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## **'A kind of joy-bell': common land, wage work and the eight hours movement in nineteenth century NSW**

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## 'A kind of joy-bell': Common Land, Wage Work and the Eight Hours Movement in Nineteenth Century NSW

Ben Maddison

In 1890 over one million acres in New South Wales, and more than one and a half million acres in Victoria, existed as officially designated common land. In New South Wales the commons were mainly located in country areas, spread around 296 localities; this meant that virtually every country town had its common, ranging somewhere in size between Brushgrove's eighteen and Cobar's 67,550 acres, with many commons being 500-5,000 acres.<sup>1</sup>

Common land in New South Wales and Victoria was only one instance of the widespread colonial practice of reserving specific pieces of land from private alienation. Thus in nineteenth century New South Wales the commons – denominated as either Temporary or Permanent – were augmented by a variety of reserves, the most important of which were set aside for travelling stock, pasturage, timber, water, indigenous communities, camping, recreation, 'public purposes' (schools, churches, cemeteries), village, town and suburban expansion. While the combined acreage of these non-commodified spaces is extremely difficult to calculate, their number and sometimes vast extent meant that the landscape of colonial south-eastern Australia was a patchwork of commodified private property and non-commodified space.<sup>2</sup>

I want to emphasise at the outset the existence of commodified and non-commodified land in colonial Australia, not simply because the existence of the latter is usually under-recognised in the literature, but more importantly because the argument presented below hinges around the tensions between these two conditions in which land existed. Socially and politically, as I hope to illustrate, these tensions were expressed in conflict and antagonism. Thus, my argument is also pitched against historians such as Powell, who argued in *The Public Lands*

1 Permanent and Temporary Commons (Return of) NSWV&P, 1890, p.749. J.M. Powell, *The Public Lands of Australia Felix. Settlement and Land Appraisal in Victoria 1834-91 with special reference to the Western Plains*, Melbourne, Oxford University Press, 1970 reports that Victoria's commons were 1.5 million acres by 1862; p. 99. They were likely to have been far greater than this in 1890.

2 In addition to the whole body of literature devoted to the issue of indigenous land history, especially Heather Goodall, *Invasion to Embassy. Land in Aboriginal Politics in New South Wales, 1770-1972*, St Leonards, NSW, Allen and Unwin/Black Books, 1996, other literature has begun to examine non-commodified land in more detail: Tom L. McKnight, *The Long Paddock. Australia's Travelling Stock Routes*, Armidale, NSW, University of New England, 1977; Peter Spooner, 'On Squatters, Settlers and Early Surveyors: historical development of country road reserves in southern New South Wales', *Australian Geographer*, vol. 36, no. 1, pp. 55-73, March 2005; Rodney Harrison, *Shared Landscapes. Archaeologies of attachment and the pastoral industry in New South Wales*, Sydney, University of New South Wales Press, 2004; Richard Waterhouse, *The Vision Splendid. A Social and Cultural History of Rural Australia*, Fremantle, Western Australia, Curtin University Books, 2005. In quite another genre great insights are contained in autobiographies, such as William Jenkins, *The Diary of a Welsh Swagman, 1869-94*, Abridged and Notated by William Evans, Melbourne, Sun Books, 1977; Daryl Tonkin and Carolyn Landon, *Jackson's Track. Memoir of a Dreamtime Place*, Ringwood, Victoria, Penguin, 1999; Jim Gasten, *Under the Mulga. A Bush Memoir*, St. Lucia, Queensland, University of Queensland Press, 2005.

of *Australia Felix* (1970) that the commons were a 'safety valve' – a resource base that eased the class antagonism between small farmer and large pastoralist in nineteenth century Victoria.<sup>3</sup> I argue that far from being a 'safety valve' the commons – in New South Wales at least – were the interface between commodified and non-commodified forms of both landed property and labour, and as such were sites of antagonism and conflict.

This argument is also directed against the rather offhand stance that characterizes some of the fragmentary commentary on common land in colonial Australia. As will be seen below, while mention of the commons is made quite frequently in works devoted to early colonial land history to about 1840, it is the period after this that the commons reach their greatest extent and significance. Yet this is the period when they – as well as other non-commodified lands – are most neglected in the historiography. Waterson, for example, confined his comments on the 170,000 acres of common town reserves that existed on the Darling Downs from the 1860s, to noting that they were 'valuable' for grazing stock.<sup>4</sup> As I try to show below, the evidence used in this article – which is mainly from the limited perspectives that found their way into the parliamentary record – suggests that contemporaries saw the commons as far more important than historians have generally acknowledged. They did so, I argue, because the commons were an important element of the vernacular economy people wove from the weft of use value and warp of exchange value. In effect, the commons supported an extensive rural semi-proletariat in nineteenth century New South Wales that – not always self-consciously – used the commons as insulation against the vagaries of labour market fluctuations, and as a resource to stave-off being forced into total market dependency as permanent wage workers. That the commons played this important material role, melded with less pragmatic meanings contemporaries gave to their colonial commons. In the final section of this chapter I argue that deeply-rooted historical memories of past exploitation converged in popular mentalities to connect the commons and the eight hour day.

### Conceptualising the colonial commons

In tracing the history of the Australian commons, a couple of preliminary dangers need to be addressed. The first is the danger of erasing from that history the presence of indigenous systems of land use, knowledge and meanings. In fact the indigenous system of collective land ownership had some similarities, but also some significant differences, to the system that gave rise to common land in Australia. To foreshadow the argument below, the latter was embedded in and related to private property relations, whereas the former was completely antithetical to those relations. Moreover, there was a qualitative difference in the way that this land was used by indigenous people and Europeans. Europeans who used the colonial commons did so without the detailed skills and environmental knowledge of indigenous people. Unlike in England and Europe, where the exploitation of common land was based on generations of accumulated knowledge about what the environment contained and the uses to which it could be put, the more superficial

<sup>3</sup> Powell, *Public Lands*, pp. 80-2.

<sup>4</sup> D. Waterson, *Squatter, Selector and Storekeeper. A History of the Darling Downs 1859-93*, Sydney, Sydney University Press, 1968, p. 124.

ways that the colonial commons were used reflected the coloniser's position as occupiers of a foreign country, alienated from the environment.<sup>5</sup> Thus, poor though the users of the colonial commons may have been, they also need to be seen – at the very least – as beneficiaries, if not active agents, of colonisation and dispossession.

The second danger is to see the nineteenth century colonial commons as a remnant of British feudalism, transplanted to Australia in the culture and practice of the British. A variant of this argument might have some limited validity in the early colonial period, given that early governors such as Philip and King bestowed commons as part of a wider application of some of the more equalitarian aspects of an older English parish-based approach to land policy, often applied in the British colonies.<sup>6</sup> For example, early governors tried to ensure that each block of land had roughly equal proportions of 'profitable' and 'unprofitable' land, and water frontage, and the provision of common land was an integral part of this system of land allocation.<sup>7</sup> The first common was established in 1792, when Governor Phillip proclaimed the Government Domain at Sydney Cove as 'Sydney Common', and from the start commons were considered to be important resource bases for securing the independence of the colony's poor. At least, this was the view that guided Governor King, the most prolific early colonial commons-dedicator.<sup>8</sup> Between 1804-6 King made three large commons around the small-farmer, ex-convict settlements on the Hawkesbury River, around a total of around 10,000 acres of land in the Hawkesbury region, and another 12,000 acres in other small-farmer centres in the Sydney region.<sup>9</sup> Other aspects also recalled the English commons, such as the collective employment of a herdsman or woman.<sup>10</sup> An old resident of East Maitland recalled how in the 1840s, they 'used to have a town herd; a boy used to come round for our cows, take them to the reserve, and bring them back in the evening.'<sup>11</sup> As in England, the annual perambulation of the boundaries was also observed on some colonial commons, a practice that persisted for decades in some places.<sup>12</sup> In the late 1820s and early 1830s the boundaries of the East Maitland common and pasturage reserve were walked on Easter Mondays, with the part of

5 For this, as in much else in regard to the English commons – and commons in general – I have been guided by Jeanette Neeson, *Commoners: common right, enclosure and social change in England, 1700-1820*, Cambridge, Cambridge University Press, 1985. See Chapter 6, pp. 158-177.

6 Brian Fletcher, *Landed Enterprise and Penal Society. A History of Farming and Grazing in New South Wales Before 1821*, Sydney, Sydney University Press, 1976, Ch. 1 outlines aspects of the transfer of British domestic land policies to British colonies. For a widespread examination in the subsequent decades see Peter Burroughs, *Britain and Australia 1831-1855. A Study in Imperial Relations and Crown Lands Administration*, Oxford, Clarendon Press, 1967.

7 See K. W. Robinson, 'Land', in G.J. Abbott and N.B. Nairn, (eds) *Economic Growth of Australia 1788-1821*, Carlton, Victoria, Melbourne University Press, 1969, pp. 74-104; p. 92; and T.M. Perry, *Australia's first frontier, the spread of settlement in New South Wales, 1788-1829*, Melbourne, Melbourne University Press, 1963, p. 48.

8 Governor King wrote to Lord Camden in 1805 that 'the Growing state of Independence [of the small settlers] ... is farther secured to them by the appropriation of Common Land to each District.' King To Camden, 30 April 1805, *Historical Records of Australia*, V, p. 304.

9 Robinson, 'Land', footnote 70 and Figure 3 has commons: Nelson District 5650 ac; Richmond Hill, 5130 ac; Phillip, 6150 ac; Field of Mars and Eastern Farms, 5050 ac; Also see Helen Proudfoot, 'The Hawkesbury Commons 1804-1987', *Heritage Australia*, vol. 6, no. 4, Summer 1987, pp. 22-5.

10 Neeson, *Commoners*, pp. 89, 125, 136.

11 Select Committee on Maitland Pasturage Reserve. Minutes of Evidence. V&PNSWLA, 1859-60, Joseph Chambers, q. 65, p. 763. The practice of connecting property values with access to a common was not unknown a century earlier. See E.P. Thompson, 'Custom, Law and Common Right', in his *Customs in Common*, London, Penguin, 1993, p. 154.

12 *Ibid.* pp. 98-100.

the English vicar, parishioners, reeves and Foresters being played by Singleton's magistrate, police officers and surveyor.<sup>13</sup>

If it is hardly surprising that elements of English practice shaped aspects of the colonial commons, it is nonetheless the case that the colonial commons were not simply an extension of the British commons. The main reason for this is that while the commons were being created in the colonies, they were systematically being dismantled by enclosure at home. In fact the 1780s and 1790s were high points of parliamentary enclosure, and by the 1830s the English commons were indeed remnants of the pre-capitalist agrarian social order.<sup>14</sup> What makes the colonial commons so hard to incorporate into this chronological narrative is the fact that they were vastly expanding in Australia after 1850, exactly when they were in terminal decline in Britain. Thus, we need to treat the expansion of the commons in colonial Australia a little more historically than as an anachronistic time capsule from Merrie England. Without wanting to re-enter the essentialising debate about the 'feudal' or 'capitalist' character of the society that developed in colonial New South Wales after 1788, we need to locate the commons more exactly in the specific context of nineteenth century Australia as an emerging capitalist society.

### Making the commons

While this is not the place to trace in detail the history of the creation, expansion and destruction of the colonial commons, a précis of that history is useful in order to examine the relationship between the colonial commons and the expansion of capitalist relations. A key aspect of this relationship becomes clearer when we examine how the commons and common rights were treated during Macquarie's governorship. In 1811 Macquarie 'anxious for the accommodation of the inhabitants of Sydney', proclaimed a new area 'for the common pasturage of the [inhabitant's] cattle'. The proclamation went on to reveal that the common was to serve an additional purpose, stating that by dedicating the common, and equipping it with permanent and clearly marked boundaries, there would now be 'no excuse ... for persons turning their cattle at large to seek food where it may most easily be found, without considering whether they may not trespass on private property'.<sup>15</sup> Macquarie's approach to the commons was probably shaped by the immediate antecedents to his governorship – the struggle over the rights of private property and the free market that was a key theme of the 'Rum Rebellion'.<sup>16</sup> Set in this broad context, we can see that by establishing the common Macquarie was simultaneously fulfilling a pragmatic and paternalistic gubernatorial role, while creating the technical legal conditions to punish breaches of private property in a population whose very presence as convicts suggested a lack of respect for that sacred institution.

This was a more difficult task than Macquarie had perhaps anticipated, as in 1815 he was again trying to enforce the codes of absolute private property. Finding that an earlier attempt to prohibit public grazing and wood collecting on the Government Domains at Sydney and Parramatta 'had not been sufficiently

<sup>13</sup> S. C. on Maitland Pasturage Reserve. Minutes of Evidence, q. 185, p. 769, q. 185-8.

<sup>14</sup> Neeson, *Commoners*; Thompson, 'Custom, Law and Common Right'.

<sup>15</sup> 'Government Public Notice, Sydney', 5 October 1811, contained in 'Sydney Common and Moore Park (Notices of Dedication and Appointment of Trustees of.) NSWV&P, 1890, p. 747.

<sup>16</sup> This is the argument in Evatt, *The Rum Rebellion*.

understood or attended to', he strengthened the regulations, by stating that 'Persons presuming to force a thoroughfare or Passage through the Government Garden or enclosed domain' or 'driving animals into the Domain' would be punished in 'a most exemplary manner'.<sup>17</sup> These precise terms – 'presuming', 'thoroughfare', 'force', 'driving' – recalled the contemporary sense of usages in England to describe the newly illegal actions of commoners resisting enclosures, while the phrase 'most exemplary manner' echoed the resort to state terror that Macquarie himself was currently enacting on the indigenous people of the Hawkesbury River.<sup>18</sup>

From the outset, then, the creation of the colonial commons went hand-in-hand with the creation of private property: more accurate surveying, construction of fences and punishments for trespassing, increasingly demarcated private from common land. In the process activities that had previously taken place on this common resource were now prohibited. In 1807 Bligh 'swept out (of the Government Domain) all "encroachments" – including several huts' that Sydney's homeless had built.<sup>19</sup> In 1810 Macquarie prohibited timber-getting on the Parramatta Domain, and in 1821 the Governor's Deputy Surveyor instructed seventeen Toongabbie emancipist farmers 'to remove off the Government Lands ... with the whole of your flocks and herds'.<sup>20</sup> In 1822 Parramatta residents, whose 'Milch Cattle were accustomed to be taken out every Morning to Pasture on the Common Lands ... for the benefit of themselves and their families', petitioned Governor Brisbane to protest against the fact that this was no longer possible because 'the whole of the Common Lands ... have been located to individuals'.<sup>21</sup> In 1823 the small farmers and other residents in the Bathurst district successfully petitioned the Governor for the specific dedication of a Common, because 'shortly all the Forest Ground convenient to the Settlement may probably be Located to other Individuals, which will completely deprive [them]... from Firewood and an outrun for their little stock'.<sup>22</sup> In the late 1840s the Colonial government's attention was again focused on the issue of commons, when the Executive Council made the inclusion of a Town Common 'for the exclusive use of the householders residing in the town, for the pasturage of their milch cows' a standard part of the allocation of land in every town in the colony.<sup>23</sup>

The antagonistic relationship between private property and common land remained submerged in many places before the 1850s. During this period, especially in country areas, there was probably a general practice of using unallocated land as an informal common, as was the case in the Hunter Valley and other districts.<sup>24</sup> After 1850, the tension between common land and private property increased when a number of changes made formally-dedicated commons more widespread. The

17 New South Wales State Archives (NSWSA), R6045 4/1733, pp. 3-10.

18 For the English discourse of enclosure see Thompson, 'Custom, Law and Common Right', pp. 109-21; Neeson, *Commoners* pp. 259-93. For the use of the phrase 'most exemplary manner' in regard to indigenous people, see Henry Reynolds, *Frontier*, Melbourne, Penguin, 1995.

19 Chris Cunneen, "'Hands Off the Parks!'" The provision of parks and playgrounds', in Jill Roe (ed.), *Twentieth Century Sydney. Studies in urban and social history*, Sydney, Hale and Iremonger in association with the Sydney History Group, 1980, pp. 105-119, p. 106. Also see Robinson, 'Land', pp. 74-104, p. 98.

20 NSWSA, R 6052, 4/1751, p. 14.

21 NSWSA, R6055, 4/1761, pp. 22a-c.

22 NSWSA R 6065, 4/1798, pp. 123-27. Also see Perry *Australia's First Frontier*, p. 85.

23 S.C. on Maitland Pasturage Reserve. Minutes of Evidence, Appendix, p. 763.

24 Perry, *Australia's First Frontier* notes this for the Hunter Region (p. 63), Bathurst (p.85), and south-west of Sydney (p. 106).

more intensive development of inland towns and villages, with their non-farming residents, stimulated townspeople to petition for common land, especially where the expansion of private property in land made the informal regime of common land usage inoperable. The number of commons expanded considerably after the 1850s and 1860s, when gold field and free selection legislation containing specific provisions for common land rights came into operation.<sup>25</sup>

### The use of the commons

At least in theory, and often in practice, the use of the extensive areas of common land that were opened up after 1850 was regulated by an elected board of Trustees, whose decisions were guided by Rules and Regulations drawn up to govern each common. As the two cases examined below indicate, the rules of commons reflected the contradictory position of those who used them – half in and half out of the world of the commodity.

Many of the rules regulating commons aimed to give access to common resources as a support for the local community, while at the same time ensuring their reproduction. The rules of Ham Common (1870), to take the first example, made it illegal for any commoner 'to transfer his individual Common right ... to any other person'.<sup>26</sup> Common right was inalienable – conferred by virtue of residency in a defined area surrounding the Common. On Ham Common, 'The occupant of every house entitled to Common right shall be allowed to take as much dead wood ... for firewood as may be necessary for his own, his family, and servants use.' These were clearly use rights, as the Rules stipulated that anyone 'who shall sell firewood ... taken ... under pretence of it being for his own family' will be fined 10s to £2. Similar prohibitions against converting use values into exchange values were in place in regard to all other aspects of commoners' rights. Each commoner was allowed to 'take as much wood for fencing or building purposes as may be required for the use of such farm house; but if such wood be sold ... he shall pay a fine of £5'.<sup>27</sup>

There were also complex rules in regard to pasturing of animals that sought to preserve the value of the common as a resource for immediate household provision. On Ham Common, 'the occupant of every house in the town was allowed to depasture one horse and cow', and this provision applied to small holders with up to ten acres of land. A graduated scale also allowed occupiers of larger amounts of land additional commonage rights. This meant that Ham commoners occupying 100 or 200 acres had the right to depasture sixteen to twenty of both cows and horses on the common free of charge. But once again these were seen as use rights, and breaches, such as 'taking any other persons stock in charge for payment or otherwise to depasture in his own name' – were punishable by heavy fines.<sup>28</sup>

Regulations also indicate that a range of other activities took place on commons. Prohibitions against stripping bark from live trees and washing or soaking hides

25 See Crown Lands Alienation Act, 1861, Clause 5 (permanent commons); Crown Land Occupation Act, 1861, Clause 29 (temporary commons).

26 Report from the Select Committee on the Ham Common Resumption Bill. V&PNSWLA, 1870, pp. 839-57. Minutes of Evidence, Appendix A 1, pp. 856-7, Introduction and Rule 15.

27 *Ibid.* Rule 3, Rule 5.

28 *Ibid.* Appendix A1, pp. 856-7, 'Schedule of Stock allowed to depasture upon Ham Common', p. 857, and Rule 12.

in watercourses refer to the materials (bark) and techniques (tanning) used to transform hides into leather. Regulations against 'removing gravel ... except at places fixed by the Trustees', and those against removal of loam and alluvial soil, or making bricks, without Trustees' permission, allude to variety of ways that the resources of common lands were used.<sup>29</sup>

The Rules of Ham Common trod the fine line between commoners' use values, and the exchange values that supported independent workers and trades. On Ham Common, for example, the rules that were designed to preserve the use values were augmented by other rules that facilitated and regulated the commercial exploitation of the common. Commercial uses were specifically confined to people with an already existing common right by virtue of their residence in the population area covered by the particular Common. Thus licences for commercial use of timber on Ham Common were only issued to those 'splitter[s], fencer[s] or sawyer[s], having Common right'. Trustees tried to maintain this aspect by ensuring that the various licences for commercial use – either for firewood, building timber, clay and bricks – were signed by them, in reference to the roll of commoners that they were expected to maintain.<sup>30</sup>

Like those of Ham Common, the rules governing Singleton Common (1868) displayed a similar concern to preserve the common as a source of use values. They allowed 'The occupant of every house in the municipality ... to take as much dead wood for fire as may be necessary for his domestic use'. Here too the stipulation against converting these use rights into exchange values by sale, was heavily punished – anybody 'who shall sell firewood, having previously taken same under pretence of being for domestic use', was subjected to heavy fines. These Rules regulated the use of the Common, by basing the 'stint' for stock allowed to be grazed, on the amount of rates paid by property owning commoners.<sup>31</sup> Thus, a graduated scale was used to determine the numbers of horses or cattle that could be depastured on the common, up to a limit of twenty for those paying rates of £18-20. Non-ratepayers who were residents in the defined commons population area, could 'become entitled to Commonage privilege' by taking out a licence, and paying a fee per head of stock. The violation of the use value intentions of the common in regard to stock depasturing, by 'taking other persons stock in charge for payment' or in any other way, was subject to heavy penalties.<sup>32</sup>

As on Ham Common, the rules of Singleton Common combined use value and exchange value provisions. By taking out a licence and paying a fee, firewood could be collected and sold. Similarly splitters and sawyers were allowed by licence to use timber resources on the common. Earth and clay removal for brickmaking on the common was permitted with a licence, but punished without, and bark stripping and soaking hides was also prohibited without permission of the Trustees. Other usages, such as quarrying stone on the common, could be gained by licence and fee.

While these rules and regulations were designed to allow the use of the resources of Ham and Singleton Commons in the exchange economy, they also contained a

29 *Ibid.* Rules 10, 13, 16, 17, 18.

30 *Ibid.* Rules 8, 9, 17, 18.

31 'Stint' was the English term used to refer to the pasturage rights in terms of numbers of animals that each commoner was allowed.

32 Temporary Common Near Singleton (Correspondence, etc.), V&PNSWLA, 1878-9, vol. 4, pp. 699-721, Enclosure A to Item no. 25; Enclosure to Item no. 28.



strong commitment to localism. Commercial exploitation was to be subordinated to the idea that the commons were places whose resources were intended to benefit local residents. Thus, many of the provisions allowing commercial exploitation of the common were specifically confined to people with an already existing common right by virtue of their residence in the population area covered by the particular Common. Thus licences for commercial use of timber on Ham Common were only issued to those 'splitter[s], fencer[s], or sawyer[s], having Common right'. Trustees tried to maintain this aspect by ensuring that the various licences for commercial use – either for firewood, building timber, clay and bricks – were signed by them, in reference to the roll of commoners.<sup>33</sup> In Singleton ratepayers could take out a licence that allowed them to collect and sell firewood off the Common, with the stipulation that it was to be sold locally. Similarly, splitters and sawyers could be licenced to use the Common's timber but only 'for building or other purposes within the municipality', and there were hefty penalties for breaching these regulations by taking these materials outside the municipality.<sup>34</sup>

It would be wrong to see the colonial commons as spaces that were completely and effectively regulated and controlled by the Trustees. On one hand, there are many cases of Trustees manipulating access to the common for their own ends – bringing the land into the full circuit of commodity production and exchange value. On the other hand it is unclear without further detailed research, how widely the provisions for commercial exploitation were taken up – on Ham Common, for example, it appears that use rights for timber still predominated in the 1870s.<sup>35</sup> At the other end of the spectrum, the commons could also be spaces that fostered activities completely antithetical to the regime of exchange, property and respectability. For example, a respectable resident on land overlooking Field of Mars Common in Sydney complained in the 1860s that it was 'the resort of a great many vagrants' and that he was 'compelled to witness scenes of depravity, and to hear blasphemy and obscenity' from those who 'reside on the common'.<sup>36</sup> Another large landowner in this area considered that since the late 1830s Field of Mars had been used as:

the resort of runaway sailors and persons of questionable character, who have gone up there with the woodmen, who are the lowest class of persons, and have resided there till their ships had left.<sup>37</sup>

If we can believe the allegations made in a petition of those in favour of resumption of the common, it is very likely that these 'renegades' subsisted by slaughtering or selling commoners' cattle depastured on the common.<sup>38</sup> Similarly, the District Surveyor in the Upper Hunter Valley reported in 1876 a range of unauthorized usages of Ogilvie's Hill Reserve. As well some rather problematic bullocks that local residents had put on the reserve to feed (they had been impounded because they unreasonably 'did not confine themselves to the reserve, but trespassed on the adjoining land', the boundary separating the reserve from private property

33 S. C. on the Ham Common Resumption Bill. Minutes of Evidence, Appendix A 1, Rules 8, 9, 17, 18.

34 Temporary Common Near Singleton, Rule 27.

35 S.C. on the Ham Common Resumption Bill, q. 174-5.

36 Progress Report from the Select Committee on the Field of Mars Common. Minutes of Evidence, V&PNSWLA, 1861-2, Part 2, pp. 1323-53, q. 256.

37 *Ibid.* qs. 577 and 650.

38 Petition of Field of Mars Common (Trustees), V&PNSWLA, 1861-2, Part 2, p. 1311.

being only 'a marked line', there was also 'camped on the Reserve ... a family ... who came [from outside the locality] to herd their stock there, grass and water being scarce at home', as well as 'two men ... occupied herding working bullocks'. According to the strict outlook of District Surveyor Evans, 'These people deserve little sympathy'.<sup>39</sup>

Thus, one needs to be circumspect in drawing conclusions about how the commons were used on the basis of reading the formal Rules and Regulations alone. They give an indication of the range of uses, but lack the detailed economic data that Neeson and Thompson have drawn upon for their studies of English commons. In this context, it is difficult to identify with precision how the colonial commons contributed to the maintenance of the vernacular economy.<sup>40</sup> Nonetheless, a range of contemporary commentary indicates that they did so. This is in part registered by noticing that commons were seen as so fundamental a part of life in a country town that the presence, absence or prospect of gaining one could be a factor in determining whether people chose to settle in a town, or move on. This, at least, was the claim George Evans made in 1892, when he recalled that:

If it had not been for the commons, he, for one would not have been a resident ... when he found that he could run twelve head of stock on the commons at such a cheap rate, he took advantage of the privilege, and settled down in Deniliquin.<sup>41</sup>

Petitioners against the diminution of the Maitland Pasturage Reserve also argued that since 1829 the two reserves in the town meant that 'persons who had purchased town allotments' had done so in the belief that this would secure to them 'the rights of participating in the benefits of a commodious commonage'. The government's plan in 1860 to sell part of the common, the petitioners argued, 'would greatly depreciate Town property, as allotments hitherto purchased were bought under the belief that this valuable privilege was lawfully attached to them'. Their argument was supported by the local magistrate, who agreed that the existence of the common 'has enhanced the value of the (building) allotments ... and has been the cause of many persons purchasing'; the town's land auctioneer also thought that there was 'no doubt ... [that] a very large number of allotments have been sold ... under that belief' in the rights of commonage conferred by purchase. A Select Committee enquiring into the East Maitland reserve agreed with this assessment, concluding that 'in consequence of the advantages afforded by this Reserve, allotments in the Town ... have been sold at greatly increased prices.'<sup>42</sup> Similarly, residents of the small town of Rydal complained in 1869 that they had bought land and set up their households in the town 'on the understanding and faith of a permanent water reserve ... for them and their use' on the creek running through the town. Now, they complained, the government had 'let the most important portion' of the reserve 'to private parties' in the shape of wine and spirit merchants, who were 'debarring and hindering the free access' to the creek, 'materially affecting the interests of the Petitioners' – and presumably giving rise to some sarcastic local

39 Crown Lands. (Reserve at Ogilvie's Hill.), V&PNSWLA, 1875-6, p. 1291.

40 Neeson, *Commoners*, pp. 165-77; Thompson, 'Custom, Law and Common Right', pp. 156-7.

41 Common At Deniliquin. (Correspondence Respecting.), V&PNSWLA, 1892-3, vol. 8, pp. 885-89, No1, [Enclosure: Extract from the *Pastoral Times*, Deniliquin].

42 Maitland Pasturage Reserve (Petition of Certain Inhabitants of Maitland), NSWV&P, 1859-60, p.753. S. C. on Maitland Pasturage Reserve, Minutes of Evidence, Appendix A, p. 765.

commentary about free and commodified means of quenching thirst.<sup>43</sup>

The esteem in which commons were held was often only revealed when they came under threat. For example, the Trustees of Merriwa Common pointed out that when a local squatter 'washed and shore upwards of 35,000 sheep on the Common ... which has left it like a desert', this drastically diminished 'the chance we have of living in this little town'.<sup>44</sup> In 1873 more than eight hundred residents around Gulgong likewise complained of the monopolisation of their commons by squatters, whose sheep were 'eating up ... the pastures that the gold-miners' cows, goats and horses ought to benefit from ... detrimental to the welfare of the inhabitants'.<sup>45</sup> Residents of the Hawkesbury area claimed their livelihoods were under threat when the several commons in the area came under threat in the 1870s. The Wilberforce commoners claimed that the commons were 'of great service to the people of the district for wood, grazing, and refuge in times of floods'. Richmond commoners described this in more detail – because their 'commercial interest and livelihood is wholly involved in agricultural pursuits', in the 'frequent inundations' they had to 'take refuge upon the high land of the Common'. They went on to describe the additional importance of the common, in the context of a neighbourhood that was increasingly characterized by private property: 'the Common is the only available land ... from which they can obtain timber for the purposes of building, or for firewood, the surrounding area ... being private property.' As one of the Trustees of Ham Common put it, 'The fact is, it [Ham Common] is the one thing necessary; without it the low lands would be worthless'.<sup>46</sup> Protesting commoners also emphasized the use rather than the exchange value of the timber on Pitt Town Common as being 'of great advantage (irrespective of its saleable value) to the Commoners', and protested against the actions of the Trustees in 'granting licenses to strangers and parties having no Common rights, to cut and take any timber, causing thereby much loss and detriment'.<sup>47</sup> In 1881, 460 Wagga Wagga 'Residents and Commoners' reported that the resumption of land on Gumly Gumly common – 'by far the most valuable portion of the permanent common, being grazing land of the best description' – would deprive them of land that was 'of inestimable value ... as it affords them a means of grazing a few head of stock each in a paddock well watered, grassed and fenced'.<sup>48</sup> Petitioners also regarded the East Maitland Common as 'of great value to the community ... for the depasturing of sheep, cattle, horses, and other animals belonging to the inhabitants', one commentator observing that it was 'of the highest value to working men with horses, because they could send out their horses there on

43 Water Reserve, Township of Rydal. (Petition - Certain Freeholders and Residents of Rydal, Respecting.), V&PNSWLA, 1868-9, vol. 3, p. 1015.

44 Commonages For the Town of Merriwa (Correspondence Respecting.), V&PNSWLA, 1869, vol. 2, pp. 211-12, Nos. 23 and 27.

45 Common At Gulgong. (Proclamation Of.), V&PNSWLA, 1875, pp. 428-36, [Enclosure to no. 1; and Sub-Enclosure to no. 2].

46 Commons Regulation Bill. (Petition – Trustees and Commoners, Pitt Town Common.), V&PNSWLA, 1870, p.339; (Petition – Certain Commoners etc., Wilberforce Common.), *Ibid.* p. 343; Ham Common Resumption Bill, (Petition – Certain Inhabitants of the Towns and District of Richmond.), V&PNSWLA, 1870-1. vol. 3, p. 833; S.C. on the Ham Common Resumption Bill, Minutes of Evidence, p. 164.

47 Pitt Town Common (Petition-Commoners), V&PNSWLA, 1865-6, p. 531.

48 Reserves on Gumly Gumly Run (Petition from Residents and Commoners of Wagga Wagga.), V&PNSWLA, 1881, pp. 821-2.

Saturday, by which they would be refreshed to work again on Monday'.<sup>49</sup> Another local observer remarked that the Maitland Pasturage Reserve was:

a common ... treated with the greatest liberty by the townspeople ... in putting their cows and horses on it, and taking timber off it, and so on ... they could go with impunity and cut as much timber as they liked ...[for] firewood, saplings for building sheds.

The 'impunity' here was important, suggesting a recent local conflict over access to recently enclosed Crown Land land, it being observed that now 'if they did [collect wood etc.] on private property they would be prevented'.<sup>50</sup> Even the town's land auctioneer noted the importance of the Common, because the vigilance of the local police in enforcing the rights of private property meant that the townspeople 'have not the means for running a single beast unless they have recourse to this reserve'.<sup>51</sup> The same claim was made about the importance of Deniliquin Common, which in the 1890s supported the:

very large numbers of residents engaged as teamsters. This commonage is necessary to depasture their working bullocks and horses. The loss of the common would be a serious blow to the town and district.

A petition organized by two local carriers and a wheelwright explained that because 'a large amount of carrying is done by teams from the railway ... consequently, a large common is of vital importance to the town.' Another Deniliquin resident put it more prosaically at a large public meeting in the town: 'he knew what it was to get a bit of grass on the cheap, and he considered that the loss of this land would be the worst thing that could happen to the town. (Cheers)'.<sup>52</sup>

### **Wage labour and the commons**

As much of the contemporary commentary cited above suggest, the commons were a material support for a range of rural inhabitants, often precariously balanced between economic independence as self-employed workers, and wage work. While striving to secure a livelihood was probably uppermost in the minds of most of those who used the commons, it seems likely that at least some commons-users were aware of the important place of the commons in maintaining their economic independence, and preventing their total dependence on the market and wage work. This was most clearly the case for the independent gold miners, who existed in the thousands from the 1850s. As one contemporary observed, gold miners 'seemed to scorn the iron yoke of an employer'.<sup>53</sup>

In order to put this into practice, the use rights of pasturage and timber attached to goldfields had become an essential part of maintaining their independent existence. As the miners on the Billabong Goldfield explained:

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49 Maitland Pasturage Reserve (Petition of Certain Inhabitants of Maitland), NSWV&PLA, 1859-60, p. 753; S. C. on Maitland Pasturage Reserve. Minutes of Evidence, p. 71.

50 *Ibid.* pp. 100-112.

51 *Ibid.* p. 124.

52 Common At Deniliquin. (Correspondence Respecting.), no.1; [Enclosure: Extract from the *Pastoral Times*, Deniliquin]; no. 4, p. 888.

53 *The Border Post*, 20 April 1859, p. 2, 'New Discoveries at Adelong'.

from the nature of their occupation, [they] have to keep horses for raising the wash-dirt ... and for carting to the machines, and for other purposes in connection with mining.

Moreover, without access to the common pastures, they would be forced into the impossible position of 'buying horse feed' (priced at £12 per ton of chaff, this was a considerable monetary amount). Losing access to the common would mean they feared, that 'many ... will be compelled to seek other employment to maintain themselves and family'.<sup>54</sup> Similarly – referring to the provision that allowed miners to build a house on the goldfields commons, the miners on Cargo goldfield feared that if the goldfield reserve was sold:

they would be deprived of the means of keeping a home ... and in the event of the goldfield being thrown open [to purchase] must abandon their claims for want of timber.<sup>55</sup>

Given the importance that miners attributed to access to common land in terms of maintaining their independence from wage labour it is not surprising that goldfields were often a flash-point, a site of friction between use value and exchange values. A dispute at Solferino Goldfield in the Clarence River Valley in the 1870s displayed aspects of this friction. The Department of Lands proclaimed the area as a goldfield in the early 1870s, and to cater for the needs of the 2,500 people who were drawn to the field by 1872, established a large common. E.D.S. Ogilvie a neighbouring squatter and Member of Parliament, claimed that part of this common was land that he had recently purchased and 'improved'. He thus objected strenuously to the proclamation of the common, claiming among other things that it included 'a paddock ... which I have at considerable expense enclosed for the use of teamsters, miners and others connected with the gold fields.' Although he portrayed this as an act of beneficent provision, miners were required to pay an agistment fee to use this paddock, whose main purpose was to leave the rest of the lands free for Ogilvie to use for his sheep.

The proclamation of the goldfields common brought these commercial arrangements undone. The miners, concluding that the proclamation of the common 'conferred upon [them] some rights or privileges as regards those freehold lands', now started to treat Ogilvie's land as common land – as he complained in outraged terms – by 'making common use of my *freehold* lands' to depasture their stock, rather than agisting them in the allocated paddock. In response, Ogilvie tried to reimpose exclusive rights of possession by using impound and trespass laws, but encountered 'A high handed resistance ... to the removal of [miners'] horses from my freehold lands'. In being asked by the Surveyor General and the Ministers for Lands and Mines to assess the conflict, Mr Surveyor Donaldson remarked that the actions of the miners expressed their view that they 'would prefer to be independent of Mr Ogilvie, [and] object to have to pay for grazing their stock'. In his own view, Donaldson 'did not think it for the public good that the inhabitants should be solely dependent on one man ... hence my recommendation of the commonage'. His view was supported by Gold Commissioner Buchanan, who commented 'That some of the diggers prefer to be independent of Mr Ogilvie is not surprising; my experience

54 Billabong Gold Field (Petition of Miners Respecting Grazing of Sheep on), V&PNSWLA, 1875, p. 411.

55 Cargo Gold Field Reserve. (Correspondence, reports, etc.), V&PNSWLA, 1881, pp. 749-72, no. 41, pp. 762-3.

of them goes to prove that they not only prefer but generally are independent of any one.' He considered Surveyor Donaldson's rationale connecting commonage with independence to be 'eminently satisfactory'.<sup>56</sup>

### Meanings of the commons

Given that miners and other subaltern groups were the main users of the commons, it is not surprising that the language of equality was often found at the heart of pro-commons discourse in the nineteenth century. The rules of most commons probably contained sentiments such as that in the preamble to Ham Common's 1870 Rules and Regulations, which stated that they were designed 'for the better and more convenient and equal use and enjoyment' of the commoners.<sup>57</sup> This egalitarian tenor was also implicit in the terms of this question and answer in a parliamentary enquiry: Q: 'All the inhabitants have equal rights to obtain firewood or any advantage it (the common) offers?' A: 'Yes, all in common'.<sup>58</sup>

The sense of common land as a guarantor of equality also pervaded the long petition in regard to land law reform that was presented by Henry Edmunds to the New South Wales parliament in 1883. In it, he argued that 'a soil of a country is the common property of its inhabitants ... the common heritage', and proposed legislation that would bring about settlements replicating the English village commons. Each settlement was to have a ten acre reserve for village wood supply, a ten acre reserve 'for production by village, management of cereals', and ten acres 'for pasturing of common village cattle'.<sup>59</sup> Edmunds' views were a systematized elaboration of the idea that the commons as a generic phenomenon, were an in-principle 'good'. Thus, we find that in 1870 commoners at Pitt Town and Wilberforce objected to proposed legislative changes that would have given trustees the power to sell parts or all of a common. Their objections were founded on the statement that they 'were opposed to power being given to sell or dispose of Commons in anyway whatever', the capitalized plural being significant in indicating a stance in favour of commons in general, before moving on to describing the specifics of each common.<sup>60</sup>

The extent to which those who supported the commons associated them with qualities of universal good, justice and equality, can also be seen by noticing how frequently that famous term of the Eight Hours movement, 'boon', was used to describe commons. In 1858 the Police Magistrate in East Maitland described the provision of a common reserve for the town's drinking water as 'a very important boon to the people'.<sup>61</sup> Around the same time an Albury newspaper lambasted locals for not agitating 'for the boon of a common.' The town's Town Clerk echoed this when he asked the government to create a common for the town, and thereby 'confer a boon on this community that could not be too highly estimated'.<sup>62</sup> In 1869 the Trustees of Merriwa Common described it as 'the only boon we have', and

56 Goldfields (Reserve at Solferino), V&PNSWLA, 1875-6, [no. 23., no. 24, no. 52].

57 Report from the Select Committee on the Ham Common Resumption Bill. Minutes of Evidence, Appendix A 1, pp. 856-7, Introduction.

58 S. C. on Maitland Pasturage Reserve. Minutes of Evidence, p.115.

59 The Land Law. (Petition of H.W.S.Edmunds.), V&PNSWLA, 1883 (Third Session), pp. 861- 867.

60 Commons Regulation Bill. (Petition -Trustees and Commoners, Pitt Town Common.), V&PNSWLA, 1870, p. 339; (Petition - Certain Commoners etc., Wilberforce Common.); *Ibid.* p. 343.

61 Wallis Creek Water Reserve (Correspondence), V&PNSWLA, 1876-7, vol. 3, pp. 467-85, Item no 5.

62 Albury Municipality and Common.(Correspondence.), NSWV&PLA, 1859-60, vol. 4, no. 17. p. 867.

the petitioners asking for a common at Gulgong in 1873 considered that it would be 'a boon of inestimable value to the townspeople', and the term was also used by the local Member of Parliament, J.G. O'Connor, who stated that 'a Common would be a great boon to the miners in the district'.<sup>63</sup> This usage persisted – still, in 1886, the residents and Trustees at Wilberforce were describing its Common as 'a great boon'.<sup>64</sup>

At first sight perhaps, this shared use suggests that the term 'boon' was simply widespread, applied in its more usual meaning of 'a gift ... benefaction or present'.<sup>65</sup> However, my impression is that mid-nineteenth century usage of the term was – if not exclusive to discussions about commons and the Eight Hours – very strongly centred in those discussions. That 'boon' was used in this way suggests a convergence of contemporary meaning between the Eight Hours movement and the commons movement that made the term 'boon' seem particularly appropriate. We can perhaps see why this might have been the case by noticing that originally the term 'boon' was used in Anglo-Saxon feudal law, where it referred to the unpaid services in labour or kind due from tenants to lords. Thus earlier usages contained terms such as 'boon work', 'boon day', 'boon earth' (ploughing by way of 'boon service') and 'boon loaf' (bread substituted for 'boon work').<sup>66</sup>

In the light of this history, the use of the term in mid-nineteenth century Australia takes on a somewhat different significance. Rather than being a beneficent gift or privilege, it suggests a redemptive quality to both the Eight Hours and the commons movements; a settling of the historical score – retained in class memory – of the epochs when first, through unpaid corvée or 'boon' labour, and then through the enclosure of common land – their forebears – the British poor – had been doubly-robbed. In these respects we can perhaps see in the Eight Hours movement and the commons an historic reversal of class relations: if the Eight Hour day and the commons were 'boons', they were so not because they were 'gifts' or 'privileges', but because they represented a collective reclaiming of previously appropriated time and space, of labour and land.

If the commons and Eight Hours were 'gifts' from the rich and powerful, they were so only in the same way that the 'boon' of forced feudal labour had also been a 'gift'. It certainly seems to have been this kind of redemptive sentiment that was evoked by the commentator who described how the idea of a common in Singleton in 1865 'stole into the public ear ... a sort of joy-bell', the resonances here being perhaps to the Liberty Bell that Linebaugh and Rediker describe as ringing out across the revolutionary world in the eighteenth and nineteenth centuries, as well as a range of earlier uses of bells in popular protest.<sup>67</sup> Echoes of this old redemption song were also engrained into the language of protest that was mobilised against attempts to diminish common lands. W.E. Swan, a Trustee of Nundle common in

63 Commonages For the Town of Merriwa (Correspondence Respecting.), no. 24; Common At Gulgong. (Proclamation Of.), Enclosure to no. 1; and no. 2.

64 Wilberforce Common, (Petition, Certain Trustees for – and residents of Wilberforce.) V&PNSWLA, 1885-6, p. 149.

65 *Websters New International Dictionary of the English Language*, Merriam Co, Springfield, Mass. USA, 1934. Roget's *Thesaurus*, 1916 gives a full range of associations.

66 *Websters Dictionary*.

67 Temporary Common Near Singleton (Correspondence, etc.), no. 41, [Extract from the *Singleton Argus*], p. 716. Peter Linebaugh and Marcus Rediker, *The Many Headed Hydra: Sailors, Savages, Commoners, and the Hidden History of the Revolutionary Atlantic*, Beacon Press, Boston, 2000; also see Thompson, 'Custom, Law and Common Right'.

1892, protested against the incursions on the common: if the sale of the common were to go ahead, he stated:

for God's sake brand us as serfs and forward along a few leg-irons  
... Are we dogs or serfs that our rights shall be wrested from us by  
every land shark who wants to exterminate us as a people?

These strong words were intended to support a petition of those who used Nundle common – mainly miners, but with a fair sprinkling of other trades such as blacksmiths, carriers, farmers, carpenters and builders. They, at least believed that the common was an important precondition for their independent livelihoods. As one of the petitioners put it, without the commons and its resources, 'my means of living would be gone, as I simply depend on a few head of stock for my family's subsistence'.<sup>68</sup>

## Conclusion

Conceptually and materially the commons were an ambiguous socio-economic space on the borders of the world of the commodity. As such, they presented a living challenge to private property and commodity relations. Part of a vernacular economy during the nineteenth century, the commons allowed the persistence of modes of existence that challenged the hegemony of the commodity form – the 'cell-form' of capitalism, as Marx termed it.<sup>69</sup> Really, until all avenues of escape from wage labour were closed down, Australian society was only half-heartedly capitalist in character. Thus, right on cue, in the early 1890s, at the start of the process that Macintyre and others have characterised as the 'hardening' of the class structure, the wholesale resumption of common land began in earnest.<sup>70</sup> In 1892, when the Deniliquin Town Council wrote to the Secretary of Lands communicating its recent resolution that 'it is desirable that a short Act of Parliament be introduced ... to provide for the cutting up of the commons', it did so 'with a full knowledge of your [the Secretary for Lands] determination to cut up the various country commons'.<sup>71</sup> As the history of the twentieth century would teach, without the commons wage labour was made that much more compulsory, and market relations became that much more totalitarian.

68 Crown Lands. (Return Respecting Application by Messrs. Robson and Schofield for Annual Leases at Nundle and Grant for Common for Residents of Happy Valley.), V&PNSWLA, 1892-3, vol. 8, pp.749-61, no.11 [Enclosure], no.18, no. 22.

69 Karl Marx, *Capital*, London, Penguin, 1976, p. 90.

70 Stuart Macintyre, *The Oxford History of Australia. vol. 4. 1901-1942. The Succeeding Age*, Melbourne, Oxford University Press, 1986, p. 45.

71 Common At Deniliquin. (Correspondence Respecting), no. 3, p. 887.