

SESSION 21

Property Rights, Land Markets and Economic Growth in Europe (13th-19th Centuries)

THE SOCIAL DYNAMIC OF AGRICULTURAL GROWTH: THE EXAMPLE OF CATALAN EMPHYTEUSIS

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Although the importance of emphyteusis agreements in 18th century agricultural development in the Catalan region has been established in the research for some decades, this phenomenon has not generally been related to the land market. The work presented here aims to show the advantages of this interrelation. It consists of a comparative study of the contracts for *vendes perpètuas* (sales in perpetuity) and *establiments* (emphyteusis agreements), signed in one particular area over a short period of time, before the same notaries and by the same protagonists. The data were extracted from the first four volumes of the Registre d'Hipoteques de Girona (Girona Mortgage Register) which cover the period from June 1768 to June 1770, a period of two years. In these books there are 2,061 entries under the heading “*vendes*” and a total of 994 entries under the heading “*establiments*”.

The exercise seems to indicate that in the Girona area, from the point of view of changes in the landscape, ownership structure and the capitalisation of the land (and here we link in the theme of economic growth), emphyteusis had a far greater impact than land sales. In spite of the provisional nature of the study, the data presented enable us to persist in the two claims made at the beginning of this work.

a) The need to complement the study of land sales with the study of other methods of land acquisition.

If we had analysed only land sales, we would have obtained an impression of a society with very little movement of land between social groups. On the other hand, if we believe the data from the analysis of sales in perpetuity and emphyteusis agreements, our perception of the social dynamic is quite different. The progressive increase in the number of properties owned by the group of labourers, which the analysis of land sale deeds had only suggested, is shown in full here. The hypothesis of important agricultural growth in the area, with this social group as protagonist, now seems defensible and worthy of taking into account in future studies.

b) The need to take into account qualitative changes in property rights.

The study has provided evidence of the importance of the transfer of dominium utile of wooded and bare land between individuals. At first sight, a market in cultivated land at high prices seems more attractive to the historian than a market in bare and wooded land at low prices. But the acquisition of wooded and bare land, whether by purchase or emphyteusis, by people disposed to work the land is an indicator of agricultural growth which the historian cannot ignore.

The transfer of wooded and bare land also poses new questions. How was it possible to place a value on land which as yet provided no income? The analysis of sales and emphyteusis contracts for wooded and bare land reveals a very low price in the case of sales and, in the case of emphyteusis, very favourable terms for people disposed to acquire land in this way. For example, in cases where the owner claimed a portion of the produce of the land as a *cens*, this varied between one eighth and one twelfth. Some years later it would become the norm for such contracts to ask for a quarter of the produce. In any case, this allows us to present the hypothesis of an important process of change in the valuation and concept of property rights.

To analyse this process, we must look at it in the context of another phenomenon. From the mid 18th century onwards, the region underwent an important process of privatisation of wooded and bare land which the people had considered to be common land. The fact that among the main lessors we find two parish councils reinforces this idea. The privatisation was carried out by asking for and subsequently receiving *bans* (orders) which barred the local residents from access to the land. This implied an important break with judicial practice in the area. Both landowners with dominium directum and those with dominium utile took part in the process.

In the contexts of the arbitrary appropriation of land, rights under dispute and progressive agricultural individualism, emphyteusis must have played important roles in writing the new rules of the juridical game. In the face of land hunger and of evidence that the way to economic growth was paved by labourers and small landowners, the emphyteusis solution may have proved the most satisfactory solution for all parties: the emphyteuta acquired the title to a property and, in a way, the owner's promise to defend this title against possible litigants (the landowner with dominium directum, other owners of neighbouring farms, or other labourers interested in cultivating the same piece of land). The owner, for his part, acquired not only a new and indisputable source of income from land that was possibly in dispute, but also the complicity and tolerance of some of his neighbours in this arbitrary process of redefinition of rights to bare and wooded land.

We therefore see that the study of the processes of redefinition of property rights could be key for reinterpreting, among other things, the social dynamic of agricultural growth. But it must again be emphasised that the success of this task depends on making an effort to integrate social, economic and juridical phenomena into the global historical analysis of a society.