

1975-10-15 [PATERFAMILIAS] Testamentary Power & Family Mentality.

It seems to me that there is an inherent contradiction in the propaganda of Le Play, Butenval, *et cie.* about the concern for the family over time and the right to testate. During the ancien regime, the notion of propres tied to equal division assumed that the best way to conserve the family was to prohibit the head of the family from freely disposing of goods and enforce the succession to his children; in Le Play *et al.* the reverse is argued, that the very same device will ruin the family because of ingrate children, division of heritage, living for the moment, etc.

Leaving aside the question of division of the heritage--and for Le Play *et al.* the enlarging of the *quotité disponible* would not be sufficient to solve the problem--the change in attitude towards children's piety is notable. If the old and the new attitudes, seemingly contradictory, are to be reconciled, it would seem to be something along these lines: ancien regime, both parents and children regarded the family heritage as not individual property, but a trust over time, whereas in 19th century the notion of individual property is so pervasive that you can't trust children anymore to think of the family aspect if they have guaranteed right to inherit, but only of themselves. The parents, however, are implicitly regarded as having family in mind, but the authors vacillate between arguing the parents right no matter what to dispose of their goods (which would be no different from the children's) and the assumption that parents, about to pass the torch on to the next generations, have a fuller sense of the family over time than the egocentricity of children will allow. In any event, there is a basic change the notion of property itself which is evident in conjunction with a change in the notion of the family as a unit in time.