

# The Common Property Resource Digest

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This issue of the CPR Digest is the second of three issues helping to prepare for *Constituting the Commons*, the Eighth IASCP conference, through discussions of important conference themes. The next issue, coming to you in March, will continue the conversation that we began about the IASCP Regionalization Initiative in the October issue. This issue examines some substantive conference themes that involve commons in areas beyond natural resources.

*Bruce Benson* starts off the Forum with the theme of commons institutions of past centuries by examining the evolution of policing and highways. Next *Edward Bird* and *Gert Wagner* explore a new commons created by new technology as they examine the use of performance enhancing drug by athletes. Then we probe two different kinds of modern shared facilities with *Susan French* exploring the legal issues surrounding shared residential facilities and *Karl Steninger* reporting the results of his research on car-sharing arrangements. The last two articles look at the new commons dilemmas created when culture clashes with property institutions. *Anthony McCann* discusses his work on the effects of copyright on traditional Irish music and *Joseph Sax* takes us through the general problems that privatization poses for art and artifacts of lasting cultural significance.

The theme of the global commons is addressed in this issue's Practitioner's Profile. *Helen Payne Watt* from the Corporation for Enterprise Development shares with us their trials and tribulations as they try to promote one important response to the problem of carbon emissions. **Enjoy!**

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## CPR FORUM COMMENTARY

### **Policing and Highways as Common Pools**

**Bruce L. Benson**

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Before English kings centralized power, offenses against persons and property that are crimes today were torts. That is, individuals had rights to restitution if pursuit and prosecution was successful. Policing was produced by local organizations called tithing, built on strong multi-dimensional mutually-beneficial reciprocal relationships and anyone who did not cooperate was ostracized by the group (Benson 1994, 1998). When the concept of crime first developed it was distinguished from a civil action by who got the money. Crimes meant fines or confiscations went to the king while civil actions (torts) meant compensation to victims. That is, criminalization took the private right to restitution and significantly reduced incentives to reciprocate in performing policing functions. Kings attempted to force local organizations to produce policing in order to collect royal revenues but resistance was widespread, and ultimately, the central government had to take over production, turning policing into a common pool resource (Benson 1994).

The tremendous competing demands for "free access" public police services today means that many uses are crowded out [e.g., many property crimes get little attention as police focus on drug crimes and violence (Rasmussen and Benson 1994)]. Production of commonly

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shared benefits such as deterrence also require private inputs. For instance, without victim reporting and testimony most criminals are not likely to be punished. Victims bear the cost of such involvement, however, so they have incentives to underinvest in maintaining the commons. Not surprisingly, victimization surveys consistently find that more than 60 percent of major property and violent crimes are not reported to police in the United States. If private rights to restitution were firmly reestablished this underinvestment would be much less significant, and privately produced police services would increase (Benson 1998).

The tithing also cooperated to produce other services in medieval England (e.g., rounding up stray cattle). In particular, most of the benefits of local roads were internal to the tithing, so members had reciprocal road maintenance obligations (Benson 1994). As long distance travel increased, however, the demand for better connections between local road networks increased. Tolls were illegal, but roads were a significant determi-

nant of the success of towns and their markets and merchants captured most of these benefits, so they constructed and/or maintained many roads and bridges. The church also had considerable demands for long distant travel so a belief that care of the roads was “a work of Christian beneficence, well pleasing to God” was promulgated, creating another expected private benefit from road maintenance (salvation). Thus, with the break down of the tithing after restitution rights were removed, the parishes, supported and encouraged by the monasteries, accepted the major obligations for local road maintenance. This system was ultimately destroyed too, due to the struggle for power between Kings and the Church. Henry VIII finally dissolved the monasteries and transferred their properties to powerful supporters, undermining incentives of the Church to encourage road maintenance.

The government attempted to reduce the rate of deterioration of the resulting commons through use restrictions such as limits on weight and numbers of horses. The central government’s control of tolls also was loosened. Merchants and parishioners were allowed to form “Turnpike Trusts” with toll-collecting powers over roads that they maintained and often built. Some 22,000 miles of turnpikes were ultimately produced, but the trusts were not allowed to earn profits so incentives to monitor collectors were weak and corruption was rampant. Furthermore, Turnpike Acts always included toll exemptions. Large scale agricultural interests and industrial groups were particularly effective at obtaining exemptions and they were some of the worst abusers of what to them remained a common pool resource. Turnpikes deteriorated from overuse and undermaintenance, and the government ultimately took over, just as with policing. These outcomes reflect property-rights restrictions that create common pools, however, and that alternative property rights (e.g., rights to earn profits and charge tolls to everyone; rights to restitution) would produce different results.

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# CPR FORUM COMMENTARY

## Applying Game Theory to Games: The Common Property Aspects of Fair Play

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In sports, there are formal rules and then there are unwritten rules. An example of the former in soccer is the offside rule: a pass only is legal if at least two defenders are between a pass-receiver and the goal when the pass is made. An example of the latter is what might be called the "Injury Truce": if team A has an injured player and kicks out of bounds in order to stop play for medical treatment, after the time out team B kicks out of bounds itself to return possession to team A.

Players who violate either rule face distinct negative consequences, the only difference in the rules being whether the consequence is enforced by the referee or not. For the offside rule, visible violation leads to a free kick for the other team. For the injury truce, violation leads to rough play on the field and stigma off the field. Because athletes are humans, their personal incentives are not described entirely by the incentive structure provided by the formal rules in a game, so we should not be surprised that their behavior during game play is partly affected by informal social rules like the norm of Fair Play, of which the Injury Truce is an example.

Someone versed in common property resource (CPR) research can easily understand why a norm of Fair Play arises, since the alternative of rough and dirty play is so clearly a tragedy of the athletic commons. Moreover, any norms that do arise in Sport are likely to be powerful, because the community of athletes is forced, by the circumstances of fame and media attention, to be cohesive and tightly-knit. More than many other areas of national and international public policy, the area of Sport policy should be sensitive to and well-informed by the insights of CPR research. However, Sport has not usually been considered a 'classic' CPR case, and has not received much attention from CPR researchers and policy analysts. Sadly, and predictably, Sport continues to suffer from regulations that are ridiculously badly designed and easily improvable with only a little bit of insight from the world of CPR research.

In a recent paper (Bird and Wagner 1997, we made a CPR policy argument for the control of doping - which is one of the most challenging problems of Sport. Quite a bit of

that paper was devoted to convincing the reader that the norms facing athletes are powerful.

We argued that, in general, if you can make it harder for athletes of ill-repute to succeed in a given sport, the norms of the athletic community will be more strongly enforced. If (and only if) the norms are powerful, you may have some hope of controlling behaviors that are damaging to Sport but extremely hard to observe and punish using overt legalistic means.

Doping is the behavior which most challenges the rules of Sport. It is hard to imagine a system of external controls that could reliably prevent athletes (who eat and drink and breathe like we do, and who take medicines for the same illnesses that the rest of us have) from enhancing their performance by using drugs. The line here between ethical and unethical is incredibly thin. From an empirical standpoint, an athlete who eats lots of vegetables to keep her heart strong, is not doing anything that much different from the athlete who eats lots of steroids to build muscle mass. Eat certain things and your body will be better. Doctors sometimes *prescribe* steroids to enhance rehabilitation after an injury. On the other hand, there are food supplement products which are not considered "drugs," nor banned by current doping regulations, but many athletes take them in quantities so great as to raise serious health risks as well as concerns about fairness.

When it comes to doping, the line between fair and unfair is not easy to see. Yet it is obvious to anyone that

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there is a social standard dictating that performance enhancing drugs are unfair; implicitly it is a standard arising within the athletic community; therefore it is implicitly one which athletes themselves could enforce through their norm system.

It is equally obvious that no one outside of the athletic community could possibly enforce such a standard. It might be conceivable with manufactured drugs, but again, consider the case of food supplements - they are food! Could any regulation dictate the foods an athlete may eat and still be sensible? The initial task of legally identifying the line between Fair Play and Unfair Play is daunting by itself. The prospects for using any such legal definition to restructure athletes' incentives via command-and-control regulation are bleak, laughably so to the readers of this Digest. And as many readers here could have predicted, the doping control institutions as now exist serve mostly to prevent the athletes' norms from being enforced. As it stands now, drugs are OK until banned; athletes are tested at random and are disqualified if a banned substance is found. This has some fairly obvious incentive problems: doctors will want to come up with new drugs constantly; athletes will want to keep their drug regimen secret so they can play the odds; with random testing no athlete will want to inform the authorities of another athlete's illegal drug use. In the world of secret drug use and random testing, athletes' norms will tragically always remain latent, even though all athletes and the public would be better off were those norms enforced.

We proposed a drug diary system with collegial enforcement in place of the current system. First, all drugs and food supplements would be legal, in the belief that athletic norms alone should dictate what is fair and unfair. The only thing that would be penalized would be secrecy: all athletes would have to write down their drug use in a diary, and tests would be used to enforce honesty in the diaries. To help build up the norms, we would a collegial enforcement mechanism, by allowing one athlete to challenge another's diary. Readers of this Digest, we think, do not need to be told much more than this. Such a system imposes incentives that will lead to an endogenous, consistent, and enforced norm of Fair Play in drug use. In other words, we think our institutions will allow unwritten Rules to do a job that 'the rules,' as they now stand, cannot do.

There are those who think that such a system of informal doping control could never really change athletes' decisions. But norms already do that, constantly. Our favorite examples involve golfers who, concerned about their reputations, disqualify themselves for tournaments

by self-reporting tiny and otherwise unobserved rules violations. They only do this because their reputation strongly affects their game play and their lives. Our drug diary system would allow doping reputations to affect game play in a similar way. In a nutshell, we think that norms really can control doping largely because we know that golfers really do haze a Bad Guy - and it is very, very hard to line up a tee shot when you are being hazed.

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## CPR FORUM COMMENTARY

### Common Interest Communities: The Dilemma of Shared Resources in Residential Housing

**Susan F. French**

Professor of Law, UCLA Law School

Common interest communities provide a practical and efficient way to manage common property, but are they good places to live? Are they good for society?

A "common interest community" combines individual ownership of housing with some type of common property the property owners support by paying assessments. The assessment obligation is created by a covenant that runs with the individually owned dwelling property. Condominiums, cooperatives, planned unit developments, and subdivisions with property owner associations are all common interest communities if the individual properties are obligated to support some type of common property. How much and what kind of common property varies widely. In a multi-unit structure, it usually includes at a minimum the roof, hallways, exterior of the building, and the land on which it sits. Common property often includes recreational and social facilities and may include roads, utilities, parks, beaches, open space, or anything else the developer chooses to include. Some large common interest communities provide all the services needed for a private town.

Common interest communities are usually created by developers who impose the assessment obligation as part of a larger package of servitudes (easements and covenants) that determine rights of the owners to use the common property, impose restrictions on use of individu-

ally owned property, and create an association for management of the common property and enforcement of the restrictions. The servitudes are usually set forth in a document called a declaration (or CC & R's) that is recorded before the first lot or unit is sold. Buyers enter into a contractual arrangement in which they agree to bind their property with the servitudes, which then run with the land to bind all future owners. One distinctive feature of common interest communities, important in making them a desirable vehicle for shared ownership, is that the amount of the assessment obligation is independent of actual use of the common property an owner can't get a reduction by not using the swimming pool, for example. The owner can't get out of the obligation by abandoning his or her interest in the common property and can't sell the common property separate from his or her dwelling.

Are common interest communities good places to live? For many people, the answer apparently is yes. Estimates as to the number of common interest community residents in the U.S. go as high as 65,000,000 people. Why? The attractions are many. Sharing resources means more amenities and services for the same housing dollar than in conventional developments. The association is usually more responsive to resident concerns and complaints than the city council, police department, or judicial system. Assessments are spent locally and the benefits are almost entirely captured by the owners. But, there is a downside, too. Shared resources means shared control, and for those in the minority, that means loss of control over decisions that can vitally affect property values and quality of life. The immediacy of the association "government" with its rule-making, design control, and enforcement powers may mean invasion of privacy and loss of autonomy. Stories abound of boards run amok scolding a grandmother for kissing her date in the condominium entry, ordering an elderly gentleman in ill health to clean up his bedroom, fining an owner whose dog gained too much weight, insisting that an owner remove security lights she installed outside her unit after the board failed to respond to increased criminal activity in the area (she was raped very shortly thereafter) the stories go on and on.

The dilemma facing prospective home owners is whether to give up the control they would ordinarily enjoy over their home to gain the advantages available through a common interest community. The American Law Institute in its new Restatement of Servitudes law (the new Restatement is scheduled for publication in the spring of 2000) attempts to reduce the severity of this dilemma by providing some protection for individual owners. The association's rule-making powers, for example, are

limited to common property, and uses of individually owned property that unreasonably interfere with the neighbors or enjoyment of the common property. Absent express and specific authorization in the declaration, rule-making powers do not extend to activities within individually owned property that don't have spillover effects. Restrictions in the declaration, as well as rules, that unreasonably burden fundamental constitutional rights like freedom of speech, freedom of association, and freedom from unreasonable searches and seizures are invalid.

In addition to these provisions limiting the association's ability to interfere with individual privacy and autonomy, the Restatement imposes a duty on community association boards to act reasonably and fairly in exercising their powers. It also includes provisions designed to safeguard the political process by requiring the board to hold open meetings, allow members the opportunity to present their views, and allowing all members the chance to run for the board. Finally, there are provisions limiting the ability of the majority to amend the declaration. Amendments may not place additional limits on the use of individually owned property (to ban pets, for example) or change the basis for allocating voting rights or assessments without unanimous consent. Other amendments require approval by a two-thirds vote (or other percentage specified in the declaration), except that amendments to extend the life of the community (some older declarations had a drop dead date i.e., these covenants shall expire on Dec. 31, 1999), and minor administrative changes, require only a majority.

The purpose of these provisions is to preserve common interest communities as an attractive option for home ownership. Is this a good idea? Some people argue that these communities privatize local government services and facilities and lead to greater segregation by wealth and class. Exclusive gated communities certainly have this effect, but they also bring safer streets and a sense (sometimes false) of increased security. Common interest communities in fact serve many different housing needs, from affordable starter condos to extended care communities for seniors. Housing segregation by wealth and privatization of local government may be problems, but eliminating common interest communities is not the way to solve them. Whoever the residents may be and whatever their relation to the larger society, the American Law Institute through its new Restatement seeks to make common interest communities work better, preserving this vehicle for sharing resources as an attractive option in the residential housing market.

# CPR FORUM

## COMMENTARY

### Car Sharing: Does it Overcome the Mobility Dilemma?

**Karl W. Steininger**

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It is often a difficult decision whether or not to buy a(nother) car, because there are only a few occasions where we would definitely need one. Once the car is bought, however, it is used much more often than we had planned. The reason is evident: the fixed costs of depreciation and insurance are correctly considered sunk costs, and therefore the daily decision whether to use the car or not should not be based on them. Only the variable costs (primarily gasoline) are considered. Most often these costs turn out to be lower than the average cost of the alternative of a public transport ticket. This closes the cycle: private car use is further enhanced, and public transport declines even more.

Two results of this vicious circle are that household mobility costs are much higher than they need to be, in our survey 69 percent of households saved money when both car sharing membership and public transport were used, and emissions per household are at least double the level they would be otherwise.

#### The Car Sharing System

Car Sharing offers a way out. Car sharing organizations offer a collectively owned car-park. The member's entry deposit, which is refundable with interest upon exit, is used to acquire the car park. Before use, cars are booked by telephone, to arrange for pick-up time, duration and desired pick-up point. Each use is charged to a monthly balance, based on two components, hours of use and kilometers driven, with the rate varying with the type of car chosen the time of the day. Times of heavy use are the most expensive, night use is often free.

Becoming a member thus implies that you are charged for car use on an average cost basis, which is quite comparable to public transport.

In the mobility spectrum, car sharing fits in between cabs, which go one way with a driver that makes it more expensive and car rental, which allow trips of more than 24-hours. Car sharing is optimal for within-town, two-way trips, such as shopping. For a member of a car sharing organization, car use and public transport have become

complements, while they serve as substitutes for those who own their own cars.

#### The Experience with Car Sharing

While car sharing has its roots both in the US and Europe – initial ideas date back to the fifties when projects were started in Montpellier, Amsterdam, West Lafayette and San Francisco – it has had its biggest spread to date in Europe. Some 100.000 people in a number of European cities are participating. The spread started in the German speaking countries of Germany, Switzerland and Austria, extended to the Netherlands, Norway, Sweden, Denmark, and exists in a number of other countries such as in Italy and France. On other continents clever transport management has also detected its advantages: car sharing plays an important role in Singapore for example.

Our survey of members of car sharing organizations (CSO) found that the typical member is middle-aged, university educated, with a slightly above average number of children. Half of them had not owned a car before membership. The problem of free-riding behavior, such as damaging the cars without notification or leaving waste, is reduced by generally the same small group of about 15 users using the car from one pick up point, with one of those users arranging all services, i.e. cleaning etc. for the car.

When we look at the mileage impact of car sharing we have to distinguish between the group that did not have good access to cars before the CSO came into being, and the group that did. These two groups are usually roughly equal in size, but the mileage reduction of the later is much larger than the increase of that of the former. The net result is a significant reduction in emissions.

Finally, we can look at the membership potential that car sharing could have in the future. For this question we need to carefully determine which service are actually rendered when using a private car.

#### Mileage

If we begin by considering the automobile as a mere mode of transportation, taking you from point A to point B, then the cost per mile will determine whether to join a CSO. Urban households' current car use shows that 69 percent of households would financially benefit when joining a CSO. The financial break even point of car sharing is at roughly 15000 kilometers per year, which is above the level driven by these households.

#### Waiting Obedience

But people do not get benefits from cars only while driving. They also appreciate their roadsters being

obedient servants while they are drinking their afternoon cappuccinos. Adjusting for the specific time demand of different user groups the CSO potential reduces to 22 percent, i.e., the potential adjusted for the time structure of car use.

### Prestige and Identity Promotion

Finally, when we consider insights from the behavioral sciences we discover that there is really no such a thing as a "car." Rather there are only Rovers, Chryslers, Toyotas, and, of course, Mercedes Benzs and Ferraris. Owning certain cars delivers services such as building up identities. Being a member of a CSO can be thought of as involving the promotion of an identity in the same way that owning a Jaguar does for the Jaguar owner. When we consider these identity issues, our research indicates that the membership



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potential is around nine percent in European urban areas. This conclusion considers environmentally benign household behavior as an aspect of identity.

Overall, we find that service use rather than ownership for consumers works best with durable goods that have no inheritance value, and which reach a certain minimum level of the acquisition value that allows the booking routines to be cost effective.

#### Further Reading:

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## CPR FORUM COMMENTARY

### The Giving: Copyright, Conflict, and Cultural Crisis in Irish Traditional Music

Anthony McCann

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One common misconception of music is that it is just a thing. Recent re-evaluations, primarily in Music Education and Ethnomusicology, have come to a greater understanding of music as always-already social, something which is more about relationships and interaction than about notation, scores, and transcription. Music, in this framework, is an activity in which we engage. What becomes important to understand, then, are the conditions and situations in which we involve ourselves in this activity, the dynamics of accessibility and participation, the spatial, social, and economic configurations of musical lives, and the function of music in those lives.

Due to a variety of personal circumstances, not least of all a long conversation with a barman in a pub in Galway city, I decided to make the issue of copyright a focus in my work, specifically as the legal and social practices associated with copyright are applied within a long-standing social sphere of Irish traditional music. Irish traditional music is particularly interesting at this juncture as a result of its rapidly growing commercial sector. Many scholars have endeavored to unpack the construction of copyright, identifying many of its underlying assumptions; among many other things, very particular conceptions of authorship, originality, tangibility, creativity, and individualism. It becomes clear very quickly that the application of copyright in any situation privileges an expansionist process of reification and commodification.

Deconstructing the systemic biases and cultural assumptions that lie within copyright, seeing it as a discursive practice, has allowed me to see the paradoxes that occur when copyright is applied with the illusion of a frictionless universe within the social spheres of non-commercial Irish traditional music practice. Traditional 'sessions' in pubs, akin to musical conversations, are judged to be liable for performance royalties. Tunes or songs offered up to traditional practices in non-commercial settings are recorded and performed commercially without efforts being made to trace composers, on the assumption that 'traditional' equals 'anonymous', as opposed to 'unsourced'. Through the conflicts that have arisen over the years it is possible, in light of these epiphanies, to come

to a clear sense of traditional transmission as a system, and to come to a sense of possible crisis within that system.

Common Property studies prove very useful in coming to a sense of what is going on, in trying to reconstruct and reconfigure the process of 'traditioning.' Instead of starting from the perspective of political economy, as many studies of the Commons do, I am trying to come to a different understanding of the Commons as a cultural system, or within cultural contexts. In a way this steers the study away from institutional or structuralist analysis, although not entirely, while placing the emphasis squarely in the realm of people, their lives, and interactions. I am trying to understand the nature and workings of tradition, memory, shared symbols, community, and other aspects of what are more commonly seen as remit of the academic traditions of the sociology of knowledge or symbolic interactionism. Can these be seen as Commons? If so, what are the implications for the wider field of CP Studies?

Rational choice theory, game theory, and neo-classical economic analyses may be inadequate when faced with systems within traditional culture. Because of the problems the inherently economic framework of copyright has caused, I am wary of models that stem from economic paradigms. The myths engendered by commodifying constructions like copyright form the basis for actions that 'enclose' cultural practices. Enclosure becomes less a question of physical bounding, more a conflict of world-views, of paradigms, a clash of cultures.

We need to be very careful how we analyze, validate and legitimate traditional cultures. By starting with people, with practice, or rather praxis (as socially embodied, motivated, and oriented thought-in-action), we might avoid certain philosophical premises. For example, the Cartesian dichotomy of mind and body, or human nature as self-interested, may hinder less false and more representative undertakings as we come to a deeper understanding of the cultural commons of traditional transmission. Cartesian dichotomies reinforce the idea that music is just sound, rather than also, and primarily, an activity in which we engage. Alternative approaches may offer us rich insights into questions of participation and accessibility, gift and reciprocity, education and community, and enable us to further assess the Cultural Commons.

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# CPR FORUM COMMENTARY

## Art as Private Property

**Joseph L. Sax**

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Many of the greatest artifacts of our civilization can be owned by anyone who has the money to buy them, or the luck to find them, and their owners can then treat the objects however their fancy or their eccentricity dictates. An eccentric art collector who invited his friends



Traditional Musicians. Do they know who owns the music they are playing? Photo Courtesy Ingvild Harkes.

to play darts using his Rembrandt portrait as the target would violate no law. The fate of most things is of interest only to its owner. Some objects, however, regardless of who owns them, are important to a larger community: a fossil of great scientific importance, historic documents, the papers of a renowned writer, a work of artistic genius, or a biologically rich or distinctive place. The law treats all these things as ordinary private property, like a wristwatch or a shirt.

Why is there a feeling of loss if something that does not belong (Stonehenge, the Dead Sea Scrolls) were to be destroyed, or hidden away? The reason is that some things are special, they are elements of a common and continuous enterprise. Loss of the knowledge or insight contained within some objects is a loss, not merely to the owner, but to science or history, or to our natural or artistic heritage.

To a very limited extent the law has recognized these special relationships. Protection is afforded historic buildings in most places today. Similarly, antiquities are treated as inherently public property in many countries. Even art gets some special protection, usually in the name of protecting artists' "moral rights" in their work. Yet, there are no consistent patterns. Objects of scientific interest--archaeological and paleontological relics--are subject to an extraordinary diversity of rules, and are provided remarkably little protection in this country when they are found on private lands. The rules govern-

# PRACTITIONER'S PROFILE

ing papers left by great writers are also a jumble. Such treasures are often at the whim of capricious heirs, or the restrictive policies of museums or libraries where they have been deposited. In these settings, conventional proprietary ideas still dominate. A similar legal mentality underlies the assertion by landowners of a property right to use their land without concern for its biodiversity value as part of a common heritage.

While one might expect that owners could be depended on to protect precious artifacts, that is unfortunately not always the case. Important objects have always been at risk even from their owners, not only in the old days of spiritual or revolutionary fervor, but in our own times as well. The Rockefellers demolished Diego Rivera's politically unwelcome mural and Winston Churchill's widow burned a portrait by a distinguished artist because it portrayed her husband unfavorably.

Inaccessibility is an even more pervasive problem than destruction or mutilation. Some of the greatest objects in the world, even though they were in a sense public, have been secreted away. The Chinese imperial art collection remained unseen by the public for a thousand years. The fabulous Barnes collection of modern French paintings was sequestered for many decades by that irascible and arbitrary collector. The only surviving version of a tenth century text containing Archimedes' two most celebrated scientific works were held inaccessible to scientists for nearly a century by the French family that owned them.

Only development of the notion that ownership of some things entails stewardship or trusteeship obligations can adequately protect cultural as well as natural treasures. Such concepts do not impair the ordinary benefits owners enjoy; they only prevent destruction and unreasonable denials of access, such as that practiced in the notorious case of the Dead Sea Scrolls, which a small knot of scholars monopolized for four decades. Of course, no general prescription can resolve the numerous variant situations that arise, such as how long material--admittedly of historic or literary importance--can be withheld to protect genuine privacy concerns, or whether anyone should be allowed to destroy a great artist's work, even the artist himself. These are knotty problems, and pose a profusion of rich and varied problems. We will never fully resolve them; but it is time to put them forward and to open debate upon them.

Excerpted from the introduction to [Playing Darts with a Rembrandt](#) University of Michigan Press, 1999

This issue's Practitioner's Profile is of the Corporation for Enterprise Development and their Sky Trust program. This is a group that is struggling with managing one of the largest of the global commons - the atmosphere. Helen Payne Watt from the CFED staff shared the following insights with CPR Digest.

## What does your organization do?

The Corporation for Enterprise Development (CFED) is concerned that a trillion dollar giveaway of carbon emissions permits is looming on the horizon. Within the next few years we could see either a massive transfer of wealth to energy companies, or, the emergence of a new form of common ownership. Instead of giving away carbon emissions permits, CFED proposes to create a Sky Trust. The trust's underlying asset would be the carbon absorption capacity of the sky. The trust would be a self-financing, non-governmental, non-profit institution embodying citizen ownership of a commonly inherited asset - a modernized way for commoners to own the commons. Revenue from the sale of emissions permits would flow into the trust. Once a target level is set, market forces would take over; permit holders would have the option of either using their allowable emissions, or innovating to reduce emissions and trade their "right to pollute". The beneficiaries of the trust would be all U.S. citizens, current and future, on a one citizen, one share basis. Payments from the Trust could come in one annual check, or a tax-free deposit to a savings account. Every American, rich or poor, would have a source of asset-based income. Politically this idea is viable in part because a common assets trust does not take or tax anything that is currently owned. Instead it creates new property rights out of assets that no one now owns and allocates them fairly to all citizens.

The Sky Trust Initiative is gaining support as one of the most innovative and politically appealing domestic proposals for climate change. CFED is currently engaged in a program of message development and coalition-building around the proposal.

## How did you get started?

CFED is a 20-year old nonprofit economic development organization that fosters widely shared and sustainable economic well-being. We promote asset-building strategies, primarily in low-income and distressed communities, that bring together community practice, public policy, and private markets in new and effective

ways. Our new Sky Trust Initiative ties together two issues on which we base our work - sustainability (of ecosystems and communities) and equity (as in fairness and ownership.) CFED brings a new face and voice to discussions of environmental issues and conservation. We approach the idea of common assets from a unique commitment to economic opportunity and healthy communities. The Sky Trust Initiative and our broader Common Assets Program allows us to begin to explore the critical connections between economic development and the environment.

### **How are you funded?**

The Sky Trust Initiative is funded through grants from private foundations such as the Ford Foundation and the Wallace Global Trust.

### **What have been your most important accomplishments?**

Our most important accomplishment has been gaining recognition from non-governmental organizations, elected officials and the press for the idea that the atmosphere is a common asset. As a policy perspective this is a unique and innovative approach that is beginning to gain some ground.

### **What have been your biggest challenges?**

Our biggest challenge is related to our biggest accomplishment. Although we are gaining recognition for the idea that the sky is a common asset, people mostly embrace the idea from the environmental or conservation perspective. To most people the sky trust idea is promising because it addresses the issue of sustainability of the resource. But our biggest challenge is getting people to recognize and debate the equity implications of the idea. Policies designed to manage the commons will be different from policies made for protecting government property or policies protecting resources that are open access. Common assets policies must develop to embrace both sustainability and equity as their twin guiding principles.

### **What lessons have you learned that would be useful for other groups or communities involved in common pool resource management?**

Do not assume that the public will “get” the notion that some resources - like the sky - are held in common. It is not an intuitive concept for many, especially for those in the United States who are trained to think in terms of private and public property. Even those policymakers, NGOs and environmental groups that are interested in protecting the resource as a common asset do not fully grasp the idea that some equitable benefit-sharing arrangement should be put in place.

### **What would you like to learn from or about the experience of other CPR groups?**

There is a great opportunity for partnership with the common property management field on the Sky Trust and future Common Assets projects at CFED. We would like to learn more about the insights that CPR experience can lead to design of institutions that address the sustainability and equitable benefit-sharing of global assets. We also need to learn more about models for local and regional community-based management of assets. CFED is excited to become a partner in these efforts and hopes to bring our experiences in economic development to bear on finding new and sustainable approaches to development.

### **How can readers get in touch with you?**

Visit our website at <http://www.cfed.org> or drop a message to [helen@cfed.org](mailto:helen@cfed.org)  
Helen Payne Watt at CFED 777 North Capitol Street, NE Ste 410 Washington DC 20002 (202)408-9788.

## RECENT PUBLICATIONS

Compiled by Charlotte Hess  
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# ANNOUNCEMENTS

**Send Letters and Announcements** to Doug Wilson, Editor, CPR Digest, Institute for Fisheries Management, North Sea Center, PO Box 104, DK-9850, Hirtshals, Denmark. dw@ifm.dk tel: 44 98 94 28 55 fax: 44 98 94 42 68  
**For membership, dues, back issues, and missing copies** contact Michelle Curtain, IU, Woodburn Hall 220, Bloomington, IN, 47405 USA iascp@indiana.edu tel: 01-219-980-1433 fax: 01-219-980-2801  
**For questions** about IASCP papers and research, contact Charlotte Hess, Information Officer, IASCP, IU., 513 N. Park, Bloomington, IN 47408 USA iascp@indiana.edu tel: 01-812- 855-9636 fax: 01-812-855-3150



## From The President

There is much to share, including greetings as we end the 20th century and begin the 3rd millennium (if that's how your calendar works; Y2K is an excellent example of the arbitrary role of culture in shaping our lives and expectations). This issue of CPR Digest is appropriate to a new era, highlighting as it does the commons issues raised by new technologies, ways of living, and modes of interaction. We hope to have learned from our studies of older common property situations, but it is as likely that we will learn from the new commons how to better interpret older ones.

The Common Property Conference in Bloomington, Indiana, will be the highlight of IASCP this year. Do not forget to register for it and come. It will give you the chance to learn from and mix with people from all over the world; to explore local new, old, rural, and urban commons on field trips; and to participate in the heady intellectual endeavor we call "the study of common property" (as in "the international association of..."). The conference will also feature meetings to help strengthen the presence and work of IASCP in various regions of the world, part of our Ford-Foundation-supported regionalization initiative, about which you will learn more in later issues. In closing, I would like to thank Charla Britt for her work on the regionalization project; Nives Dolsak and Elinor Ostrom and their associates for the great job they are doing in organizing the Bloomington conference; members of the IASCP Executive Committee for their attentiveness to IASCP matters in mostly e-mail communications; Doug Wilson, guest editors such as Isilda Nhantumbo, and contributors to this Digest; Charlotte Hess for her many data-management and bibliographic contributions; and as always Michelle Curtain for keeping us on track and moving forward. Bonnie J. McCay, President, IASCP (until June 2000, when Susan Hanna becomes president)

## CONSTITUTING THE COMMONS: Crafting Sustainable Commons in the New Millennium

The Eighth IASCP Conference, Bloomington Indiana USA  
May 31 - June 4, 2000

### Organized by

Workshop in Political Theory and Policy Analysis, Center for the Study of Institutions, Population, and Environmental Change  
Indiana University, Bloomington

We are pleased to invite you to attend the eighth IASCP conference. The conference will take place from May 31-June 4, 2000, at the Indiana Memorial Union, Bloomington, Indiana. Given the large number of outstanding paper and panel proposals, we are confident that the conference will be exciting, intellectually productive, and will provide many policy relevant insights.

On-line registration is available at the conference web site, <http://www.indiana.edu/~iascp/2000.html>, that also provides the most updated information on travel arrangements, accommodation, preliminary program, description of pre-conference workshops and fieldtrips.

We have planned an exciting program of panels, workshops, and fieldtrips. The key topics that the conference will examine are: (1) New Commons, such as the Internet and genetic pool, (2) Global Commons, such as the atmosphere and outer space, (3) Natural Resources (such as, forestry, fisheries, water management, grazing land) and their interlinkages, (4) Adaptation and Resilience of CPR institutional arrangements to Change, (5) New Theoretical Questions in CPR research, (6) Experimental Economics, (7) Scale, Geographic Space, and Mapping, (8) Privatization, (9) Historical Communal Societies, (10) Macro-Micro Linkages, such as the effect of macro economic or political situation, and (11) Role of Donors and Advocacy.

We have organized the following pre-conference workshops:

- (1) GIS and Remote Sensing 1- Introduction to the Use of Spatial Data in CPR Research;
- (2) GIS and Remote Sensing 2 - Hands-on Workshop (Tom Evans and Glen Green);
- (3) Experimental Economics (James Walker);
- (4) Participatory Rural Appraisal and the Commons (Bob Fisher);
- (5) Introduction to the Common Property Theory (James Thomson, Victoria Edwards, and Nathalie Steins).

We are also in the process of organizing a workshop on Agent Based Modeling with Joshua Epstein (The Brookings Institution, Washington, D.C.).

This region offers possibilities for some important and intriguing field trips.

On Friday, June 2, 2000, we have planned six full-day field trips and one half-day field trip. The full-day field trips include:

- (1) New Harmony B a charming and well-restored 19<sup>th</sup> century town in Indiana of two early communal societies;
- (2) Angel Mounds B an archeological site of an ancient, well-preserved Native American town on the Ohio River;
- (3) Indianapolis B strong inner-city neighborhoods with shared urban spaces and a visit to one of the country's finest Native American museums;
- (4) May Creek and Lothlorien B two contemporary communities that own and manage their own forests;
- (5) Collective Action and Forest Management - tour of variously managed Indiana forests led by members of a cooperative, regional environmental action group; and
- (6) Amish Country - tour of Amish farms and businesses (bakery, school, and country stores) and lunch in an Amish farmhouse.
- (7) We have also organized a half-day field trip to visit a Carbon Tower and Morgan-Monroe State Forest. We will learn about state-of-the-art technology in the middle of a state forest to study carbon sequestration processes and a look at a state-managed public forest.

We look forward to seeing you in Bloomington.

Nives Dolšak and Elinor Ostrom, Conference Co-Chairs

**Forms needed for the Conference are on pages 14 and 15**

**Common Property Resource Digest**

**REGISTRATION FORM: 8th IASCP Conference, May 31 - June 4, 2000**

(Please type or print)

Check here if formal letter of invitation is needed.....

Name for Tag ..... Full Name .....  
 Organization ..... Address ..... City .....  
 State/Province ..... Postal Code/Zip ..... Country ..... E-mail ..... Phone ..... Fax .....

Registration Fees: The deadline for early registration is April 7, 2000. Registration fee includes registration packet, abstract booklet, opening reception, four continental breakfasts, two lunches, refreshments, and commemorative mementoes. The last day for an 80% refund is April 28, 2000.

**Annual incomes US \$15,000 or more**

Amount Enclosed

Members-Early (\$170.00)                      Members-Late (\$200.00) .....  
 Non-members-Early (\$240.00)              Non-members-Late (\$270.00) .....

**Annual incomes less than US \$15,000**

Members-Early (\$75.00)                      Members-Late (\$100.00) .....  
 Non-members-Early (\$100.00)              Non-members-Late (\$125.00) .....  
 Student Members-Early (\$25.00)              Student Members -Late(\$50.00) .....

**One day registration only** (June 1, 3, or 4) circle date(s)                x   (\$60.00) .....

**Meals and Special Needs**

Banquet Dinner on Saturday, June 3                      (\$30.00) .....  
 Vegetarian Meals .....  
 Optional donation to help cover costs of childcare. ....  
 I would like information about child care .....

**Workshops, May 31, 2000 (Please rank 1-3, use 1 for your first workshop choice.)**

\_\_\_ Participatory Rural Appraisal (Full-day, limit 60 people)              \$30 .....  
 \_\_\_ An Introduction to CPR Theory (Full-day, limit 60 people)              \$30 .....  
 \_\_\_ GIS and Remote Sensing 1(Morning, limit 50 people)              \$15 .....  
 \_\_\_ GIS and Remote Sensing 2 (Afternoon, limit 20 people)              \$15 .....  
 \_\_\_ Experimental Economics (Morning, limit 20 people)              \$15 .....  
 \_\_\_ Agent Based Modeling (Afternoon, limit 60 people)              \$15 .....

**Return to:** IU Conferences, P.O. Box 249,  
 Bloomington, IN 47402-0249,USA, Fax: 812-855-8077  
 You may register by phone by calling 800-933-9330  
 (U.S. only).

Questions about registration and IU residence hall  
 housing should be addressed to IU conference at the  
 above address or at [iuconf@indiana.edu](mailto:iuconf@indiana.edu).

**Field Trips, June 2, 2000 (Please rank 1-3, use 1 for your first field trip choice.)**

\_\_\_ New Harmony                      limit 45 people              \$40 .....  
 \_\_\_ Angel Mounds                      limit 45 people              \$40 .....  
 \_\_\_ Amish Country                      limit 45 people              \$40 .....  
 \_\_\_ Forest Management                      limit 28 people              \$25 .....  
 \_\_\_ Indianapolis                      limit 29 people              \$25 .....  
 \_\_\_ May Creek/Lothlorien                      limit 28 people              \$25 .....  
 \_\_\_ Carbon Tower                      limit 45 people              \$10 .....

**We reserve the right to correct the total amount due.                      TOTAL \$ .....**

\_\_\_ Check or Money Order (payable to Indiana University in US \$, Conference #92-00)

\_\_\_ Credit Card              Discover              MasterCard              Visa              American Express

Credit Card Number: \_\_\_-\_\_\_-\_\_\_-\_\_\_ Exp date: \_\_\_/\_\_\_ Authorized Signature .....

**JULY 1, 1999- JUNE 30, 2000 IASCP MEMBERSHIP CARD**

(Note that the membership card is not part of the conference registration form)

Renew your membership now and you will not miss any of your membership benefits; including: subscriptions to The CPR Digest; discount registration at our nearly annual meetings; conference abstracts, and the opportunity to contribute to the growth of the IASCP. Contact the IASCP office for additional information or visit our web site.

**MEMBERSHIP INFORMATION:** Renewal \_\_\_ New \_\_\_ (Please check one)

Last Name                      First Name                      Middle

Address:

City                      State/Province:                      Postal Code/Zip:                      Country:

E-mail Address:

**INDIVIDUAL MEMBERSHIP\***

**CHECK MEMBERSHIP YEAR(S):**

\$15,000 or more.....US \$30.00                      \_\_\_ July 1, 1999- June 30, 2000              \_\_\_ July 1, 2000- June 30, 2001              \_\_\_ July 1, 2001- June 30, 2002

OR \$14,999 or less.....US \$8.00

Total dues payment @US \$30.00.....\$ \_\_\_\_\_

Total dues payment @ US \$ 8.00.....\$ \_\_\_\_\_

\*Institutional membership fees are a flat rate of US \$30.00.

**PAYMENT INFORMATION:**

You can return this card to IASCP with:

\_\_\_ A check payable to IASCP

\_\_\_ MasterCard \_\_\_ Visa \_\_\_ Discover | Card Number \_\_\_\_\_

Signature \_\_\_\_\_ | Exp. Date: \_\_\_\_\_ OR E-mail, phone or fax the information to:

**THE INTERNATIONAL ASSOCIATION FOR THE STUDY OF COMMON PROPERTY**

Indiana University, Workshop in Political Theory and Policy Analysis, Woodburn Hall 220 , Bloomington, IN 47405-7110

Phone: 219-980-1433 Fax: 219-980-2801 e-mail: [iascp@indiana.edu](mailto:iascp@indiana.edu) <http://www.indiana.edu/~iascp>

**Conference Accomodation Arrangements**

**Indiana Memorial Union**

A block of hotel rooms has been reserved in the conference headquarters hotel, the Indiana Memorial Union, beginning May 31, 2000. Early arrivals may be accommodated on May 30, 2000 on a first come, first served basis. The IMU is located on the 900 block of E. 7th Street in the center of the Indiana University campus. The hotel rooms have been recently remodeled and are exceptionally attractive, besides being comfortable and convenient to the meeting rooms. All rooms are equipped with data ports. The IMU is central to many campus attractions and is a pleasant 5 minute walk to downtown. Parking is complimentary for guests staying in the IMU. The Union accepts Visa, MasterCard, and Discover credit cards. The IMU is served directly by the Bloomington Shuttle Service from the Indianapolis Airport. If you wish to reserve a room in the IMU, please make your reservations directly by calling their Reservation Office, (800.209.8145). Our block will be released for sale to the public on Monday, May 15, 2000. You may fax your reservation request to the IMU at (812.855.3426). Please identify yourself as a member of the IASCP conference, #92-00. Current rates range between \$72 and \$91/night, plus tax (single occupancy). We expect a slight increase by the summer.

**Additional hotel accommodations**

We have reserved additional blocks of hotel rooms in the Holiday Inn and the Courtyard by Marriott since the headquarters hotel is not large enough to accommodate all of us. Please call the properties directly to make your reservation and identify yourself as an IASCP participant. The cut-off date for these hotels is April 14, 2000.

Hotel	Phone	Cost	Transportation
Holiday Inn	(812.334.3252)	\$83-\$89, plus	taxi, shuttle service provided
Courtyard by Marriott	(812.335.8000)	\$89, plus tax	walking distance

**Wilkie (campus residence hall)**

We have reserved lodging for IASCP participants in the most attractive and comfortable residence hall on the university campus, Willkie Quad. We have 100 rooms reserved in Willkie, a pleasant 10 minute walk from the Indiana Memorial Union. Two persons, each having their own room, share a common bath. Rates are currently \$32/night, plus tax, for one person. The renovation of this residence hall to convert it into suite-type accommodations, suitable for adults, was just completed this year. We think you will enjoy this convenient and moderately priced option. The shuttle bus from the Indianapolis Airport does not stop at Willkie. You will need a taxi from the IMU to Willkie if you are carrying luggage. Reservation requests for Willkie Accommodations **ONLY** can be submitted with your registration.

**WILKIE RESIDENCE HALL RESERVATION REQUEST FORM**  
**International Association for the Study of Common Property**  
**May 31 - June 4, 2000**

*Please use one form per person*

**Return to:** IU Conferences, P.O. Box 249, Bloomington, IN 47402-0249, USA, Fax: 812-855-8077

NAME:

Family Name First Name Middle Initial

STREET ADDRESS

CITY STATE

ZIP COUNTRY

GENDER E-MAIL TELEPHONE

ARRIVAL DATE/TIME DEPARTURE DATE/TIME

REQUEST TO SHARE A SUITE WITH

*If you wish to share a suite with a specific person, please coordinate your reservation requests. **Both parties must indicate on their form that they wish to share a suite with each other.** Please use one form per person. Payment is accepted on site. Rates are currently US\$32.00/night +10% hotel tax. Request must be made by May 15, 2000. Confirmation will be made by e-mail or telephone to the address or number you provide.*

**CPR Digest  
IASCP  
Woodburn Hall 220  
1100 E. 7th Street  
Bloomington, IN  
47405-7110 USA**