

Rent Seeking and Property Rights' Assignments as a Process: the Mesta Cartel of Medieval-Mercantile Spain

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There is no grandee of Spain who has so many judges
and sherrifs to defend him as has the sheep.
Sorapan, *Medicina Espanola* (1616, 131).

I. Introduction

The Spanish economy prior to the nineteenth century has always provided a major challenge to economic historians. The complex racial, cultural, and economic diversity of medieval and mercantile Spain undoubtedly explains the difficulties in identifying the ebbs and flows of economic development. In this paper we examine one important internal economic institution from the

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perspective of the public choice paradigm. Specifically, the regulation of internal commerce by the Crown and through the legal and political system is characterized as a process of rent-seeking wealth redistribution between local grazing (*ganadería estantes*) and agricultural interests, on the one hand, and Crown-cartel interests, on the other. The chief vehicle for redistributions (and an institution that also collected rents, as such competing with the Crown) was the *Mesta*, a cartelized guild of sheepherders engaged in producing high-quality wool from the seasonal migration of sheep (*serranos transhumantes*). This famous Spanish institution of transhumance found its origins in twelfth century Spain and became the concerted object of Crown rent seeking through the reforms of Campomanes in the eighteenth century.

The *Mesta* (circa 1273-1836) provides an especially interesting object of study in the context of public choice and organization theory. In contrast to the typical objects of internal monopolization and rent seeking by English and French monarchs (for example, tapestries and other "luxury" consumptions in France, playing cards in England), Spanish monarchs directed major efforts towards a non-sedentary, competitively-produced product (Merino wool) in a geographically dispersed pastoral setting. Constant battles between rent-seeking interests over legal jurisdictions, property rights, tax jurisdictions, and over the direction of wealth distribution occurred throughout the life of the *Mesta*. These interests included local organizational units, local and regional Church interests and episcopates, sedentary agricultural interests, the geographically dispersed and mobile *Mesta* and its shepherd members, and Crown interests of all sorts.

No detailed rent-seeking or interest group analysis of the *Mesta* exists in the literature, as such, although it cannot be said that the *Mesta* has been neglected by economic historians or by economists. Many of these scholars, moreover, have employed rent-seeking ideas without developing the concept in explicit terms. The classic and still unparalleled historical study is that of Klein (1920, reprinted 1964). Following Klein, historians have generally argued

that the support of the *Mesta* by Crown interests had deleterious effects on the development of Spanish agriculture and, derivatively, on economic development (e.g., Cameron 1989, p. 110). Other economic historians (Enciso and Merino 1979) remain sceptical of any holistic theoretical explanation for growth in the Spanish economy.¹ North and Thomas (1973, pp. 85-88, 127-131) offer a general, but abbreviated, economic interpretation of the *Mesta* as a monopoly institution characterized by property rights' alterations and rent seeking. They concur with the view that the *Mesta* prevented the establishment of secure property rights in agriculture.

Nugent and Sanchez (1989) provide an important and dissenting view. They present a generalized model of property rights' assignment in the *Mesta* and conclude that, in the absence of low-cost means of fencing, monarchical control of the *Mesta* through edict and regulation contributed to economic efficiency in resource allocation over time. In this model, pastoral and agricultural land use was regulated by a monarchical "zoning authority" who assigned rights to the highest bidder (*Mesta*, town agricultural interests, or the Church). In this scenario, rights flowed to the highest-valued user revealed in the process of rent-seeking. Rent-seeking, far from being a competing hypothesis, is a vital complement to the efficient property rights thesis as suggested by Nugent and Sanchez (1989, p. 279).

¹ As indicated in the introduction, traditional economic historians have taken a largely descriptive approach to the medieval-mercantile Spanish economy. Enciso and Merino (1979) in an interesting assessment of the role of the public sector in the Spanish economy, circa 1750, note the incredible complexity of possible explanations for the impetus, or lack thereof, for economic growth. Many of these writers are understandably sceptical of holistic explanations linking institutions with growth and growth prospects. In the words of Enciso and Merino ". . . it remains doubtful . . . whether the application of modern economic theory can provide a reasonable explanation of the working of an Ancien Regime economy. There does not seem to be a case for supporting any particular economic theory. . ." (1979, p. 554). We argue, in contrast to a rigid interpretation of this position, that the modern theory of self-interested coalitions, within an overall perspective of public choice, can add valuable insights into dynamic historical processes such as those of medieval-mercantile Spain.

In the present paper we extend these themes to emphasize the process of property rights' alterations through rent seeking by interest groups related to the *Mesta*. Our purpose is twofold: (1) To suggest a theory of the process of rent-seeking in the *Mesta*, and (2) To provide informal empirical evidence on rent-seeking by Crown interests over an important period of the *Mesta* organization — between 1510 and 1562. In our view the interplay of property rights, political expressions of rent-seeking behaviour, and environmental change (such as population growth) are critical elements in understanding the role of the cartel in Spanish economic development.

II. Political Economy and the Mesta

Anecdotal and empirical evidence (Ruiz Martín 1974; Le Flem 1972; Michun 1883) strongly suggest the existence of an ever-changing characterization of property rights between the thirteenth and eighteenth centuries in Spain — a perspective which, of course, cannot be captured in a static model. In static competitive equilibrium, economic rents — those above the opportunity cost of quasi-fixed resources — are fully capitalized, that is, “competed away” through entry and exit. However this useful concept hides the dynamic rent-seeking activity inherent in the system over time.²

Consider a monarch who wishes to grant an enforceable monopoly right to some production such as playing cards or gold mining. The state (monarch) offers to create an artificial scarcity of playing cards or gold which, assuming demand for the product, establishes monopoly rents to be captured by monopolists who court the king or queen's favours. (In most cases the monopolist,

² Note that we do not propose a circular argument. While it is undoubtedly correct that institutions constrain and help explain behaviour and are “givens” in the short run, it is also correct that numerous factors (exogenous shocks, other institutions, and so on) affect behaviour. Over a somewhat longer run, slow-moving behavioural changes may alter and explain institutional change. As North (1978) and Ault and Ekelund (1988) have argued, all explanations of institutions and institutional change must be “partial” since the analysis must obviously start with some given set of institutions and some set of behavioural characteristics.

ultimately or by initial agreement, shared the resulting rents with the monarch). These rents are not simply pure transfers from playing-card or gold customers to monopolists. Aspiring monopolists are willing to expend resources in lobbying the king to acquire the exclusive right to sell. Legal fees, bribes, and related expenses are wasted resources from a social viewpoint. There are opportunity costs, for example, for lawyers who are employed to petition the king for a monopoly right — writing contracts, wills, and so forth — with implied social costs to the monopolization process. Legal employment in these wasteful activities will engender over-entry into the legal profession in the sense that such entry would not occur where monarchical monopolization did not exist. Rent-seeking is thus the expenditure of scarce resources to capture a pure transfer. (The term “rents” may of course also apply to the transfer itself). The value of these resources must be added to the standard welfare-triangle (deadweight) loss associated with monopoly in order to properly calculate the social costs of state-created monopolies or artificial scarcities.³

The questions posed by the process of rent-seeking during the Spanish medieval-mercantile era are both positive and normative. From the perspective of positive analysis, our evaluation seeks to discover the actual factors determining the presence, nature, and impact of rent-seeking activities in the Spanish economy. Normatively, we wish to gauge the tentative impact of such activities on economic growth or on the possibly significant retardation of the actual social product when compared with its potential at points in time.

The Mesta as a Vertically-Integrated Monopoly

Our characterization of the *Mesta*, as that in the Nugent-Sanchez model (1989), is that of a loosely-integrated cartel. It is

³ This is of course a radical simplification of the modern rent-seeking model (Tullock 1967). See Krueger (1974), and Buchanan, Tollison, and Tullock (1980) for extensions and applications. Expenditures to avoid rent extraction by government regulation may also be considered a legitimate social cost.

elastic in that it must accommodate a variety of market conditions and changing institutions over a centuries-long life. The monopoly characterization and its "elasticity" through time requires explanation. Rents in the form of taxes of various amounts were collected by governments at various levels and in differing amounts throughout the history of the *Mesta*. The enormous tax take plus the (successful) periodic demands for "extraordinary" subsidies from the *Mesta* certainly suggests that prices, at certain times at least, generated super-competitive returns.

The size of the transfers and thus the ability to extract them depended on a number of factors, especially those related to export demand and supply. For example, Carla Rahn Phillips presents convincing evidence that a wide variety of export-demand conditions held between early sixteenth and late seventeenth centuries. In particular the first half of the sixteenth century was characterized by low elasticity of wool-export demand and the extremely successful marketing coalition of merchants in the city of Burgos. Shortly after mid-sixteenth century there was a dramatic decline in export demand due, in large measure, to international competition from the French, English, Portuguese and Flemish producers and merchants, although Spanish merchants maintained firm control over internal demands (Phillips 1982, pp. 791-794). Spanish dominance returned to the export market after 1650, but a relatively "competitive" period of higher export elasticity intervened. The strength of the cartel varied due to such changing conditions. Yet another factor contributing to the monopoly-cartel characterization was that the *Mesta* produced a differentiated high-quality product — the long-staple Merino wool that was favoured by aristocrats and monarchs of importing countries. Such luxury productions, of low demand elasticity both within Spain and internationally, were the natural "monopolies of choice" for rent-seeking aristocracies in emerging nation states. International competition for quality Spanish wool, at least through the mid-to-late sixteenth century, was further lessened by the export prohibition on Merino sheep from Spain. These and many other

factors were critical in determining the strength of the Mesta cartel and the size of the rents available to the government, but a distinction between the static and dynamic functioning of the cartel is equally important to our characterization.

Static Determinants of Mesta Functioning

Rents created by the *Mesta* regulations and sponsoring government interests were determined, at any one time, by the interplay between export demand and export supply. Behind export demand and the supply were a host of factors including the state of international competition, domestic production costs and the full costs of *Mesta* operations. Static rents (in given amounts over some time period) were available to be split between the Spanish Crown through tax collections, "loans," and subsidies from the *Mesta* and monopoly interests within the *Mesta* cartel. The existence of these rents was dependent on the ability of the cartel to restrict output and on the extent of foreign demand for Spanish wool. The actual nature of the rent split at any one time depended upon the relative bargaining power of the Crown and the cartel operators, and upon the temporarily-determined structure of property rights of Crown-*Mesta* interests local interests *vis-à-vis* (towns, monasteries, the local sedentary grazing and agricultural interests). Major marketing centres and exporting cities, such as Burgos in the sixteenth century, also got into the act of rent extraction levying, for example, discriminatory "sack" taxes on wool sold for domestic consumption and that sold to foreigners (Basas Fernández 1961, p. 60).⁴

Policing and upstream enforcement costs also altered the size of the rents. Deadweight social losses, moreover, were produced by the establishment and conduct of the monopoly cartel. In

⁴ Basas Fernandez (1961) fills a gap in Klein's analysis of the Mesta with the provision of details on wool marketing. In Burgos, for example, a number of important commercial innovations (maritime insurance, financing arrangements with sheep owners accompanied wool marketing on a massive scale (1961, pp. 41-42, 55 *et passim*).

addition to deadweight losses, however, the resource costs of developing and maintaining the monopoly through time must be added to the traditional social loss. Inter-temporal institutional rigidities and inefficiencies emerged which clearly changed “rent-seeking” costs to society, as reported in anecdotal historical evidence (Ruiz Martín 1974).

Dynamics of Mesta Functioning

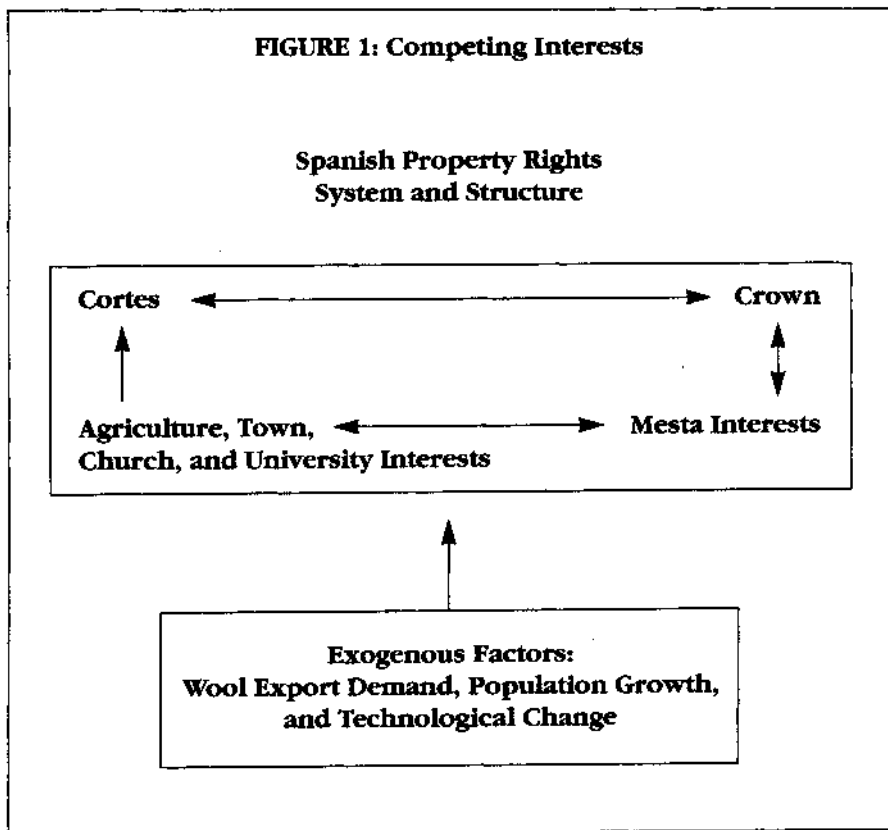
Property rights are not, of course, fixed over time. Shifts take place due to the changing strengths of interest groups at both production and political levels. These shifting production and political influences were able to shift property rights over time in sedentary agriculture and in the transhumant sheep industry. Factors which changed relative demands for the exported wool and the domestically consumed foodstuffs, for example, created new configurations of property rights (and rent-seeking interests) at the basic food production-migratory herding levels. Population changes in the Spanish economy, as well as changing import elasticities in wool importing countries, are examples of such factors.

This highly stylized scenario of cyclical events relating to the *Mesta* may be summarized in Figure 1. In Figure 1, competing interests determine the property-rights system at any given time. At the basic level of conflict are the agricultural interests — desiring stable, secure, and enforceable property rights in sedentary herding and farming — and *Mesta* interests. The *Mesta* found primary (but not exclusive) political representation from the Spanish Crown although, as we shall see, rent division between *Mesta* and Crown interests became a question after the *Mesta* was established. The Crown generally regarded the *Mesta* as a “cash cow” which, in return for secure geographic and other property rights, was a lucrative source of revenues.

The principal, but not the exclusive, political representation of Spanish separatist, decentralized and traditional agricultural interests was the *Cortes* — a legislative body of varying powers and

influence through time. (Regional and local governmental units and ecclesiastical interests were also supporters of sedentary agriculture). The *Cortes* and Court system were, in effect, adjudicatory institutions between Crown-*Mesta* interests, on the one hand, and sedentary agricultural and Church interests on the other (monasteries were also important production units). *Cortes* and court interventions on the part of agricultural — particularly large agricultural — interests were very much in evidence between the XIIIth and XVIIIth centuries.

The point to be made is that it was the relative strengths of these competing interests that vivified and explained property rights shifts and structural economic change in Spain over the period of *Mesta* cartel functioning. At times the Crown could grant



secure property rights to *Mesta* interests, but not at others. At times, the *Cortes* could successfully intervene in the rent-seeking/property-rights granting activities of the Crown and *Mesta*, but not at others. Cycles of prosperity and decline of both sedentary agriculture and the *Mesta* (as well as the fortunes of the Spanish economy itself) are to be ultimately explained within this process. In this “moving equilibrium,” such institutional changes as population growth, degree of urbanization, wool and other exports and their prices, religious repressions, agricultural technology (e.g., crop rotation schemes) and relative power divisions between Crown and *Cortes* combine to explain the distribution of property rights of the moment. Rent-seeking in the granting of property rights at some point in time is only the mode through which productions of all kinds take place. (Whether any given scheme of property rights was “optimal” or not is another question). In the remainder of this paper we focus on aspects of the competitions through which relative property rights were determined and on evidence of the ever-changing nature of the process. As usual, these “competitions” found expression through rent-seeking and political choice.

III. The rent extraction process, circa 1510-1563

In 1474, Ferdinand and Isabella took control of the Castilian economy and, recognizing the languishing revenue-generating possibilities of the cartel, made great strides in consolidating control over the *Mesta*. As a centrally organized Crown cartel, the reign of the Catholic monarchs corresponded to the only real apogee of *Mesta* functioning. Ferdinand and Isabella soon regained possession of the whole of the *servicio y montazgo* tax — the chief source of Crown rent seeking from the *Mesta* organization — and made it again a *derecho real*, a royal tax.⁵ Upstream cheating was

⁵ The *servicio* was a payment made in terms of sheep or cattle that had to be made every time a station (*puerto*) was passed. Five sheep (with all offspring included) had to be left for every 1000 sheep to pass the station. The *montazgo* was a tax that varied with the quality of land through which the sheep passed. These taxes, while nominally fixed, were subject to wide variation depending upon the number of stations set up, the degree of enforcement, side payments, and so on.

severely reduced as was the number of official toll gates at which the tax could be collected. They came down hard on fraudulent collectors. In 1480 the monarchs called the *Cortes* of Toledo demanding repatriation of *juros* (30,000,000 *maravedies*) of lost income from families who had illegally collected sheep taxes. Each town, church, or private individual claiming a right to a split of the *servicio* had to produce evidence of a claim within 90 days. Anyone collecting taxes outside the eleven official toll gates without authorization would be put to death. Under Ferdinand and Isabella, town interests and those of private persons were attacked and suppressed by invoking old and severely restrictive laws and regulations, but there was a very rapid rise in royal income (Klein 1964, p. 274, n. 2) from the *Mesta* cartel.

The reign of Ferdinand and Isabella — who squeezed the cartel with new enforcement devices and with the suppression of agricultural property rights — set the stage for the sixteenth century rent-seeking operations of the Hapsburgs. During the Austrian (Hapsburg) monarchy (1516-1700) and later under the Bourbons, the *Mesta* was even more severely pressed to pay for the world empire Spain was trying to build and for the maladministration of the financing required for such adventures.⁶ (As we will see, the cartel responded defensively to such pressures). Colonies were acquired right and left, with the largest of them, Portugal, annexed in 1580. The Bourbon kings invoked a policy of selling *juros* or annuities to nobles and the Church was based on alienated future Crown revenues on the sheep taxes. Significantly, under the Hapsburgs new toll stations were set up to increase exactions. Sheep “taxes” became less of a *servicio* and more of a direct

⁶ Uncertain property rights entered other royal attempts at rent-seeking. Outright venality in the sale of “patents of nobility” — purchased for tax avoidance and/or distinction — was also a common fiscal device in the sixteenth and seventeenth centuries. In his assessment of the practice in Castile between 1552 and 1700, Thompson (1979) notes the difficulties which the Crown and its agents had in correctly “pricing” the patents. Such patents of nobility were apparently not as lucrative or as socially important as those sold in France or England, but tax exemptions did shift some tax burden from rich to poor. There is actual evidence, moreover, of a significant transferal of rents in the state of Castile.

subsidy to the Crown. (At times over this period, the *Mesta* even turned to the *Cortes* for redress, although the *Cortes* continued to support the *estantes* and to protect the tradition of Spanish separatism).

Under the Hapsburgs, *Mesta* rent payments to the Crown rose in 1538 to more than three times what they were in 1513 as a percentage of *Mesta* revenues (Le Flem 1972, p. 83). In 1518 King Charles demanded a "loan" from the *Mesta* of 3,500,000 *maravedies* and the following year demanded a direct subsidy and confiscated *Mesta* revenue records. Despite protests, the cartel acceded to these demands by invoking extra assessments on the flocks at the collection points on official sheep roads.

Mesta-Crown Rent Division Conflicts: Some Evidence

This simplified historical survey and virtually all anecdotal evidence on the *Mesta* suggests that — at least over many segments of its history — the respective interests of the Crown and the *Mesta* were in serious conflict. *Ceteris paribus*, the higher the rents extracted from the cartel by the Crown for any year, the lower the returns to the central administration of the cartel and to members of the cartel at all levels. The incentive of cartel members and directors would be to "hide" profits in order to avoid future (continuing and extraordinary) demands on its returns. These incentives would have been especially operative under the intense pressure created by the Hapsburgs over the early sixteenth century prior to the increase in international competition in the wool market.

The important statistical work of Jean Paul Le Flem on the budget and accounting records of the *Mesta* between 1510 and 1709 are revealing as regards the rent-seeking process. With data interruptions between 1569-1582 and 1664-1683, the official fortunes of the *Mesta* cartel varied dramatically over the sixteenth and seventeenth centuries. *Mesta* receipts were a function of many variables: strength of the legal enforcement of its interests (especially property-rights enforcement), market power, wool

export demands, and population growth. In general, however, expenses were the “control variables” of the cartel. At times the *Mesta* assumed the role of fiscal agent of the Crown, but at others the cartel was subjected to outright revenue seizures by the Crown. From the beginning of the sixteenth century, new pressures were placed on the *Mesta* in the form of more rigorous enforcement and collection of the *servicio y montazgo*, on the legal status of the *entregador* judges within the *Mesta vis-à-vis* Crown courts (Klein, p. 113), and on the requirements of loans and direct subsidies from the profits of the cartel. A principal means through which the *Mesta* could protect itself from such rent-seeking was to inflate its expenses in response to higher taxes or enforcement and other extractions by the Crown. This could be accomplished (a) within the cartel by bureaucratic expansion of personnel (as in the modern analysis of the bureaucratic process), (b) by shirking and/or self-imposed reductions in productivity or cheating on the part of cartel members, or (c) by “doctoring” the books.

Fortunately Le Flem’s statistical research permits an informal test of the rent-seeking conflict between *Mesta* and Crown. Le Flem provides, in value terms (*maravedíes*), the amount of the *servicio y montazgo* withdrawn by the Crown from the cartel between 1510 and 1562 (le Flem 1974, Appendix 5B, p. 83). While the *servicio y montazgo* was nominally and in part (the *servicio*) a “head tax” on sheep, the Crown’s rent extraction from the *Mesta* would vary with the degree of legal enforcement, with the prevention of shirking, with the number of toll stations, and with extra, direct assessments (“loans and subsidies”) from the *Mesta* treasury.⁷ Indeed, Klein (pp. 227-253) tells of a growing autocracy over the period with attempted Crown dominance over the judicial arm of the *Mesta* and

⁷ The new pressures on the *Mesta* took place in an environment of a ninefold nominal increase in overall royal taxation between 1494 and 1598. Phillips (1979, p. 78) reports that real returns, given a fourfold price increase and other factors, did not begin to rise until about 1575. Our test suggests that the *Mesta* was being taxed more heavily relative to other sources of royal revenue over the period 1510-1562. This may have occurred due to the actual and perceived strength of Spanish export demand for wool over the period.

the legal powers of town officials. Increasingly, moreover, legal uncertainties were built into *Mesta* interests (Klein, p. 235), as Crown agents played town-agriculture interests against the *Mesta* in order to maximize revenues.

If the *Mesta* cartel was attempting to protect itself from new Crown pressures for rents, accounting costs would be inflated in response to higher tax values of the *servicio y montazgo* both contemporaneously and in view of past Crown behaviour. A simple model of such rent division may be expressed in equation [1]:

$$E_t = a_1 + a_2SM_t + a_3SM_{t-1} + \dots + a_nSM_{t-n} + \text{TIME [1]}$$

where E are reported *Mesta* expenses and SM is the *servicio y montazgo*. Since variations in the price level due to the fluctuating importation of gold and other factors were common over this period, we constructed an index of price changes and adjusted both E and SM values for the tests.⁸ In this distributed lag model, the value of a_2 is expected to be positive and, if expenses are adjusted consistently to the levels of past taxation, the coefficients are expected to be of alternating signs. The time trend tests for whether a common trend in the two variables (expenses and *servicio y montazgo*) account for any statistical significance found in the test.

The empirical results of a distributed lag model (up to four periods) with 53 observations fitting data to equation [1] are given in Table 1. Tests for years between 1510 and 1553 using contemporaneous values (Model 1) and lags up to four years (Models 2 through 5) strongly support the hypothesis that rent-seeking conflicts between the *Mesta* and the Crown took the

⁸ A price index, utilizing four commodity prices from the study of Barrassar (1989, pp. 260-268), was constructed for our test. We constructed the index in the following manner: First base prices were constructed for wheat (average 1541-50), barley (1543-46, 1549-50), wine (1541-1550), and lamb (1546-50). Individual indices for these commodities were then calculated and added together with equal weights. Seven missing values (five of them between 1510 and 1517) were estimated and used in the test.

TABLE 1 - Price-adjusted adaptation of Mesta expenses to Crown rent seeking, 1510-1563

Dependent variable: Mesta Expenses, 1510-1563					
Independent Variables	Model 1	Model 2	Model 3	Model 4	Model 5
Intercept	1514320 (6.21)	1138742 (4.08)	1447270 (4.53)	1407922 (3.88)	2047081 (6.73)
SM(t)	1.393109 (5.61)	1.259937 (5.19)	1.213530 (5.10)	1.211927 (5.04)	1.330442 (7.10)
SM(t-1)		0.583454 (2.42)	0.696135 (2.86)	0.703069 (2.84)	0.692447 (3.62)
SM(t-2)			-0.438827 (-1.85)	-0.453681 (-1.83)	-0.573215 (-2.97)
SM(t-3)				0.056589 (0.23)	0.331748 (1.72)
SM(t-4)					-1.022683 (-5.51)
DW	2.117	2.002	2.007	1.962	2.078
R ²	0.4016	0.4692	0.5067	0.5074	0.7116
F	31.544	20.329	15.410	11.329	21.215

Sources: Jean Paul le Flem 1972, Appendix 4B (El Presupuesto de la Mesta), p. 72; Appendix 5B (El Servicio y Montazgo: Importe anual y relacio con el cargo total de la Mesta), p. 83; Bartolome Bennassar 1989, (Precios Anuales entre 1499 y 1600), pp. 260-62.

predicted direction of expense inflation on the part of the cartel.⁹ The coefficient of SM(t) is positive and highly significant at the one percent level in all regressions. Separate regressions were run for each additional year's lag up to four years. The alternating signs of the lagged independent variables in each regression indicates adaptation on the part of the *Mesta's* managers and members to rent-seeking pressures by the King. In Model 5, for example,

⁹ Initial tests of the relation in nominal terms included a time trend and yielded similar results. In these tests, time was highly significant indicating that the trend proxied price effects. When price adjustments are used, moreover, the time trend becomes insignificant. Both tests suggest rather rapid adjustments by *Mesta* officials to changing real rent demands.

steady-state equilibrium indicates that every dollar of tax increase by the Crown inflated *Mesta* expenses by approximately 76 cents.¹⁰ In addition, Durbin-Watson values indicate that no first-order autocorrelation is present in the regressions. A test for Granger causality adds even more strength to these results — taxes and other rent exactions were driving costs and costs were not causing taxes to change. In all, both anecdotal and informal empirical evidence support the fact that a part of the process of *Mesta* operations included rent-seeking conflicts between the authoritarian grantor of special rights (the Crown) and cartel recipients of property rights and other legal advantages.

Rent Seeking Within the Cartel

The elaborate system of controls set up by the *Mesta* and the Crown were required for successful rent-seeking due to the migratory nature of the cartelized product. But these very systems set up opportunities for cheating and malfeasance. The system permitted cartel cheating against the Crown, but it also created ripe situations for rent-seeking on the part of individuals against the cartel. Both internal and external pressures on *Mesta* functioning guided the institutional process. Internal pressures were heightened by cartel managers, regulators, and enforcers such as the *entregadores* and the *alcaldes*. Property rights disputes between local and Crown interests — highlighted in legal procedures and pronouncements — formed the chief external constraints on *Mesta* functioning.

In common with the justices of the peace in England and the cartel-enforcing intendants of Colbert's France, royal rent-seeking in Spain depended upon an effective enforcement mechanism.¹¹ The *entregador* or "travelling judge" held extensive enforcement

¹⁰ In steady-state equilibrium, $SM(t) = SM(t)-1 = SM(t)-2 \dots = SM(t)-n$, so that $dE(t)/dSM = a_2 = a_3 + a_4 + a_5 + a_6 = .76$. This means that the sum of past experience with Crown rent-seeking by pressures and alterations of taxes and exactions was very clearly anticipated and acted upon by *Mesta* managers each year.

¹¹ The similarities between the geographically-dispersed *entregadores* to Colbert's *intendants des provinces*, who were the (in)famous enforcers of French mercantile policies in a geographically-dispersed setting in the seventeenth century are worth

powers over all facets of the sheep industry, including the maintenance of the right of way. In the earliest days of the national *Mesta*, the Crown essentially collected all of the profits of the *entregadores*, who were paid a salary. Later, during the administration of Ferdinand and Isabella, the *Mesta* (from which rents were extracted) received one-third of the share of the proceeds from the total receipts of the *entregadores* — a fact which suggests opportunities for rent-seeking and/or malfeasance on their part.

Incentives clearly mattered for these cartel enforcers. Over some periods, *entregadores* enriched themselves with one-third of the fines they collected for infractions on enclosures of commons property. At other times and in some places they also profited from selling illegal licenses for enclosures (Klein, pp. 93-95) and by legal pronouncements on matters unrelated to the official sheep routes. According to Klein (pp. 104-105), the latter actions enriched *Mesta* members and the *entregadores* by depriving local officials of income sources. Given the rural and decentralized nature of the Spanish economy, such self-interested rent-taking by internal officers of the cartel was understandable. Indeed, there is parallel evidence that French and English cartel enforcers were as opportunistic (Ekelund and Tollison, 1981 pp. 36-42, 94n). In the case of the *entregadores*, however, there is strong evidence that much rent dissipation took place in an expanded "enforcement"

noting. While Colbert — the quintessential mercantile rent-seeker — undoubtedly made inroads into policing and enforcement techniques in industry cartelization and rent-collection techniques, we believe that the official monopolization of shepherding for rent-seeking purposes by the Spanish Crown in the thirteenth century puts the Spanish in the vanguard of these directed and concerted activities in medieval-mercantile Europe. The early functioning of the *Mesta* as a rent-seeking machine for the Crown calls into question the opinion of Smith (1971, p. 2) that "The economic advisers of the first Bourbons [early eighteenth century] were steeped in French mercantilism; and Colbertismo with some minor exceptions, held sway until after the mid-eighteenth century." The argument might provide a partial explanation for the nature and course of Spanish mercantilism, but features of mercantile rent-collecting devices were extant in medieval Spain, centuries before Colbert. Indeed, Colbert might have learned a great deal from observation of the the functions and institutions of the Spanish *Mesta*.

bureaucracy. For example, increased pressures for rents placed on the *Mesta* cartel by the Habsburg monarchs led to tighter enforcement criteria. The costs of the staffs of the *entregadores* purportedly amounted to more than a hundred million *maravedies* in 1587 (Klein, p. 107), a very significant amount for enforcement and integration of the cartel. When profits could not be internalized, *entregadors'* rents were dissipated through expanded staff and high bureaucratic costs.

The *alcaldes* or cartel rule-makers "administrated" entry conditions, output assignments, quality controls, and jurisdiction over stray sheep in the four districts comprising the *Mesta* organization. As in the case of *entregadores*, there was plenty of room for malfeasance by these officials who were elected within the *Mesta* to four-year terms, although hard evidence is difficult to come by. Other than membership dues, the *Mesta's* income was composed of fines from outside violators levied by *entregadores*, sales of stray sheep, fines of members, and at times, investments. In this regard, the *alcaldes* farmed out rights to collect fines, in common with the French mercantile practice of tax farming. But the practice was a clear opportunity to abuse and internal rent seeking as was the right of *alcaldes* to dispose of the stray sheep. In the latter role, the *alcaldes* often overstepped their authority by attempting to supercede the rights of towns over the strays. Further, Klein reports (p. 55) that appellate actions were allowed in the *Mesta* for members' complaints against *alcalde* decisions illustrating their attempts at self-aggrandizement. Part of these costs contributed to the expense inflation of the cartel and part of the rents were dissipated in cheating, unproductive cartel labour, and side payments.

IV. Rent-seeking and property rights alterations

Nugent and Sanchez (1989) properly note, in their general parable of the *Mesta*, that property rights were the key element in the institution's success. But jurisdictions were uncertain. The relative and fluctuating power of the Crown vis-à-vis local towns

and nobles determined both the site of jurisdictions and the probability of secure property rights. The *Mesta* stood between and "tested" these conflicting interests. Within this nexus of judicial decisions the *Mesta* stood to gain from the establishment of an effective lobby to support and enforce the integration of the organization. Lawyers and aids to *Mesta* interests were always on call at respective courts to attempt to attain the cartel's goals. Other legal functionaries obtained long-term leases for pasturage through effective collective bargaining (Klein, p. 56).

As Nugent and Sanchez emphasize, however, secure property rights were required to avoid enclosures so that sheep could migrate unhampered. We note, further, that internecine struggles between competing interests coupled with illusory logic was often used to support property-rights establishment so that rent-seeking could proceed. An example of the latter was the strong and convenient arguments that *Mesta* officials used against intemperance. It so happened that enclosures of vineyards were an obstacle to the shepherders' grazing areas (Klein, p. 97).

As striking were disputes between towns, nobles, the Church and the universities. Excommunications — threatened or actual — were often used in competing struggles over property rights between the *Mesta* and church and university jurisdictions. For example, the Church was subdued by the Royal Council in 1540 causing the archbishop of Toledo to withdraw excommunication of an *entregador* who had allowed encroachment on Church lands. Further, the universities used ecclesiastical judges as instruments in their challenges to the *Mesta*'s jurisdiction in the seventeenth century by threatening to have excommunicated any *entregador* who opposed them. The gradual loss of power of the *entregadores* after the 1640s removed some of their impact in jurisdictional disputes.

Property rights favouring migratory interests (as opposed to the local grazing and sedentary agricultural interests) which were necessary for successful capture of cartel rents could not have been optimal over the entire period of *Mesta* functioning. Observers such as Ruiz Martín have clearly emphasized the emergence of the

ganadería estantes-agricultural interests (especially) between 1527 and 1602 (1974, pp. 276-284) as effective counterpoints to the *Mesta* interests (*serranos transhumantes*) in property-rights conflicts. The *Cortes*, moreover, acted with increasing frequency and success in battles against the Crown-sponsored *entregadores*' attempts to trespass on and tax agricultural interests (Klein, p. 113). These observations strongly suggest that shifting property rights between agricultural and pastoral interests characterized the sixteenth and seventeenth centuries. Further, they clearly reveal that property rights assignments and divisions were complex and variable.

The success of the *Mesta* in terms of revenues or profits was partly a function of the Crown's willingness to suppress the property-rights interests of the towns and sedentary agriculture and partly the result of the efficiency of the central organization of the cartel (including upstream enforcement costs, monitoring of officials, and so on). Nugent and Sanchez (1989) and a host of Spanish historians provide ample evidence that this was the case at specific points in time. The Crown's rents in the form of taxes and special levies were, of course, the *quid pro quo* for the franchise. But over the long run, property rights divisions between migrant pastoral and agricultural interests were a function of changing exogenous variables as well. In particular, Spanish wool export demand and indigenous population were critical factors in the *Mesta*'s ability to successfully generate rents. As export demand fell off sharply in 1550 (Phillips 1982, p. 778) for over a century (only to rise again a century later), that ability suffered. Further, Spanish population growth quickened dramatically over the sixteenth century. Nadal (1986, pp. 74-75) estimates the increase in total population to have been from 4,698 million in 1530 to 6,632 million in 1591 or a compounded growth of 57 percent. Increases of this magnitude clearly put significant pressure on agricultural production. Emerging rents on existing agricultural lands led to an ability of the town-agricultural-sedentary herding interests to successfully compete against the *Mesta* for property rights of fertile land at the margin also giving encouragement to enclosures. The

roturaciones movement — which encompassed better agricultural technology — was also a part of these developments.

Direct and indirect evidence from the eighteenth and nineteenth centuries illustrates the continuing property-rights pressures between *Mesta* and agricultural interests. The growth of population in the last half of the eighteenth century put more pressure on agricultural products because of inefficient allocation of resources brought on by the *Mesta*. “Enlightened” ministers such as Jovellanos and Campomanes helped to ameliorate the misallocations in favour of agriculture in free-trade movements (Anes 1981; Garcia Martín and Sánchez Benito 1986). Some property rights regulations, instituted in earlier periods, were destined to become inefficient (and ignored if possible) over time. The ‘institution of possession’, which fixed the price of pasture rents (until it was essentially abolished by Campomanes), was an impediment to the free movement of resources from pastoral to agricultural interests made more profitable through cyclical population growth. The concept, in effect since 1501, did not take dynamic demand elements into account which would have, at times of high population growth, favoured agriculture (Laguna Sanz 1986, p. 81; Garcia Martín 1988). The infamous “food riots” in 1766 were, in part, a manifestation of misallocations in favour of the *Mesta* and against agricultural food production to provide subsistence to the masses.¹² Some methods by “progressives” in Spanish government to improve *Mesta* efficiency, such as the attempted elimination of payments to bounty hunters, backfired.¹³

In order to successfully collect rents, the Crown had to skew

¹² There is evidence that internal restrictions on the grain trade, lifted by the “decretos” of 1765, were a cause of the riots in Madrid and elsewhere (Rodríguez 1973a). Government involvement in grain storage and credit facilities for farmers were also important elements in the protests (Rodríguez 1973b; Anes 1981).

¹³ Campomanes, who generally sought to improve the efficiency of the *Mesta vis-à-vis* agricultural interests, prematurely terminated payments to bounty hunters of wolves and to other predation control personnel. Marin Barriguete reports that the results of this action in 1781 were a disastrous increase in the number of wolves and unanticipated losses in transhumance and in the animal industry (Marin Barriguete 1990, p. 101).

property rights or adapt enforcement in the direction of economically successful interests based on ultimate exogenous forces such as wool export demand and population. Opposing exogenous forces — apart from the ability of the cartel to generate rents through organizational monopoly — made the long-term assignment of property rights to *Mesta* interests impossible. In this context, the valuable research of Nugent and Sanchez is correct at any single point in time. But a “zoning authority” could not permanently assign property rights in the face of growing implicit and rising actual rents in agriculture. Attempts to do so would create non-optimal adjustments to constantly altered exogenous conditions. Such adjustments would ultimately be achieved but at higher costs to society than if more fluid property-rights systems were in place. The central point here is that widely varying rent-seeking pressures on coercive authorities were the means through which property-rights alterations were made in the Spanish economy, as this paper has theorized. Informal evidence that rent-seeking took place within the *Mesta*-Crown nexus is provided only for a short period of the institution’s functioning. Obviously more extensive research, using other periods, would be desirable.

V. Conclusions

The character of Crown rent-seeking was significantly different in Spain than it was in England or France. Early constitutional, legal, and Parliamentary checks on monarchical taxation and “franchising” developed in England, but not in France or Spain. The medieval-mercantile Spanish economy, in addition, was less integrated than in France with a much more powerful tradition of regional and local interests. Rent-seeking in a pastoral economy with a moveable product was a costlier operation than the same activity in a “controlled” urban environment wherein playing-cards or tapestry manufacture was more easily monopolized.

The Spanish environment was clearly different, but we have argued that significant rent-seeking took place nonetheless through the shepherders guild or *Mesta*. A key issue, as Nugent and

Sanchez recognize, relates to the impact of the *Mesta* on property rights and the impact of altered property rights on agrarian developments. These writers argue, in contrast to some historians and economic historians who see *Mesta* development as fatally injurious to agriculture, population growth and Spanish economic development, that the Crown acted as a large scale "zoning commissioner" efficiently allocating property rights in a world where fencing was too costly. In this world, the value of the most valued product — Merino wool — is maximized through the rent-seeking activities of the King and Crown interests, i.e., by allocating property rights to high-bidding shepherders against low-bidding sedentary agricultural interests. Our basic analysis of rent-seeking activities through the *Mesta* dovetails with this argument and even strengthens it. Indeed, since the high quality of Merino wool required sheep mobility, the necessity for secure rights to sheep routes was even more acute. (Quality-enhancement and rent-seeking hypotheses relating to the establishment and operation of the *Mesta* are not incompatible).

While we certainly agree that property rights appear to develop (however slowly) in the direction of economic efficiency, we would emphasize that there are important differences between static efficiency criteria and the more illusory "dynamic efficiency." Nugent and Sanchez appear to argue (1989) that efficiency followed once property rights were secured by the *Mesta* through Crown interventions. All rent transfers may then be regarded as taxing "unearned increment" *à la* Henry George's single tax. Our exploratory investigation raises two potentially important problems with this line of reasoning however. Clearly, property rights over the long period of *Mesta* functioning were most uncertain for both *Mesta* and local farming and sedentary interests. Security for either of these two interests depended upon the relative power of the Crown versus the *Cortes* and regional powers. When the relative strengths of these interests shifted due to changes in such factors as wool-export demand and population, so did the security and, in some cases, the existence of property rights. Agricultural

productivity and the rents generated by the *Mesta* would be expected to vary with the existence and relative security of property rights to the two parties. But property rights had even more ultimate determinants which must be included in any cogent explanation of economic development.

A second point pertains to the losses from monopolization by the *Mesta* and the rent transfers to the Crown. In addition to "deadweight" losses from monopoly, the Spanish economy lost resources — perhaps in significant amounts — from competitions to obtain property rights and the monopoly franchise. Internecine struggles between national *Mesta* and local interests, between Crown and *Mesta* administrations, between religious, feudal, and university interests clearly dissipated resources in the Spanish medieval-mercantile economy.

An important question concerning economic development is whether nationalization of the sheep industry enhanced Spanish aggregate national product over other possible arrangements. The uncertainty brought on by the relatively large number of competing interests and the consequent intermittent abrogation of property rights to the combatants would not have produced secure grounds for investment over time. In addition, rent extraction by the Crown to finance global adventures and wars put severe pressures on the Spanish economy, pressures that exacerbated the "investment problem." If profits are both a necessary payment and a necessary receipt to obtain efficient resource allocation, such rent seeking by the Crown must, at times, have had a chilling effect on economic investments of both *Mesta* and agricultural interests. At bottom, efficient governmental institutions and economic development requires a basic similarity in the constituent parts of an economy in terms of religion, culture, race, mores, and goals, as well as constitutional checks on taxation and Crown authority.

Arguably, the pre-conditions for technically-based innovations and industrial development existed in England and the Netherlands and to a lesser extent in France between the fifteenth and seventeenth centuries. In Spain, however, the feudal character of

the economy was far more entrenched and lasted much longer. The transitional legal, political and economic forms were as complex as a pointillist painting. Regulation of the sheep industry and intermittent rent extraction by the Crown is but a reflection of the underlying nature of the diffused feudal economy and the many competing interests of medieval-mercantile Spain. An interest group-rent seeking perspective may help to improve our understanding of some of these institutions and how they changed over critical phases of Spanish history.

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