the balance²². If the municipal assets sold between 1826 and 1860 represented 19.8 per cent of the assessed values, its participation in auctions was reduced by 12.3 per cent. The reason is to be found in the fact that there were many cases of uncultivated land destined for forestry or pasture which was much less appreciated than cultivated land, that constituted ecclesiastic patrimony. To this we must add the urgency with which many of these sales were verified and, in quite a few cases, the irregularities allowed by municipal authorities, at the end of the day responsible for the process and partly interested in the same. It is still significant that it was in these sale processes controlled by the State and escaping the direct control of the local elite that the highest average rise in bids was obtained.²³

It is true that the type of rights transferred in these operations did not always guarantee a free and complete disposal of the privatised property. Much of the property had ambiguous legal classifications due to the amplitude of rights reserved in favour of the councils or the communities of neighbours who interpreted it as a kind of shared property. In the short term this permitted intense privatisation of rights without forcing in excess the castigated equilibrium of the local society. However,

²² I have converted the series offered by Mutiloa, *Desamortización eclesiástica*, p.263, 331,696, and Donézar, *Desamortización de Mendizábal*, p.205-295, for ecclesiastical disentail together with my own figures in constant pesetas of 1913 using Sardá's deflator, reproduced by Ojeda Eiseley, *Índices de precios*, p.66-67, which is also used by Iriarte Goñi, *Bienes comunales*, p.183-230.

²³ The possibility of paying the State for auctioned property with paper notes and over long periods of up to ten years oblige us to be careful when assessing the profits made by the sellers.

in the medium and long term, it was to become a source of tension as the interest in perfect dominion of the *corraliceros* (owners of the pastures) came face to face with the peasants' awareness of dispossession, which fed the intense agrarian conflicts of the first forty years of the 20th century.²⁴

Likewise, the privatisation process being analysed did not guarantee the triumph of the ideal of property rights that liberalism advocated and that had been modelled by the Napoleonic *Code Civil*. In many cases the sales expressly perpetuated the customary practices of the open-field (stubble grazing, common pastureland, collective herds) which Spain's liberal legislation itself had been trying to eradicate since 1813. This raises a two-part question with profound implications: did this signify a weakness in the process of institutional change? And if this were so, did it have negative repercussions on the possibilities of economic growth?

A positive response to the first question implies the assumption of some apriorities that are probably erroneous. In the first place, it supposes that the definition of property rights is a teleological process that leads to individualism and simplicity. On the contrary, we should not forget that multiplicity of rights to a property is not equivalent to the confusion of the same. Tradition, institutionalised in the bylaws, and the conditioning of the sales deeds generally established sufficiently clearly the identity and obligations of different users, categorising them into different levels and identifying their limits with the aim of distinguishing their use and guaranteeing sustainability. The second supposition is that a radical change in the definition of rights is better than a process of gradual change. Against

²⁴ See De la Torre & Lana, 'El asalto'.

the clarity in the contrast of the former, the chiaroscuro of the latter perhaps allows a better modulation of changes in the specific conditions in which they develop. This does not mean ignoring the social costs involved in privatisation carried out on the margins of parliamentary decrees.²⁵

The “incomplete” transformation of the property system in the context of the liberal revolution is not, however, peculiar to Spain. Even in France, cradle of the revolution and maximum exponent of the new concept of property, we come across the survival of communal assets. Surviving the waves of *partages* in 1769-81 and 1792-1804, the commons and community obligations persisted in extensive parts of the country, partly because of the interests of the rural *notables*. This gave rise to some authors explaining the so-called relative historic “failure” of the French economy as opposed to the British on the basis of the “archaism” of its rural structures. However, it has also been defended, from the long-term perspective, that we are facing different models of growth; which in short, rather than seek winners and losers we should seek the nuances which make the processes intelligible.²⁶

This reflection leads us to the second question: what repercussions did the institutional change outlined have on the economic growth? Any allegation is premature until we have more complete information at our

²⁵ A testimony to this is the process experienced in many English villages before the parliamentary enclosures, with which the phenomenon that we have analysed has some affinity. See Neeson, *Commoners*, pp.81-109, Thirsk, *Agricultural change*, pp.54-109, Birtles, ‘Common land, poor relief’.

²⁶ The most complete study on communal goods in France, Vivier, *Propriété collective*. Concerning the relative success or failure of the English and French economies, see O’Brien & Keyder, ‘Les voies de passage’, and Moriceau, ‘Au rendez-vous de la révolution agricole’.

disposal. After all, not even in the case of England is it clear what degree of participation the enclosures process had on the growth of agricultural produce and productivity. What there does seem to be agreement on is that the agricultural structures of the open-field did not necessarily obstruct innovation. The question is rooted in the flexibility of the system to respond to the incentives offered by the market and in the mechanisms that determine the distribution of production amongst the different social persons.²⁷

With respect to the former, it would be inappropriate to draw conclusions, but it does not seem that regional agriculture was incapable of making good use of the opportunities offered by the market in the mid decades of the 19th Century. The growth of vineyards and olive groves and the increase (although ephemeral) in the breeding of sheep and fighting bulls are a good indication of this, although other routes or tempos may have been possible. With regard to the distribution mechanisms for agricultural produce, there is no doubt that social inequalities were intensified to the benefit of a new class of large rural landowners and that many peasants were denied access to resources that were important for the survival of their families. However, the disposal process did not completely expropriate the peasant classes nor did it deplete the reserves of common assets, which allowed a historical cycle of property distribution to emerge in the last two decades of the nineteenth century. The accumulations thus became compatible with an incomplete process of proletarianization.

²⁷ Allen, *Enclosure and the Yeoman*, Overton, *Agricultural revolution*. Turner, 'Benefits but at cost'. In the case of France, Grantham, 'The Persistence', also affirms that the survival of the open-field was not an obstacle for technical change.

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