

Mouzinho da Silveira or the Unforeseen Revolution

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Abstract

Alexandre Herculano stated that Mouzinho da Silveira was a superior and even brilliant man for the reason that he was a verb; the incarnation of an idea, the personification of a great social fact. This great fact is what was called, in the interpretive framework inspired by the French Revolution, the abolition of “feudalism” in Portugal, a profound social change. However, the scope and consequences of the law of *forais* were unexpected and not the result of a project.

Keywords

Liberalism, feudalism (abolition), emphyteusis, revolution, legislator

Resumo

Alexandre Herculano afirmou que Mouzinho da Silveira era um homem superior e até genial pelo facto de ser um verbo, a encarnação de uma ideia, a personificação de um grande facto social. Este grande facto foi o que se chamou, no quadro interpretativo inspirado na Revolução Francesa, a abolição do “feudalismo” em Portugal, uma grande mudança social. No entanto, o alcance e as consequências da lei de forais foram inesperados e não o resultado de um projeto.

Palavras-chave

Liberalismo, feudalismo (abolição), enfiteuse, revolução, legislador

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This paper resumes research carried out in 1986–1987 and presented to the French Revolution Bicentennial Congress held in the University of Coimbra in March 1987. The results were published in volume 23 of *Revista Portuguesa de História* (Costa 1987).² It fits into the expected resumption of debates about the period between the first Liberal Revolution of 1820 and the final liberal victory in 1834. Now, thirty-five years after publication, it remains an unsurpassed contribution to the research into the abolition in Portugal of what was then referred to as “feudalism.” This research, together with the contemporary works of Nuno G. Monteiro (1987, 1989, 2003, & 2015), outlines the interpretation of the law of *forais* (the land settlement charters of medieval origin) through the mastery of primary sources and of the particularities of the specific “feudal” laws, as well as those of emphyteutic jurisprudence.

These papers followed the works of Albert Silbert, although his fundamental book (1978) did not concern “feudal” issues. However, Silbert published the petitions addressed to the *cortes* identifying numerous examples of conflicts about “feudal” rents (1985). Other crucial documents about the problem of *forais* were published in 1979 by M. H. Pereira (141–196). The tradition of Mouzinho da Silveira as the incarnation of the liberal legislator was revisited by Brandão and Feijó (1980). Monteiro studied the case of the Alcobaça Monastery and worked on the detailed information of the inquiry of local powers in 1824–1826 about *forais* in their districts (Monteiro 1985, 1987, & 2003). Other investigations into the Monastery of Santa Cruz de Coimbra illustrated the *anti-senhorial* (anti-lordship) conflicts, making clear the existence of several simultaneous levels of ownership, with the monastic lords coexisting in conflict with those below them. Some of these men (in some cases *foreiros* in spite of themselves) were rich and powerful on a local scale (Neto 1997). Two main studies were concerned with the parallel topic of the sales of “national estates” (Silva 1997; Silveira 1980 & 1991).

Alexandre Herculano made Mouzinho da Silveira the hero of Portuguese liberalism and this image, which has become a tradition, has been taken up by many other authors. Herculano stated that Mouzinho was a superior and even brilliant man because he was a verb; the incarnation of an idea, the personification of a great social fact (Herculano 1874: 172). This great fact is what was called, in the interpretive framework inspired by the French Revolution, the abolition of feudalism in Portugal, a decisive moment in the long transition from the rentier model to the property model (Macpherson 1973). This abolition

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was embodied in the so-called law of *forais*, a name generally given to the decree of 13 August 1832, the Portuguese equivalent of the decisions of the French constituent assembly on the famous night of 4 August 1789. *Forais* are medieval settlement charters given by kings (and in a few cases by lords) to the people living and working on their lands, with a wide range of taxes and rules, revised in the beginning of sixteenth century but without introducing substantial changes in the medieval texts.

Mouzinho became the redemptive figure of the weaknesses for which Portuguese liberalism was criticized, since he would have suggested a different path from the one that was followed. He embodied liberal virtue; he had been a simple and unblemished man, the opposite of a courtier. Several times, he demonstrated his detachment from the positions of authority that he occupied for only short periods, as minister of King João VI in 1823 and then minister of King Pedro IV in 1832 (as regent in name of his daughter Queen Maria II). Then under the liberal regime, after fleetingly being a member of the Chamber of Deputies, he ended up in exile once again in France.

Mouzinho da Silveira embodies the figure of the legislator, the mythical figure of the creator of political order. He who has limitless power—without legal limitations and in the absence of representative assemblies—uses it to break social routines and impose the introduction of major social changes. The legislator opened up a means of transformation based exclusively on his “enlightenment,” being the original producer of a new social cohesion. For this reason, the legislator was attacked by the defenders of monotonous mechanisms, and some of those who opposed the laws were among the liberal movement. The legislator’s work is a divine work, the creation of order, and this is why Herculano used to say that Mouzinho was a verb.

This is an example of the use of the state of political suspension (state of exception or dictatorship) for proper constitutional action. The law was drafted in the midst of the civil war between liberals and absolutists or Miguelistas (1832–1834). It was the time of the “revolutionary government,” which took advantage of an exceptional period of time, a suspension of routine. This explains the disconcerting parallels made with the actions of the Marquis of Pombal, the prime minister of King José (r. 1750–1777) that used intensively unlimited powers. But this liberalism already had its fundamental law: the Constitutional Charter (*Carta Constitucional*) granted in 1826 by King Dom Pedro IV, which was in force until 1828. Why was this legislative activity, then, necessary? In 1832, Mouzinho was, and would always remain, a defender of the 1826 *Carta* as a constitutional version that was interpreted as a compromise between royal and “popular” or “national”

legitimacy. The matrix of the *Carta* is defined by two “conservative” dimensions, the moderating power of the king and the existence of an upper aristocratic chamber. The 1826 charter seemed to adapt well to the orientation that pointed to a merger of parties expressed through the planned marriage of Queen Maria II with her uncle Dom Miguel. Mouzinho was not a “radical.” After the resounding failure in 1828 to apply the orientation aiming the fusion of liberal and absolutist parties, the celebrated “Mouzinho laws,” a series of “revolutionary” laws in several domains, including administration, and on 13 August, 1832, the abolition of *forais* and *bens da coroa* (crown assets), two secular characteristics of the Portuguese monarchy. These laws gave a new dimension to the liberal party of Queen Maria II and her father Pedro, the former emperor of Brazil, that wanted to obtain support from the “people.” But, as Herculano explained, when he spoke of the people, he did not refer to the plebeians, who did not reflect or have interests linked to the new laws, but to those who were property owners (Herculano 1874–1882: 196). This was a matter for the middle classes.

Essentially, Mouzinho’s law of *forais*, starting with the repeal of royal grants—that is, using the special legal status of these grants to extinguish the traditional system of grants itself—canceled grants of any assets in the area and extinguished all *forais*. Consequently, it extinguished all types of payments imposed on the Crown’s assets and also contracts of emphyteusis and sub-emphyteusis, or census, or any other indeterminate title when founded on royal grants or *forais*. Emphyteusis is a legal division of property in two domains, *direto* and *útil*, the original owner transmitting the holding and the improvements to another person for a long period, different from the ordinary lease. The holder of this second domain, the *enfiteuta*, had to pay an annual rent and also another amount (*laudémio*) for transmission to another holder. This domain evolved toward heredity and full ownership. It could be doubled in a sub-emphyteutical level, which, as we will see, is not unusual.

I here translate *enfiteuta* as “copyhold” (with quotation marks, to mark the distance between the English and the Portuguese legal orders) as we can find similarity between the two conditions. The main difference lies in the legal support. In “copyhold” we find a strict manorial concession, consequently “feudal,” resulting from the custom of a particular manor. The presence of personal links of subordination and protections seems predominant. The jurisdictional power of the lord appears as a complementary dimension of land exploitation. In the *enfiteuse* we find a legal tradition of Roman origin and a generally codified understanding of this kind of pact. The manorial matrix seems less clear.

However, in remote times, the terms of an emphyteutical “contract” could include a great number of unusual conditions giving those “contracts” many singularities. Furthermore, as in emphyteusis, copyhold evolved into a lasting type of ownership. Both evolved in the direction of divided ownership. Copyholds “were originally granted at the mere arbitrary will of the lords . . . but through the indulgence of the lords, on the one hand, and the gradual encroachment of the tenants on the other, they are now, and have been for ages, become an absolute and established species of landlord property” (Fisher 1803: 9).

It is in this paragraph six of the decree of 13 August 1832, the law of *forais*, that the future problems of law enforcement started, which remained in the provisions that determined that assets be left alodial in the full possession of those who paid the extinct payments and, moreover, revoking for the benefit of those registered all taxes covered with the names of *empromazamento* or *subempromazamento* (i.e., the conclusion of an emphyteusis and sub-emphyteusis contract) by kings or grantees or those who obtained the estates by any title. The great problem of law enforcement would reside in the scope of application of its crucial measures, as we shall see below.

However, the law provided for the compensation of the affected persons or corporations, with the exception of the so-called unworthy, that is, the Miguelist supporters. This stipulation of an indemnity guaranteed the legislator a certain operating space in the process of simplifying the agrarian land-ownership system. It should be noted that grantees who were in possession of the estates without having transferred them on a permanent basis should keep them as free and alodial (except for the unworthy). The aim was not to affect the grantees, but rather—and this is the consistency of the law—to annul any division of property in the assets.

The Question of the *Forais*

The so-called question of *forais* reached the political forefront through the law of 13 March 1810, inspired by the Count of Linhares, an enlightened man, a minister between 1796 and 1803, and the prominent figure of the government of King João VI in Rio de Janeiro from 1808 until his death in January 1812. The issue of the harmful effects of charges imposed by *forais* had been raised previously, namely by the most prominent jurists (Silbert 1977: 83). A tradition of conflicts was also known between farmers and grantees concerning these charges.

In 1810, with the loss of a colonial-type commercial link with Brazil, efforts were made to encourage investors to move their capital to the agrarian sector, and for that it would be essential to relieve very heavy agrarian payments such as those of the residents of lands of the Cistercian order headed by the Alcobaça Monastery, the best-known example because there were numerous conflicts between its farmers and its *Esmoler mor*, a title that was displayed by its abbots (Monteiro 1985).

In Lisbon, the Count of Linhares's brother, Dom António de Sousa Coutinho, known as Principal Sousa, the main canon of the Patriarchal church, joined the council of governors of the kingdom that same year and was the promoter of his brother's proposals. In this way, a type of anti-feudal agrarian reformism was enunciated, formulated by leaders who were attentive to liberal economic reforms but were not in line with political liberalism, being reformers generally identified as "neo-Pombaline."

Sousa's account for the Prince Regent of 27 March 1811, that is, immediately after the destructive invasion of Portugal by Masséna's troops, invites people to cultivate the lands that they had been forced to abandon (Arquivo da Torre do Tombo, Ministério do Reino, Livro n.º. 314, f.167v170). He insists that the prince should be like Dom Dinis "the Farmer" (the medieval king of Portugal and protector of agriculture) because otherwise, it was thought, the kingdom would end. Indeed, it is not possible for a settler to sacrifice himself, being subjected to taxes that made it prohibitive to work the land. On cerealproducing lands, there were many taxes from which the state did not gain anything, including the *dízimo a Deus* (the tithe is the traditional tribute to support the clergy) and eighths, thirds, fourths, and fifths (variable rents, proportional to the harvest) according to the *forais*. In addition to these, they paid the state the *décima territorial* (tribute for the support of the permanent army created for the first time in 1641 and again in 1704 and 1762) and the *sisá* (a tax over commercial activity), all this weighing on the culture of this precious branch that saw so many people leave Portugal.

There were still other tributes and vexations. The reason for the lack of bread in Portugal was clear. In the early days of the monarchy, the sovereigns had enough for their expenditures. With the new wars, the *sisá* and the *sisá dobrada* (duplication of the *sisá*) taxes were created along with the *décima* and other necessary levies, and so the growing of grain decreased because in the first *forais*, the diversity of the lands had not been considered when allocating the tax to be levied, and so a piece of land that produced from one seed another eight or ten could be taxed in the same way as another land that which only produced three or four seeds. The *arneiros* (sandy land with low productivity) and weak

lands remained fallow, and the kingdom was deprived of its most important crop. This had always been a problem, but even more so after the Peninsular War (Arquivo da Torre do Tombo, Ministério do Reino, Livro n.º. 314, f.169) to invite and call the people to their ruined lands. What Sousa proposed was aimed at short-term objectives. In three months, he said, not only would the population be kept on the lands, but the measures would allow for the maintenance of the army, which had been affected by the lack of cultivation throughout the province of Estremadura and part of Beira. He proposed that in that year, people should be relieved of those extravagant taxes, a proposal that aimed to eliminate the taxes which had more vexatious than economic goals. In a more substantial way, he proposed that in the lands of clay and *arneiros*, the *jugada* (a tax on cereals) should be reduced from one in eight to one in fifteen in instances when the tenant was not exempt from all taxation.

Sousa answered two objections to his project in advance. One, he stated that he did not fear at all the reaction of the people who could stop paying all rents and not just those fixed by the reform, and that they would praise and exalt the prince for his mercy. As for the grantees, what they held was by royal grace and those that had been sold would have been *a retro aberto* (i.e., providing that the party that sells can take over the property by indemnifying the buyer) and could have been taken to the Crown in the form of a contract, with the Crown benefiting from this. The “public cause” should prevail over private parties and the decrease in the income of the grantees would be compensated by the increase in cultivated land. In conclusion, the reestablishment of the kingdom depended on “a new *foral*,” which, by regulating the taxes according to the quality of the land, would mean great relief for the grain growers and allow the increase of public rents and the prosperity of the kingdom, saving the immense sum of cash that was paid annually to obtain the necessary subsistence.

Importation of Cereals

Sousa was referring to the huge expenditure on the import of cereals into the city of Lisbon, a topic that was gaining increasing importance and was discussed by the deputies of the *Cortes* of 1821. In the six years between 1814 and 1819, the import of cereals had cost the kingdom almost twenty-two thousand *contos de réis* (or twenty-two million *réis*), a sum that corresponded to about a third of all state revenues in six years.

This amount could stay in the kingdom if there were a grain supply to feed the city of Lisbon that could ideally sustain an intense investment of capital in the vicinity of the city. The proposal in the *Cortes* in 1821 highlighted protectionism for autochthonous cereals. The policy of cheap bread, a tradition of distant origin—from ancient Rome—at the center of the traditional social order, was criticized. The grain traders were traditionally viewed with enormous suspicion as men whose greed could cost the lives of other human beings or at least make them pay an excessive price for a vital item. It was thus a paternalistic government that sought to ensure that the people had bread, preventing the grain from being withdrawn for trade when stimulated by the price game. As a rule, the economic space was purposefully compartmentalized, and the severe punishment of middlemen was enshrined in the law. But in the title of the *Ordenanças* (ordinances, the compilation of the laws of the realm) on the subject, three locations were identified that were always deficient in cereals: Lisbon, the island of Madeira, and the Algarve.

Several provisions were inscribed in the Manueline Ordinances (Book 4, title 32) and in the laws of King João III, providing for a prison sentence (the law of 5 June 1553), and in those of King Sebastião, specifying that only those who had bread from their harvest or tenants could sell it and forbidding money being advanced to the farmers (thus revealing the capitalist presence in this field). According to a liberal deputy, until 1689, cereals had come from Africa, Sicily, Poland, and Denmark, and after that date from England, the result of the orientation that country had adopted in creating export premiums (*Diário das Cortes* 537). There was some internal supply from Lisbon from locations on the banks of the Tagus. In 1750, the traders in this region took measures so as not to be covered by a license against the middlemen and were allowed to continue their activity (Tengarrinha 1994, 1: 79).

The municipal governments of each area had an obligation to safeguard the grains for their population, preventing their passage outside the municipality. Basic subsistence was thus purposely outside the free market. Subsistence was the object of transactions but in politically-linked conditions. However, the paternalistic government was beginning to be called into question by those who believed that the increase in the volume of production should be stimulated by investments motivated by the expectation of greater profits in a wider commercial space. The creation of the market that would allow the support of a class of capitalist investors in agriculture was at stake. This market was not generated “naturally”; it was the result of a political option against paternalism and the formation of the social space necessary for investment. But this creation was made in two senses that, in

a pure liberal perspective, were opposed in the doctrinal field: the reshaping of the economic space of cereals on the scale of the entire kingdom, on the one hand, and the protection of the Lisbon grain market by prohibiting importation, on the other. Both ideally came together to form a protected national market, but the first was liberal and the second was protectionist. The foundation of this protectionism was in opposition to the new economic ideas, as explained by Borges Carneiro when he declared that he did not believe in books, or rather that he believed in only one book: that of the world, that of nature, that of man. Anything that did not conform to that was worth nothing. How was it possible to persuade people to buy foreign goods and not be able to consume their own, he queried. The option for foreign goods looked only at the momentary relief of the *jornaleiros*, the workers hired for a day who wanted cheap bread, and not at the benefit of the landowners and farmers who provided a steady abundance of goods. If this continued, the crops would be ruined, the scarce money in circulation would be exported, the domestic trade would be paralyzed, and the *jornaleiros* would have nothing to do. Carneiro concluded Portugal would be a country of inert men, asking other countries to support them (*Diário das Cortes* 540).

The objective was, in short, to remove crucial areas of the country's economy from the international sphere: cereal imports that Bettencourt (1824: 18–21) estimated at 140 thousand *moios* (from an annual average of almost ninety-three thousand in the official register; considering that forty-seven thousand were contraband, an increase of fifty percent) and the introduction of grain from Spain across land borders. The market was not a natural or spontaneous result, a reality that was only covered by political barriers and that therefore needed to be “freed” from these obstacles. It was the result of a political option: the abandonment of paternalism in favor of the desired reinforcement of a class of landowners dedicated to agrarian investment.

The Sale of National Estates in 1821

Since the final years of the eighteenth century, the selling of estates that were available in the hands of the state was a common topic. The sale of estates of the *comendas* was integrated into the new public debt policy. It included, for example, the Vargem farm bought by the capitalist Gaspar Pessoa Tavares, which became the imaginary old and original manor of the family, who added the surname “da Vargem.” The sale of Crown estates continued in the years before 1820 (Tengarrinha 1993).

The sale of estates now designated as national (belonging to the nation and not to the Crown) was defined by the decree of 25 April 1821. All Crown assets transformed into national estates that became available by the death of the grantees had their income applied to the separate recipe (*caixa*) of public debt amortization. However, in the case of donations made by the king in remuneration for services during more than one lifetime, the second beneficiary of the donation, the heir of the awarded of the first, could remain donee of the estate.

Both the income and the proceeds from the sale of estates would be delivered to the administration of the public debt (*junta dos juros*) that was left with this task. The sale would be made when the administration of the estates had negative effects (which indicates the hesitation between the benefit of the current revenues and that of the sales) and made in the place where the estates were located or where there was a career judge (*juiz de fora*) and *editais* (notices) placed in the head office of local administration (*cabeça de comarca*) and in the gazette of the Regency. The payments would be in paper money and in any credit securities “settled at the value corresponding to the same paper money on the day of the auction” (decree of 25 April 1821).

The scope of this guidance was limited by the delay imposed by the recognition of “lives” (as were currently named the first and second beneficiaries of the royal donations) already granted in the possession of estates. Another noteworthy difference from the laws of 1832–1834 was that the estates considered here did not include those of the dissolved monastic orders. According to Franzini in 1826, the separate *caixa* of the administration of public debt (*junta dos juros*) that collected the income applied to the debt received on average 900 contos in five years (one *conto* = 1.000.000 *réis*). Of these, 431 *contos* came from the “manorial system” (Franzini 1827: 3–4). Selling national assets in exchange for debt papers would entail taking these assets out of the income financing the payment of debt interests and consequently losing this source of income. The paradox of the great debt amortization operation through the disposition of national assets—a national “capital” that was alienated—is that it could only be done once, and to be rational and not just an expedient or mere opportunism it required that the debt did not undergo, after this operation, a new process of uncontrolled growth.

The 1822 Law of *Forais*

Soares Franco, deputy and expert on this legal domain, systematized in his explanatory booklet on the measures provided for in the law of 5 June 1822 three reasons that justified the changes in this area. In the early days of the monarchy, the only rights that were paid were those of the *forais*. Then came the *sisá* tax, the *real de água*, the *décima*, the literary subsidy, and other taxes. The Portuguese could not pay both kinds of taxes, “feudal” taxes and modern-state taxes, without being ruined, and as the second group, being composed of more rational general taxes, could not be abolished, it was necessary to reduce the former.

Wars that had been waged at the expense of the *grandees* and landlords were now paid for by the people, and for this reason, a part of the rents that the *grandees* received had to remain with these people. Cereal agriculture could not flourish in Portugal under such heavy and burdensome taxes and these were in opposition to the clearest principles of political economy. “Gothic” institutions (as he named them, highlighting the medieval origins) had chased away the production of wealth and the abundance of staple goods (Franco 1822: 3–4).

The first and main change foreseen in the law referred to the crucial aspect of the statutory charges provided by the *forais*, which were reduced by half. It was a compromise option. The conflict that would result from the discontent of the grantees affected by the measure was attenuated and a part of the income that paid the new taxes which supported the public debt service was not extinguished. But the scope of the application of such a law was confronted with the complexity of the agrarian legal regime. The first article—as Franco (1822: 5–7) put it—contained five provisions: first, relating to uncertain quotas or rents proportional to the harvest, such as quarters, eighths, and so on, which was an easily identifiable domain; second, on the fixed rents (*foros*) and pensions (unlike the previous ones) imposed by *forais*, which also makes them identifiable; third, referring to certain rents, which were not imposed by the *foral*, but rather by the landlord, who subsequently made new appointments to holders who would be paying a new rent (*foro*) or pension; fourth, related to the *jugadas*; and fifth, related to the adjustments that the landlords made with the local people to give the landlords in place of variable rents (as quarters, eighths, etc.) a certain payment that was generally called *avenças* (covenants).

This was therefore the scope of legitimate political action to impose change in the existing state of affairs. The third domain could be a field of litigation, as predicted by the

author of this explanation of the law. There was a clear area of what could be and what was desired to be eliminated or reduced—that of the rents proportional to harvest (*prestações raçoeiras*)—and an area of potential litigation: that in which benefits are imposed by titles which in the debate on the revision of the new law of 1832 (as I will point out later) will be designated as a “particular title” with a contractual appearance, as opposed to the “generic title,” which had the characteristic of seigniorial origin.

Those affected by the reduction of this income would be the landlords who had received them by royal grants and who in some cases would suffer a substantial loss of their income. This was the case for several houses of some of the larger monastic orders and with an older foundation. An overview of this importance of the Crown’s assets in these areas was possible based on the relations that were sent to the administration of public debt (*junta dos juros*) for the purpose of imposing the extraordinary *décima* for public debt (Costa 1989b). The law that halved the payments imposed by *forais* had an effect on the income of several houses of the order of São Bernardo, like Alcobaça and Cós (Monteiro 1985) and also the Monastery of Santa Cruz de Coimbra (Costa 1989b).

The characteristics of the formation of the patrimony of these monasteries in medieval times when “settlement” of an area could, due to the lack of previous structuring, be done through *forais* in which the so-called generic proportional rents were established, explains this, and examples are therefore concentrated in a specific region of Portugal. This type of heavy payment was therefore only a problem for farmers in a few areas of the kingdom (Monteiro, 1987). But they illustrated the inhibition of investment by a manorial regime that supported men who were considered, in the mildest version, of little use, or, in the most brutal, parasitic bodies living off the work of others (Correia 1974). The monasteries of these rich orders were traditionally a form of “socialization” for the support of children of the nobility who were not destined to be heirs to the houses or for women to establish alliances through marriage. In the case of the order of São Bento, for example, the entry of commoners was forbidden until 1780, the year in which Cardinal Saraiva entered the order (Ramos 1972: 7).

The End of the “Asian System”

Mouzinho da Silveira was looking for the social point of no return of liberal political innovations. The recent history of France after the Restoration of the Bourbons

would demonstrate that this point of irreversibility was effective, and in this example was found the explicit inspiration for the decree of *forais*.

In the preamble of the decree of *forais*, Mouzinho explained that while living in exile in Paris, he had seen the means employed by the Bourbonic government before the revolution of July 1830 to weaken and perhaps extinguish the 1814 Constitutional Charter of Louis XVIII, the Charter had resisted by being anchored in the laws of material interest that the nation had enacted. The contrast between the failure of the Portuguese Charter in 1828 and the French Charter in 1830 was a crucial experience. The recent history of France proved the possibility of an irreversible change towards political freedom whose key was not in politics but in the configuration of the property regime (report—decree of 13 August 1832).

Mouzinho was motivated by the fact that the survival and persistence of political regimes was based on the material interests created and associated with the defense of those new regimes. This tradition of Machiavellian roots was the inspiration of this policy, as Mouzinho explained in the 15 April 1839 session of the Chamber of Deputies, that when revolutions are made, it is necessary to make changes in the material world as well, because if this is not done, the authors of the revolutions can count on the gallows (*Diário da Câmara dos Senhores Deputados* 1839: 82). It was a frequently repeated assertion: without the creation of interests, political changes did not last. Linking tangible material advantages to the new type of government was the way to recruit supporters who would defend it. The French example showed, as he said, that supporters of the old regime, longing to restore it, looked at the laws that had freed the land of France from all that was feudal and that reduced the clergy to the state of being paid by the government as (in his words) bastions of freedom. People were sure of the impossibility of an absolutist restoration before the repeal of those laws.

The key to the political system did not reside in the political system itself, but rather in the system of property. France would thus have reached a point of irreversibility in changing the property system, which had made it impossible to return to absolutism. This theme was a logical obsession for Mouzinho, who had been forced into exile by the restoration of Miguelist absolutism after a brief and frustrating trial of the very unstable government under the Constitutional Charter from 1826 to 1828.

Mouzinho noted the inspiration taken from the French example of the resistance on the charter of Louis XVIII. The first Portuguese nobility that became the main supporter of Miguelist absolutism and enemy of D. Pedro's Constitutional Charter of 1826

had not been immediately offended by this new fundamental law, on the contrary, it guaranteed the status of his members. The political importance of the first nobility even increased through the creation of a sort of chamber of lords, the *Câmara dos Pares*. Hostility to liberalism came only from the fear that legislation similar to that of France would abolish the royal donations system of crown assets to the first nobility and, in Mouzinho own words, assume their ability of abusing men and things and live off what they extracted from the misguided will of the princes.

The opposition between two different types of nobility was evident based on two ways of obtaining income, a contrast that governed Mouzinho's thinking. One is the nobility who live on the income resulting from royal donations of crown assets for one or two lifetimes and is always subject to confirmation by the new king, made as so-called "remuneration for services" allegedly provided for kings, and which in the Portuguese system does not become their freehold property. As the liberal and most distinguished leader Fernandes Tomás explained, they were administrators of the donated assets and not its proprietors. This would be a nobility dependent on mercy and for that very reason, (in Mouzinho terms) creepy and treacherous.

Another kind of nobility, the ideal, would be an independent aristocracy, living off its own full properties. The formation, then, of an aristocracy that would faithfully integrate the upper house (*Câmara dos Pares*) provided for in the *Carta*, as opposed to the aristocracy that had shown itself to be a defender of Miguelism. The explanation for the betrayal of the project that had called this group, to the astonishment of its members, to the forefront of politics was the fear of the abolition of the royal donations system. They had seen that in the *Carta*, profitable favors could not be given without approval from the Chamber of Deputies, which would dry up the source of their future hopes: Mouzinho concluded that this kind of veto deposited in the elective chamber was the basis of all resistance.

This Miguelist nobility was, in his words, composed of essentially low people, educated by lackeys and raised in the sordidness and dependence on the *lei mental* (literally mental law), an invention of Portuguese despotism, and had no character to feel and appreciate the *carta* and its existence, as new as it was noble. The *lei mental* was a law of 1434 made "to give a certain limitation and true interpretation of donations of land and things pertaining to the Crown" (Law of 8 April 1434), in which it was determined that the assets donated by kings did not lose their peculiar status and could not be divided and made patrimonial. These dispositions were explicitly revoked by Mouzinho's law. The

betrayal of the Miguelistas, he said, had made it necessary for the government of King Pedro “to seize the occasion to lay the foundations for an Aristocracy that, due to its real independence and the nobility of the feelings that arise from it, is worthy to prefer the high category of Peer of the Kingdom to the baseness that snatches the *mercês* [donations, i.e., the system of temporary donations] of Princes through objections.” (Silveira 1989, I: 739–743).

This is the core of liberal thinking. The philosophy of property links the political capacity of independence based on the property that sustains the individual, just as it underlies the definition of the censitary capacity of voters and those eligible for the lower chamber, the *Câmara dos Deputados*. Ownership organizes society. Ownership in its full capacity of disposition allows for the formation of individuals who, being independent, can oppose any attempts at tyrannical deviation wherever they come from and consequently safeguard freedom in society. Property is therefore sacred.

Significantly, a decree on 7 March 1832, signed by Mouzinho, was intended to annul a seizure of assets proclaimed by the liberal regency—this invalidation being seen by Mouzinho as promoting the social influence of liberals—showing that there would be no confiscation of the property of enemies. Mouzinho hoped it had an international dimension. He wanted to make it unequivocal that, as he claimed, the spirit of reaction and revenge had never been that of the regency of Queen Maria II, and that the regency was taking an entirely different path from that followed by absolutist usurpation. The liberal government, he added, did not want the assets of the rebels. Europe would see in King Pedro (the regent in the name of his daughter) a great and generous prince. It differentiated the new administration from the previous one: removing the risk of abuse of positions to place in question the property of enemies. Furthermore, only in Portugal did public order, freedom, and the economy be present, and it was impossible for King Pedro not to become king of the Peninsula and later an arbiter of Europe. In this way, full individualism was enshrined.

Mouzinho’s decree of 18 April 1832 ruling for the rigorous protection of private property intended to destroy collective and traditional conditioning for the progression of agrarian individualism. In the preamble, nations where laws were sufficient to decide all differences on property were opposed to nations where the anti-proprietary spirit of barbaric peoples was still observed due to the fact that it was not common knowledge that property, far from being the cause of someone’s state of poverty, was the cause of laborers becoming happier. The actions that rendered useless the government’s measures and the

efforts of the individuals that tended toward the progressive increase of agriculture, industry, and population were at stake due to their capriciously arbitrary nature.

Mouzinho was looking for the lasting link between government and opinion: solid popularity, as he claimed, was born out of the strict observance of the precept of giving each person what is theirs, and the property of others, even when badly acquired, was not to be invaded but rather legally claimed, and furthermore, property was always to be used and not destroyed. Finally, “the faculty that attributes a certain fraction of the people against the general will, which is contained in the laws, is a particular will, or, in other words, injustice or divergent force that must be severely repressed” (Introductory report—decree of 18 April 1832).

Property is the true creative center of society to which everything else must be subordinated. Legislation is directed against what appears as an obstacle to its approach to fullness of disposition: in the juridical area, such as bonds; in the corporate area, like the company of the vineyards of Alto Douro; and in the area of taxation, such as *sisá* (tax over mercantile activity) and rents imposed by *forais*. The different characteristics that nations have are not the result of only one nature. “The influence of the institutions and laws is not a chimera . . . and all nations without changing terrain and climate rise or fall according to whether their government is good or bad” (Introductory report—decree of 18 April 1832).

For this reason, it was necessary to reform the state. We find in Mouzinho’s words the same identification of the evil that those living on public revenues performed, the parasitic elements, which are at the center of the speech of the deputies of the Constituent Assembly of 1821–22 (Costa 2020). “Enjoy each one your private property and do not allow the government to live on contributions but for the men needed for things. . . . Among us there is no proportion between the ability to find taxable material and the people destined to devour it” (Introductory report—decree of 18 April 1832).

Mouzinho’s Law of *Forais*

The application of the law providing for the revocation of contracts of emphyteusis and sub-emphyteusis in Crown assets made in an environment of political change, especially after the dissolution of monastic religious orders and the consequent incorporation of their property in the state, led to a very large wave of nonpayment of rents. In the case of the relationship between “copyholders” and direct landlords, the law

being favorable to the middle classes, it would not present much opposition. Even so, members of the highest nobility who had joined D. Pedro's party expressed their discontent. But in the case of the relationship between the "copyholders" and "sub-copyholders" (i.e., holders of emphyteusis and sub-emphyteusis), there was a feeling of injury to the sacred sphere of property, as this relationship was understood to be purely contractual—the creation of the property of a rent over a material asset and outside the sphere of the seigniorial or "feudal" regime, where there would be the shadow of coercion.

Mouzinho was accused of being attached to general theories and removed from the realities to which the principles applied. The deputy Agostinho Albano said that the luminous principles of political economy that lead to the decree of the *forais* (whose replacement was in discussion in 1839) "are good and exact for all times, they are the same that I support and defend, but in the abstract, because I do not consider them always admissible, always adoptable in all circumstances as fully as they are written in books" (*Diário da Câmara dos Senhores Deputados* 1839: 86). The affirmation that only full ownership of property gives independence is undoubtedly accepted. However, the insertion of the middle class and investors in the agrarian domain was frequently made not by buying land but by using an imperfect legal form, emphyteusis, that divides property into two or three domains, and this was far from the doctrine. Mouzinho was an example not only of the mischievous habit of "doctrinalism," but also of ignorance of the existent social appropriations of legal forms.

Surely the deputies would be surprised by the statement that one could not be a "copyholder" and a free individual and that being a "copyholder" (*enfiteuta*) represented misery. This provoked the response of deputy Albano, who used the example of the province of Minho and emphasized the difference between the abstract and the concrete: "I heard a doctrine that I am not comfortable with being delivered and one which I generally do not admit; he [Mouzinho] said where there is emphyteusis there is misery! This proposition is unsustainable in concrete terms while in the abstract it may in principle be unquestionable" (*Diário da Câmara dos Senhores Deputados* 1839: 86). The "conservative" critics of the law would not fail to accuse him of ignorance and of transposing simplified and polarized representations associated with the idea of "feudal oppression" where nothing like this existed. This occurred when the revision, or rather the effective abolition, of the "law of *forais*" was debated. The supreme irony was that the law guided by the consecration of full and unlimited property was accused of having violated property rights.

The generic disposition to eliminate the different coexisting levels of property had led to the extinguishing of the rights of perception of rents from emphyteusis that were the inherent (and only subsistent) rights to the owners of the direct domain, with the “copyholders” obtaining full ownership of the assets, without having to bail out those *foros*, thus constituting a free donation from government to the “copyholders” in the form of eliminating a level that was classified as an original taxation and rendered illegitimate by the duplication of tax systems and the appropriation of the incomes of the old system by social classes perceived as useless. This provision could possibly harm the holders of the right over the *foros* imposed by emphyteutic contracts on Crown assets. But the scope would be limited.

However, the effective extension of the application of the law resulted from an unexpected widening of its scope: not the Crown’s assets in the strict sense, but all the properties and possessions that were transferred to the state administration after the dissolution of the monastic orders. It was something unexpected. The government hoped to proceed with the bailout or sale of the *foros* that had been incorporated from the vast domains of the monastic orders. The bailout began, but with little effect.

But the crucial point is that logically, Mouzinho defined in the law that the same disposition (the elimination of different levels of property in the same estate) applied to cases in which the land was under a regime of sub-emphyteusis. If the rule was to enable the leaders of the effective exploitation of the land to reach the level of their full power, there was no doubt that the “copyholder” would have to be eliminated in favor of the “sub-copyholder.”

It was here that the law created the great social problem: it eliminated not only landlords (*senhorios diretos*, proprietors of rents) but also “copyholders” where the land was under a regime of three levels. Suddenly, as the sub-copyholders became full owners of the assets and the copyholders could no longer claim the *sub-foros*, while at the same time the mobilization of large sums for a public reparation of the copyholders was remote, the unexpected execution of the law expropriated many of the members of the middle classes (including presumably some deputies), which for them was absurd. Everything indicates that this happened unexpectedly. The drafting of the law, confirmed when liberal troops passed through the Alcobaça region (the region of passionate anti-feudal struggles), in conjunction with the dissolution of monastic orders, led to an unforeseen result.

The assessment of the social scope of the extensive application of the law depended on a better understanding of the social structure, especially in the case of the

region of Minho. The province of Minho has a well-defined cultural specificity supported by two juridical forms: first, a specific method of succession in the emphyteutical property; and second, the importance of sub-emphyteutic domains. The first was the “copyholds” of free appointment (*prazos de livre nomeação*) in which the holder could carry out the transmission of the land without strict rules. The deputies of the province emphasized that a stronger authority of fathers over their sons was the consequence of this regime. Obedience was the rule. This method allowed the transmission of undivided patrimony to the next generation. Children removed from succession received assistance to emigrate to Brazil or to establish themselves in other endeavors. This kind of “copyhold” was frequently explained as a sort of “popular entail.” The other characteristic of Minho was the large number of lands under a regime of sub-emphyteusis. Two levels of proprietors of rents existed in most of the lands of the province, according to some deputies (Costa 1989a). Unfortunately, the cultural peculiarities of Minho remains today largely unstudied.

However, Mouzinho seemed to ignore what happened with the application of his decree. In 1839, when he returned to the Chamber of Deputies, he was the first to speak in the general debate on the project to revise his 1832 law. He reaffirmed his authorship of the and law resumed the theme of “feudalism.” He seemed totally out of place in the debate in which he did not participate again. His strict economic determinism was confirmed in his speech: “A man does not dispose of himself freely . . . the soul of a man is subordinated to the facts that surround him. . . consequently, the land must be free . . . the emphyteutic lands that are so many entails (*morgados*) of things are still a heavy burden upon our shoulders.” Feudalism was the foreground: “The decree of 13th August is highly political and highly economic because it ends the ideas that have produced everywhere and at all times thousands of revolutions, these are the feudal ideas” (*Diário da Câmara dos Senhores Deputados* 1839: 82–83).

Mouzinho said that he had thought that the system of reversible grants had been the idea of João das Regras, but he later discovered that they had already been established in Asia. The “feudal ideas” were very old, existing thousands of years before Charlemagne or Montesquieu, and gave origin to many revolutions in Asia. He had already written in 1832: “Usurpation (the absolutist regime of Miguelismo) left the European system.” Miguelismo would be an “Asian” phenomenon and the victory of King Pedro would return the realm to “the guild (*grémio*) of Europe.” In his intervention on 15 April 1839, he returned to the theme of the lowliness of the aristocracy in the shadow of “feudal ideas” (*Diário da Câmara dos Senhores Deputados* 1839: 82–83). Although the term “ideas” can cause

some uncertainty, we can deduce that “feudal” means the precarious possession of a source of income, thereby obtaining a bond of fidelity from the one who receives in relation to the donor.

The possibility of revocation of possession of an estate was the connection between the distant feudo-vassalic pact, the precarious donation of Crown assets under the already mentioned *lei mental* and emphyteusis, but only in the case of the most ancient forms of emphyteusis, no long present in the nineteenth century. Mouzinho saw emphyteusis in the same light that led him to identify the effects he believed to be those of the Portuguese system of royal grants. Just as this system prevented the existence of a nobility with enough independence to prevent a tyrannical drift, so “copyholders” would also be dependent on the landlords.

The abolition of rents that fed the nobility was not the only thing at stake. The Count of Taipa claimed that “the rights of the aristocracy” were at stake, because not only had it had been despoiled but “the whole of society,” but also because the principle of property was attacked (*Diário da Câmara dos Senhores Deputados* 1839: 84). In fact, the idea that the “copyholders” were miserable individuals, dependent on and subject to the landlords’ yoke and masterful power would be an eccentricity statement without great consequences in as much as, in the case of the abolition of the *foros* that they paid to the landlords, these were always the beneficiaries of the law. The biggest social and political problem arose only when Mouzinho decided that, in the case of sub-emphyteusis, the “copyholders” would also see the extinction of the rents (*subforos*) paid by the “sub-copyholders.” This was the unforeseen scandal. Stipulating this abolition, Mouzinho did not respect the social and political barrier that would prevent him from entering a domain that was considered to be sacred property.

Indeed, while the extinction of the benefits imposed by *forais* was considered as a disabling of an archaic and perverse tax system, the sub-emphyteusis created by the holders of the useful domain (*enfiteutas*) were not at the same level in the social perception the sub-emphyteusis resulted, albeit in a paradoxical way, from using the “feudal” form in duplicating the domains of rentier landlords, from what was considered a strictly contractual exercise. In fact, the different classification of the two types of impositions could be considered arbitrary, but it was undoubtedly rightful, given the social importance of many “copyholders.”

In 1839, Mouzinho did not seem to recognize the problem created by his law, or did so only in a misleading way. What he proposed was very limited: he accepted a more

restrictive delimitation of the assets where the law applied. He considered only those designated as owned directly by the Crown, and which were listed as such, and he proposed the publication of that list approved by the Chamber of Deputies. This proposal was strongly criticized by a deputy who pointed out that such a process, in addition to being difficult to execute, would leave out most cases of potential application: “Infinite assets of the Crown would be left out of that list and those included therein would be the object of innumerable disputes to demonstrate, today, the identification of their boundaries. In addition, by this method, all the more assets of the national treasury that were not described as owned directly by the Crown would be excluded from the sentence of the decree” (Deputy Guilherme Henriques, *Diário da Câmara* 1839: 93). Now, the scope of application envisaged in 1832 had completely changed with the dissolution of the monastic orders. The payment of the *foros* that had belonged to these orders would have ceased immediately and the possibility that the state may sell these *foros* was canceled. In the session of 23 January 1835, Deputy Francisco António de Campos presented the complaints of the Misericórdia of Porto concerning the refusal of payment of many *foros and subforos* outside the strict domain of the law (*Diário da Câmara dos Senhores Deputados* 1835: 39).

Everything points to Mouzinho not understanding the complexity of the agrarian system in many regions of Portugal. Mouzinho himself stated that it was the most difficult subject that could occupy human minds (*Diário da Câmara*, 1839, 82). Only a few members of the *Câmara* were able to discuss the details of the juridical and social domain. It was not common knowledge, even among members of the political elite.

Mouzinho seems to take the rhetoric of oppression as a description of reality. The petitioners who went to the 1821 Constituent Assembly against the payments imposed by the *forais* resorted to images of servitude to characterize their condition. Not being socially homogeneous, the groups of contestants were almost always composed of the wealthiest peasants on the land and were far from extreme poverty and dependence. As emphasized before, emphyteutic property was divided into two properties: that of the *foro* and that of the disposition of the land, but the former could not expropriate the latter, existing in parallel. A few years later, in 1874, Herculano explained how the emphyteusis had undergone an evolution, which the Civil Code of 1867 had completed by abolishing the *laudêmio*, the payment signaling the recognition of the level above, until it was a consecration of a double property (Herculano 1882: 234).

The abolition of the rents imposed on lands through “feudal” charters seems to be a natural quest of a bourgeois program, as this rent discourages investment. This amount of agrarian surplus could be transferred to the capitalist farmers. However, the path of capital in the direction of innovation and the improvement of agrarian productivity is only one of several possibilities. The other could be in the opposite direction, aiming a more methodical and stricter collection of the feudal rents. The collection of rents by large traders could lead to the aggravation of the “feudal burden.” In Portugal, in the anti-feudal petitions of 1821–1822, the group most negatively mentioned is the *rendeiros*, those men who contract with the landlords for the collection of rents. They could inspire what was designated as a “feudal reaction.”

The problem of being able to draw the line of separation between the “feudal burden” (imposed originally by political force) and sacred property (presented as a strict “contractual” relationship) was not a specific problem of the Liberal Revolution in Portugal. In France, similar difficulties arose from the application of laws concerning “abolition of feudalism.” The first law suffered several attempts to limit its effects, as if the legislators had repented of their initial dispositions. The decisions of the 4 August 1789 session were haunted by the pressure of peasant revolts. This transformation in the agrarian regime that became the alleged matrix of the “bourgeois revolution” program was in fact a bond of bourgeois legislators with the *paysannerie*, a social group with particular interests. Furthermore, the law foresaw the bailout of a part of the extinguished rents. This perspective of indemnity remained until 1793. Several complaints claimed the offense of property due to abuse of anti-feudal laws (Aulard 1919: 85, 137; Costa 1987: 243–248). The interpretation pattern founded on the opposition between the overcharged concept of feudalism and the imagined agrarian program of the bourgeois revolution does not withstand the complexity of conflicts in the agrarian social world (see: Markoff 1996; in several perspectives: Béaur 2008; Congost 2007; Morán 2004; Sutherland 2002). A similar problem concerning the frontier of revolutionary laws took place in Portugal with the circumstances here presented.

Conclusion

The breadth of the social effects of applying Mouzinho da Silveira’s law on *forais* was the result not of a project, but of chance. Not all liberal leaders agreed with this orientation. The powerful duke of Palmela was against it (Monteiro 2015). Also the Count

of Taipa, who claimed that his household had lost eighteen-thousand *cruzados*, was in 1839 a frontal opponent of Mouzinho's law in the Chamber of Deputies. (*Diário da Câmara* 1839: 85). When the law was drafted, its author was guided by the will to extinguish both the Crown assets donated and administered according to the *lei mental* (the law defining the revocability of royal donations)—a source of dependence and corruption of the first nobility, and, due to the desire to consecrate full ownership of these assets—and the levels of direct landlords and also the level of emphyteusis in the case of sub-emphyteusis. The reason is the same: the character of men is grounded in the free disposing of the assets from which they derive their income. Those who did not own their land fully were not free. When Mouzinho said this, he could not fail to cause the surprise of the deputies who were “copyholders.” Mouzinho seems to ignore that the juridical form of emphyteusis had been the legal support that had allowed the middle and upper classes to be able to enroll in the agrarian income production system without altering the existing property of the direct domain, namely the monastic corporations.

In several domains, Mouzinho seems to take ideas at their literal value. So it also occur is with regard to foreign trade, clashing with the widespread defense of the protection of national products in the domestic market. He seems to take literally as well the inviolability of property, including that of enemies, which does not allow a compromise with the needs of everyday government; and with regard to the division of property classified as feudal in which the subsistence of a relationship of personal subordination of a farmer to a landowner was imagined, albeit in a regime without the precariousness of those of a settler or a tenant. Mouzinho's law was not the application of a solid plan. Plans of political and social change certainly exist, but the action of humans takes place in a space filled with sets of actions from multiple points and therefore the application of plans are subject to a great number of accidents. The creation of heroes like the legislator comes to give coherence to this confusion.

Mouzinho foresaw that the law would apply only to the Crown's assets in the strictest sense and that the despicable behavior of the first nobility would no longer be possible. The law also favored the farmers, who would become full owners of their lands. The law also provided that in the case of the Crown's estates that were in the full possession of the beneficiaries of royal donations, these assets would become their full propriety. This seems to have happen in the case of grantees of royal estates in the *lezírias* region who became full landowners of crown lands (Biblioteca Nacional de Portugal, Reservados, Cod. 8859, f. 142). The law also provided for the compensation of those who

lost rents as a consequence of their measures. The scope of law enforcement was very different than expected because it was made after the extinction of the male monastic orders, their assets being considered the Crown's by common opinion. The *foreiros* refused to pay the rents of monastic origin and the treasury was unable to make the onerous cancelation of these rents as initially planned. Much more serious was the refusal of the *subforeiros* to pay the *subforos* to the *foreiros*.

The plan presented by the Viscount of Vilarinho de S. Romão in the Chamber of Peers in the session of 12 January 1836 for a bill to replace the law of 1832 confirms the main problems created by Mouzinho's law. The first point declared that the 1832 law would not include the "certain and known" rents that private individuals received, nor did it alter anything in the emphyteutic contracts, including those of the religious and other corporations listed. The strict interdiction of political interference in the property sphere that the law of 1832 had sacrilegiously disregarded was reestablished. In the second article, the Crown's assets were restricted to those assets registered in the books of the so-called "Crown's own assets" (*próprios da coroa*). This was the original scope of this kind of law. But it also did not apply to the assets whose juridical nature had changed as a result of having been sold by the Crown to private individuals. The viscount provided that even in the case of seemingly feudal rents (those that were generic like taxes) sold by the Crown, compensation would have to precede their abolition. In the case of these feudal-looking rents, the task of establishing their origin in *forais* was the task of those who wanted to stop paying and not the duty of those who demanded its payment.

Briefly, the law of 1832 had exceeded its objectives in two ways: in scope, having effects on all assets that could be classified as Crown assets; and in the depth of change, entering the sphere of ownership of *enfiteutas* in favor of sub-emphyteusis holders. The viscount's project would be a drastic restriction of the unexpected effects of the law. The revision of the law, discussed several times by the deputies until the new law was approved in 1846, would adopt a less radical direction. In the social context of the civil war of 1832–1834, the law was seen as a Machiavellian instrument creating supporters of the new regime, individuals interested in its defense of very tangible benefits from the new order. Thereafter, the radical modification of these benefits created a huge political problem. The viscount also identified the executive action in courts demanding payment of the rents as the practical path that the *foreiros* could follow. The courts could nullify the effects of the 1832 law case by case. The complaints about the law came to the deputies and *Pares* from regions like the city of Porto and the province of Minho with anti-feudal traditions. The

initial law included an answer to this problem: the compensation of those who lost rents. However, the scope of the compensation was unsustainable in the new conditions. In 1835, in the first session of the Chamber of Deputies of the new victorious liberal regime, the expected indemnities were debated and the “sub-copyholders” (those who were in the possession of estates under the regime of sub-emphyteusis) identified as the main beneficiaries of the law. The deputy Passos Manuel mentions the lowest estimate of this compensation as forty million *cruzados* or sixteen-thousand *contos*, a huge sum corresponding to twenty percent of the national annual product if we accept its computation in eighty-thousand *contos*. In 1835, the deputies discussed the possibility that this compensation could be placed within the scope of the “sale of national assets.” The same deputy pointed out that otherwise it was unthinkable to create a tax that would finance the nonpayment of *subforos* by the holders of sub-emphyteusis. That would be an unbearable forced income transference: owners of free property were not obliged to pay taxes to enrich *colonos* (*subenfitentias*), and this is what the decree of 13 August 1832 did when it extinguished *subenfitentias* and decreed a compensation for *foreiros* (*enfiteutas*) that should have been made prior and was not even done subsequently (*Diário da Câmara dos Senhores Deputados* 1835: 115).

In conclusion, Alexandre Herculano, one the most prominent liberal intellectuals, highly praised the law of *forais* and its author Mouzinho da Silveira. This law would have been the pillar of what he called the “great social revolution of 1834” (Herculano 1882: 167). I conclude, however, that the law of 1832 became a central theme of politics in Portugal not for its “anti-feudal” measures, but for the unexpected effects in the sphere of property. Mouzinho da Silveira, in Herculano’s works, is a fictional character, a legislator guided by a programmatic coherence that clearly lacked an earthly perspective. Someone who ruled for a brief time, he was the ideal figure for creating the image of the unpolluted liberal whose ambition for liberal social change had been shunned. But it is unthinkable that Herculano could be in tune with the application of the law that interfered in the sphere of emphyteusis, that is, of property as it was held by the middle class.

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