

**A Sheep in a Wolf's Skin?
The Spanish Mesta in the Medieval and Early Modern Periods***

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Abstract:

The Mesta was the national association of the migratory shepherds of Castile, controlling fine wool production between the thirteenth and the nineteenth centuries. Its royally granted privileges, which included rights of passage and rent controls for its pastures, have been blamed for the stagnation of Spanish agricultural productivity during the Early Modern period. I argue that the Mesta privileges allowed Medieval Castile to develop its comparative advantage in wool, and that the Crown was able to restrict their scope and application when economic conditions favored farming interest. I support my argument with a new series of wool prices for the second half of the sixteenth century, and with a detailed analysis of the appellate lawsuits to which the Mesta was a part during its life.

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1. Introduction

The idea that institutions are deeply related to economic growth is as old as economics itself (appearing conspicuously in Adam Smith's *The Wealth of Nations*, for example) and the recent empirical literature has increasingly focused on institutions as the most important determinant of differences in economic performance across countries (Hall and Jones 1999, Acemoglu et al. 2001, Rodrik et al. 2004). More subtle is the argument that seemingly inefficient institutions might actually improve economic efficiency if other distortions are present.¹ This insight follows directly from the theory of the second-best, which states that in the presence of two or more distortions removing one of them will not necessarily improve economic efficiency, and might well reduce it.²

The second-best approach to the effect of institutions on economic efficiency is particularly relevant in the Medieval and Early Modern worlds, when the geographical, political and technological constraints faced by feudal units and fledgling nation states posed formidable challenges to the implementation of arrangements that would have guaranteed secure property rights and reduced transaction costs. Markets, for example, are usually ranked among the most important institutions in fostering economic development; yet an efficient market in land, the most important category of property, was nothing less than a chimera in most nations before the nineteenth century, and hence institutions that would otherwise hinder the functioning of efficient markets might have actually improved the allocation of land resources in their absence. Along similar lines, Epstein (2000) and Richardson (2004) argue that Medieval merchant and

¹ I define a “seemingly inefficient institution” as one whose first order effect on an otherwise efficient economy is negative.

² Rodrik (2004) argues along these lines against the “do as much as you can, as quickly as you can” approach to implementing Washington Consensus policies in the developing world.

craft guilds, traditionally labeled as distortionary monopolies, are better characterized as cooperative institutions with the primary function of organizing economic activity and ensuring the preservation and transmission of knowledge.

The experience of Early Modern Spain has many times been cast in the light of institutional analysis, and its failure to keep up with the European economic leaders blamed on a flawed array of growth-stifling institutions including the nobility, the Catholic Church and the trade guilds. None of them, however, quite rises to the status of the Mesta, the national association of migratory shepherds, as the favorite whipping boy of those seeking a culprit for the protracted stagnation of the Spanish economy. Since the Mesta's sixteenth century indictment by liberal reformers, the rights of passage granted to migratory sheepherding have been blamed for preventing the development of an enclosure movement and thus forestalling agrarian productivity growth; the rental privileges that guaranteed the access of flocks to winter pastures were accused of introducing distortions in land markets; and even the export focus of Spanish fine wool was singled out as one of the main reasons for the failure of the country to industrialize. The recent Spanish historiography has rehabilitated the Mesta to a large extent, and the case that the complex institutional arrangements underpinning it might have served an allocative purpose has been put forward by Nugent and Sanchez (1989); very little evidence, however, has been offered regarding the specific mechanisms through which the intricate choreography of shepherds, itinerant judges, towns, landowners, courts and the Crown itself, might have enacted better economic outcomes than those that would have resulted without a national organization of shepherds.

This paper contends that the privileges accorded to the Mesta enabled Medieval Castile to realize its comparative advantage in fine wool; in the absence of efficient land markets and in view of

the logistic problems posed by the long migrations, rights of passage and rent control allowed the optimal economic activity of migratory shepherding to flourish in what would have otherwise been a hostile environment. I then focus on the period between 1550 and 1630, in which demand for Mesta wool declined abruptly for largely exogenous reasons, and show that, as the comparative advantage of Mesta products fell, the courts increasingly restricted its privileges, allowing agricultural and municipal interests to take over the resources once reserved for migratory shepherds. I present new archival evidence on fine wool prices in the second half of the sixteenth century, thus extending the available series for over 40 years into the past, and use it as an indicator of the market conditions for Spanish wool. I also construct a time series of appellate lawsuits to which the Mesta was a part in the Royal Chancery Court of Valladolid, and discuss how they can be interpreted as an indicator of privilege enforcement. While the evidence presented here cannot elucidate the question of whether the Mesta was the most efficient feasible institutional arrangement to solve the allocative problems faced by Medieval and Early Modern Spain, it does show that its presence did not impede factors of production from flowing to the sectors where they were most productive.

2. The Mesta and its privileges.

Migratory shepherding, also known as transhumance, has been practiced in most of Europe since at least Roman times; its guiding principle is to keep the flocks exposed to mild temperatures throughout the year for optimal health and wool quality, which entails their spending the summers in the highlands and moving to lower altitude pastures for the winters. In most places where transhumance exists sheep are on the move for just a few days; Spain is unique in that its sheepwalks extend for up to 800 kilometers, posing formidable logistic and political challenges.

The battle of Las Navas de Tolosa in 1212 marked the turning point in the Christian *Reconquista* of Arab Spain, annihilating the military machine of the Almohad empire and opening Andalusia to Christian settlement. The Castilian kings moved in with their armies but, in what amounted to a veritable frontier movement, struggled to repopulate their new dominions.³ Transhumance could thrive in this politically unstable and largely unpopulated landscape. The migratory flocks helped the Castilian monarchs to establish a visible presence in their new territories; they represented the efficient economic activity in light of the relative abundance of land; and they could quickly remove to their highland bases if the military situation turned volatile.

Migratory shepherds pushing south soon encountered two distinct hold up problems. First, migrating over longer distances required more rest, feeding and watering stops, while the lengthening sheepwalks had to cross more bridges and mountain passes; towns along the way had strong incentives to act as hold-ups, each trying to extract taxes, tolls, and charges for accessing common resources from each passing flock. Second, the owners of winter pastures were in a favorable position to seek an ex-post renegotiation of the rental contracts of migratory shepherds. The Crown had divided the new lands among those who had helped in their conquest, giving rise to large estates in the hands of nobles, monasteries, and military orders. Once shepherds arrived at their intended destination, the landowners could easily demand additional payments, knowing that it would have been very costly for the shepherd to seek an alternative pasture; the flocks would have been exhausted from the southward trek, the nearest alternative might be days down the road, and there would be no guarantee of its availability.

The Honorable Council of the Mesta emerged sometime in the thirteenth century as an organized body representing the interests of the northern Castilian migratory shepherds. To address the

³ See Bishko (1963) for an economic interpretation of the *Reconquista* as frontier movement.

hold up problems faced by its members, the Mesta negotiated directly with the Monarchy, offering tax revenue in exchange for two broadly defined sets of privileges. The first one guaranteed free passage through clearly marked “royal sheepwalks” and the use of certain commons belonging to towns along those routes. The second, eventually consolidated with the emergence of the right of “posesión” in the sixteenth century, consisted of several forms of rent control that guaranteed a shepherd continuing access to the pastures at stable prices.⁴ The enforcement of the privileges was removed from the jurisdiction of local justices and placed in the hands of itinerant royal judges, the *jueces* or *alcaldes entregadores*. The arrangement enabled the rapid expansion of transhumant shepherding, an activity in which Spain held a clear comparative advantage throughout the Middle Ages, while the Crown obtained a fresh tax revenue stream and reaped the political benefits of a stronger presence in southern lands.

The traditional view of the Mesta as one of the main retardants of Spanish economic development contended that its privileges were the result of its own opportunistic rent-seeking behavior coupled with the Crown’s appetite for revenue at any cost. While the privileges might have actually been optimal for the economic conditions of Medieval Castile, the argument goes, their persistence well into the eighteenth century was at odds with the changed economic reality, preventing enclosures, reducing agricultural productivity, and generally impeding the development of efficient property rights. Such views were born of the political climate of the second half of the eighteenth century, when liberal reformers made the abolition of the Mesta the

⁴ This summary description by no means does justice to the enormous body of privileges accumulated by the Mesta over its life, nor to the excruciating detail contained in each of them. Privileges granting access to town commons, for example, specified the number of days flocks were allowed to stay in them, which sections of a commons they were allowed into, how much wood a shepherd was allowed to cut from local trees, which watering places the flocks were allowed to use, and so on. Throughout them, pains were taken to protect local interests as much as possible while guaranteeing the logistic support for transhumance. The definitive collection of Mesta privileges remains Díez Navarro (1731). For an excellent survey and analysis of the privileges through time, see García Sanz (1998).

main goal and acid test of their program, which nonetheless failed to take root until the 1830s.⁵ By focusing a literal interpretation of Mesta privileges, the economic history literature of the twentieth century picked up a version of the liberal reformer's portrait of the institution; thus Julius Klein, in the first scholarly study of the Mesta, sentenced that the privilege of *posesión* was "one of the larger roots of the evil growth which strangled not only the agrarian life of Castile but also the political morale of the country" (Klein 1920, p. 326); Vicens Vives (1969, p. 304), in his classic manual of Spanish economic history, comments that "instead of waiting for a few years until the development of agriculture would bear fruit, the monarchs chose to follow the easy path of their predecessors and collect money on something as tangible and easily taxable as sheep" ; Elliot (1968, p. 119) writes that "the favouring of sheep-farming at the expense of tillage can only appear as a willful sacrifice of Castile's long-term requirements to considerations of immediate convenience"; and North and Thomas (1973, p. 130) conclude that "the decrees favoring the Mesta effectively thwarted the development of efficient property rights on land."

In the more than eight decades since the publication of Klein's book, Spanish historiography has thoroughly redefined our understanding of the composition of the Mesta, the origin and scope of its privileges, and the level of enforcement that the relevant authorities accorded them. Bishko (1963) and Pastor de Togneri (1970) shed light on the origins of the Mesta in the context of the frontier movement of the twelfth and thirteenth centuries, highlighting the contribution of royal protection to the opening of southern pastures and the prominence of large flock owners in the original organization. García Sanz (1998) presents a fresh view of the evolution of royal

⁵ The original public indictment against the Mesta was the report on the proposed reform of agrarian law written in 1793 by Gaspar Melchor de Jovellanos, perhaps the most influential political writer of his time, and on which many of the original scholarly studies of the Mesta drew upon. In it he denounced "the monstrous, unfair and exorbitant privileges of migratory shepherding," the Mesta "an offense in the eyes of society," and demanded its prompt abolition . He nonetheless recognized the value of royal sheepwalks, recommending that they be preserved under royal tutelage. (Jovellanos 1795, pp. 41-50).

privileges throughout the life of the Mesta, showing that none of them were absolute in their scope or applicability. Both the letter of the law and, more often, the way it was applied, reflected a concern for balancing the needs of agricultural interests with transhumant and sedentary sheepherding. The right of *posesión*, for example, often extended to the sedentary flock owners as well, which could not be outbid or evicted by Mesta members.⁶ Nor was *posesión* a hard and fast rule; Marín (1998) documents how the courts interpreted the privilege in vastly different ways throughout the sixteenth and seventeenth centuries, many times devolving grazing ranges to agricultural interests in open contradiction with royal “law.”

As the straightforward view of the Mesta and the Crown as a symbiotic rent-seeking duo gave way to a much more complex picture, the lack of a theory that could explain the rationale for the institutional arrangements governing the allocation of land and the relationship between agriculture and husbandry also became evident. In an attempt to fill this void, Nugent and Sanchez (1989) suggested that, in the presence of externalities created by the high cost of building fences, the Crown might well have acted as a central planner, allocating property rights by decree to achieve an efficient distribution of resources and taxing away any surplus rents created in the process. In the absence of efficient markets in land and lacking a device to prevent sheep from straying into agricultural plots, the argument goes, the privileges granted to the Mesta helped to implement a second best allocation. Ekelund et al. (1997) have further noted that any theory of the Mesta’s contribution to Spanish economic development must incorporate the role of the towns and the courts as independent rent-seeking agents.

The idea that the Mesta was part of a complex mechanism of property rights’ allocation that exhibited at least some desirable features in terms of efficiency has been latent in the

⁶ García Sanz (1998), p. 82.

historiographical literature in more or less explicit form, emerging in discussions ranging from the flexibility of the apparently rigid legal framework to the ecological virtues of transhumance within the Iberian geography.⁷ Nugent and Sanchez's formulation has the virtue of being quite explicit and specific, but it lacks a direct empirical test and relies on the debatable assumptions that it was costly to exclude animals from entering specific plots, and that most plots would have been small enough for exclusion to be a concern.

By the very nature of second-best arguments, it would be possible to build many frameworks in which, given some form of market failure, an externally introduced distortion raises the level of efficiency. As an example, and in line with the suggestion of Ekelund et al. (1997), one could envision a lobbying framework à la Grossman and Helpman (1994), in which both towns and Mesta offered payments to the Crown in exchange for property rights protection. The evolution of their relative contributive capacities through time would determine the level of property rights enforcement; if contributive capacity were related to the marginal productivity of land in the hands of each player, the eventual allocation, while wasteful from a first-best perspective, would still reflect a measure of efficiency. These type of theoretical exercise, however, seems moot without establishing first that the evolution of property rights over time did in fact respond to, or at least move in a direction consistent with, the efficient allocation of resources. The remainder of the paper seeks to provide such evidence for the second half of the sixteenth century, a period in which, owing to the decline in international demand for fine wool and increasing population pressure in Castile, the friction between shepherding and agricultural interests was most intense.

⁷ On the adaptability of migratory shepherding to the Iberian landscape see Cabo Alonso (1998).

3. Wool prices in the second half of the sixteenth century.

One of the main hurdles in studying the decline of the wool industry in the sixteenth century is the dearth of price data for any type of Spanish wool or woolen products, either in Spain or in its export markets. Phillips and Phillips (1997) have collected the few available series of early modern wool prices in Spain and abroad; while from 1600 on some reasonably continuous series of varying quality exist, only a few scattered observations are available for the sixteenth century. This section presents a new series collected from the account books of the Hospital de la Misericordia in Seville covering the period 1568 – 1603, and discusses its usefulness to assess the evolution of the market for Spanish wool.

Among its many functions to which the modern meaning of “hospital” does not do justice, the Misericordia was charged with providing the trousseaus religious women were given during the Holy Week of the year they took their first vows.⁸ In order to assemble an average of 120 trousseaus per year, the hospital purchased large quantities of fine unwashed wool during the summer of the previous year (after the late spring shearing was over), paid for its washing and processing, and had it confectioned into clothing items to be delivered the following spring. The quantity and price of each wool purchase was duly recorded in the account books by the *mayordomo*; many times, the name of the merchant from whom the wool was purchased was recorded as well. Table 1 reports the yearly quantities purchased by the hospital in arrobas (1 arroba = 11.502 kilograms) as well as the average yearly unit prices, constructed by weighting the unit prices of each transaction by the quantities purchased. The account books from three

⁸ A word now superseded by the times, the trousseau was a collection of fine linens and personal clothing items a bride took into her matrimony. Religious women, as brides of God, were given trousseaus containing fine clothing, blankets, mantelpieces and curtains to take with them into their new convent life.

years are missing (1567, 1570 and 1575), and in 1601 and 1602 the hospital purchased wool already washed and bleached, whose prices are not comparable to the rest of the series.

Table 1: Wool prices and quantities purchased by the Hospital de la Misericordia in Seville, 1558-1604

Year	Quantity (arrobas)	Unit price (maravedies)	Year	Quantity (arrobas)	Unit price (maravedies)
1558	626.0	193.87	1582	92.5	288.99
1559	522.5	238.00	1583	729.5	255.00
1560	615.0	248.69	1584	748.0	263.50
1561	743.5	303.75	1585	940.0	289.00
1562	621.3	331.85	1586	946.5	336.00
1563	889.5	308.77	1587	843.5	311.48
1564	752.8	376.48	1588	792.5	318.00
1565	848.0	413.48	1589	672.5	260.56
1566	1200.0	394.30	1590	1449.5	225.33
1567			1591	567.5	255.00
1568	1008.0	254.99	1592	896.0	273.06
1569	876.5	276.00	1593	1328.5	263.23
1570			1594	631.0	263.49
1571	318.0	300.92	1595	741.0	289.00
1572	714.4	363.98	1596	877.0	306.00
1573	636.5	376.37	1597	400.0	327.13
1574			1598	612.0	310.00
1575	694.0	400.90	1599	934.0	297.66
1576	1042.5	335.28	1600	510.0	297.50
1577	1191.0	268.49	1601		
1578	376.5	289.00	1602		
1579	715.5	280.49	1603	414.0	366.00
1580	783.3	321.39	1604	392.3	374.00
1581	906.5	316.33			

Source: Archivo de la Diputación Provincial de Sevilla, *Misericordia*, Libros 108 – 114

The data from the Hospital de la Misericordia have several desirable properties. The prices are for unwashed wool, as it was shorn from the sheep, guaranteeing that no processing costs have crept into the series.⁹ The average transaction was large (a little over 200 arrobas, or 2,300 kilograms), reducing the impact of intermediation costs. Wool was purchased from many different merchants who had little or no repeat business over time, reducing the possibility of

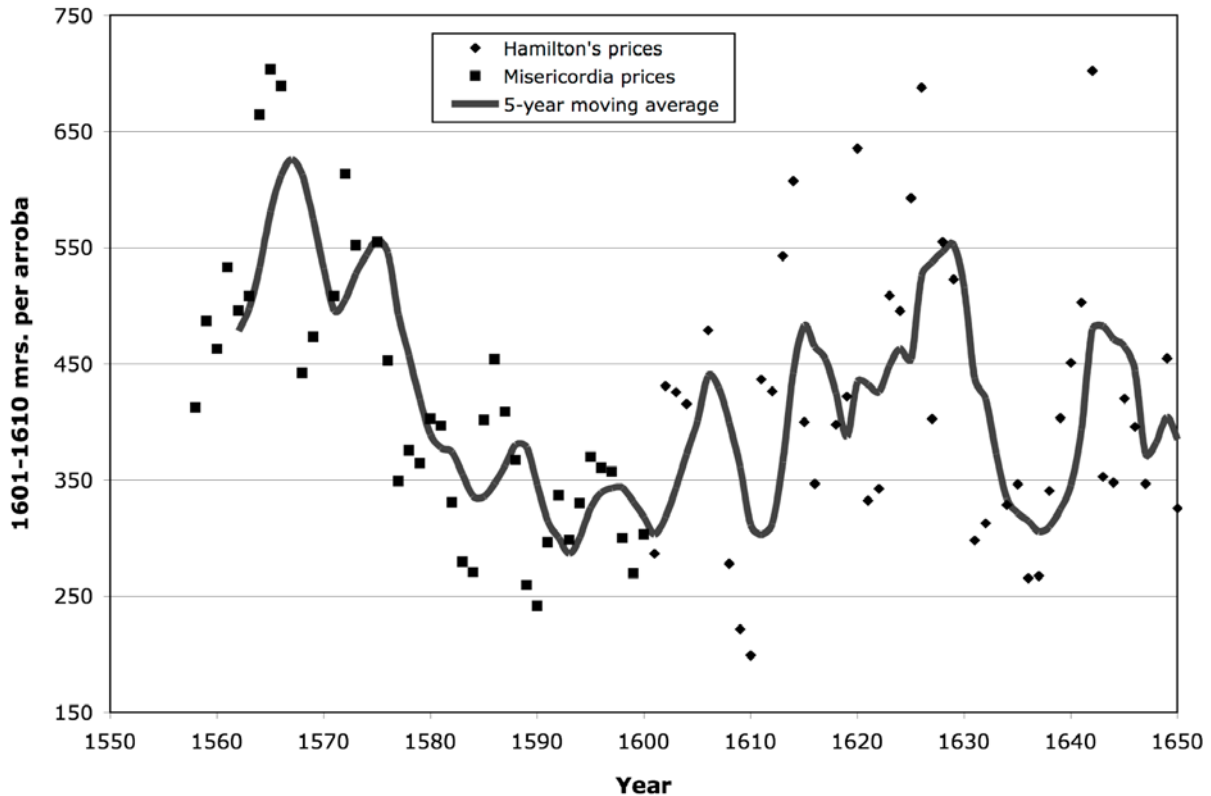
⁹ Wool exports were also sold unwashed, as leaving the grease on the fibers contributed to preserving the qualities of the wool until it could be processed.

corruption. All transactions were grouped in the same period every year, eliminating seasonality concerns. While the origin and quality of the wool is not reported in the books, its use in confectioning fine clothing (suitable for the ‘wedding’ of the well-to-do women taking up monastic vows) required that its quality be fairly high; and since it was purchased for the exact same purpose every year, it is also likely that the quality did not vary much over time. Even if this particular wool did not come from transhumant flocks, it would have had to be a close substitute, at the very least from sedentary merino flocks. Its price would have fluctuated closely with that of export varieties, particularly in times of depressed international demand.

Since the *Misericordia* books come to an end in 1604, carrying the analysis onto the seventeenth century requires splicing the series to one of the existing data sources. The leading candidate is the Andalusian wool price series reported in Hamilton (1934), also derived from hospital sources in Seville. Hamilton’s series, however, presents several problems. Its yearly prices are a simple average of the first three transactions he found for each quarter (a total 12 observations per year) across a range of institutions, without adjusting for the quantity purchased and without any attempt to discriminate across wool qualities. This introduces, first, an element of seasonality; presumably the summer purchases would have been much larger than those in other seasons, and hence the yearly prices reported, being a simple average, would show an abnormally large influence from off-season observations. Second, if the first three purchases in different quarters or different years happened to come from different institutions, there is no guarantee that they would refer to the same wool qualities. Finally, Hamilton did not report whether his prices were from washed wool, unwashed wool, or both; since at the *Misericordia* wool was purchased in both forms (with washed wool purchases concentrated late in the year), it is quite likely that Hamilton’s prices are contaminated by some washed wool quotes.

The squares in Figure 1 represent the Misericordia prices, while the diamonds are Hamilton's series; the latter is clearly more volatile, quite possibly as a consequence of the problems discussed above. Since Hamilton's data start in 1601 the two sources overlap for just two data points, making it impossible to check the consistency of the spliced series. While the levels at the splicing point are remarkably similar, the results must nonetheless be used with a measure of caution.

Figure 1: Wool prices in Seville, 1558 – 1650, in constant 1601-1610 maravedíes.



Sources: Table 1; Hamilton (1934) appendix V; Drelichman (2005).

Figure 1 presents the spliced series deflated by my own index of Andalusian traded goods prices, together with a 5-year moving average trend. The choice of the deflator permits to interpret of the series as a measure of the comparative advantage of wool relative to other traded products. Deflating the series by an index of traded goods also isolates it from the “Dutch Disease” effect

Spain was experiencing as a consequence of the remittances of American treasure; since Dutch Disease implies a rise in the relative price of non-traded goods, not controlling for it would result in a larger observed fall of the price of traded goods such as wool, biasing the results downwards (and in favor of my argument).¹⁰

The Misericordia prices bring new meaning to the decline in the fine wool industry in the late sixteenth century, so far described only through the exports of individual ports (Bilbao, 2003), the records of maritime insurers (Phillips and Phillips, 1997) or animal head counts for tax purposes (Le Flem, 1972). Wool prices fell by roughly 50% in real terms between 1565 and 1590, and, if Hamilton's data are to be trusted, did not recover until the 1620s.

¹⁰ A discussion of Dutch Disease in sixteenth century Spain, as well as my indices of traded and non-traded goods prices for several Spanish regions, can be found in Drelichman (2005a).

4. A measure of the enforcement of Mesta privileges.

The solution to the hold up problems faced by the Mesta included the creation of a new category of itinerant royal judges, the *entregadores*, who, starting in the late thirteenth century, were given exclusive jurisdiction over any civil complaint related to the activities of the Mesta and its members. Local justices and their bias towards agricultural interests were hence removed from the adjudication of disputes and, in principle, both shepherds and farmers were guaranteed a fair mechanism to resolve their complaints. This special jurisdiction grew more complicated over time, as the Crown sold the office of chief itinerant judge (*alcalde mayor entregador*) to a noble family and with it the power to appoint itinerant judges to hear certain types of disputes, such as examining the boundaries of sheepwalks; the Mesta eventually bought the office in 1568. The Crown, however, continued to appoint itinerant judges with broad competencies over most disputes. The power of *entregadores* to hear different types of complaints fluctuated over the life of the Mesta and was greatly reduced from the mid-seventeenth century on; throughout most of their existence, however, *entregadores* were entitled to keep a portion of the fines they levied (at different rates for different violations of Mesta privileges), creating incentives for them to rule against farmers and towns, and making it reasonable to assume that most of their decisions were favorable to members of the Mesta.¹¹

The rulings of *entregadores* could be appealed to the two Royal Chancery Courts, which sat in Valladolid and Granada and had jurisdiction over the Castilian territories north and south of the river Tagus respectively. The Courts had ample discretion in their rulings; they did not have to justify their decisions and, in many cases, they openly went against established law or privilege

¹¹ The standard account of the origins and evolution of the *entregadores* remains Klein (1920), pp. 67-85. Marín (1987) surveys the lawsuits heard by *entregadores* in the sixteenth and seventeenth centuries in minute detail.

when they felt that “justice” required it. Since they did not have direct financial or political interests in the outcome of the cases, the Chancery courts provide a good gauge for Royal support of Mesta privileges.

Using litigation records requires first assessing the holdings of the relevant archives to determine how complete they are and, in the case of significant missing data, how representative the remaining material might be. The records of the Granada court were not centralized in an archive until three decades after its closure in the 1830s, resulting in serious losses of material; the holdings of the present-day archive are furthermore poorly described, making it impossible to reconstruct a global view of Mesta-related litigation in southern Castile. The Archive of the Royal Chancery Court of Valladolid, in contrast, was created in 1600 and has operated continuously since, preserving the files of most of the cases heard there. The records of two of its eight civil chambers are fully catalogued and described; since cases reaching the court on appeal were randomly assigned to the different civil chambers, the described files constitute a clean 25% random sample of the surviving appellate cases.¹² While there is no way to ascertain how many files have been lost from the civil chambers, or whether the process was random, I have been able to establish that losses of nobility files at the Archive of the Royal Chancery Court of Valladolid did not exceed 10% of the cases, and that they followed a random pattern; since nobility and civil cases are physically identical, there is no reason to assume that losses of civil files would have followed a different process.¹³

¹² The standard reference on the history of the Archive of the Royal Chancery Court of Valladolid is Martín Postigo (1979). The random procedure to allocate cases to the different civil chambers is described in Aulestia (1667), itself an operational manual of the court. The catalogued *escribanías* (secretariats), which bore a one to one correspondence to the civil chambers, are those known by the names of Fernando Alonso and Pérez Alonso, the last secretaries to hold the respective offices.

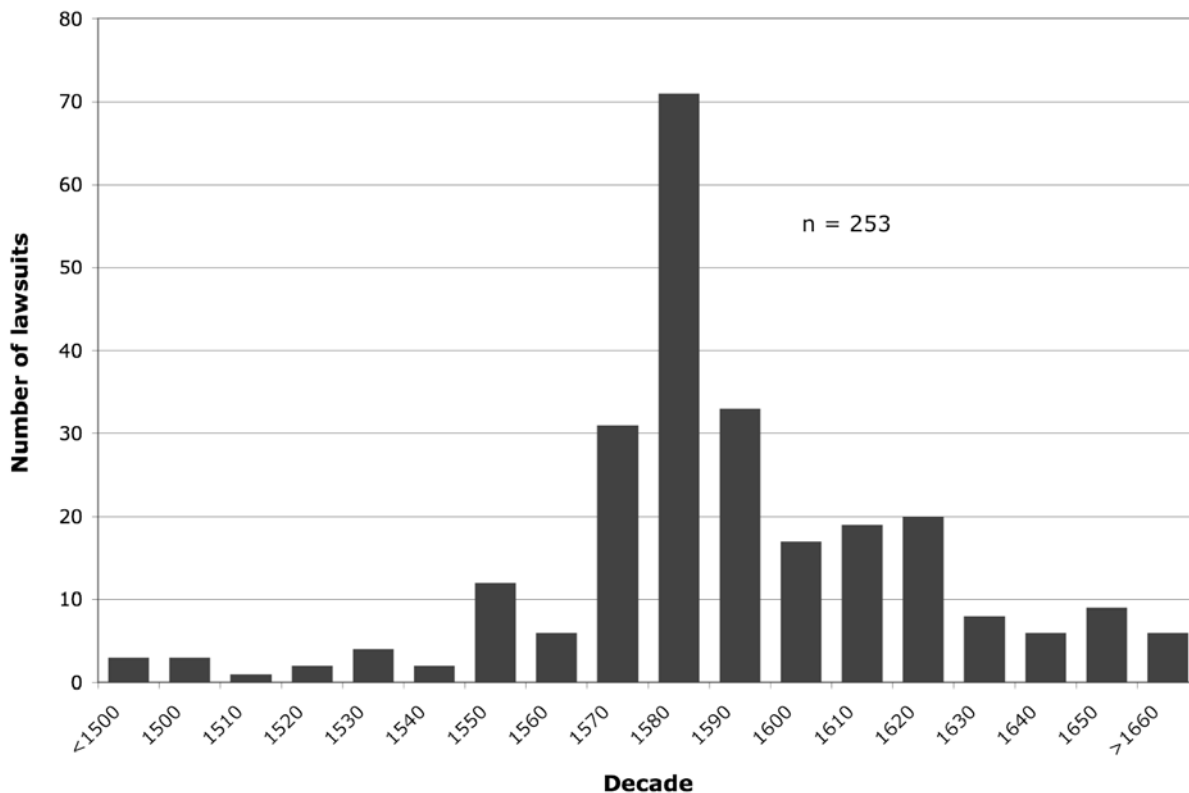
¹³ The cases heard by the nobility chamber, the *Sala de Hijosdalgo*, are the primary attraction of the Archive today, and hence their history is much better documented than that of the civil cases. The procedure I used to determine

The impossibility to rely on the Granada files raises a concern, since most of the southern pastures fell within its jurisdiction. However, the jurisdiction of the Valladolid Chancery Court encompassed all the northern bases of the transhumant flocks, all of the mountain passes between Old and New Castile, and the parts of the pasture-rich region of Extremadura north of the river Tagus. This geographical coverage provides an insight into all the activities of the Mesta flocks, making its holdings superior to those of the Granada court, which did not have jurisdiction over any summer bases.

Figure 2 presents the number of lawsuits to which the Mesta or one of its members were a part in the two described civil chambers during the life of the Royal Chancery Court (a straightforward estimate for all eight chambers can be obtained by multiplying everything by four).

that the files missing from the *Sala de Hijosdalgo* followed essentially a random pattern is described in Drelichman (2005b).

Figure 2: Number of lawsuits to which the Mesta or one of its members were a part (two out of eight civil chambers at the Royal Chancery Court of Valladolid)



Source: Archive of the Royal Chancery Court of Valladolid.

The bulk of legal activity was concentrated in the decades between 1570 and 1620, with very few cases reaching the Chancery Court in other periods. I studied in detail a random sample of 10% of the described cases; all of them had been originally decided in favor of the Mesta by the *entregadores*, and hence were being appealed by towns or landowners. On appeal, the Mesta won slightly over 25% of the cases and lost the rest, regardless of historical period.

While in a contemporary legal mindset written law is usually considered authoritative, and a reversal of a lower court decision must be based on a reexamination of the facts or on a different interpretation of the law, early modern legal practice in Castile tended to take a much more flexible approach. Consider the following excerpts from a sentence in a case involving the Mesta and the town of Gormaz in 1591:

We rule that Diego Montero, chief judge entregador of the Council of the Mesta, who heard this lawsuit [...] in which he sentenced the town of Gormaz to observe the privileges of the said council of the Mesta [...] judged and pronounced fairly, and hence we must confirm and do confirm his judgment.

We further revoke the parts of the said sentence in which he sentenced the town of Gormaz not to enclose the fields, meadows and pastures it used to enclose, and hereby hold it nullified. And we further serve justice by ordering that the sheep of the Mesta be barred from entry into the fields that the said town of Gormaz has enclosed, and that the brothers of the Mesta be prevented from entering in them, and that if either them or their sheep should enter, they be held liable and pay the damage caused.

And we further order any and all monies that may have been taken from the said town of Gormaz as a consequence of the said sentence be returned to the said town of Gormaz free and without any cost.

ARCV. Pleitos Civiles. Pérez Alonso (F). 1395.0004

After paying lip service to Mesta privileges in the first paragraph, the Chancery Court proceeded to reverse the ruling of the *entregador* in complete contradiction of the rights of passage and pasturage protected in those privileges. As customary, no fundamentals were given for the ruling other than “serving justice.”

Litigating in Royal Chancery Court was expensive; a landowner or a town appealing the ruling of an *entregador* would have had to retain attorneys in Valladolid or Granada, pay an always-increasing number of court and secretarial fees, and be prepared to endure stalling tactics that could sometimes drag on for years.¹⁴ Landowners and towns would not have appealed the decisions of *entregadores* if they had not faced substantial odds of winning. As royal courts became more favorable to municipal and agricultural interests the monetary stakes necessary to take a case to Valladolid or Granada would have gone down, and an increasing number of *entregador* decisions would have been appealed. The large number of cases reaching the Chancery Court in the last quarter of the sixteenth century reflects a growing confidence on the

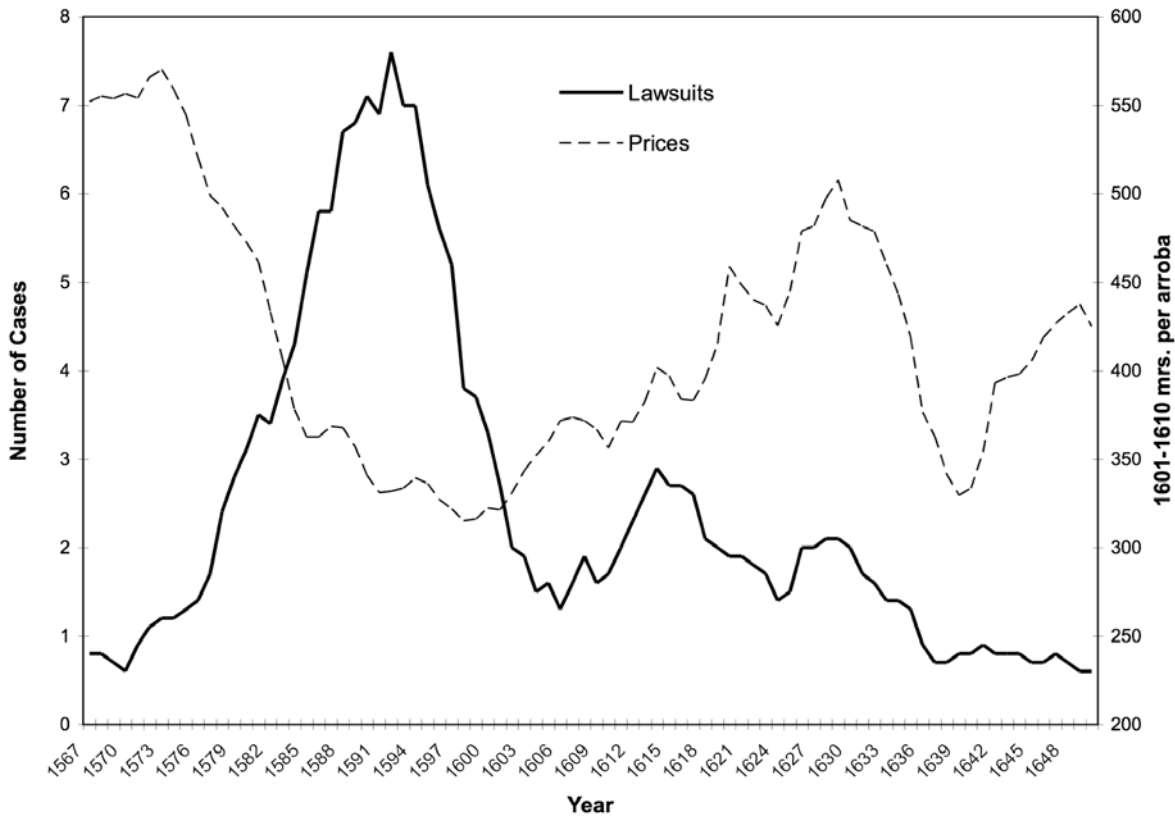
¹⁴ A thorough account of Castilian civil litigation can be found in Kagan (1981).

part of the towns and landowners, and hence a substantial decline in the level of enforcement the Crown was willing to provide for Mesta privileges.

5. Economic conditions and property rights enforcement.

Any causal relationship between economic conditions in the transhumant wool industry and the level of enforcement of the privileges of the Mesta would not have taken the form of a high-frequency process. Large shepherding operations and the Mesta itself had the financial resources to withstand a few years of slow demand and depressed prices; even once the marginal productivity of land had shifted decisively in favor of agricultural activities, the reallocation of property rights through the courts would have been gradual at best. Figure 3 depicts the long-term behavior of the two data series presented so far by taking 10-year moving averages.

Figure 3: Wool prices and lawsuits faced by the Mesta (10-year moving averages)



The negative correlation between the two series is immediately evident. The relationship is most marked in the sixteenth century portion, continuing in more muted fashion throughout the first half of the seventeenth. While the minimal overlap between two sources that constitute the price series advises against drawing any conclusions based on long run levels, the correlation coefficients of -0.88 for the sixteenth century portion and -0.47 for the entire series convey the magnitude of the comovement of the series while remaining immune to any problem arising from the splicing.

The present empirical analysis does not pretend to establish any claims of causation between prices of fine wool and the implementation of Mesta privileges on the ground, but it is nonetheless possible to rule out some of the obvious concerns that would arise in such an exercise. Most of Spain's wool production was exported; while the country was a large enough player not to be a price-taker in the market, it is well established that the decline in prices in the second half of the sixteenth century responded to external factors, chief among them the war in the Netherlands and the emergence of the New Draperies.¹⁵ It is hence quite unlikely that changes in the institutional environment would have been the main reason behind the worsening conditions in the fine wool industry; if a causal link existed, it must have operated in the inverse direction.

¹⁵ Munro (2005) provides an excellent treatment of the evolution of the Spanish wools, their use by the Dutch textile industry, and the negative impact of the emergence of the New Draperies on Castile's exports.

6. Conclusion

Many Medieval and Early Modern institutions can appear vastly inefficient or distortionary when judged by modern standards; of these, none has perhaps been more vilified than the Mesta, on which twentieth century scholars have blamed far more woes than its eighteenth century political enemies would have ever dreamed of. While the economic history literature has gradually exonerated the Mesta from the most serious accusations against it, the rationale for its complex privilege structure and its effect on Castilian economic performance is still largely unexplored.

I have argued that the Mesta privileges were instrumental for Medieval Castile to realize its comparative advantage in wool production, eliminating two hold-up problems for which no market-based solution was available. When factor endowments and international market conditions changed the balance in favor of farming and urban interests, the Courts reacted by limiting the scope and applicability of Mesta privileges, effectively enabling factors of production to flow towards their most efficient uses. The new evidence presented here is consistent with the position that transhumant privileges were not the inalterable yoke on the development of Castilian agriculture the traditional view assumed them to be. It furthermore shows that enforcement of those privileges and the comparative advantage of fine wool were negatively related, providing support for the latent idea that the continuous changes in property rights of land were somehow driven by considerations of economic efficiency.

The data are naturally silent on the mechanism that might have translated a shifting comparative advantage into a varying degree of enforcement of privileges, or on whether such a mechanism might have actually been a second-best solution for the problem of allocating property rights in land. Addressing such questions will require a much deeper understanding of what constituted the efficient institutional frontier for allocating property rights in land, a counterfactual

proposition whose formulation escapes what we currently know about Early Modern Spain. It serves, nonetheless, as an indicator that the behavior of the Crown and the Mesta, opportunistic as it might have been, was not contrary to rational choice, and its outcome was, in principle, not contrary to economic efficiency and development.

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