Grazing was not mining: managing Victoria’s goldfields commons

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Received 22 February 2018 • Accepted 2 May 2018

Abstract

The great land rush of the eighteenth and nineteenth centuries saw vast swathes of temperate grazing land around the world pass into private hands. Commons and common lands, however, provided a vital interim mechanism in this shift from state control to private property ownership. Commons ensured continued and widespread access to natural resources, including water, minerals, soil, grass, and timber, that was integral to the colonial settler project. The gold rush in nineteenth-century Victoria sheds important light on this process, where almost 250,000 ha of Crown land were set aside as goldfields commons. These reserves maintained auriferous or gold-bearing land in public hands and provided access to extensive tracts of grazing for the sheep and cattle of gold miners. In this paper, we examine how the traditional English notion of common lands was transferred to a New World environment and draw on the work of economist Elinor Ostrom to evaluate the use and function of Victoria’s goldfields commons in terms of management, regulation, and sustainability.

Keywords land use; commons; goldfields; grazing; mining; Victoria, Australia

Introduction

The collective use of land and the extraction of resources have played central roles in human activities for millennia. However, the notion of common lands or common property has come to stand at odds with the centrality of private property rights in the modern capitalist system. Conflict over access to land and resources, including water, soils, fish, animals, timber, and minerals, has been central to social, political, and environmental turmoil for centuries. This tension was part of the settler project in Australia as colonists were driven by the desire for private ownership while governments continued to manage large areas of Crown land in the public interest. In nineteenth-century Victoria, one way to address these challenges was via the establishment of a network of commons across the colony. The Victorian experience provides an important example of how the management of common land operated in the context of colonial expansion and how it diverged from the principles for sustainable commons usage identified by Ostrom (1990). In this paper, we analyse one category of colonial commons, the goldfields commons set up adjacent to mining communities. We examine how the British tradition of common lands and resources was transferred to a New World environment and draw on the work of Ostrom to understand how people managed and used the commons as an economic and environmental resource.

Goldfields commons were a significant category of public land in Victoria, established in response to the gold rush of the 1850s. They represented one way of managing some of the tensions produced by rapid population growth associated with a mining boom. Goldfields commons provided
access to land for occupation and food production while also accommodating the needs of miners. Commons retained in public ownership auriferous ground, including potential new discoveries, and also ensured that miners had secure access to supplies of timber and water. In this context, we are specifically concerned with the role of commons in supporting agriculture and with how they functioned as shared spaces for grazing animals. Much of the land initially set aside as goldfields commons in the 1860s has remained in state control and today forms the basis of a mosaic of local, state, and national parks and forestry reserves. Despite their ubiquity, however, the origins of this public land have not been analysed in detail, and their significance in the settler colonisation of Victoria and Australia remains poorly understood.

In historical terms, a commons is an area of land or water set aside for public use and jointly managed for the benefit of its surrounding community. The land is used productively, usually to exploit a range of natural resources. Common land can be unowned and used by all or owned by a community and managed collectively. Alternatively, property may be owned privately by an individual or an institution but be used by others subject to certain conditions (Wall, 2014). Public land held by the State or Crown can also be reserved for use by members of a local community on payment of a fee. The commons finds contemporary expression in such domains as open source software and the sharing of goods and services via social media, while cooperatives persist as institutions that share equipment, marketing, and profits on behalf of members. There is also growing awareness that commons include air, water, and oceans, which are both a collective resource and a collective responsibility (Helfrich et al., 2010).

The commons have been subject to a wide range of legal, economic, historical, and anthropological debates for many years, in terms of the origins, function, utility, and prospects of common lands and their environmental resources (see Bowden et al., 2009; Maddison, 2010; McDonagh & Griffin, 2016; Neeson, 1996; Oosthuizen, 2011; Rodgers et al., 2010; Strang, 1997; Thompson, 1991; Wall, 2014). The International Journal of the Commons has been published since 2007 and provides a forum for such debates. Much of the controversy over the failure or success of the commons has stemmed from biologist Garrett Hardin’s (1968) paper “The Tragedy of the Commons”. Hardin argued that common ownership inevitably resulted in environmental degradation, as each agent seeks to maximise his gain at the expense of his fellows (herdsmen in his theoretical example). There is no incentive to conserve, and the commons will be destroyed as individuals pursue their own interests. The argument goes back to Aristotle (1944, p.77), who wrote that ‘Property that is common to the greatest number of owners receives the least attention’ and that people care less for what they own in common.

Alternative views of the commons have also been put forward, including the work of Nobel Prize-winning economist Elinor Ostrom (1990). She argued that decentralised local control could often be successful because local communities offer more chance of individuals working together, developing trust, and exercising their knowledge of local conditions. Communities largely free of state and market control often could and can work out rational ways to share common resources in a sustainable way. Ostrom identified a number of design principles in relation to enduring and successful common-pool resource institutions. These include clearly defined boundaries, collective decision-making, sanctions against rule breakers, and accessible mechanisms for conflict resolutions. The use of Ostrom’s principles to analyse the operation of commons in Victoria suggests that there was a considerable gap between traditional models of collective and shared control of land and the state ownership of public land that developed in New World societies.

More than 80 goldfields commons were established in Victoria in the early 1860s, a decade after the gold rush began in 1851. The commons ranged in size from 500 acres (200 ha) to over 83,000 acres (33,600 ha) and provided access to timber, water, auriferous ground, and residential blocks in addition to grazing land (Figure 1). The commons were gradually reduced in size and physically degraded before their gradual abolition in the early twentieth century. Our analysis of historical correspondence from six commons shows that few of Ostrom’s principles for sustainable usage were present on the Victorian commons but also that their decline paralleled the decline of the mining communities for which they were originally established (see Figure 2; Table 1). By the turn of the century, the commons were primarily used for grazing rather than for the wider range of uses originally envisaged. As mining populations dwindled, parts of goldfields commons were progressively sold into private ownership or converted to other forms of state tenure such as grazing leases and timber reserves. This process highlights the transitional nature of the commons as a way of managing unsold land in settler colonies.
The main source of historical evidence on the commons is correspondence preserved in files from the Department of Crown Lands and Survey held by Public Records Office Victoria. These files consist generally of handwritten letters from goldfields managers and mining surveyors and petitions from local people submitted to the department in Melbourne. Officials scribbled responses on the reverse, allowing us to trace the nature and sequence of issues facing users of the commons and how government officials dealt with these problems.
Historical context

Rights in common were a familiar concept to incoming British settlers. In England, this centuries-old tradition entitled 'commoners' to a share in resources from the land. These typically included wood for burning, building, and tools; bracken for animal bedding; peat for roasting and fuel; land for grazing animals; fish; and in some circumstances, sand, stone, and other minerals. The land provided commoners with their basic needs and helped them achieve a measure of independence from the wider market economy. Mining communities in Cornwall and Yorkshire also enjoyed traditional rights to wood and pasture on common lands (see Gledhill, 2004; Mercer, 2009). Historian Jeanette Neeson (1996) suggests that commoners' sense of identity and belonging came not from owning a few acres but from possessing a landscape. It has also been noted, however, that common rights were not granted by generous manor lords but were the residue of rights that originally had been far more extensive, and which may even pre-date the modern idea of private property (Hoskins & Stamp, 1963). The Enclosure movement of the eighteenth century accelerated the process of depriving commoners of access to land and turned them into landless labourers, paupers, or emigrants to the New World.

The notion of rights in common was transported to various British domains where it displaced the shared ownership of land by Indigenous communities that had operated for millennia. In Australia, Aboriginal people managed land collectively using a sophisticated regime of controlled firing and other techniques to maintain dependable and abundant supplies of plant and animal foods that were available where and when needed (Gammage, 2011). Burning regimes and the use of other resources including access to waterholes, fishing rights, and supplies of stone and ochre were all governed by complex webs of kinship and shared responsibility (Frankel, 2017). This system was highly successful for 65,000 years until violently disrupted by the arrival of British colonists at and after the end of the eighteenth century. As settlers spread across the continent, Aboriginal people were killed or forcibly relocated, effectively stripping them of their capacity to manage country. In this context, commons were an integral part of the process of dispossession. They provided an interim measure that asserted control by the British Crown while the bureaucratic apparatus was established to enable more complete privatisation of land ownership.

During the nineteenth century, setter colonists established commons in the Australian colonies of Victoria, New South Wales, South Australia, and Queensland (Maddison, 2010; Williams, 1974). A more limited version of the commons was also established on the goldfields of New Zealand (Eldred-Grigg, 2008). In these New World environments, however, rights of common were less important and played a more limited, though still significant role than in the United Kingdom. In the New World, commons were of greatest importance during the years of initial settlement. When the colonists declared terra nullius to be Crown land, they made vast areas available for settler occupation, but it was not logistically possible or desirable to privatise all this land at once. Much of it was taken up by squatter-pastoralists in the first half of the nineteenth century under a leasehold system with only small and limited areas surveyed for sale. Adjacent Crown land in Victoria could be used for grazing stock when land owners were granted 'commongage' under the 1847 Orders-in-Council (Commission, 1854–5).

Demand for access to land grew rapidly with both the discovery of gold in 1851 in Victoria and New South Wales, and the enormous increase in population. The Gold Fields Commission of Enquiry that responded to the Eureka Rebellion of December 1854 recognised the need for pasturage...
reserves on and around the goldfields that would serve as commonage for miners’ grazing animals (1854). As public demand for access to land increased, arrangements were made to recognise the needs of gold miners as well as farmers. Under the Sale of Crown Lands Act 1860, the Governor-in-Council could reserve Crown land for a wide range of purposes in the public interest (Wright, 1989); this included town commons, farmers’ commons, and goldfields commons. Town commons were usually small, often no more than a few hundred acres, with all local inhabitants granted rights to graze their cattle and horses. Farmers’ commons were larger, proclaimed within five miles of purchased land on the petition of ten or more farmers holding at least 500 acres (202 ha) of adjacent land. By April 1862, 152 farmers’ commons had been declared, with an average size of 6,000 acres (2,430 ha; Hodgkinson, 1862).

Goldfields commons were larger again, averaging 7,300 acres (2,956 ha), and several were more than 35,000 acres (14,175 ha) in size (Figure 1). They were available to holders of miner’s rights, business and carriers’ licences, and ‘other residents’ living within five miles of a goldfield. More than 600,000 acres (243,000 ha) were incorporated into 82 goldfields commons established by 1862 (Table 2), and at least four more were created by 1870. Altogether, land reserved as commons at this time amounted to 1.65 million acres (668,250 ha) or almost three per cent of Victoria’s land area. By this stage, the Victorian population had grown to 540,000 people, of whom 100,000 worked as miners (Smyth, 1980). Including families, up to half of the colony’s population may have had the opportunity to benefit from the establishment of a local goldfields common.

Access to land was a crucial and enduring issue in this period. Pastoralists still held vast acreages under lease in Victoria, first occupied in the 1830s and 1840s, and consolidated with preemptive rights and strategic freehold purchases in the 1850s (Powell, 1970). By 1851, around 1,000 pastoral licence-holders occupied more than three-quarters of all the land in Victoria, a territory the size of the United Kingdom, and formed a powerful political class (Powell, 1970). Miners testifying at the Gold Fields Commission of Enquiry in 1855 stressed their desire to settle on the land and the barriers that thwarted them, while the commissioners concluded that the flocks and herds of the squatters ‘must give way to . . . families’ (1854, p.xvi). “Unlock the lands” became the cry of the age. The 1860s saw a series of Land Acts passed by the Victorian parliament in an attempt to break up the squatters’ monopoly and create a class of “yeoman” on selected smallholdings. Selection was the process by which individuals pegged out a block of land for lease and eventual purchase. Despite limited success initially, the first three Land Acts resulted in the selection of more than four million acres (Nelson & Alves, 2009).

In this context, there was also pressing need to maintain government control of land that might potentially be gold-bearing, to provide timber and water to miners, and to meet the subsistence needs of mining families. Subsistence miners on “poor man’s diggings” continued to live and work largely outside the systems of wage labour and industrial capitalism that was coming to dominate the colony (Lawrence, 2000; Wall, 2014). They combined small-scale independent gold mining with seasonal work on nearby farms and grazing their own animals on common land. These miners and their families were the immediate beneficiaries of the goldfields commons. The commons were the compromise that provided access to land and resources while retaining Crown control.

The miner’s right was a crucial part of this process. Created as a central feature of the 1855 Act to Amend the Laws relating to the Gold Fields following the Eureka rebellion, the miner’s right entitled the holder to dig for gold, vote, and occupy a small plot of land for a house and garden. Amendments in 1857 extended the privileges to cut timber and firewood and build water races for sluicing. When goldfields commons were established in 1861, holders of miner’s rights were specifically entitled to their use. At the same time, many squatters lost some of their runs, and in some cases, all of it, following the establishment of goldfields commons but only a few received any compensation (Hodgkinson, 1862). Small-scale miners were to be the most active users of goldfields commons and their staunchest defenders. In addition, residence and cultivation licences of up to 20 acres (eight ha) were also available from 1860, permitting the holder to use the land for a dwelling, agriculture, and grazing. Miner’s rights and cultivation licences could be used strategically with goldfields commons to maximise access to land for farming and grazing without the expense of freehold purchase.

Evaluating the commons

The system of goldfields commons in Victoria provides an opportunity to examine in detail how traditional rights in common were translated to settler
coli.nes. Of particular use is the work of Elinor Ostrom (1990) who outlined a set of conditions necessary for the successful and sustainable long-term sharing of commonly held resources. Ostrom developed her model on the basis of a range of historical common-pool resource institutions distinguished by their robustness and long-term sustainability. Her examples include meadow grazing in Switzerland, forests in Japan, and irrigation communities in Spain and the Philippines. All of these institutions have functioned successfully for centuries, although not without negotiation, compromise and sometimes conflict. Uncertain and complex natural environments have also presented ongoing challenges. Nevertheless, a common element in the durability of these commons is the creation and revision of rules over time according to collective agreements. Such rules accommodate different physical systems, cultural views of the world, and economic and political

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relationships. Ostrom identified seven design principles associated with enduring and successful commons. These principles include clearly defined boundaries; appropriation and provision rules; collective-choice arrangements; monitors who audit conditions; graduated sanctions; conflict resolution mechanisms; and rights of appropriators to devise their own rules and institutions. They provide a framework to evaluate the operation of the goldfields commons as a shared resource.

**Clearly defined boundaries**

Individuals or households with rights to withdraw resources must be clearly defined, as must the boundaries of the common-pool resource itself. Demarcating the physical boundaries of the commons and closing it to ‘outsiders’ is vital to preserving the resources and benefits to legitimate participants. (Ostrom, 1990, pp.91–2)

In terms of defining who had clear use rights of goldfields commons, in practice there was little restriction on who could access and use commons resources. Miner’s rights, for example, were cheaply available at just five shillings per year and conveyed a range of valuable privileges—including access to the commons. In the original legislation the provision for ‘other residents on such gold fields’ ensured that practically everybody within a local community was legally entitled to use the commons to graze their horses and cattle subject to local regulations. In effect, there was little or no limit on the number of individuals and households entitled to withdraw resources. Most people in the vicinity were thus ‘insiders’ rather than “outsiders” and had an incentive to maximise their use of the commons.

On the whole, the physical boundaries of goldfields commons were porous and poorly defined, generally enclosed—if enclosed at all—by the fences of neighbouring private property. As landscape features or reserves, the boundaries of commons often lacked clarity and frequently changed when selectors acquired freehold land. Goldfields commons were typically rectangular shapes imposed on the landscape, often with little reference to the actual topography or other natural features. Gold reefs and mine workings were generally located somewhere in the middle of each common, with creeks or rivers sometimes forming part of a boundary. The Omeo goldfields common of the 1870s was unusual in being wholly defined by a combination of creeks, road reserves, and property lines (Figure 3; VPRS 242/P0/235). Goldfields commons sometimes abutted town or farmers’ commons, which created much larger parcels of reserved land, while conversion of goldfields to “grazers’ commons” also occurred. These were often amalgamated into “united commons” under the management of the local shire council. Goldfields commons were thus very fluid spatial features, subject to a constant process of expansion, amalgamation, contraction, excision, and abolition, as well as conflict over who should control their management.

This complex shifting of boundaries is well illustrated by the example of Omeo (Figure 3). Located in a remote part of the Dividing Range in the headwaters of the Mitta Mitta River, gold was first discovered at Omeo in late 1851 (Flett, 1970). A goldfield common of 2,560 acres (1,037 ha) was established in 1861 along Livingstone Creek (Victoria Government Gazette, 6 February 1861). A few years later, however, local people petitioned to have the common relocated because it was too far from their homes and mining operations. Another petition in 1869 claimed that the shape of the common bore no relation to the natural features of the landscape. New and larger boundaries of 4,300 acres (1,741 ha) were approved in 1871 (Victoria Government Gazette, 5 May 1871). Additions were made in 1880 (2,300 acres, 931 ha) and 1882 (9,450 acres, 3,827 ha), with a further 15,000 acres (6,075 ha) added in 1885 (Victoria Government Gazette, 31 July 1885). This process created a large land reserve within which various leaseholds and freeholds were held as well. These additions began to shift the goldfield common from the east side of Livingstone Creek to the west, as the original common land was taken up by selectors. Thereafter, however, the common continued to be diminished by various alienations, ranging in size from 14 acres (5.7 ha) up to 1,000 acres (405 ha). These excisions needed to be approved by the Governor-in-Council and advertised in the Government Gazette. In 1888, almost 200 km away in the town of Sale, the Gippsland Mining Board protested more alienations. The excisions had been made on the recommendation of the Local Land Board, bypassing the notional authority of the Mining Board completely. By 1904, the commons of 12,800 acres (5,184 ha) was relocated to the west of Omeo township, with most of the land abutting the west side of Livingstone Creek having been selected (Victoria Government Gazette, 20 January 1904). The Omeo common was abolished in 1909 (VPRS 242/P0/235).
Formal notices about boundary changes were published in the weekly *Victoria Government Gazette*. These notices included precisely written descriptions of commons boundaries unaccompanied by maps, making them very difficult to “see” in the actual landscape. It was not until the mid-nineteenth century that fences became an increasingly important and prominent part of the Australian rural landscape, especially with the introduction of factory-produced iron and later, steel wire. Fencing land asserted ownership of it. Pastoral leaseholders began to fully enclose their land, both to discourage selectors from encroaching and to create smaller paddocks for better stock management. Even with the new materials, however, fencing was an expensive business. A five-strand fence around one square mile of 640 acres (259 ha) took 20 miles (32 km) of wire, which weighed about seven tonnes (Pickard, 2010). For selectors, fences were often part of their lease conditions and helped prevent stock from straying. The expense, however, meant that the familiar rural grid of fenced farms was slow to develop. At the Inglewood common, it was Chinese market gardeners who most carefully fenced in their plots along the Loddon River to protect them from wandering stock. Governments did not, as a rule, fence Crown land, so the boundaries of goldfields commons would only have been defined in the landscape by the gradual fencing of neighbouring private property.

Boundaries and fences were also highlighted around the turn of the century when cattle were poisoned by drinking from cyanide vats along creeks in the commons (see Maldon Shire Council, 1904). Cyaniding was the process by which tailings sands from quartz crushing were re-worked in a tank filled with dilute potassium cyanide to precipitate out the residual gold (Park, 1900). Local users of the Maldon common argued that

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Figure 3  Plan showing successive relocations of the Omeo goldfields common (source: VPRS 242/P0/235)

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miners should fence off their vats with barbed wire, rather than expect fee-paying commoners to shepherd their stock away from the dangerous chemicals. The cyaniding issue reinforces how goldfields commons remained, even after 1900, places where mining was still an important activity and where boundary maintenance was still needed.

Appropriation and provision rules

Appropriation rules that restrict the time, place, technology, and/or quantity of resource units are related to local conditions and to provision rules requiring labour, materials and/or money. (Ostrom, 1990, p.92)

Rules on the goldfields commons for grazing regimes were generally calculated as the carrying capacity of the land in terms of acres-per-head and the limit of animals per person with fees charged per animal. There is little evidence that these were modified regularly to take into account local conditions such as feed and water. Some individuals also grazed far more animals on the commons than they were entitled to. At Inglewood, the annual fees for grazing in 1863 included ten shillings for each bull, six shillings for horses, three shillings for dairy cattle, and one shilling for pigs. Licences to depasture sheep could be purchased for £10 per year (VPRS 242/P0/246). Fees were intended to pay for improvements such as watering points and stockyards. In difficult times, however, the fees were onerous, and avoidance and refusals to pay were recorded.

A curious anomaly sometimes occurred when goldfields commons were close to or adjacent to farmers’ commons. At Dunolly in western Victoria, for example, a combination of eight contiguous town, farmers’ and goldfields commons created a reserve of 33,406 acres (13,529 ha; Figure 4). For local farmers who owned land, it was a simple matter to take out a miner’s right at five shillings per year and thus be able to use the goldfield common like any miner. Graziers could also apply for a licence to graze their stock on goldfields commons (Victoria Government Gazette, 19 July 1861). Miners owning no land, however, did not enjoy the reciprocal privilege of using the farmers’ common, and they complained at the injustice.

Collective-choice arrangements

Most individuals affected by the operational rules can participate in modifying them. Individuals who interact directly with each other and with the physical world can change the rules over time to fit them better to local conditions and so achieve a higher level of compliance and cooperation. (Ostrom, 1990, p.93)

Individuals using the commons had little or no say in the collective arrangements affecting their use of the commons. Managers answered to

Figure 4 Dunolly and Burnt Creek goldfields commons adjacent to several Bet Bet farmers’ commons (source: VPRS 242/P0/244)
district mining boards and other government officials rather than local users. Individual users who held miner’s rights elected the members of district mining boards, but their direct participation in the management of the commons was otherwise very limited.

One of the main mechanisms for people to have their say, especially in terms of expanding or reducing the commons, was via petitions. These came to have a standard format, with columns of signatures and the residence, land holding, and “qualification for commonage” of each petitioner. At times, petitions were met with counter-petitions, as local factions competed for dominance. On the Inglewood goldfield common, miners and town-dwellers used petitions for years to argue which group was best placed to care for (and thus benefit from) their large common (VPRS 242/P0/246).

Goldfields commons tended to be highly gendered spaces, dominated by the activities and voices of men. Among the many petitions submitted in support of commons claims, very few women’s names can be identified. Historian Clare Wright (2013) points out that women’s petitioning was an important form of non-representative democracy on the goldfields. Women may have done the work to collect signatures when their husbands were busy elsewhere. There is little direct evidence, however, that women utilised the commons in their own capacity. Some took out miner’s rights to mine independently or run a business on the diggings, but it is likely that women most frequently used the commons as part of household food production, maintaining a milking cow or a small herd of goats for family consumption (Lawrence, 2000).

Commons were also racialised, with management restricted to White men. The Chinese formed a sizeable proportion of Victoria’s goldfields population and actively used the commons as miners and as market gardeners. A dispute in 1865, at the height of a drought, revealed racial tensions between Europeans who feared and distrusted the Chinese and others who appreciated the ‘good and cheap’ vegetables they grew and sold (VPRS 242/P0/246). The Chinese themselves were eager to do the right thing and gain legal possession of their land. Not being naturalised citizens, however, meant that they could only lease rather than purchase their allotments. Chinese commoners were vocal in defending their rights, but they did not play direct roles in managing the commons or creating rules and regulations. We have found no evidence that Chinese men held positions as herdsmen, managers, or members of mining boards. Likewise, excluded were Aboriginal people who were the traditional owners of the land. Evidence is increasingly coming to light, however, of the multiple ways in which Aboriginal people continued to be present on the goldfields, with commons providing important access to bush tucker, stone, wood, other resources, and ceremonial places (Cahir, 2012). Nevertheless, they were prevented from continuing to actively manage the land through traditional activities such as controlled burning and, like the Chinese, were not expected to serve in positions of authority.

**Monitoring of conditions**

Monitors who actively audit conditions on the commons and the behaviour of users are accountable to the users. (Ostrom, 1990, p.94)

Herdsmen and managers monitored the condition of commons and the behaviour of users, maintaining oversight of both. Day-to-day management of each goldfield common was a complex business. Each common was administered by a board of three managers, elected annually by the local council or district mining board. The managers were not paid, so they often appointed a herdsman to run the common and collect grazing fees to cover expenses. Monitors were not answerable to users of the commons, with herdsmen employed by the managers and the managers appointed by often distant and uninterested district mining boards.

Users of the goldfields commons did not actively improve the land or cultivate it. Instead, they transposed the grazing regime of the squatters with their own sheep and cattle. We only have occasional insight into stock numbers to tell how sustainable these grazing patterns were. Rates of roughly one head per ten acres may have been reasonable in “average” conditions, but these numbers fluctuated widely and probably increased in times of dry and drought conditions when feed elsewhere ran short (see VPRS 242/P0/246, 13 October 1866). Managers imposed limits on stock numbers per resident user, such as four cattle each, but these were often flouted (see Powell, 1973). Animals on the commons grazed mostly on native grasses, herbs, and shrubs, which did not always respond well to heavy browsing by domesticates. Such grazing patterns contributed to the gradual deterioration of goldfields commons and promoted the spread of weeds.

Weeds and vermin were noted on the Buninyong common as early as 1865 and became
an increasing problem on commons thereafter. Despite legislation and the efforts of adjacent landholders to control rabbits and foxes and eliminate thistles and gorse, such pests easily crossed notional property boundaries to infest commons and present an enduring problem for land managers. Goats on the Fryers Creek common that belonged to people who had left the district had by the 1880s become wild and ‘almost unapproachable’. Complaints about weeds and rabbits at Fryers Creek dominated correspondence for 20 years and eventually resulted in the abolition of the common (VPRS 242/P0/208). Rabbit control, prior to the introduction of the myxomatosis virus in 1950, was achieved with poisoned grains, gas, ripping, traps, and ferrets, while weeds could only be laboriously hacked out of the ground. In the first half of 1897, 26,000 rabbits were removed from the Fryers Creek goldfields common, but the scrubby terrain and steep river banks meant that eradication was impossible. On some commons, there was also an incentive to maintain a rabbit population as it provided food for poor settlers as well as employment and a source of income for rabbit meat and fur.

Settlers took advantage of plants and animals on the commons both for themselves and their stock. Although forests and woodlands around the goldfields had been heavily cleared by timber-getters, bushfires, and agricultural clearance by the late nineteenth century, there were still many areas of public and private land that provided ‘bush tucker’. Historian Rebecca Jones (2017) has traced the origins of this wild harvesting to Britain, where foraging on uncultivated common land by small farmers was restricted to those from particular villages or settlements. This pattern was readily transferred to Australia by immigrants who foraged opportunistically depending on local resources and need. Birds, fish, mammals, and plants made important contributions to rural diets in this period. Hunting and gathering on goldfields commons and “poor man’s diggings” filled an important economic niche between grazing, farming, and mining.

Other uses of the commons included dairying and, at Inglewood, Chinese market gardens. The latter were among the most intensive users and managers of land on the goldfields commons (VPRS 242/P0/246). By 1864, Chinese gardeners Ah Wang and Ah Yot had fenced in ten acres (four ha) of fertile and well-watered land on the eastern edge of the common by the Loddon River. This was no “cabbage garden” but a substantial farm employing 24 Chinese workers and eight horses to cart vegetables for a radius of 25 km. The enterprise made up to £1,200 per year.

**Graduated sanctions for misuse**

Individuals who violate the rules of use are likely to receive graduated sanctions, depending on the seriousness and context of the offense, by other users, by officials, or both. (Ostrom, 1990, pp.94)

The primary sanction for breaking rules on goldfields commons was the impoundment of animals and the payment of a fee for their release. This monitoring was generally carried out by the herdsmen rather than the users. There was no scale of graduated sanctions for more serious offences, which meant that there was little disincentive to overexploit available resources.

In the absence of fences, keeping animals grazing securely in the right part of commons or adjacent private land was often difficult. There are numerous records of cattle being impounded, to the outrage of owners. Cattle grazing the commons were meant to be branded, so the herdsmen could identify their owners. Land did not have to be fenced for trespass to occur and squatters harassed miners by impounding stock that strayed onto their runs (Pickard, 1998; VPRS 242/P0/244, petition 1862). Pound fees added up quickly, and miners were aggrieved at the time and expense it took to secure their animals. It was illegal to enclose any part of the commons although dairymen could apply for a licence to build stockyards.

**Mechanisms for resolving conflict**

Individuals and officials have rapid access to low-cost local arenas to resolve conflicts among users of the commons or between users and officials. If individuals are going to follow rules over a long period time, there must be mechanisms for resolving infractions. (Ostrom, 1990, pp.100–1)

Conflict resolution was difficult and time-consuming for users of the commons as there were no regular meetings or forums to discuss problems and negotiate solutions. Users wrote letters to government officials to complain and collected signatures on petitions, but this took time, and complaints were usually referred back to local managers or mining surveyors for detailed advice. Trust and reciprocity were often lacking. Local people had relatively little say in the daily management of the commons and disputes tended to be passed up the administrative chain for resolution.
When disputes arose, the local mining surveyor was often asked to investigate. Mining surveyors were paid on commission rather than salary and were often accused of abusing their position. The more work they did and conflicts in which they became involved, the more money they made (1862). District mining boards had responsibility for regulating such matters as quartz mills and mining claims. By and large, however, issues on the commons had little to do with gold mining and everything to do with grazing and land management. Nevertheless, the Maryborough Mining Board was responsible for 29 goldfields commons covering 176,000 acres (71,280 ha). In practice, much of the administrative authority for goldfields commons devolved to local councils, while ignoring the often distant and uninterested members of the district mining board. Only at Castlemaine did the mining board take a direct interest in managing the ten commons under its control (VPRS 242/P0/208).

Squatters with adjacent land saw the commons as a threat to their livelihood, and they were quick to complain about infringements. At Inglewood, John Catto responded by running large numbers of sheep on the common in direct competition with miners, claiming that the boundaries were not properly defined despite a formal notice in the Government Gazette. Squatters also complained directly to government about the establishment of the commons. Of the 82 goldfields commons created by 1862, 53 involved the partial dispossession of pastoral runs, while Scott & Sons at Buninyong and Thomas Waldie at Creswick lost all of their runs. Only a handful received a refund on their licencing fees (Hodgkinson, 1862). The Reverend William Hall once occupied land that became part of the Inglewood goldfields common and found his freehold homestead acreage completely surrounded by the Inglewood and Kingower commons. He applied to have 11,650 acres (4,718 ha) of his run restored, but his request was denied. Having seen the squatters occupy so much land so cheaply for so long, government officials were rarely inclined to recognise any ‘hardship’ they claimed (VPRS 242/P0/246).

Rights of appropriators to organise

The rights of users to create their own institutions to regulate and manage the commons are not challenged by external government authorities. (Ostrom, 1990, p.101)

Individuals with access to goldfields commons had little right or opportunity to devise their own rules or create institutions to regulate use of the commons. Regulations were instead determined by district mining boards, advertised in the Government Gazette and implemented by local managers. With the exception of Castlemaine, mining boards were generally preoccupied with matters relating to the mining industry and often ceded control of goldfields commons to shire councils. Users of the commons were thus generally reduced to signing petitions or writing letters of complaint to the relevant minister, lands board, or local newspaper.

Lack of participation in making the rules could prompt individuals to take a more formal, active role in decision-making. On the Inglewood goldfields common, for example, Denis Rowan appears in the early 1860s as a frequent complainant about management and soon realised the relative powerlessness of his position. He had himself appointed one of the three managers of the common where he was able to have significant say in —day-to-day management. As an active user of the common, he could also manipulate the rules to suit his own advantage. He was also quite willing to harass Chines market gardeners and bend the rules to try to dislodge them from their well-farmed plots of land (VPRS 242/P0/246).

Appointment as a manager with government authority was thus one of the very few ways for local users to influence the regulation and management of the commons.

Conclusion

By the turn of the century, most of Victoria’s best arable land had been alienated, and management of the remaining goldfields commons was hampered by weeds and lack of funding. Squatting leases were also being phased out. Some of the remaining commons such as Buninyong consisted of various separate pieces of land joined by roads, making management even more difficult. As the commons were abolished, much of the remaining poor quality land they included was made available under grazing licences. Even this change was contentious, however, as the process often advantaged one or two large leaseholders who could charge excessive fees to local people for keeping their animals on what had been common land. Lands once part of goldfields commons were also set aside as timber reserves and state forests (see Royal Commission, 1899). Goldfields commons had remained part of the rural landscape for half a century, but conditions changed, and by the early twentieth century, commons were mostly obsolete. The last goldfields commons, at
Maldon and Clunes, lingered on, much diminished, into the 1960s.

The application of Ostrom’s design principles in Victoria demonstrates that the land was “common” in name only. None of the characteristics required to ensure sustainable use and collective management were present in the goldfields commons. Management was distant, authoritarian, and hierarchical with little local input into decisions and limited penalties for infringement. Users of the resource were not its owners or custodians in any direct way, making it all too easy for conditions to deteriorate. Many users acted opportunistically to maximise their advantage at the expense of other users and the longer term sustainability of commons resources.

Despite these failures, however, the commons were highly valued by those who had rights to use them. They provided valuable grazing for small-scale miners in the nineteenth century along with access to foraging and firewood. Miners recognised the economic value of Crown reserves and resisted attempts to diminish or amalgamate their commons. One digger described the goldfields commons in 1872 as ‘the last stake or right of the miner’ and regarded the attempt of the local council to gain control as ‘an act of piracy’ (VPRS 242/P0/244, 12 November 1872).

Ultimately, traditional British rights in common were antithetical to the aspirations of settler colonial states. People wanted not just access to land but ownership of it. The alienation of Crown land in Australia was part of the Great Land Rush in the eighteenth and nineteenth century described by John Weaver (2003), where more than a billion acres of temperate grazing and arable land in North America, South Africa, Australia, and New Zealand passed into private hands. Goldfields commons played an important role in this process, enabling miners and other settlers to graze their animals on Crown land before it was alienated, but the commons as an institution was not compatible with settler desires for private ownership. The tragedy of Victoria’s commons was partially degradation in the sense of Hardin, but more seriously, it was the erosion of the extent of common land and the conversion to private ownership.

As the gold rush faded by the end of the nineteenth century, so too did the need for goldfields commons. The mining population in Victoria had peaked at 147,358 in 1858, but by 1910, it was down to 16,553, and most of these were wage workers for mining companies (Secretary for Mines, 1911). The days of the independent miner and the “poor man’s diggings” were largely in the past. As a result, the need to reserve large areas of Crown land for cheap grazing to support the miners was also diminished. Many of those who had once used the goldfields commons had selected and purchased their own land and had less need for the commons as they had been originally created. Nevertheless in the half century or so of their existence, the goldfields commons had clearly been fit-for-purpose. They had created a space in the landscape to support and sustain small miners and farmers who had opted to pursue independence for themselves and their families. The commons also provided a place where fringe-dwellers could scratch out a living, an economic safety net at a time of limited public welfare (Taylor, 1998). Perhaps most fundamentally of all, the commons ensured that the benefits and natural resources of the land were available to a wider section of the population and not just concentrated in the hands of a powerful few.

Acknowledgements

This research was conducted with support from La Trobe University and the Australian Research Council (DP160100799).

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