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# A Windfall for the Magnates: The Development of Woodland Ownership in Denmark

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Bo Fritzbøger, *A Windfall for the Magnates: The Development of Woodland Ownership in Denmark c. 1150–1830*, Odense: University Press of Southern Denmark, 2004. Pp. 432. \$50.00 (ISBN 8-778-38936-4).

Property rights imply scarcity. In proverbial states of nature the forest is vast and salted only lightly with humans, and hence it is a commons. Every natural forest was once such an unclaimed wilderness. The early dates at which teeming human populations produced conditions of scarcity, however, is surprising. Bo Fritzbøger's *A Windfall for the Magnates* traces in extraordinary detail the Danish legal and social responses to deforestation.

Disputes over forest resources in Europe arose around AD 900 at the latest. Fritzbøger provides unambiguous evidence that Denmark experienced wood short-

ages by 1200, with deforestation accelerating over the next six hundred years. The Danish responses were typical of Europe: the privatization of common ownership (“enclosure”), and the enactment of statutes mandating preservation of woodlands. Common ownership of “overwood” (roughly, larger trees) among lords had largely disappeared by 1750; peasant commons in “underwood” and in forest grazing rights (“pannage” for pigs feeding on acorns and the like; cow pastures) lasted perhaps another hundred years.

Fritzbøger’s narrative demonstrates that the Danish conversion from common ownership of woods to individual ownership shared many similarities with English law. Perhaps most important, one owner among any number could force a *partition*—a court-conducted division of the commonly owned forest into privately owned parcels. The right to partition remains an important element of co-ownership relations in England and the U.S.

There were also, however, striking differences. Unlike the common law, Danish law placed strict limits on the subdivision of forest parcels into very small pieces. This may well have been a wise policy, avoiding the “anti-commons” paralysis that can arise when a pie is cut up into too many pieces. It can then become very expensive to piece together something of useful size. For example, recent scholarship has highlighted the problems created by repeated generational dilution of individual interests in African-American farms in the South.

The very complexity of rights to forest resources overwhelms these similarities and differences. As mentioned above, there was a division of rights to trees between large trees and small (overwood and underwood), grazing among the trees for pigs, and grazing in the meadows for cows. Each of these might be held in common between multiple villages, among all the citizens of one village, or a subset of the villagers. Alternatively, each might be owned by an individual. Fritzbøger carefully traces the general evolution of property rights from commons to private ownership, with numerous helpful diagrams and maps. He seems to have mined every possible original source, making this work a gold mine of Danish history that otherwise would lie beyond the reach of non-Danish scholars of all stripes.

Many historians may feel that no abstract theory can capture the essential richness of the sources Fritzbøger canvasses. For those who disagree and seek out universal trends in human experience, there is plenty of useful material. Danish forest history documents the ability of elites to manipulate legal rules to their own continuing advantage. Breaking up the commons, in addition to any efficiency advantages, also appears to have been a means of making tenants more productive and docile. According to one estate bailiff writing in 1791, “as long as [the peasants] remain or want to remain in common, frequent gatherings will cause boozing and brawls” (250).

The title’s “windfall for the magnates” refers to the fact that, as the growing scarcity of wood made forests more and more valuable, by and large forests owned in common ended up in the hands of the nobility. Peasants received modest compensation based on their historical use, but did not share in the sharp increase in the value of the forest. Why didn’t the entire populace share in the appreciation of this commonly held asset? One can make efficiency arguments for this outcome, e.g.,

that only the nobility had the means and the risk profile to exploit forest resources; giving peasants rights then would have imposed transactions costs as the lords would have had to bargain with the peasants to gain their consent to silvicultural projects. Yet it is hard to walk away from this book without cynical reflection on the golden rule: “he who has the gold rules.”

The economic benefits from privatizing forests will come as no surprise to students of property rights from medieval England to present-day China. Interestingly, Denmark restored widespread public access to roam through even private forests some thirty-eight years ago, in 1969. Couple this with recent English and Scottish laws giving the public rights to ramble over large swathes of private rural lands, and we may be witnessing a radical erosion of the right to exclude from rural and woodland Europe. Such dilution of trespass law seems unthinkable in the United States—one more reason for Americans to read Fritzboøger’s *A Windfall for the Magnates*.

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