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A Revolution in Property: Tocqueville and Beaumont on Democratic Inheritance Reform

Thomas James Holland* 

Department of History, University of Cambridge

*Corresponding author. E-mail: tjh97@cam.ac.uk

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Abstract

Among the most controversial reforms investigated by Alexis de Tocqueville and Gustave de Beaumont was the idea of using inheritance as an instrument to diffuse property ownership. This article offers the first comparative account of the development of this concept across each of their major works. By situating their interventions within wider inheritance law debates, it is demonstrated how their evolving visions of democracy forced them to innovatively combine two normative arguments: (i) diffusing property ownership via inheritance was a precondition for placing democracy upon stable political foundations, and (ii) this could counter the rise of pauperism and the extreme wealth inequality of nineteenth-century industrial society. Far from being an anachronistic republican notion, such reforms were long considered too radical to be implemented in England and Ireland.

Alexis de Tocqueville and Gustave de Beaumont traveled to America partly to witness a phenomenon unprecedented in modern history: a society in which the majority owned property. “Until now,” Tocqueville observed, “among all the nations of the world, the greatest number has always been composed of those who had no property, or of those whose property was too limited for them to be able to live comfortably without working.”¹ By contrast, the peculiar geographic, historical, religious and ideological circumstances of America produced an essentially “middle-class” society of property owners.² Aristocracy had established itself in the South through the enforcement of a system of slavery, but the vast abundance of land could not be concentrated into a few hands. A hierarchy of ranks could not predominate. The self-sufficiency and independence provided by even modest estates afforded just enough leisure for participation in public affairs. With property rights came political rights. Famously, the townships of each state facilitated the

¹Alexis de Tocqueville, *Democracy in America*, vol. 1 (1835), ed. Eduardo Nolla, trans. James Schleifer (Indianapolis, 2012), 336.

²*Ibid.*, 59; J. S. Mill agreed: “America is a republic peopled with a provincial middle-class.” John Stuart Mill, “State of Society in America,” in *The Collected Works of John Stuart Mill*, 33 vols. (Toronto, 1963–91) (hereafter CW), vol. 18.

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intervention of the people in local politics, the voting of taxes and the administration of law.

In the first volume of *Democracy in America*, published in 1835, Tocqueville maintained that these material and intellectual elements constituted the “social state” of the American people.³ The social state generated the legal arrangements, mores and ideas embodied within nations. From the first Puritan colonies this condition had been “eminently democratic.”⁴ Tocqueville adopted the definition of democracy as *état social* from François Guizot, the influential historian and leading Doctrinaire.⁵ Guizot’s theory that forms of society determined political arrangements was now redeployed in the American context. An external dimension of this democratic social state, or “equality of conditions,” was the extraordinarily widespread ownership of property.⁶ Crucially for Tocqueville, this profusion of independent proprietors provided ideal foundations for a novel kind of “democratic liberty” to flourish.⁷ Yet this freedom had not only emerged through the unintended consequences of territorial settlement. The more equal diffusion of property was ultimately a consequence of the operation of inheritance law upon society. Accelerated by revolutionary reforms, “it was the law of inheritance that pushed equality to its last stage.”⁸ Tocqueville’s investigation of its variations and powerful effects is perhaps one of the most misunderstood aspects of that work. Richard Swedberg recently claimed that Tocqueville’s description of American inheritance law was simply incorrect, and irrelevant to his main argument.⁹ A common tendency is to downplay these earlier views on inheritance in favor of his mature position.¹⁰ Neither approach asks, why did Tocqueville place such great emphasis upon the political consequences of this law?¹¹

Beginning with this overlooked question, I suggest that in volume 1 of *Democracy in America* Tocqueville synthesized inheritance reform arguments from prominent French debates during the 1820s, while reformulating Jean-Baptiste Say and Jean Charles Léonard de Sismondi’s idea of inheritance

³Tocqueville, *Democracy in America*: 1, 74.

⁴*Ibid.*, 75.

⁵Melvin Richter, “Tocqueville and Guizot on Democracy,” *History of European Ideas* 30/1 (2004), 61–82, at 64; on Tocqueville’s ambiguous definition see Salih Emre Gerçek, “Alexis de Tocqueville’s Reluctant ‘Democratic Language,’” *Review of Politics* 83/1 (2021), 21–44.

⁶Of eight definitions of democracy Schleifer identifies, “equality of conditions,” “middle classes” and “popular sovereignty,” are used by Tocqueville and Beaumont when discussing inheritance. Tocqueville, *Democracy in America*: 1, 76.

⁷*Ibid.*, 51.

⁸*Ibid.*, 78.

⁹Richard Swedberg, *Tocqueville’s Political Economy* (Princeton, 2009), 18.

¹⁰Seymour Drescher, *Tocqueville and England* (Cambridge, MA, 1964), 61; Jack Lively, *The Social and Political Thought of Alexis de Tocqueville* (Oxford, 1962). For both, Tocqueville’s supposed mature shift on inheritance takes precedence over *Democracy in America*. For the opposite view see Jens Beckert, *Inherited Wealth* (Princeton, 2008), 1, 75, 78, 88.

¹¹Ben Jackson interprets inheritance reform in this period as an “implausible, not to say anachronistic” republican strategy. Ben Jackson, “Property-Owning Democracy: A Short History,” in Martin O’Neill and Thad Williamson, eds., *Property-Owning Democracy: Rawls and Beyond* (Malden, 2012), 34–5. In a compelling article, Jocelyn Betts similarly treats such reforms as “afterlives” of “republican and civic” ideas. Jocelyn Betts, “After the Freeholder: Republican and Liberal Themes in the Works of Samuel Laing,” *Modern Intellectual History* 16/1 (2019), 57–86.

and property diffusion as mechanisms for stabilizing unruly societies. Second, I challenge the consensus that experiences in England and Ireland with Beaumont caused Tocqueville to lose interest in inheritance. Rather, I show how they both engaged with a forgotten pamphlet war over primogeniture, and how this symbolized a wider frustration with generally complacent attitudes towards inheritance reform in Britain, epitomized by the findings of the Real Property Commission of 1828. I question the influence ascribed to Nassau Senior on this issue, before reinterpreting the role of inheritance reform in Tocqueville's essays "Political and Social Condition of France" (1836) and the "Second Report on Pauperism" (1837). Finally, I contend that in *Ireland* (1839), Beaumont not only attacked the Irish aristocracy and solutions for Irish pauperism proposed by leading British economists; he transformed Tocqueville's language of democracy into distinctive inheritance reform proposals that have been unjustly neglected by historians of political thought.

* * *

It has been convincingly argued that *Democracy in America* was a pretext for thinking about France.¹² Tocqueville's examination of inheritance exemplified this approach. "It is not up to us, the French of the nineteenth century," he remarked, "daily witnesses to the political and social changes that the inheritance law brings about, to question its power."¹³ After the Bourbon Restoration in 1814, the effects of the revolutionary law of equal division became a subject of heated debate among political economists and politicians in France and Britain. It was Tocqueville's contribution to perceive that in the United States its leveling "destruction" was complete, offering a singular opportunity to study the results.¹⁴ To comprehend Tocqueville's intervention as predominantly French in orientation, however, it is necessary to provide some brief contextual background.

The feudal laws of primogeniture, which bestowed entire estates exclusively upon eldest sons, and entail, which indefinitely prevented their sale or division, were abolished during the American and French revolutions. Thomas Jefferson was among the first to orchestrate their repeal in Virginia in 1776 and 1785, notably counting this among his greatest political achievements.¹⁵ Unlimited testamentary freedom became the general rule across most states in America. Equal division was enforced only in intestate cases, though it was the spontaneously practiced norm.¹⁶ It was in France, however, that the legislative crusade against feudalism was carried furthest. After the storming of the Bastille and the formal abolition of feudal

¹²Lucien Jaume, *Tocqueville: The Aristocratic Sources of Liberty* (Princeton, 2008), 1; Annelien de Dijn, *French Political Thought from Montesquieu to Tocqueville: Liberty in a Levelled Society?* (Cambridge, 2008), 136.

¹³Tocqueville, *Democracy in America*: 1, 83.

¹⁴*Ibid.*, 84.

¹⁵Eric Nelson, *The Greek Tradition in Republican Thought* (Cambridge, 2004), 201; Tocqueville, *Democracy in America*: 1, 675–6.

¹⁶John V. Orth, "After the Revolution: 'Reform' of the Law of Inheritance," *Law and History Review* 10/1 (1992), 33–44, at 34.

privileges, the National Assembly initially adopted jurist Philippe-Antoine Merlin's moderate plans in April 1791. Intestate estates were to be divided equally among all children, regardless of sex. Following the American example, primogeniture was repealed.¹⁷

As the revolution intensified, moderation succumbed to pressures of expediency. By March 1793, propelled by Mirabeau's and Robespierre's campaigning, testamentary freedom was abolished.¹⁸ Equal division of property upon death became mandatory. At the height of the Jacobin ascendancy, compulsory equal partition was made retroactive to July 1789: testators could bequeath only one-tenth of their property freely, or one-sixth if they were childless.¹⁹ Retroactivity was dropped in 1795, but the Napoleonic Civil Code of 1804 preserved mandatory equal division, tempering its effects by increasing the disposable portion.²⁰ The social and political consequences of obligatory adherence to the principle of equality led Tocqueville to call French inheritance legislation "infinitely more democratic" than the American.²¹ Was democracy, then, an ideological motivation for the architects of both revolutionary reforms?

American revolutionaries viewed inheritance primarily as a vehicle to mitigate dynastic concentrations of property and power. From the resulting increased number of independent small proprietors, meritorious political representatives could be cultivated, securing nonhereditary foundations for republican government. With this aim, Jefferson built upon James Harrington's *Oceana* of 1656, contending that inheritance reform ought to create a "natural aristocracy" to supplant the artificial "aristocracy of wealth" and birth.²² Merlin similarly extended Montesquieu's proposition in the *Spirit of the Laws* of 1748, that effective administration of aristocratic government depended upon the eradication of primogeniture and of inequality between nobles.²³ In alignment with the constitution of 1789 compulsory equal inheritance would diffuse property among newly enfranchised French citizens.²⁴ To a greater degree than their American counterparts, French revolutionaries conceived of inheritance reform as a means of equalizing family relations and creating a unified body politic. Merlin's central argument was a call to combine "unity of the family" with the "national fraternity."²⁵ These revolutionary reforms

¹⁷Beckert, *Inherited Wealth*, 34.

¹⁸*Ibid.*, 27, 35.

¹⁹Suzanne Desan, *The Family on Trial in Revolutionary France* (Berkeley, 2004), 142.

²⁰*Ibid.*, 150, 175. Napoleon effectively "created a new nobility from the bourgeoisie," granting them the privilege of *majorats* (Spanish for "entail"). Beckert, *Inherited Wealth*, 117.

²¹Tocqueville, *Democracy in America*: 1, 676.

²²Thomas Jefferson, "Autobiography," in *The Writings of Thomas Jefferson*, vol. 1 (Cambridge, 2011), 1–110, at 36; On "natural aristocracy" in relation to inheritance reform see Gordon S. Wood, *The Creation of the American Republic, 1776–1787* (Chapel Hill, 1969), 122, 218, 479–80, 509; Nelson, *The Greek Tradition*, 220, 224, 248.

²³Charles Louis de Secondat, Baron de La Brède et de Montesquieu, *The Spirit of the Laws* (1748) (Cambridge, 1989), 45, 54. Monarchies ought to retain primogeniture and entail, concentrating property among the nobility. Dijn, *French Political Thought*, 31.

²⁴Philippe-Antoine Merlin, "Report on Intestate Succession and Inequality of Division," *Archives parlementaires*, 1787–1860 (21 Nov. 1790).

²⁵*Ibid.*

were subsequently referred to as democratic, though their authors did not initially deploy the language of democracy.²⁶

Remarkably, it was Harrington who had advanced one of the first modern cases for democracy as a superior constitutional arrangement reliant upon the widest possible distribution of property, secured through restrictions on inheritance and a popular electoral system.²⁷ Ameliorating poverty on grounds of fairness, however, was not the purpose of Harrington's utopia. Visionary proposals to use inheritance as an instrument of social justice, to redistribute land and wealth amongst the poorest, began to be advanced by authorities such as the Abbé de Mably in *De la législation* of 1776.²⁸ By 1791, Antoine de Cournand and François-Noël Babeuf were demanding the total abolition of inheritance to achieve this end, yet failed to gain the legislature's support.²⁹ Babeuf and Robespierre strove to expand the democratic component of the constitution, though this ultimately served to strengthen the commonplace eighteenth-century view of democracy as an outmoded and dangerous form of government.³⁰

Jean-Baptiste Say's internationally renowned *Treatise of Political Economy* of 1803 provided intellectual reinforcement to the revolutionary reforms. Say concurred with Adam Smith's condemnation of primogeniture and entail as "contrary to nature, to reason, and to justice."³¹ Dynastic agglomerations of landed property were denounced as hindering economic development.³² Yet the vastly more unequal social composition of France, combined with compulsory division, accelerated the diffusion of property ownership even among peasants and paupers. This phenomenon was interpreted ideologically in two opposing directions, neither of which claimed to be democratic. One of the earliest arguments in favor of such a transmission of property among the poor came from Sismondi, in his *New Principles of Political Economy* of 1819. For Sismondi, the accumulation of property within industrial society ought to be attended by a parallel "rapid diffusion," enabling each citizen to share in the produce "created by their common exertions."³³ As civil unrest swelled in Britain, Sismondi observed how that nation seemed

²⁶Ruth Scurr, "Varieties of Democracy in the French Revolution," in Joanna Innes and Mark Philp, eds., *Re-imagining Democracy in the Age of Revolutions: America, France, Britain, Ireland 1750–1850* (Oxford, 2013), 57–68, at 57, 67.

²⁷For Harrington's definition of democracy and natural aristocracy see Rachel Hammersley, *James Harrington: An Intellectual Biography* (Oxford, 2019), 115.

²⁸R. B. Rose argues that *De la législation* was the first revolutionary pamphlet "advocating the agrarian law for modern France." R. B. Rose, "The 'Red Scare' of the 1790s: The French Revolution and the 'Agrarian Law,'" *Past & Present* 103 (1984), 113–30, at 117–18; Dijn, *French Political Thought*, 14; Michael Sonenscher, "Property, Community, and Citizenship," in Mark Goldie and Robert Wokler, eds., *The Cambridge History of Eighteenth-Century Political Thought* (Cambridge, 2006), 465–94, at 485–6.

²⁹Rose, "Red Scare," 123; Sonenscher, "Property, Community, and Citizenship," 470–71.

³⁰Scurr, "Varieties of Democracy," 67.

³¹Adam Smith, *Lectures on Jurisprudence: The Glasgow Edition* (1763) (Indianapolis, 1982), 49.

³²Jean-Baptiste Say, *A Treatise on Political Economy*, trans. C. R. Prinsep (1803) (Philadelphia, 1880), 117; Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations: The Glasgow Edition*, ed. R. H. Campbell and A. S. Skinner (Indianapolis, 1981), 424.

³³Jean Charles Léonard de Sismondi, *New Principles of Political Economy* (1819) (Paris, 1827), cited in Anonymous, *The Aristocracy of Britain and the Laws of Entail and Primogeniture, Judged by Recent French Writers* (Cupar, 1844), 123.

impervious to this arrangement. Rather than there being a greater distribution of property among the poor, small proprietors were “forced” substantially through processes of enclosure to become propertyless day laborers.³⁴ Under conditions of rapid industrialization, wealth creators increasingly found themselves unable to consume and enjoy its rewards.

Sismondi maintained that a revolution in a society of disinherited, propertyless laborers such as Britain would be the most dreadful kind imaginable. Held in a state of necessity and ignorance they would be “hostile to every species of law ... every description of property.”³⁵ This was precisely the kind of eruption that created the French Revolution, though ironically he thought that conflict in fact engendered an assurance against its own recurrence. Revolutionary equal division “prodigiously” expanded peasant proprietorship across France, potentially generating “one of the strongest guarantees” of public order.³⁶ Although Sismondi preferred a balance of different-sized estates and did not rule out constitutional arguments in favor of entail, an expanding swathe of the French poor could claim a stake in the community. A growing number were personally invested in preserving the rights and independence attending property ownership, helping to stabilize French society.³⁷ The difference between the Revolution of 1789 and those of 1814 or 1815 bore witness to this fact. Anticipating Tocqueville, Sismondi urged that France had yet to reap the full advantages of equal division.

By 1826 inheritance law was thrust once again into the center of French political debate. Charles X’s succession laws bill attempted to restore the aristocracy, and succeeded in reintroducing entail, without primogeniture.³⁸ The bill was supported by a barrage of Ultra-royalist arguments against the existing law of equal division. In *De l’Angleterre*, also published in 1819, prominent Christian political economist Maurice Rubichon compiled lengthy estimations of how the unceasing subdivision of estates harmed agricultural profits.³⁹ Malthus’s *Principles of Political Economy* of 1820 echoed Rubichon, conjecturing that equal division would lead France to the brink of bankruptcy within a decade.⁴⁰ Both drew opposite political conclusions to those of Sismondi. The diffusion of property among peasants and the permanent eradication of large aristocratic estates threatened the constitution. Without a revived territorial aristocracy acting as intermediary power between the despotism of the monarch and an unruly lower class, France would lose the very body that could secure liberty.⁴¹ A society of small proprietors were defenseless prey to future despotic leaders. Nor was Britain a dangerous experiment to be avoided. The lawyer Charles Cottu lauded primogeniture and entail’s ability to generate family spirit

³⁴Ibid., 122.

³⁵Ibid., 134.

³⁶Ibid.

³⁷Nadia Urbinati, “Simonde de Sismondi’s Aristocratic Republicanism,” *European Journal of Political Theory* 12/2 (2012), 153–74, at 165–7.

³⁸Beckert, *Inherited Wealth*, 128.

³⁹Annelien de Dijn, “Aristocratic Liberalism in Post-revolutionary France,” *Historical Journal* 48/3 (2005) 661–81, at 669.

⁴⁰Thomas Malthus, *Principles of Political Economy* (London, 1836), 382.

⁴¹Dijn, “Aristocratic Liberalism,” 669.

and attach aristocracy to the soil.⁴² These feudal laws were the foundation of liberty in that nation, serving to concentrate property and power within a few hands that exerted influence across both Houses of Parliament.⁴³ As Jens Beckert contends, it was analogous arguments about the structure of the French constitution that dominated the dispute over the bill.⁴⁴ The earlier justifications of Rubichon and Cottu provided Ultra-royalists with conceptual ammunition.

The restoration of entail was a pyrrhic victory, since its operation was neutralized by the law of equal division.⁴⁵ This result was far from apparent at the time. Republicans and liberals feared that the bill would reverse the progress of equality initiated by the Revolution. As historian François Mignet confidently speculated, were primogeniture successfully introduced alongside entail, the dynasty of Charles X would have fallen long before July 1830. The bill was rejected by “the most able” statesmen of the time, “Talleyrand, Mole, Decazes, Pasquier, Roy ... and Dupin.”⁴⁶ It was the jurist André-Marie Dupin who composed the most comprehensive rebuke of the bill with his 120-page study *Du droit d'aînesse*, published in February 1826. Dupin examined the history of primogeniture and the effects of its abolition. Ultra-royalist economic arguments that the wealth and strength of France had decreased as a result of the “division of land into too small portions” were dismissed as “erroneous.”⁴⁷ Against Cottu, he also maintained that equal inheritance, education, and respect within all families had established “greater intimacy” among fathers and children.⁴⁸

The law stimulated industry and commerce and extended equality of opportunity. For the first time, individuals were becoming prosperous or poor not through accident of birth, but on account of their own “industry or idleness,” their own virtues or vices.⁴⁹ Dupin agreed that the French population had expanded enormously as a consequence, but rather than reducing them to beggary, the more equal division of property had created “a new people, full of learning, intelligence, and morality.”⁵⁰ The core justification forwarded by Dupin aligned directly with Sismondi’s stabilization thesis: the newly independent citizenry had a stake in the community. They have become “interested in the defense of our territory,” argued Dupin; “never before has order been more easily maintained throughout the country.”⁵¹ These reflections formed the basis of his four-pronged criticism of the bill: first, restoring primogeniture would render property immobile, thereby holding back industry and commerce; second, it would injure both the acquired property rights of individuals and family relations; third, it was a pretext for changing the electoral system that

⁴²Ibid., 670.

⁴³Ibid.

⁴⁴Beckert, *Inherited Wealth*, 130.

⁴⁵Ibid., 131.

⁴⁶François Mignet, “Historical Notice of the Life and Works of Count Merlin,” in Mignet, *Historical Memoirs* (Paris, 1843), cited in Anonymous, *The Aristocracy of Britain*, 230.

⁴⁷André-Marie Dupin, *Du droit d'aînesse* (Paris, 1826), cited in Anonymous, *The Aristocracy of Britain*, 180.

⁴⁸Ibid., 180–81.

⁴⁹Ibid., 182.

⁵⁰Ibid.

⁵¹Ibid., 180.

ran contrary to public opinion; and finally, it was unconstitutional, since primogeniture destroyed the natural right to equality.

Tocqueville completed his legal education a matter of months after Dupin's intervention and the passing of the bill. Around this time Dupin, presumably a close friend, began informally teaching Tocqueville the axioms of political economy with a focus on the work of Say.⁵² Alongside well-documented influences such as Montesquieu and Jefferson, his enthusiasm for studying the powerful consequences of inheritance laws displayed in the first volume of *Democracy in America* has been attributed to the impact of Guizot and Say.⁵³ From 1828–9 both Guizot's *History of Civilization in Europe* and Say's *Complete Course of Practical Political Economy* were published to great acclaim. Tocqueville and Beaumont eagerly attended the popular series of lectures delivered by both authors in Paris, and seriously studied their new works. Guizot's *History* made only scattered references to primogeniture. Yet his reflections on feudal concentrations of property and the ineluctable rise of democracy visibly informed Tocqueville's interpretation of the historical divergence between property regimes in the North and South of the United States. On their voyage to America in April 1831, Tocqueville and Beaumont imbibed and discussed Say's *Complete Course*.⁵⁴

Regarding the influence of Say, however, it is worth making three qualifications. First, aside from relaying a common critique that primogeniture made older sons idle because of their wealth, and younger sons unproductive through want of resources, Say deferred to the authority of Smith and Sismondi on this issue. He quoted Smith's *Wealth of Nations* at length to show how primogeniture enriched one, and "beggars all the rest of the children," while entail was founded on the "absurd" proposition that current generations should be restrained by "those who died perhaps five hundred years ago."⁵⁵ Given Say's apparent unwillingness to directly intervene within public succession law debates, he fell back upon Sismondi's historical description of the regressive effects which entail and large estates wreaked upon the fertility of the Campagna of Rome.⁵⁶ Second, Say's examination of primogeniture and entail in the *Complete Course* was brief, and focused entirely upon their "detestable" economic effects. He insisted it was not his "province" to study the law's political consequences.⁵⁷ Lastly, since the publication of Dupin's political contribution to the succession law debates occurred during the same period in which he taught Tocqueville, it is very likely that Dupin both shaped his reading of Say on inheritance, and to some degree acted as an unacknowledged formative influence on the subject.⁵⁸

In *Democracy in America* Tocqueville revived the institution of inheritance as a branch of political thought in its own right. Without acknowledging any debts to

⁵²Michael Drolet, *Tocqueville, Democracy and Social Reform* (Basingstoke, 2003), 39.

⁵³*Ibid.*, 41. For the influence of Montesquieu and Jefferson see Nelson, *The Greek Tradition*, 237–8.

⁵⁴Tocqueville, *Democracy in America*: 1, lxiv.

⁵⁵Jean-Baptiste Say, *Complete Course of Practical Political Economy* (1828–9) 2 vols. (Paris, 1840), cited in Anonymous, *The Aristocracy of Britain*, 191.

⁵⁶*Ibid.*, 187.

⁵⁷*Ibid.*

⁵⁸Schleifer highlights the centrality of inheritance for Tocqueville. Dupin is not mentioned. Tocqueville, *Democracy in America*: 1, 78–9.

Harrington, Montesquieu, or Dupin, he expressed astonishment that “political writers” throughout history had not ascribed “a greater influence on the course of human affairs” to the laws of inheritance.⁵⁹ Surveying the literature of early nineteenth-century France, however, he would have been hard pressed to find a work of democratic political philosophy that extensively incorporated the subject. In France and Britain, the languages of utility, jurisprudence, and political economy were the dominant modes through which it was explored. It is therefore not an exaggeration to suggest that when Tocqueville claimed that inheritance laws “should be placed at the head of all political institutions” because of their “incredible influence on the social state of peoples,” he was making an unconventional argument.⁶⁰

Unlike Dupin, Tocqueville was uninterested in mounting a partisan attack upon certain forms of inheritance, or advancing his own proposal for its reform. Rather, the first volume echoed Montesquieu by incorporating aristocratic and republican arguments into a broader empirical framework. Through the “divine power” of inheritance reform, the legislator determined the course of generations, whichever side of the political divide they were on.⁶¹ Aspects of his description of the effects of primogeniture and entail bore resemblance to that of Rubichon and Cottu. In concentrating property and power, primogeniture and entail made “aristocracy spring from the soil.”⁶² The “family spirit” acquired by successive generations rooting themselves on the same landed estate bestowed respect, power, and virtue.⁶³ He was careful to qualify this statement. “Family spirit” was often illusory and based on “individual egoism.” Perpetuating one’s family name was simultaneously a means of immortalizing oneself.⁶⁴ Tocqueville agreed with the aristocratic contention that large properties optimized government and political office. The leisure afforded by the possession of great landed estates was essential to cultivating the intellect and the individuality required of the best statesmen. Southern states where primogeniture had reigned unchallenged once produced a “superior class” of great landholders. The foremost minds of the American Revolution belonged to this social stratum.⁶⁵ Since then, the “race of American statesmen” had dwindled.⁶⁶ Tocqueville viewed this deterioration fundamentally as a symptom of the inevitable expansion of democracy as a historical and social force, directly visible in the way property was divided. What, then, was the role of this more equal diffusion of property via inheritance reform within his theory of democracy?

Swedberg observes that equal division in America was only enforced in absence of a will, and that Tocqueville falsely described its operation as if it were the more democratic French law of compulsory partition. He therefore considers Tocqueville’s attempt to use inheritance in order to link the “economic reality” of the United States to his theory of the development of equality as a failure.⁶⁷

⁵⁹Ibid., 79.

⁶⁰Ibid.

⁶¹Ibid.

⁶²Ibid.

⁶³Ibid., 81.

⁶⁴Ibid., 83.

⁶⁵Ibid., 77–8.

⁶⁶Ibid., 315.

⁶⁷Swedberg, *Tocqueville’s Political Economy*, 18.

Such a reading ignores the impact of the abolition of primogeniture, and the influence of democratic mores and customs in directing Americans towards a spontaneous equal division of property, regardless of their testamentary freedom.⁶⁸ As Tocqueville noted, “the abolition of primogeniture and entail make democracy, its passions, interests, maxims, tastes more powerful in our time than sixty years ago.”⁶⁹ It is true that Tocqueville’s superimposition of the more immediate effects of the compulsory French law of equal division amounted to an overstatement in the American context. However, it must be remembered that he was not attempting what is now understood as a modern sociological analysis of American law and economy. As John Stuart Mill wrote in his review of the first volume, though the study of America was indispensable to the work, it was only a “secondary aim.” Tocqueville was primarily concerned with understanding the rising equality of conditions, which was the “fundamental fact” from which all others derived.⁷⁰ The analogous progress of democracy in Europe had yet to reach anywhere near the same height, so the attempt to anticipate and prepare for its future arrival in the Old World was another primary motivation.

Tocqueville’s dramatic articulation of the consequences of equal division also contained elements of aristocratic rhetoric. He asserted that sometimes people were “frightened” by the rapid dissemination of property and power, and tried in vain to “create difficulties and obstacles before it” to counter its onward march.⁷¹ Resistance was futile: the law crushed everything in its path, until nothing was left but “a shifting and intangible dust on which democracy takes its seat.”⁷² It is probable that by “obstacles” Tocqueville had the French succession laws bill in mind. There had not been a comparable attempt at reinstating primogeniture in America to counteract the diffusion of property, although some states did permit entail. After the July Revolution of 1830, it was widely acknowledged that the Ultra-royalist campaign to restore the aristocracy was thoroughly routed. As Tocqueville’s father, Hervé, commented on an early draft of *Democracy in America*, “The law of primogeniture [entail] revolted even those who benefited from it. It was one of the most active causes of the July Revolution.”⁷³

In America and France, the death of each owner led to “a revolution in property.”⁷⁴ Here Tocqueville employed the word “revolution” in its original sense to mean a full *rotation*, rather than insurrection. Fortunes rose and fell intergenerationally as a result of equal-inheritance law. In the brief appendix of his novel *Marie, or, Slavery in the United States*, also published in 1835, Beaumont attributed the same revolution in property to democratic society. He insisted that America possessed “few great fortunes.” They are built up and are occasionally knocked down by the “hazards of trade,” but they “do not survive the equal division decreed by the inheritance laws.”⁷⁵ Manuscript changes to *Democracy in America* show that

⁶⁸Orth, “After the Revolution,” 35.

⁶⁹Tocqueville, *Democracy in America*: 1, 86.

⁷⁰Mill, *CW*: 18.

⁷¹Tocqueville, *Democracy in America*: 1, 80.

⁷²*Ibid.*

⁷³*Ibid.*, 84. Curiously, Hervé used primogeniture interchangeably with entail.

⁷⁴*Ibid.*, 80.

⁷⁵Gustave de Beaumont, *Marie, or, Slavery in the United States: A Novel of Jacksonian America*, trans. Barbara Chapman (1835) (Stanford, 1958), 227. Beaumont diverged from Tocqueville in the appendix

Tocqueville omitted sentences asserting an aristocratic economic position that the law would cause future generations to become impoverished.⁷⁶ He instead maintained that overall great fortunes were reduced under this law and the leveling of landed estates was irreversible.⁷⁷ Moreover, as estates were divided unceasingly into smaller portions the character of the family was transformed.⁷⁸ Equal partition obliterated the bonds between families and the land, while encouraging landowners to sell their property, and to “cooperate in their own ruin.”⁷⁹

The most dangerous impact of the law and its erosion of the hereditary principle was the corrosive effects upon the office of government once supported by primogeniture. With the formation of a leisured class continually thwarted, smaller proprietors rarely escaped the necessity of labor long enough to develop their intellectual capacities beyond the practical level required by local political participation. The result was that democratic government in America consisted predominantly of mediocre statesmen: the opposite of Jefferson’s “natural aristocracy.”⁸⁰ Their mediocrity, however, was mitigated by the ingenuity of a federal constitutional arrangement which protected local institutional autonomy and harnessed the restless political activity within states. When citizens were “more or less equal,” Tocqueville warned, it was exceptionally hard for them to “defend their independence against the aggressions of power.” Individually they lacked the influence which accompanied immense fortune. This was a partial reformulation of the aristocratic argument that small proprietors were defenseless against despotism. It was only by combining their strength through local and federal institutions that their liberty could be guaranteed.⁸¹

Fortunately, Americans were spared any immediate threat of absolute power. Tocqueville gave two reasons: first, their national circumstances, institutions, and mores enabled them to “establish and maintain the sovereignty of the people.”⁸² By the 1830s, a majority of states had removed property qualifications and adopted “universal” white male suffrage. It was held that their regular participation in government, whether directly through assemblies or through elected representatives, actively secured the democratic liberty of the American people. The ability to choose their own executives and relative lack of administrative restrictions ensured that the popular will was respected; the people were “the cause and end of all things.”⁸³ Extensive opportunities for self-government also prevented an aristocracy from establishing itself as a ruling body. Even the rich could not “form a class.”⁸⁴ Second, Tocqueville counterbalanced his earlier aristocratic arguments by reformulating the ends of Sismondi and Dupin’s stabilization thesis: “the

“Note on Equality in American Society,” observing that some Americans embraced the aristocratic instinct of their English descent and the custom of primogeniture, despite equal inheritance law.

⁷⁶Tocqueville, *Democracy in America*: 1, 80.

⁷⁷*Ibid.*, 82.

⁷⁸*Ibid.*, 80.

⁷⁹*Ibid.*, 82–3.

⁸⁰*Ibid.*, 326–7.

⁸¹*Ibid.*, 89–90.

⁸²*Ibid.*, 90.

⁸³*Ibid.*, 96–7.

⁸⁴*Ibid.*, 85.

profusions of *democracy* are ... less to be feared the more people have become property owners,” he contended.⁸⁵ When a majority owned property, their political activity was less dictated by necessity, meaning that they no longer relied upon the financial support of the wealthy. A property-owning public quickly became vigilant in avoiding any taxes that might impact them. Their political psychology was therefore dictated by a concern to maintain their independence, moderate fortunes, and security.

Politically, Sismondi and Dupin had advocated the diffusion of property on grounds of improving the moral character of citizens, while maintaining order and preventing revolution. In America, Tocqueville discovered that this diffusion through inheritance reform unleashed a democratic “revolution” in property, society, and government: it was a powerful means of tempering extreme or violent tendencies arising from equality of conditions and universal suffrage. Once electoral qualifications began to be removed, the pressure from those below the threshold mounted and concessions increased. Left alone, universal suffrage really gave “the government of society to the poor.”⁸⁶ Extending the transmission and circulation of property to the lower classes provided the vital check and balance: it was the first precondition of democratic stability. The great lesson was that an equal franchise would be “less dangerous in France than in England, where nearly all taxable property is gathered in a few hands.”⁸⁷ Confronting the startling effects of England and Ireland’s economic system forced Tocqueville, and Beaumont, to respectively reimagine the role of inheritance reform and property ownership within their broadly shared framework of democracy. How did this divergence unfold?

* * *

The extreme inequality of wealth left by far the greatest impression upon Tocqueville during his first visit to England in 1833.⁸⁸ “The state of the poor is the deepest trouble” in this country, he remarked. Pauperism was accelerating while the numbers of those who possessed land decreased. For Tocqueville, the concentration of property among aristocratic and ascendant industrial classes was “the first and permanent cause of the evil.”⁸⁹ Across numerous interviews with authors such as Edward Bulwer-Lytton, and soon-to-be advocates of the Poor Law Amendment such as Lord Radnor, Tocqueville repeatedly inquired about the possibilities for inheritance reform in Britain.⁹⁰ Enthusiasm for such a remedy seemed entirely lacking. The promise of bettering one’s condition held out by rapidly expanding industry appeared to have mitigated popular hostility toward the landed aristocracy. Unlike *Ancien Régime* France, this body had

⁸⁵Ibid., 337, my italics.

⁸⁶Ibid., 336.

⁸⁷Ibid., 337.

⁸⁸Alexis de Tocqueville, *Journeys to England and Ireland (1833–5)*, ed. J. P. Mayer, trans. George Lawrence and K. P. Mayer (New Haven, 1958), 72.

⁸⁹Ibid.

⁹⁰Ibid., 56.

survived by founding itself “upon wealth,” not birth, meaning that anyone could in principle buy themselves a peerage.⁹¹ Moreover, the English were so habituated to the extreme inequality of wealth that although freedom of testation was the general rule of inheritance, the law of primogeniture had “entered into the customs of all classes.”⁹² Wealthy industrialists emulated their aristocratic peers by spontaneously bestowing entire estates upon their eldest sons. Meanwhile, as Beaumont later noted, members of the English lower classes looked upon the “opulence” of great landed properties with a blend of moral and aesthetic reverence.⁹³

That is not to say that inheritance reform had not been considered by the legislature. As debate raged in France over the succession laws bill, James Humphreys’s *Observations on the Actual State of the English Laws of Real Property with the Outline of a Code* of 1826 caused a stir among MPs in Britain.⁹⁴ After being covered in the *Westminster Review* and the *Quarterly Review*, and following earlier exchanges between political economists on inheritance across these journals, enough momentum had gathered to initiate the largest review of English property law since the Norman Conquest: the Real Property Commission of 1828.⁹⁵ Humphreys and Jeremy Bentham contributed reports advocating reforms based upon the Napoleonic Civil Code.⁹⁶ Although full-scale adoption of a constitutional code was impracticable in England, Humphreys suggested that an isolated codification of inheritance law was implementable. Anticipating the reluctance of the commissioners, Bentham did not go so far as to advocate inheritance reform, despite having done so in his *Theory of Legislation* of 1802. The commissioners deemed codification a dangerous step towards French republicanism, and, aside from piecemeal alterations to the existing law in 1833, the institution of inheritance emerged relatively unscathed.⁹⁷ A review of property law of this magnitude would not occur again until 1925. In their resulting report covering inheritance, the commissioners proudly conveyed their resistance to reform: “the Law of England ... appears to come almost as near to perfection as can be expected in any human institution.”⁹⁸

Frustrated by the paltry alterations following the commission, and seemingly emboldened by the Reform Act of 1832, even the moderate Whig Henry Brougham was moved to action. In April 1835, Brougham donned the pseudonym “Isaac Tomkins” and published a condemnation of hereditary privilege in pamphlet form, entitled *Thoughts upon the Aristocracy of England*, which was covered by the

⁹¹Ibid., 67.

⁹²Ibid., 71.

⁹³Gustave de Beaumont, *Ireland: Social, Political, and Religious* [1839] (Cambridge, MA, 2007), 292.

⁹⁴For the importance of Humphreys’s intervention see Avner Offer, *Property and Politics 1870–1914: Landownership, Law, Ideology and Urban Development in England* (Cambridge, 1981), 27.

⁹⁵John Ramsay McCulloch, “Considerations on the Law of Entail,” *Edinburgh Review* 40/80 (1824), 350–75; John Austin, “Periodical Literature: Edinburgh Review, Number XL, ART.IV. Disposition of Property by Will [and] Primogeniture,” *Westminster Review* 2/4 (1824), 503–53; Mary Sokol, “Jeremy Bentham and the Real Property Commission of 1828,” *Utilitas* 4/2 (1992), 225–45, at 225.

⁹⁶Sokol, “Jeremy Bentham,” 225.

⁹⁷The 1833 Inheritance Act dealt mostly with technical details about collateral and lineal descent.

⁹⁸Sokol, “Jeremy Bentham,” 232–3. Offer, *Property and Politics 1870–1914*, highlights the self-congratulatory attitude of the commissioners, whereas Sokol, “Jeremy Bentham,” sympathetically suggests that they thought codification was practically unachievable.

Edinburgh Review.⁹⁹ “Aristocracy as a body is essentially the enemy of all reform,” he asserted.¹⁰⁰ Brougham’s argument shows Tocqueville’s analysis of the English aristocracy as founded “upon wealth” to be a commonplace view.¹⁰¹ The “very great advantage” of the English constitution, Brougham maintained, was that men of “no birth” could attain the same station as aristocrats through talent and exertion. Despite relative social mobility stimulated by industrialization, his grievance was that men of “no birth” were still at a disadvantage: “they have to make their way—to win their spurs; the others start on a vantage ground—they are born spurred.”¹⁰² The promise of the 1832 Reform Act had yet to be realized, since the “middle-classes” did not share equality of opportunity with aristocrats in terms of education and attainment of office, despite being the class thought most worthy of esteem. The middle classes “are the nation—the people”; it is for them that “the fabric of government is reared, continued, designed.”¹⁰³ The only remaining barrier preventing this realization was the privilege of primogeniture. Once this was destroyed, “all the worst parts of the other evils would cease.”¹⁰⁴

Brougham’s pamphlet sparked a chain reaction. Hopes for anonymity were immediately dashed by a hostile review in the *Quarterly Review* unmasking his authorship.¹⁰⁵ Encouraged, Brougham penned four successive interventions under dubious pseudonyms such as “Peter Jenkins” and “Timothy Winterbottom,” elaborating his critique of primogeniture and hereditary government on grounds of merit and desert.¹⁰⁶ These were further attacked by the Tory mouthpiece *Blackwood’s Edinburgh Magazine*, although his reform proposal received support in *Leigh Hunt’s London Journal*, and *Tait’s Edinburgh Magazine*.¹⁰⁷ This quick glance at Brougham’s pamphlet war provides two key insights: first, the immediacy with which leading Tory journals pounced upon Brougham’s original article, and Brougham’s repeated use of pseudonyms when arguing for the abolition of primogeniture, not only demonstrate his care to preserve his position in the House of Lords. They show how dangerous proposals for inheritance reform were considered

⁹⁹Isaac Tomkins, *Thoughts upon the Aristocracy of England* (London, 1835), anonymous, “Thoughts upon the Aristocracy of England,” *Edinburgh Review* 61/123 (1835), 64–70.

¹⁰⁰Tomkins, *Thoughts upon the Aristocracy*, 20.

¹⁰¹After visiting England in 1833 and 1847, Emerson similarly observed, “Every man who becomes rich buys land and does what he can to fortify the nobility, into which he hopes to rise ... English history is aristocracy with the doors open.” Ralph Waldo Emerson, “English Traits,” in *Essays of Ralph Waldo Emerson* (1856) (New York, 1940), 286.

¹⁰²Tomkins, *Thoughts upon the Aristocracy*, 7.

¹⁰³*Ibid.*, 18.

¹⁰⁴*Ibid.*, 7.

¹⁰⁵Anonymous, “Thoughts upon the Aristocracy of England,” *Quarterly Review* 53/106 (1835), 540–48.

¹⁰⁶Peter Jenkins, *Letter to Isaac Tomkins, Author of the Thoughts upon the Aristocracy* (London, 1835); Jenkins, *To J. Richards, M.P. for Knaresborough* (London, 1835); Timothy Winterbottom, *A Letter to Isaac Tomkins and Peter Jenkins on Primogeniture* (London, 1835); Isaac Tomkins, “*We Can’t Afford It!*” *Thoughts upon the Aristocracy of England, II* (London, 1835).

¹⁰⁷Anonymous, “Moral and Intellectual Deficiencies of the Aristocracy,” *Leigh Hunt’s London Journal*, April 1834–May 1835, 54; Anonymous, “The Thoughts of Isaac Tomkins and Peter Jenkins upon the Aristocracy of England,” *Tait’s Edinburgh Magazine* 2/17 (1835), 295–98; Anonymous, “Tomkins on the Aristocracy of England,” *Blackwood’s Edinburgh Magazine* 38/237 (1835), 98–111.

in Britain, at a time when the Blasphemous and Seditious Libels Act could still be enforced. Second, Brougham sought to abolish primogeniture and achieve a recalibration of the old republican ideal of establishing a “natural aristocracy.” In Britain and Ireland, the analogous language of “real representation” was preferred by Brougham and advocates for expanding middle- or lower-class representation in Parliament.¹⁰⁸ Neither tradition warned against the intellectual decline that Tocqueville perceived to be the effect of equal inheritance and equality of conditions upon democratic government.¹⁰⁹

On their second voyage to England and Ireland in April 1835, Tocqueville and Beaumont “diligently annotated” Brougham’s first pamphlet on the “reform of succession laws.”¹¹⁰ It is likely that this was one of three pamphlets that Nassau Senior had sent Tocqueville a month earlier, alongside a copy of the Poor Law Act and his essay “On National Property,” which encapsulated the views of the leading Whigs. Tocqueville had utilized Senior’s Poor Law Act when writing his “First Report on Pauperism” in March 1835, commissioned by the scientific society of Cherbourg. Senior’s essay on “National Property” opened with a dissection of inheritance in relation to corporations and church property, and ended with passages on Ireland and pauperism. Tocqueville, in agreement with Beaumont, replied that it was “the most valuable document” a foreigner could use to study England and complete his “political education.”¹¹¹ Now the celebrated author of *Democracy in America*, Tocqueville used such newfound connections to extend this research on the prospects for inheritance reform in England.

Does it not strike the English poor that the “immense property” of aristocrats could be “divided between all” inhabitants? he asked one radical.¹¹² Tocqueville sought agreement with journalist Henry Reeve as to whether the diffusion of dynastic sources of wealth was the “most efficient” means of sapping their power.¹¹³ Conversing with Mill about the “English temperament,” he contended that this was indistinguishable from an “aristocratic temperament” while positing the “instinct of democracy” as its direct opposite. Rather than withdrawing into their isolated estates, should democrats not be politically concerned with extending property rights to others?¹¹⁴ Mill’s response confirmed Tocqueville’s earlier suspicion about the permeation of inequality through the customs of all classes. Unlike in France, where theoretical and practical violations of property were common, Mill admitted that even English radicals respected the rights of property as the foundation of society.¹¹⁵ Removing the rights of primogeniture and entail therefore did not enter their heads. Already by 19 May, Tocqueville decried the lack of

¹⁰⁸Arthur O’Connor, *The State of Ireland* (London, 1798); Austin, “Disposition of Property by Will,” 503–53.

¹⁰⁹Nelson, *The Greek Tradition*, 242, 244, 251.

¹¹⁰Drescher, *Tocqueville and England*, 57; Yale Mss (B) C. X: *L’Irlande*, notes, containing the annotated copy.

¹¹¹M. C. M. Simpson, ed., *Correspondence and Conversations of Alexis de Tocqueville with Nassau William Senior from 1834–1859*, 2 vols. (London, 1872), 1: 13.

¹¹²Tocqueville, *Journeys to England and Ireland*, 76.

¹¹³*Ibid.*, 77.

¹¹⁴*Ibid.*, 86.

¹¹⁵*Ibid.*

advancement on the issue of inheritance reform in a letter to Count Molé, that he did not “meet more persons favorable to the abolition of social distinctions, and of the rights of primogeniture” than eighteen months ago.¹¹⁶

The English property regime of concentrated landownership, advanced machinery, and the pursuit of maximum productivity relied upon an army of surplus paupers. As Senior explained to Tocqueville, the prospect of higher wages extended by industrial employment made the workers’ exodus from rural districts into the cities a relatively bloodless revolution, while diluting any popular agitation for land reform.¹¹⁷ This interpretation further challenged Tocqueville’s vision of the rising “equality of conditions” as entailing the gradual diffusion of property. Yet the influence of Senior’s political economy upon Tocqueville’s and Beaumont’s conceptions of inheritance reform has been overstated.¹¹⁸ Tocqueville’s letter exchanges and debates with Senior ought to be read alongside the implacable resistance to property reform he met with during his many interviews on the subject across both journeys. Only then can Tocqueville’s shifting understanding of “inheritance laws as the royal road to social analysis” be fully comprehended.¹¹⁹ Before turning to Beaumont’s idiosyncratic contribution, and to further demonstrate that Tocqueville did not simply lose interest in inheritance reform after debating Senior, it is necessary to provide a brief sketch of the qualified treatment of the subject in his two subsequent works.

In the “Political and Social Condition of France,” commissioned by Mill and published in the *Westminster Review* in 1836, Tocqueville confessed that the practical influence of inheritance laws was “frequently exaggerated.”¹²⁰ “There is something more powerful than the constant operation of the laws in one direction; it is, the constant operation of human passions in the contrary direction,” he observed.¹²¹ The article reexamined the causes of the French Revolution in order to comprehend the nation’s current situation, while deploying themes later elaborated in his *Ancien Régime* of 1856. Tocqueville directly incorporated lessons from his English experience. What if powerful mores and public opinion analogous to those holding primogeniture firmly in place in England had already prevailed in prerevolutionary France, but in favor of the opposite habit of equal division? Without this prior disposition towards the equality of conditions across French society, the implementation of egalitarian laws would surely have failed miserably.¹²² In addition to this prioritization of “mores over laws,” Tocqueville distinguished between two rival property regimes: the aristocratic English versus the

¹¹⁶Alexis de Tocqueville, “Letter to Count Molé, 19th May, 1835,” in *Memoir, Letters, and Remains of Alexis de Tocqueville*, 2 vols. (London, 1861), 3–9.

¹¹⁷*Correspondence and Conversations of Alexis de Tocqueville with Nassau William Senior*, 4.

¹¹⁸Drescher, *Tocqueville and England*, 61; As Drolet has convincingly argued, Villeneuve Bargemont influenced Tocqueville far more than Senior and Say. Drolet, *Tocqueville, Democracy and Social Reform*, 36–113, 135–61. Tocqueville’s reports on pauperism used Bargemont to critique Senior’s Poor Law Act.

¹¹⁹Drescher, *Tocqueville and England*, 61.

¹²⁰Alexis de Tocqueville, “Political and Social Condition of France,” *Westminster Review* 3/1 (1836), 137–69, at 146. For an authoritative contextual account of the article see François Furet, *Interpreting the French Revolution* (1978) (Cambridge, 1985), 132–63.

¹²¹Tocqueville, “Political and Social Condition of France,” 146–7.

¹²²*Ibid.*, 155.

democratic French. While the former's extensive trade and industry enabled its people to recognize the advantages of fortune, its great defect was that small landed properties in England, Scotland, and Ireland tended to become perpetually engulfed by larger estates. Industry and commerce historically made slower progress under the French regime, and since land was not an "object of luxury" for the rich, its acquisition became the primary motivation of the laboring poor.¹²³

His political conclusions were stark: the "most dangerous species of social inequality" was that found within societies such as England and Ireland, where landed property accumulated in "large masses." This immense concentration of property presented an existential threat to democratic government.¹²⁴ The few democratic institutions in England were therefore described as a "passing accident."¹²⁵ Studying French history, on the other hand, led Tocqueville to reinforce his earlier idea that there was nothing "more favorable to the reign of democracy" than the division of land into small proprietors. As in America, the spirit of liberty and independence attending greater property ownership favored "in a singular manner" the continuance of democratic institutions.¹²⁶ Tocqueville no longer ascribed the same power to the inheritance reforms of the French Revolution that he had to those of its American predecessor. In addition to the relative cheapness of land, however, the equal division of property in France had still occurred through the institution of inheritance, transmitted spontaneously and habitually by the people over a longer period prior to the upheaval.

Tocqueville's treatment of inheritance reform in his unfinished "Second Report on Pauperism" of 1837 was more complex. In his first report he stressed the inadequacies of a system of organized charity in meeting the crisis of industrial-scale proletarianization. He disagreed with Senior over the root of the problem. English farmers were not driven overwhelmingly by their own interest into the new industrial centers: they were "pushed by the consolidation of landed property" to do this despite themselves.¹²⁷ Moreover, he doubted the viability of Senior's Poor Law Amendment since it was built upon the outmoded principle of Elizabeth I: that society was obliged to provide for the poorest. Tocqueville's deep suspicion of centralization convinced him "that any regularized, permanent administrative system whose goal is to provide for the needs of the poor will give birth to more miseries than it is able to heal."¹²⁸ Anticipating the growth of pauperism in France alongside its burgeoning industry, his second report sketched alternatives for its amelioration. In contrast with his essay the "Social Condition of France," mores and laws were given similar weight. French "equality of shares" had "penetrated mores *at the same time* that it was established in laws," ensuring against the consolidation of property ownership among the few.¹²⁹ He distinguished between pauperism within agricultural and industrial classes. In France the combination of democratic customs and the legislative reform of equal division already provided "the most efficacious means of preventing pauperism among the agricultural classes," namely by

¹²³Ibid., 154.

¹²⁴Ibid.

¹²⁵Ibid., 156.

¹²⁶Ibid.

¹²⁷Alexis de Tocqueville, *Memoirs on Pauperism* (1835, 1837) (Notre Dame, 2021), 14.

¹²⁸Ibid., 27.

¹²⁹Ibid., 30, my italics.

diffusing property in land.¹³⁰ This division shaped small proprietors into prudent, future-oriented characters imbued with a sense of “order, activity and economy.”¹³¹ There was therefore no need for Tocqueville to advocate further inheritance reform in France, despite supporting such measures in principle. By protecting the agricultural classes from sliding into the destitution experienced by their English counterparts, equal division was already serving its purpose.

The significance of this argument has been overlooked. Since Tocqueville never completed the second report, this is unsurprising. In his authoritative account of Tocqueville’s treatment of equal inheritance in *Democracy in America*, Eric Nelson attributes its novelty to having transcended the republican paradigm of “natural aristocracy,” whereby property is equalized to secure rule by the best men.¹³² Rather than being a question of rulership, for Tocqueville the resulting division of property in a democratic social state stimulated the work ethic, enhancing individuals’ ability to pursue their own self-interest, and acquire goods “according to merit and desert.” For Nelson, then, Tocqueville viewed equal inheritance as necessary to “level the playing field” and extend equality of opportunity from government to society at large.¹³³

Yet the second report shows how Tocqueville went even further. The scale of agricultural and industrial pauperism experienced in France and Britain was unknown to comparatively middle-class America. Championing egalitarian inheritance reform as the most effective means of ameliorating this distinctive form of social inequality, the report not only broke with republican tradition. He also moved beyond desert-based equality-of-opportunity arguments to emphasize an alternative solution to direct welfare payments. Acquiring modest landholdings through equal inheritance enabled agricultural laborers to avoid poverty and gain protection from the ravages of capitalist industry, regardless of whether they “deserved” it. Although Babeuf and Cournand had argued for the total abolition of inheritance to achieve redistribution, here Tocqueville advanced the first explicitly non-republican democratic theory of inheritance *reform* as an instrument of social justice.

The second report also acknowledged the limits of equal division. Drawing upon Villeneuve-Bargemont’s *Économie politique chrétienne* of 1834, Tocqueville pointed to the emergence of a new “feudal aristocracy of money and industry” as the primary threat.¹³⁴ Industry now “preserved the aristocratic form in modern nations,” and a means of dividing industrial property while maintaining productivity had yet to be discovered.¹³⁵ Searching for analogous strategies to inheritance reform in the face of this new form of inequality, Tocqueville gave two brief, undeveloped proposals: worker cooperatives and savings programs. Cooperatives would become gradually more viable with the spread of knowledge among the laboring classes, and he looked forward to a time when the spirit of association he discovered in America would be grasped by industrial workers. Finally, although shared ownership of factories was out of the question, Tocqueville saw no reason why workers could not be

¹³⁰Ibid., 32.

¹³¹Ibid.

¹³²Nelson, *The Greek Tradition*, 251.

¹³³Ibid.

¹³⁴Drolet, *Tocqueville*, 97–8.

¹³⁵Tocqueville, *Memoirs on Pauperism*, 33.

aided in the “creation of their independent property” through their salaries. Provided with the means to save, the industrial class may come to share the “spirit and habits of property” which the agricultural classes acquired by equal-inheritance reform.¹³⁶

In *Marie*, Beaumont already perceived the emergence of a new industrial feudalism: “In truth there exists in America something that resembles the feudal aristocracy,” he warned. “The factory is the manor; the manufacturer the overlord; the workers are the serfs.”¹³⁷ Yet his magnum opus, *Ireland: Social, Political, and Religious*, published in 1839, focused upon a country where the vicissitudes of industrial and trade policy were experienced as the imposition of a violent external force. In Ireland, Beaumont discovered a feudal aristocracy persisting amidst widespread pauperism, without the prospects of industrial employment championed by the likes of Senior. The final section examines how he rejected solutions to this crisis advanced by leading British political economists, while transforming Tocqueville’s language of democracy and inheritance into distinctive reform proposals.

* * *

Beaumont’s journeys to Ireland presented the opposite spectacle to America: a society in which only a few thousand owned property, in a population of approximately 8 million.¹³⁸ Since the end of the Napoleonic Wars the price of staple goods had been severely lowered by the pressures of international trade. Unable to compete with large Irish landowners, the class of small agricultural proprietors was rendered practically obsolete.¹³⁹ Low-waged farm labor upon aristocratic estates offered the major source of employment. Irish industry was still in its infancy; in Beaumont’s estimation this amounted to “less than a fourth part,” with “more than two-thirds ... exclusively devoted to agriculture.”¹⁴⁰ Short-term leases of small patches of land with humble dwellings housed a majority of the Irish poor. For some British political economists, Ireland was a testing ground for Malthus’s prognostication that the acceleration of food production would fail to keep pace with the geometric increase in population.¹⁴¹

In the “supplemental dissertations” appended to his popular edition of Smith’s *Wealth of Nations*, published in 1828, the eminent economist John Ramsay McCulloch attacked the ancient inheritance custom of gavelkind as a root cause of Ireland’s afflictions. Whether the land was freehold or leasehold, and despite the efforts of landlords to prohibit the practice, farmers and laborers would divide their inheritances equally between male heirs. In a passage reminiscent of Tocqueville’s emphasis upon mores over laws, McCulloch asserted that the custom was so firmly embedded in the “public esteem” that Irish farms tended to be

¹³⁶Ibid., 37.

¹³⁷Beaumont, *Marie*, 106.

¹³⁸Beaumont visited in 1835 and 1837.

¹³⁹Drolet, *Tocqueville*, 152.

¹⁴⁰Beaumont, *Ireland*, 127.

¹⁴¹McCulloch, “Considerations on the Law of Entail”; Thomas Malthus, *An Essay on the Principle of Population*, vol. 1 (London, 1826).

reduced to small scraps of land.¹⁴² Gavelkind alone was “sufficient” to impoverish the population.¹⁴³ “The custom of subdividing farms has done for Ireland what the law of equal succession has done, or is doing for France,” he remarked. “It has taught every individual ... to trust to the land for support. It has secured to them a sort of wretched independence, and has in consequence given a powerful stimulus to population.”¹⁴⁴ By contrast, the example of Scotland showed that larger farms secured by primogeniture and entail prevented subdivision, thereby reducing the agricultural population to “its proper level,” while inculcating “prudential habits.”¹⁴⁵ Adopting the Scottish system or emigration were the only policies contained in the dissertation. It is perhaps no coincidence that McCulloch, the owner of a sizable Scottish estate, decided to condemn gavelkind alongside French equal division when he did. His edition of a work still avidly read by legislators was published the same year the Real Property Commission probed the question of inheritance reform in Parliament.

By 1830, public concern about the Irish crisis had led to the establishment of a Committee on the State of the Poor in Ireland, initiating a process that culminated with the Irish Poor Law Act of 1838. McCulloch and fellow Scottish political economist Thomas Chalmers gave evidence to the committee, subsequently republished with extensive commentary by Nassau Senior in his *Letter to Lord Howick on a Legal Provision for the Irish Poor* of 1831. Whilst admitting the Irish population’s rapid growth, Senior did not follow McCulloch in detecting a deterioration in their means of subsistence; rather, he thought those means to be “relatively improving.”¹⁴⁶ He inquired as to how far it was practicable to extend compulsory provision for the distressed Irish poor, “without materially affecting the three great supports of human existence—industry, forethought, and charity.”¹⁴⁷ Despite Senior’s reservations, McCulloch’s ideas had been reflected in the commissioner’s recommendations, and may indicate his input: particularly the proposal for “a Bill to make a provision whereby questions of Wills, Legacies and Intestacies, within certain limits, may be decided by the Assistant Barristers at Quarter Sessions.”¹⁴⁸ This latter suggestion regarding inheritance would enable the close regulation by local authorities of the practice of gavelkind, thereby mitigating equal property division.

While McCulloch’s proposals were limited, and Senior was eventually willing to extend a modified poor law to Ireland, Chalmers rejected the idea of compulsory provision in all but the most extraordinary cases. For Chalmers, poor laws acted as a negative influence upon “certain principles and feelings, which, if left to their own undisturbed exercise, would do more for the prevention and alleviation of poverty than can be done by any legal or artificial system.”¹⁴⁹ Tocqueville had

¹⁴²Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. J. R. McCulloch (Edinburgh, 1828), 476–7.

¹⁴³*Ibid.*, 477.

¹⁴⁴*Ibid.*, 477–8. For the national dimension of McCulloch’s argument see James Stafford, *The Case of Ireland* (Cambridge, 2022), 217.

¹⁴⁵Smith, *Wealth of Nations*, ed. McCulloch, 478.

¹⁴⁶Nassau Senior, *A Letter to Lord Howick on a Legal Provision for the Irish Poor* (London, 1831), 6.

¹⁴⁷*Ibid.*, 12.

¹⁴⁸*Ibid.*, 84–5.

¹⁴⁹*Ibid.*, 87.

similarly rejected such a system due to its centralizing tendency. Yet Chalmers urged that such “principles and feelings” were derived not from property ownership, but from moral training. “The low standard of enjoyment in Ireland,” he argued, was “attributable not to the want of a poor rate, but to other causes—to misgovernment and to imperfect education.”¹⁵⁰ Developing these themes in his influential work *On Political Economy*, published a year later, Chalmers proclaimed that an “elevation of mind and manners, caught as if by infection” from the higher classes, formed the “best security” against pauperism.¹⁵¹ He combined Smith’s theory of “emulation” from the *Theory of Moral Sentiments* with a Burkean emphasis upon the social function of aristocratic chivalry, which could “glow” and inspire “the mass of a community.”¹⁵² Rather than acquire a taste for liberty and independence, paupers ought to undergo moral instruction encouraged by state and clergy, to inculcate habits of marital restraint and deference.¹⁵³ It was for this reason that Chalmers railed against the absenteeism of Irish aristocrats with estates in England. Without a “residing gentry” to act as a beacon of moral conduct the state of the poor would only worsen.¹⁵⁴ Importantly, Chalmers joined McCulloch in associating the “misery” of the Irish with the “indefinite subdivision” in the ownership and occupancy of land.¹⁵⁵ Gavelkind had “frittered” the land “into shreds.” Despite the “gathering strength of opposition” to primogeniture, Chalmers therefore defended its role in upholding the aristocratic apparatus of government in Britain and Ireland.¹⁵⁶

Beaumont was well versed in the arguments and proposals of the political economists. On his visit to Ireland in 1835 with Tocqueville, he had debated the causes of Irish poverty with Senior and John Revans, who had just published *Evils of the State of Ireland: Their Causes and Their Remedy—A Poor Law*.¹⁵⁷ Yet Beaumont eventually rejected practically all of their arguments and solutions. In *Ireland*, he took aim at the repeated use of that country by “English economists” such as Malthus, McCulloch, and Chalmers “to prove the great injury of the extreme division of land in France.”¹⁵⁸ In doing so, Beaumont implicitly differed from Tocqueville’s analysis in volume 1 of *Democracy in America* that equal partition caused the rapid division of land.¹⁵⁹ It was true, Beaumont admitted, that the agricultural population of both France and Ireland had speedily increased. Recent French history, however, demonstrated that subdivision did not continue beyond rational limits set by the proprietor’s propensity to sell, rent, or undertake additional work as a day laborer. As with Sismondi, whom Beaumont had carefully studied, the fundamental distinction was a question of ownership.¹⁶⁰ In France,

¹⁵⁰Ibid., 91.

¹⁵¹Thomas Chalmers, *On Political Economy* (New York, 1832), 264.

¹⁵²Ibid., 266; Adam Smith, *The Theory of Moral Sentiments: The Glasgow Edition*, ed. D. D. Raphael and A. L. Macfie (Indianapolis, 1982), 52.

¹⁵³Chalmers, *On Political Economy*, 267.

¹⁵⁴Ibid., 267.

¹⁵⁵Ibid., 257.

¹⁵⁶Ibid., 254.

¹⁵⁷John Revans, *Evils of the State of Ireland* (1835) (London, 1837); Tocqueville, *Journeys to England and Ireland*, 120; Drescher, *Tocqueville and England*, 60.

¹⁵⁸Beaumont, *Ireland*, 307.

¹⁵⁹Tocqueville, *Democracy in America*: 1, 80.

¹⁶⁰Stafford, *The Case of Ireland*, 235.

small proprietors were “owners of the parcels of land which they occupy, whilst in Ireland they are only tenants.”¹⁶¹ “It is for himself and for his own profit alone that the French agriculturist waters with the sweat of his brow,” he declared, “whilst the Irish peasant sows for another ... and has for the most part exhausted the soil, when he has raised from it the rent that he is bound to pay his landlord.”¹⁶² He maintained that the “passion for property” of the small proprietor meant that their industriousness far surpassed that of a hired laborer. “The experience of modern times has shown what a difference in value there is between the work of the free labourer and the slave,” he contended.¹⁶³ Although he admitted that it remained an open question whether a system of small proprietorship was in the long run more productive, Beaumont followed Sismondi in doubting maximum productivity as a desirable primary indicator of advanced societies.¹⁶⁴

Beaumont ultimately concurred with Sismondi and Tocqueville in eulogizing the “social and political benefits” of a regime of diffused property ownership over its economic rewards. The possession of property transformed the worldview of the pauper, improving their standards of living while personally investing them in the fate of their country.¹⁶⁵ The unemployed and itinerant had no incentive to live “honourably,” and frequently descended into an immoral life course. Unlike England, Ireland could not rely upon the unintended consequence of a relatively peaceful assimilation of laborers into wage employment in industrial centers. Proprietorship, on the other hand, could render the people relatively free and independent. It was this independence, rather than the deference which Chalmers sought to teach, which encouraged moral conduct.¹⁶⁶ “In vain would economists prove to me that by the division of land less produce is obtained from the ground at greater expense,” he asserted; “I know no means of covering the surface of the country with inhabitants more prosperous, more independent, more attached to their native land, and more interested in its defense.”¹⁶⁷ Experience of American society had also illuminated for Beaumont the absence of any middle class in Ireland. Unlike America and France, there was no “middle rank between the palace of the great and the cabins of the lowly; there are only the rich and poor.”¹⁶⁸ The absence of this intermediary power to check and balance these extremes was “one of the greatest misfortunes of the country,” since it increased the threat of a despotic government.¹⁶⁹ As for Tocqueville, the “middle-class” was synonymous with a society based upon an equality of conditions, a democratic social state. Uninterested in writing “impartial” political philosophy, Beaumont’s own purpose was to convert this language into an elaborate, historically embedded argument for reform—one that could not only solve the problem of pauperism, but simultaneously help initiate and stabilize Ireland’s transition to a democratic social state and political regime.

¹⁶¹Beaumont, *Ireland*, 307.

¹⁶²*Ibid.*, 308.

¹⁶³*Ibid.*, 308–9.

¹⁶⁴*Ibid.*; Stafford, *The Case of Ireland*, 221.

¹⁶⁵Beaumont, *Ireland*, 309.

¹⁶⁶*Ibid.*

¹⁶⁷*Ibid.*

¹⁶⁸*Ibid.*, 127.

¹⁶⁹*Ibid.*, 244.

The aristocracy was the formidable barrier standing in the way of Ireland's industrial progress and potential transformation into a democratic society of property owners. Beaumont was at pains to stress in his "Historical Introduction" and throughout *Ireland* the injustice of its presence on Irish soil. Ireland's aristocracy embodied a legacy of brutal conquest and religious confiscation. Smith had already perceived that the violent carving up of lands by feudal barons across Europe had had an uneconomical influence extending into his own time. Similarly, the consequences of the artificial division of Ireland amongst English nobles continued to be felt in Beaumont's.¹⁷⁰ As for Smith, the perpetuation of their political and economic power was primarily facilitated by the institution of inheritance. Primogeniture and entail were the key instruments by which confiscated estates had been secured and transmitted to their descendants. Long barred from the acquisition of property, generations of the Irish Catholic population had subsequently been forced through necessity to labor on aristocratic plantations. In graphic detail, Beaumont explained how these laborers now lived in a "condition worse than that of the serfs during the middle ages."¹⁷¹ It was the "inherent vice" of these dynastic institutions and subsequent social unrest which made investment in industry a hopeless endeavor. Moreover, none of the political economists' proposals offered viable solutions. Emigration, an Irish poor law, or a concerted industrial policy would still leave the "primary cause of the disease" intact.¹⁷² To end the institutional stranglehold, Beaumont contended that both the aristocratic principle and its political manifestation "must be abolished."¹⁷³ Rather than violent expropriation, however, he proposed reforms which would gradually pave the way for a democratic state; beginning with the eradication of the "chief obstacles": entail and primogeniture.¹⁷⁴

During their travels in America, Beaumont had discerned the leveling effects of inheritance law upon society alongside Tocqueville.¹⁷⁵ Beaumont's subtle unpacking of the workings of entail and primogeniture, however, rivaled Tocqueville's description of equal division in the United States, but surpassed it in terms of accuracy. The English "law" of entail was not what it appeared at first glance: the transmission of property in perpetuity was not legally enforced as it was in Scotland. The "most striking feature" of the English law, which extended to Ireland, was that freedom of testation was the reigning principle.¹⁷⁶ Securing property by entail was optional. Given the strength of feeling, custom, and tradition in favor of such a disposition among aristocrats, they often rendered their lands inalienable regardless. If the practice of entail were outlawed, Beaumont claimed, "every Irish proprietor would be more completely master of his land ... it would be the first step towards the division of the soil."¹⁷⁷ Contrasted with French compulsory partition, then, the problem with English inheritance law was that of "excessive

¹⁷⁰Smith, *Wealth of Nations: The Glasgow Edition*, III.IX, 380.

¹⁷¹Beaumont, *Ireland*, 126.

¹⁷²*Ibid.*, 290.

¹⁷³*Ibid.*, 300.

¹⁷⁴*Ibid.*, 316.

¹⁷⁵Tocqueville, *Democracy in America*: 1, 82 n. v; Beaumont, *Marie*, 227.

¹⁷⁶Beaumont, *Ireland*, 316.

¹⁷⁷*Ibid.*, 317.

freedom.”¹⁷⁸ The liberty commonly exercised in the transmission of property obscured in the popular imagination the fact that entail and primogeniture continued to be combined by the upper echelons of society, by force of habit, sentiment, and interest.¹⁷⁹ Primogeniture was automatically enforced only in intestate cases: “when the father keeps silent, the law speaks, and its voice is always in favor of the eldest son.”¹⁸⁰ This right was “indisputably” the most fundamental privilege of the aristocracy. While entail preserved estates through time, the effect of primogeniture was to consolidate their magnitude. These expansive tree-lined estates even shaped the English national self-image.¹⁸¹ This was not merely an aesthetic veneer: their very endurance proved that liberty and fortune were valued above equality in England across all ranks in society.

Such esteem for landed estates was alien to Ireland. Rather than injuring “national feeling,” the abolition of primogeniture there would actually help reconcile law with public opinion.¹⁸² This was not, however, due to the public’s detailed knowledge of inheritance law. Having undergone centuries of violence and legal oppression, the Irish had cultivated an instinctive taste for equality: they “developed democratic sentiments, instincts, and wants unknown in England.”¹⁸³ With this in mind, Beaumont transformed the framework of Tocqueville’s prerevolutionary history of France into political theory by applying it to Ireland. The democratic habits and mores of the Irish had long persisted despite English rule. It was now time to elevate these into laws that conformed to “justice and morality.”¹⁸⁴ This did not mean imposing a French law of compulsory division. Given the centrality of liberty animating English government and society, Beaumont understood that it was unrealistic to think that common law freedom of testation could itself be removed. After the abolition of entail and primogeniture, and in direct opposition to political economists such as McCulloch, Beaumont finally proposed that Ireland legislatively adopt gavelkind in cases of intestacy. “It would be sufficient to enact, that in case of a father’s dying intestate, the property should be equally divided,” he affirmed.¹⁸⁵ Such a measure would therefore mirror American inheritance law. Entire estates could still be transmitted to the eldest son, but this would require the positive act of stipulation by will, thereby forcing the testator to harbor the guilt of *actively* denying a majority of his children a right to an equal share.¹⁸⁶ Beaumont was by no means the first to argue for such a radical overhaul of inheritance law in Ireland. What, then, distinguished his argument from those of his reform-minded predecessors?¹⁸⁷

The most famous Irish exponent of comparable proposals was the United Irishman Arthur O’Connor, who advocated at length for the abolition of those

¹⁷⁸Ibid., 318.

¹⁷⁹Ibid.

¹⁸⁰Ibid.

¹⁸¹Ibid.

¹⁸²Ibid., 319.

¹⁸³Ibid., 293.

¹⁸⁴Ibid., 311

¹⁸⁵Ibid., 319.

¹⁸⁶Ibid., 320.

¹⁸⁷O’Connor, *The State of Ireland*; Samuel Laing, *Journal of a Residence in Norway* (London, 1836).

“laws of monopoly,” primogeniture and entail, in his *State of Ireland* of 1798.¹⁸⁸ Looking to France and drawing inspiration from Merlin’s reforms, O’Connor was quick to recognize the dramatic political ramifications of removing feudal property laws and spreading small proprietorship. Yet the United Irishman was not in the business of detailing plans for equal division using gavelkind as a precedent, nor was he especially concerned with ameliorating pauperism. He instead converted Smith’s strong criticisms of primogeniture into an explicitly political tract calling for its removal. Implicit throughout the *State of Ireland* was his emulation of Jeffersonian republicanism: aiming to diffuse property in order to establish a “natural aristocracy,” which he called “real representation.”¹⁸⁹

In Beaumont’s own time, two years before the publication of *Ireland*, the Scottish travel writer and critic of political economy Samuel Laing mounted one of the most influential British proposals for radical inheritance reform in Ireland.¹⁹⁰ Even before the publication of *Democracy in America*, and similarly inspired by Sismondi, Laing visited Norway to study “the only part of Europe in which property, from the earliest ages,” had been transmitted by equal division.¹⁹¹ His conclusions were threefold: first, contrasted with the “artificial law” of primogeniture, the “natural law” of equal partition was best able to achieve the utilitarian end of society: the greatest happiness of the greatest number; second, denouncing Chalmers’s advocacy of a “fictitious” moral restraint upon marriage to solve the problem of population growth, Laing proposed the diffusion of property as the “radical cure”; finally, to tackle the “evil condition” of pauperism in Ireland, he declared that equal-inheritance reform was the ultimate remedy to assuage the suffering.¹⁹² The word “democracy,” however, was only mentioned twice in that work.

The fusion of an explicit proposal to use gavelkind as an instrument to diffuse property ownership and ameliorate pauperism while facilitating a gradual but full-scale social and political transition to democracy was unique to Beaumont. He normatively weaponized Tocqueville’s conception of democracy as both equality of conditions and middle-class government. Narrowly republican inheritance reform arguments in favor of “natural aristocracy” or “real representation” were bypassed. Such an expansive, positive language of democracy was unknown not only to O’Connor, but also to contemporaries such as Laing, who essentially adapted the utilitarian and Malthusian logic of the economists he sought to condemn. Following Sismondi, he too was a forthright advocate of the rival French system of small proprietorship. For Beaumont, however, inheritance reform was the handmaiden of a more substantial vision of democracy: it was the central mechanism with which to transform not only political but also civil society, and to usher in more socially just political foundations. The French experiment proved that a rapid division of estates following the abolition of primogeniture would “afford the rising middle-class in Ireland lands of an extent suited to their means.” Fundamentally, it would gradually render “landed property accessible to the

¹⁸⁸O’Connor, *The State of Ireland*, 46.

¹⁸⁹*Ibid.*, 71, 80, 96, 108.

¹⁹⁰Laing influenced Mill: *CW*: 2, 283–5. For an account of Laing’s political thought see Betts, “After the Freeholder,” 57–86.

¹⁹¹Laing, *Journal of a Residence in Norway*, 1.

¹⁹²*Ibid.*, 481–2.

lower classes themselves,” an aim which had not been especially shared by the architects of American or French succession law reform.¹⁹³ As Beaumont implored the reform-friendly parties of the English parliament, “render land a matter of easy traffic; divide and partition the soil as much as you can, for it is the only means, in overthrowing an aristocracy which must fall, of elevating the lower classes ... it is absolutely necessary that the Irish people should become landed proprietors.”¹⁹⁴

Having witnessed with Tocqueville the obstinate resistance to inheritance reform among the English political classes, and the difficulties that dissenting Whigs such as Brougham had experienced in challenging property rights, Beaumont was under no illusions about the practicability of his reform plans for Ireland. “It would be easier to extort universal suffrage from the English parliament than a change in the law of inheritance,” he mused.¹⁹⁵ Despite the sudden “progress of democracy” and agitation for reform in England since 1830, the esteem in which the aristocracy was still held and the proliferation of “capitalists” meant that an “extraordinary mass of influence” gathered to impede the democratic advance.¹⁹⁶ Additionally, the hostility of the church and lack of passion for equality among the people presented formidable obstacles. Casting his eyes over the three parties of the House of Commons—the Tories, Radicals, and the Whigs—he judged the plausibility of each to effect the reforms Ireland required. It was fanciful, he argued, that the enemies of all reform, the Tory party, could be relied upon to abolish the aristocracy. Though the Radicals seemed *prima facie* the ideal vehicle for the task, their small size, dissenting religious views, and hostility to the constitution stripped them of the necessary influence in the state.

The ruling Whig party was most promising. They had effected democratic reforms: parliamentary, municipal, and, arguably, the New Poor Law developed by his friend Nassau Senior. Beaumont’s study of the doctrines of Whigs, such as Brougham’s, showed that although they were against the hereditary foundation of the House of Lords, they were uninterested in destroying that institution. As Brougham contended in his pamphlets, inheritance reform ought to aim at increasing the number of statesmen who became representatives by great personal merit or fortune, rather than by birth.¹⁹⁷ Whilst they consented to “introduce equality into political life,” Beaumont understood the Whigs as “firmly resolved to maintain inequality in civil society.”¹⁹⁸ The best that could be hoped for from the Whigs was administrative changes at a local level to centralize authority in preparation for more significant reform. Yet their core belief in property as the preserve of the few meant they would never “abolish the civil privileges of the Irish aristocracy.”¹⁹⁹

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¹⁹³Beaumont, *Ireland*, 320.

¹⁹⁴*Ibid.*

¹⁹⁵*Ibid.*, 313.

¹⁹⁶*Ibid.*, 337.

¹⁹⁷*Ibid.*, 348, [Brougham], Tomkins, *Thoughts upon the Aristocracy*, 29.

¹⁹⁸Beaumont, *Ireland*, 349.

¹⁹⁹*Ibid.*

This article has demonstrated how Tocqueville and Beaumont reimagined the institution of inheritance as a distinct category of political thought. Inheritance reform ideas were not straightforward extensions of an earlier civic republican paradigm, nor of the language of political economy. Despite the influence of republicans like Say and Sismondi, their focus moved beyond the economy or representation, towards broader meditations upon the transition to a democratic social and political state. Moreover, both thought that governments should use equal division to tackle the threat of extreme wealth inequality and its negative societal consequences. Rooting these distinctive interventions within international succession law debates during the 1820s and 1830s highlights how radical inheritance reform was considered in England. Tocqueville's and Beaumont's novelty can now be observed: they developed explicitly democratic political theories that upheld equal inheritance as a fundamental instrument to diffuse property ownership and achieve social justice. How, then, were these ideas about inheritance developed in their later careers? And how should they be understood by historians of political thought?

Having explicated the role of inheritance reform in establishing the democratic social state, Tocqueville barely addressed the subject in the more theoretical second volume of *Democracy in America*, published 1840. Prefigured by the "Second Memoir on Pauperism," he notably weighed the dangers of rapid industrialization in the chapter "How Aristocracy Could Emerge from Industry."²⁰⁰ It is rarely observed, however, that it was Tocqueville's speculation about the long-term political consequences of inheritance reform and the ubiquity of property ownership which generated one of his lasting contributions to political theory.²⁰¹ In the famous chapter "Why Great Revolutions Will Become Rare," he offered a fearful prognosis for such a society without extremes of poverty or wealth, where the majority owned and attached the "highest value to their property."²⁰² He worried that atomized proprietors under democratic regimes would become "impervious" to powerful public sentiments driving political innovation, anxiously considering all "social progress as a first step toward a revolution."²⁰³ Amidst restless commercial activity, citizens would nonetheless succumb to "a cowardly love of present enjoyments" and cling to the same institutions, prejudices, and mores. Developing the ideas of Sismondi and Dupin, Tocqueville therefore advanced a seemingly paradoxical thesis: the continual revolution in property propelled by equal inheritance, and the absence of primogeniture, indirectly prevented the outbreak of "Great Revolutions" by transforming the political psychology of citizens. Yet the pacificatory benefit of a society of property owners could itself become undermined by profound intellectual and political stagnation. Human progress could grind to a halt.²⁰⁴

²⁰⁰Alexis de Tocqueville, *Democracy in America*, vol. 2 (1840), ed. Eduardo Nolla, trans. James Schleifer (Indianapolis, 2012), 980.

²⁰¹Stuart White, for example, questions how Tocqueville's diagnoses of the "ills of the democratic personality," individualism and materialism, can inform Rawlsian ideas about "property-owning democracy." The connection to inheritance reform, however, is not explicitly made. Stuart White, "Property-Owning Democracy and Republican Citizenship," in O'Neill and Williamson, *Property-Owning Democracy*, 129–46, at 136–9.

²⁰²Tocqueville, *Democracy in America*: 2, 1136, 1140.

²⁰³Ibid., 1150.

²⁰⁴Ibid., 1151.

How did this square with his argument about inheritance in *The Ancien Régime and the Revolution* of 1856?

Tocqueville's mature work built directly upon the thesis of his essay the "Political and Social Condition of France."²⁰⁵ Maintaining that the division of landed property long preceded the revolution, he now utilized archival sources to verify this claim. "At least twenty years before the Revolution, agricultural societies were already deploring the excessive subdivision of land," he argued.²⁰⁶ Reports submitted to local intendants showed the alarm with which the already significant subdivision of estates was greeted. Long before the upheaval, Turgot and Necker observed how equal inheritance created "an immense number" of proprietors.²⁰⁷ These documents supported his wider argument that the supposed radical consequences of the revolutionary reforms were overblown: democratic sentiments spread long before the king climbed the scaffold. There remained a significant difference, however, between small proprietors of the *Ancien Régime* and their American counterparts. First, the French were laden with extremely heavy feudal taxes—only the rich enjoyed tax privileges—and second, unlike in North America, French proprietors could not meaningfully participate in local government and vote on laws affecting them. Crucially, they were exempt from "seigniorial government," meaning that they did not answer to a local lord. Power was centralized in the form of intendants, who did not inspire the same deference as the ancient nobility. This potent combination of atomization attending property ownership, and lack of means for redress, enflamed the passions of independent French proprietors against monarchical government. They adopted a "violent, inextinguishable hatred of inequality," accelerated by the popular writings of the *philosophes*.²⁰⁸ Reeling from the fall of the Second Republic in 1852, Tocqueville used the prerevolutionary proprietors to insist that any viable form of democracy must embrace both social equality and political liberty, secured by representative government.²⁰⁹ Again, it is important to note that equal inheritance still drove land division. For Tocqueville, this process became simply more protracted than for Beaumont, who anticipated that more immediate political changes were analogous reforms enacted in Ireland.

After the publication of Beaumont's *Ireland*, and Tocqueville's second volume of *Democracy in America*, they embarked upon political careers that both ended with Napoleon III's *coup d'état* in 1851. *Ireland* was Beaumont's final major work. As James Stafford recently indicated, the book went through numerous editions in France during the nineteenth century, and its vision of democratic property reform exerted an underacknowledged influence upon the Young Ireland movement of the 1840s.²¹⁰ Along with Laing and William Thornton, Beaumont's inheritance reform ideas also notably shaped Mill's proposal for peasant proprietorship in his *Principles of Political Economy* of 1848.²¹¹ Mill cited *Ireland* in the *Principles*, but

²⁰⁵Furet, *Interpreting the French Revolution*, 132–63.

²⁰⁶Alexis de Tocqueville, *The Ancien Régime and the French Revolution* (1856) (Cambridge, 2011), 34.

²⁰⁷*Ibid.*

²⁰⁸*Ibid.*, 182.

²⁰⁹Richter, "Tocqueville and Guizot," 82.

²¹⁰Stafford, *The Case of Ireland*, 212.

²¹¹Mill, *CW*: 2, 252.

worried that its proposed inheritance reforms would initiate the “complete expropriation of the higher classes of Ireland.”²¹² As a compromise Mill advocated the state-led reclamation of waste land to facilitate its affordable acquisition by peasant proprietors. After developing a pioneering inheritance tax proposal in the *Principles* which he considered too radical to be enacted in his own lifetime, it is remarkable that in his last years, during the early 1870s, Mill spearheaded the Land Tenure Reform Association. At the core of their program was Beaumont’s central proposal: the abolition of primogeniture.²¹³

The final decades of the nineteenth century saw Gladstone’s Landlord and Tenant Act of 1870, which empowered Irish tenants to buy land using government loans. Further concessions by Conservative governments were enacted; the Agricultural Holdings Act of 1875 gave tenants compensation for improvements they made. By the 1880s, proposals to subdivide landed property by inheritance seemingly ran out of steam.²¹⁴ After William Harcourt’s pathbreaking reform of death duties in 1894, and Lloyd George’s “People’s Budget” of 1909, inheritance tax became a popular instrument among parliamentarians for diffusing wealth and reducing poverty.²¹⁵ Yet primogeniture would not be abolished in Britain until 1925.²¹⁶ Beaumont’s *Ireland* therefore stands vindicated as one of the most prescient calls for inheritance reform. In its ambition to initiate a revolution in property and transform a whole country into a regime distinguished by equality of conditions, it was also one of the most overtly democratic.

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²¹²Ibid., 329.

²¹³Mill, CW: 29, *ibid.*: 2, 154.

²¹⁴Clive J. Dewey, “The Rehabilitation of the Peasant Proprietor in Nineteenth-Century Economic Thought,” *History of Political Economy* 6/1 (1974), 17–47, at 43.

²¹⁵A. G. Gardiner, *The Life of Sir William Harcourt* (London, 1923), 280.

²¹⁶Avner Offer, “The Origins of the Law of Property Acts 1910–25,” *Modern Law Review* 40/5 (1977), 505–22, at 515.

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