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Squatters, Drovers and Property Rights*

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It was established in an earlier paper (Johnson 1992) that property rights were characterised by formal and informal understandings. Property rights are a set of behavioural rules that society chooses to accept. Sometimes they are referred to as a pattern of rights and duties. They can be established through custom, convention or law. Because there is agreement between most people about such rules of economic behaviour, commercial transactions take place in relative freedom as the parties have common expectations as to what they accept as good behaviour.

There is a classical conflict between property rights and externalities particularly in the natural resource area. Property rights are not good at specifying the rights of others. Water discharge is the classic example of farmer behaviour which is condoned by existing property right systems (land tenure) and which in itself does not provide a mechanism to protect the rights of other water users. The theory says that property rights must be attenuated to achieve social solutions to externality problems. Non-attenuation is of course an unfettered property right where the holder of the right has exclusive use of and control over the use of a resource.

A classic example of conflict in the use of land space is provided by early Australian land settlement rules and laws (Davidson 1990). The squatters had occupied the interior illegally and built up considerable herds of sheep and later cattle. From 1836 squatters could register their lands ('runs') and take out a licence. This and subsequent legislation enabled them to prevent the entry of others to their runs and thus increase the exclusivity of their property rights. But a problem arose. Commerce required them to shift their stock to market and bring up new stock. Ways had to be found to allow passage through the runs and also to provide

sustenance during that passage. The rights of the squatters had to be attenuated to allow drovers and others to proceed to their destinations. The drovers were given property rights to the land space on a temporary basis.

In the early days of Australian settlement, an attempt was made to confine livestock to the eastern seaboard of the colony (known as the 19 Counties)(Davidson 1990). However, the developers of the time, or graziers as they were called, did not accept these regulations and illegally occupied much open grazing land to the west of the Blue Mountains from the 1820s onwards. Without legal title the process was known as squatting.

Under the land regulations of 1831 (NSW) grants of land were abolished and replaced by sales of land by auction at a minimum price of 5s. per acre. Such sales were limited to the 19 Counties. Governor Bourke realised it was impossible to force graziers, already settled beyond the prescribed limits, to return to the 19 Counties. He therefore introduced in 1836 a system of annual licences to regularise the situation until the land was required for closer settlement. From 1847, leases for 14 years were allowed following representations from the squatters for freehold tenure. Rents were based on stock carried and land could be put up for auction with the squatter being given first rights to purchase (Davidson 1990).

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The opening up of the western plains was accompanied by considerable movement of live stock on foot. It was perhaps inevitable that conflict should occasionally arise between the squatters and the managers of the live stock drives, the drovers or overlanders, especially over the mixing of mobs of stock. It is recorded (Carter 1968) that in 1868 a book was published for the guidance of overlanders listing the regulations in the different colonies 'for the better carrying out the trade of overlanding'.

In all colonies cattle had to travel 10 miles and sheep 6 miles in every 24 hours. If the drover failed to shift his mob this distance, the owner of the land could impound the stock. Drovers had to give squatters 12 hours notice in advance of crossing their runs and the mob had to enter within 48 hours. Carter says that by this system of warning 'the squatter knows exactly the date the drover enters the run; and of course, he knows every inch of it, he calculates how many days the latter will take to get off it, and usually informs him of this interesting fact...'

A stock route following a recognised track was considered to be no more than half a mile wide and drovers were expected not to let their stock stray out farther. Squatters were required to allow a travelling mob one drink at a water hole, provided the stock had walked the regulation minimum distance in the previous 24 hours. No mob could travel without a permit to travel, issued by a government stock inspector. It had to be shown on demand to any inspector or squatter who owned the land over which the stock were travelling.

Here are the ingredients of a very interesting set of property rights to land space in the developing economy. There was conflict between different users of the space (the recognised tracks) from the fear of mixing mobs and the subsequent trouble of separating them, and there was also the competition for the feed resource during the course of passage. The solution was the issue of a book of guiding rules that both sides should observe backed up by government sanctions. A.B.Paterson (1974) described the situation in this way:

*Now this is the law of the Overland that all in the West must obey-
A man must cover with travelling sheep a six-mile stage a day;
But this is the law which drovers make, right easily understood,
They travel their stage where the grass is bad, but they camp where the grass is good;
They camp, and they ravage the squatter's grass till never a blade remains.
Then they drift away as the white clouds drift on the edge of the saltbush plains:
From camp to camp and from run to run they battle it hand to hand
For a blade of grass and the right to pass on the track of the Overland.
For this is the law of the Great Stock Routes, 'tis written in white and black-
The man that goes with a travelling mob must keep to a half-mile track;
And the drovers keep to a half-mile track on the runs where the grass is dead,
But they spread their sheep on a well-grassed run till they go with a two-mile spread.
So the squatters hurry the drovers on from dawn till the fall of night,
And the squatters' dogs and the drovers' dogs get mixed in a deadly fight.
Yet the squatters men, though they haunt the mob, are willing the peace to keep,
For the drovers learn how to use their hands when they go with the travelling sheep...*

The question of property rights then gets somewhat confused by subsequent events as the chief drover, Saltbush Bill (for it is he) uses his guile to get the most out of his temporary occupancy rights. Saltbush Bill was an experienced drover 'tough as the country knew', who knew 'when he came to a friendly run that gave him a chance to spread'. In the 1880s, things are tough as he 'was drifting down in the Eighty drought with a mob that could scarcely creep (where the kangaroos by the thousand starve, it is rough on the travelling sheep)'. He camped one night at the crossing place on the edge of the Wilga run 'We must manage a feed for them here, he said, or half the mob are done'.

As is well known, Saltbush Bill picks a fight with 'a Jackaroo that came from a foreign strand'. He 'cursed him, alive or dead, from the soles of his great unwieldy feet to the crown of his ugly head'. This 'new chum fought for his honour's sake and the pride of the English race'. But Saltbush Bill 'fought for his daily bread with a smile on his bearded face'. Saltbush Bill prolongs the fight 'he shifted ground, and he sparred for wind, and he made it a lengthy mill..', until his scouts report 'we have spread the sheep with a two-mile spread, and the grass is something grand; you must stick to him, Bill, for another round for the pride of the Overland'.

*The new chum made it a rushing fight, though never a blow got home,
Till the sun rode high in the cloudless sky and glared on the brick-red loam,
Till the sheep drew in the shelter trees and settled them down to rest;
Then the drover said he would fight no more, and gave his opponent best.*

As for conflict and property rights:

*But the travelling sheep and the Wilga sheep were boxed on the Old Man Plain;
'Twas a full week's work ere they drafted out and hunted them off again;
A week's good grass in their wretched hides, with a curse and a stockwhip crack
They hunted them off on the road once more to starve on the half-mile track.*

Glossary

Squatter	colonial entrepreneurs who took up grazing land illegally (at first)
Drover	person responsible for moving livestock between runs or to rail head
Overland	area where movement of livestock was common, hence 'overlanders'
Jackaroo	learner, often recruited from England
Run	property or ranch, area taken up by a squatter
Kangaroo	indigenous animal found on the plains
Boxed	'boxed up' or mixed up indiscriminately
Drafted out	separating sheep of different types or ownership
Hunted off	dogs were used for herding and 'huntaways' were those who pushed from behind.

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