



OF COASE AND CATTLE : DISPUTE RESOLUTION AMONG NEIGHBOURS IN SHASTA COUNTY

By Tanvi V. Menon

ABSTRACT

This paper seeks to examine the “Coase Theorem”⁴ in context with the example of Rancher and Farmer. The analysis of “Coase Theorem”⁵ in relation to Shasta County where the Rancher is in no way liable to paying damages for trespass to the Farmer. It is evident that in Shasta County the entire parable of Coase is not in effect. So we go on to find that they resolve such disputes by..... If they keep doing this then it won't lead to efficient outcomes which is entirely the point of Coase's Theorem. The most effective solution is also discussed in this paper.

Hypothesis expresses that "if trade in an externality is possible and there are no transaction costs, bargaining will lead to an efficient outcome regardless of the initial allocation of property rights."

The entire point of the parable by Coase is to help bridge the gap between law, economics and society's movements whenever there is a clash between parties on any point of interest.

The parable's point was to allocate resources in such a way where the transaction costs are zero and the parties involved can agree on to exchange of property rights in such manner where there is efficient allocation of resources among all the parties involved.

An example given by Coase in his paper is the conflict between a Farmer and Rancher whose point of conflict arrives when the cattle of the Rancher wanders into the property of the Farmer and destroys his property. The most efficient solution would be to build a fence between both of their properties, but who will bear the expenses of building the fence?

This solution is given by Coase that if the property rules are favouring towards the Rancher, then the expenses will be borne by the Farmer but still it is efficiently beneficial for the Farmer because his produce is not damaged and it is beneficial for the Rancher because his cattle won't be injured and will be safe.

If the property rules favour the Farmer then the expenses will be borne by the Rancher, this solution is efficient because by this too the Farmer because his produce is not damaged and it is beneficial for the Rancher because his cattle won't be injured and will be safe

1- C.-R. H. Coase, Problem of Social cost, vol.3, TJLE, 1960.

2- C.- ibid 4

INTRODUCTION

THE COASE THEOREM⁶

The Coase Hypothesis, created by Ronald Coase, states that while clashing property rights happen, haggling between the gatherings included will prompt a productive result paying little mind to which party is at last granted the property rights, as long as the exchange costs related with the transactions are insignificant. In particular, the Coase



In Coase and Cattle , it goes further than this to provide an efficient solution for this exact problem.

3- C.- ibid 4

4-

SHASTA COUNTY

Shasta County is a County in California. The people of the country have a unique way of resolving disputes of animal trespass into farming lands. Coase used the parable of a Rancher and Farmer to establish that when the transaction cost are zero, a change in the rule of liability will have no effect on the allocation of resources. Coase basically says that laws against cattle trespass will not cause the number of cattle to decrease or for the quality of fences to increase.

In Shasta County , though this parable fails because in a small town the basic attitude of the people is to try and exist in harmony with each other. So this will fail because then consideration of transaction cost has disappeared, all these people care is about the resolution of their disputes that was done before by the collection of signatures for a closed range ordinance before the “Calton Folly Ordinance” in year of 1973.

The people of Shasta County also have a main occupation of either ranching or owning ranchettes. When taxes levied on them burnt a hole in their pockets they sold parts of their lands to developers who converted them into ranchettes.

There are two kinds of Ranchers in Shasta County –

1) Traditionalists

The people who believe in this approach are mainly from the older generation who are still into the practise of Animal

husbandry and are more likely to be a part of the Board of Supervisors. They are against any closed range ordinances which might lead to them having to tether their cattle to a limited space. It is the trademark of traditionalists to let their cattle roam without any attendance in unfenced mountain areas during summers. During summers the availability of feed for the cattle reduces drastically, so these Ranchers have to either irrigate their tracts of land or let out their cattle to the higher foothills where the temperature is cooler to survive. These traditionalists usually lease out land in the mountainous terrains during the summer for their cattle.

2) Modernists

The people in Shasta County who keep their cattle inside fences during all times is a modernist. Modernists use sprinklers and other irrigation systems for their ranches in order to keep their cattle alive, this also helps in keeping vegetation alive. Modernists tend to be younger , educated and participating more in the cattle association of Shasta County.

The modernists and traditionalists shake hands on the matter of any legal propositions that might increase the liabilities on the owners of the cattle.

FENCING DISPUTE

A fence basically is some sort of a barricade which demarcates boundary of a property and keeps out trespass of any kind. According to Coase this reduced the damages to the crops in the property. In Shasta though this is done primarily for the welfare of the cattle and is done by the



Ranchers. “Today, Shasta County Ranchers tend to use at least four strands of barbed wire and they employ steel posts instead of the cedar posts customarily used earlier in the century.”⁷ “Barbed wire fence in Shasta County cost about \$2000 per mile. Fence contractors charge at least as much for labor and overhead. Both Ranchers and ranchette owners customarily build their own fences and thereby drastically reduce out-of-pocket labour expenditures.”⁸ “Barbed wire fences require periodic maintenance, especially in Shasta County, where many natural forces conspire against fence wire. The extreme summer heat loosens the wire while the winter cold pulls it taut. Ranchers believe that the many benefits of perimeter barriers outweigh fence construction and maintenance costs.”⁹ “A closure reduces the number of loose cattle because fear of liability to motorists makes traditionalists reluctant to run cattle at large inclosed range.”¹⁰ This points out that the duty of building a fence was shifted towards the Rancher instead of the Farmer even with the existence of the statute. The Ranchers started to be strictly liable for a and every action of their cattle.

THE LAW OF ANIMAL TRESPASS IN SHASTA COUNTY

In USA the English common law of strict liability is applied for animal trespass which basically means that the owner is held liable for all acts and damages done by his cattle. In the 1850’s a statute was passed which only put the liability on the cattle owners if the victims had built lawful fences on their properties. All these laws still were favouring towards the cattle owners After which another statute was passed which protected those Farmers who did not have fences on their properties. “In the Estray Act of 1915, 97 the legislature adopted for most of California the traditional English rule that the owner of livestock is strictly liable for trespass damage. This statute, however, retained the open-range rule for six counties in the lightly populated northern part of the state where the tradition of running cattle at large remained strong. The Estray Act of 1915 thus specifically excepted all of Shasta, Del Norte, Lassen, Modoc, Siskiyou, and Trinity Counties from the closed-range regime.”¹¹

DISPUTE RESOLUTION IN SHASTA COUNTY

Coase assumed in the example of Farmer and Rancher were aware of and respected each other’s legal rights and rules. In Shasta County that is one thing that seems to be missing, that the citizens believe in a ‘live and let live’ policy and

7. C. - Robert . C . Ellickson, Of Coase and Cattle: Dispute resolution between neighbours of Shasta County, vol.1, YLS, 1986
 8. C.- ibid 7
 9. C.- ibid 7
 10. C. – ibid 7



try to coexist among themselves peacefully. Therefore they find the Farmers find the damage to their crops negligent because the Ranchers will take their wandering cattle out of their fields in a day or two. They normally don't go for any legal action, which questions their legal knowledge and entitlement.

11-C. - Robert . C . Ellickson, Of Coase and Cattle:Dispute resolution between neighbours of Shasta County,vol.1, YLS,1986.

HOW DAMAGING ARE THE FACTS TO COASE'S PARABLE?

"The extent of their knowledge is relevant for at least two reasons. First,Coase's Parable is set in a world of zero transaction costs, where everyone has perfect knowledge of legal rules. In reality, legal knowledge is imperfect because legal research is costly and most residents resolve trespass disputes by applying lower-level norms that are consistent with an overarching norm of cooperation among neighbors. To the extent that residents understand that their lower-level norms are inconsistent with formal legal rules, the more notable it is that the norms prevail."¹²

Coase assumed that all parties involved in any and all interactions will be with complete and full awareness of their legal rules, rights and obligations. In Shasta County that is not the case as said by Mr. Robert Ellickson in his paper that he could not find any individual in Shasta who was completely aware of the trespass laws in place. All the citizens were concerned with was the type of range

their property fell under. "As most laymen in rural Shasta County see it, trespass law is clear and simple. In closed-range, an animal owner is strictly liable for trespass damages In open-range, their basic premise is that an animal owner is never liable"¹³

"In contrast to the landowners, the legal specialists immediately invoked *negligence* rules when asked to analyze rights in trespass cases. In general,they thought that a cattleman would not be liable for trespass in open-range (although about half seemed aware that this result would be affected by the presence of a lawful fence), and that he would be liable *only when negligent* in closed-range."¹⁴

According to Coase ,
 "They would settle their trespass problems in the following way. First, they would look to the formal law to determine who had what entitlements. They would then regard those substantive rules as beyond their influence. When they faced a potentially costly interaction, such as a trespass risk to crops, they would resolve it "in the shadow of the formal legal rules.

12 -Robert . C . Ellickson, Of Coase and Cattle:Dispute resolution between neighbours of Shasta County,vol.1, YLS,1986.

13- C. - ibid 12

14- C. – ibid 12

Because transactions would be costless, enforcement would be complete: No



violation of an entitlement would be ignored.”¹⁵

These are damaging in the sense that Coase assumes that the transaction costs are bound to be low or negligible, which is quite the opposite in reality where transaction costs are really high.

In Shasta it is “*Norms, not legal rules that are the basic sources of entitlements.*”¹⁶

It is a norm in Shasta that the owners are responsible for their cattle, regardless of the formal legal entitlements given.

“The norm that an animal owner should control his stock is modified by another norm that holds that a rural resident should “lump” minor damage stemming from isolated trespass incidents. The neighbourly response to an isolated infraction is an exchange of civilities. A trespass victim should notify the animal owner that the trespass has occurred and assist the owner in retrieving the stray stock.”¹⁷

“Several realities of rural life in Shasta County help explain why residents are expected to lump trespass losses. First, it is commonplace for a country landowner to lose a bit of forage or to suffer minor fence damage. Second, most residents expect to be on both the giving and receiving ends of trespass incidents. Even the ranchette owners have, if not a few hobby livestock.”¹⁸

“If trespass risks are symmetrical, and if residents lump all trespass losses, accounts balance in the long run. Under these conditions, the advantage of reciprocal lumping is that each person is made whole without having to expend time or money to settle disputes. The norm of reciprocal restraint that underlies “live-and-let live” also calls for Ranchers to lump the costs of boarding another person’s animal, even for months at a time.

Another norm followed to keep deviants in line is self- help which is also done through gossip. Negative me”¹⁹ gossip can have a very adverse effect on the social standing of a person.

Gossip feels in the person from doing it again. If this method were to fail then they take measures such as threatening and sometimes the ‘tit for tat’ method. Even after repeated warnings and complaints still the cattle enters into the property of a Farmer then he might just as well leave his own cattle onto the offenders fields Another method used is complaint to officials like the Animal Control Officer or the Board of Supervisors, who the traditionalists fear and respect.

19-C. - Robert . C . Ellickson, Of Coase and Cattle: Dispute resolution between neighbours of Shasta County, vol.1, YLS, 1986.

HOW TO CONTROL THESE EXTERNALITIES EFFICIENTLY?

In Shasta County , another surprising thing that was found was that monetary compensation for damages is very rare

15- C. - Robert . C . Ellickson, Of Coase and Cattle: Dispute resolution between neighbours of Shasta County, vol.1, YLS, 1986.

16- C. – ibid 15

17- C. – ibid 15

18- C. – ibid 15



because all citizens want to be good neighbours and ‘live and let live’.

“Mutual restraint saves parties with long-term relationships the costs of going through the formal claims process. Adjoining land owners who practice live-and-let-live are both better off whenever the negative externalities from their activities are roughly in equipoise. Equipoise is as likely in closed-range as inopen.”²⁰

They also do not take a legal approach as it might escalate the conflict. The only two legal disputes regarding the same were both filed only after the informal methods failed to work and this drastic measure was the only option they could take. These cases also were decided by the courts in the victim’s favour. The other normal residents of Shasta refuse to take a legal action against neighbours and do not consider it as normal to do so.

So these externalities can be controlled very easily according to Coase, if the people regard the legal rights as the most easiest and quickest way of resolving a dispute instead of trying methods like gossiping or threatening. These informal methods only increase the transaction cost and it depends heavily on the communication and willingness of the person to perform which automatically makes it very inefficient and time consuming as well.

These legal methods will only be used by the people when they are made aware of their obligations to the legal system and the benefits they gain out of it.

They will also start receiving monetary compensation for the damages they suffer without having to worry about setting precedents as they have not made them but the court has and also this might just as well salvage some relations with their neighbours that might have turned sour over the course of the trial.

Basically what will efficiently deal with all externalities and solve any and all issues regarding animal trespass is legal action against the offenders.

20- C. –Robert . C . Ellickson, Of Coase and Cattle:Dispute resolution between neighbours of Shasta County,vol.1, YLS,1986.

CONCLUSION

We see through the paper that Mr. Robert Ellickson basically says that,

“Because Coase himself was fully aware that transactions are costly and thus that the Parable was no more than an abstraction, my findings in no way diminish his monumental contribution. The findings may, however, serve as a valuable caution to other law-and-economics scholars who may have underestimated the impact of transaction costs on how the world works.”²¹

This paper basically acts as an extension to the Coase Theorem.



It just points out how even though the people are not taking advantage of the legal entitlements but they tend to take decisions that are mutually beneficial to all parties involved, which is what Coase tries to explain in his paper.

What Ellickson tries to say is that with the philosophy of 'live and let live' and informal means such as gossip , the people are trying to take such actions and decisions that are mutually beneficial and advantageous for all, which is in tandem with what Coase tries to say.

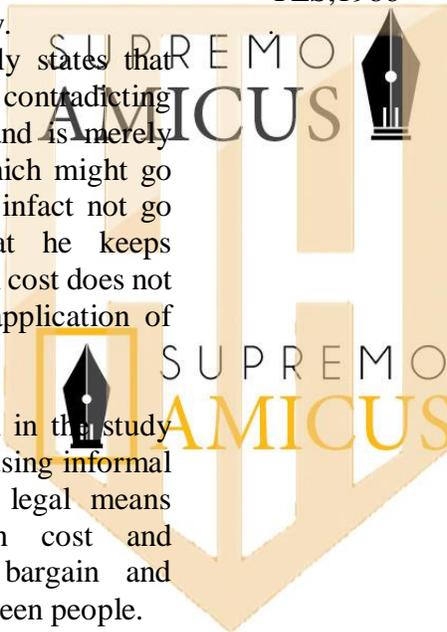
In the paper too he clearly states that while it might seem he is contradicting Coase , he is infact not and is merely presenting an argument which might go against his theory but can infact not go against it. The fact that he keeps mentioning high transaction cost does not mean that it renders the application of Coase as irrelevant.

The high transaction given in the study just goes on to prove how using informal means in place of given legal means increases the transaction cost and becomes inefficient for bargain and interaction of disputes between people.

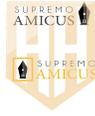
The only possible thought that has been found to be contradicting of Coase is the manner of interaction between the Farmer and Rancher. While Coase assumes that they will interact in a legal environment should dispute arise, it is seen that it might not always be the case and that there are other alternatives to the same interaction.

In conclusion, all the paper says is that the people in Shasta County are not using legal entitlements to resolve disputes but other informal methods which seem to be inefficient and also we find the solution that approaching a legal remedy is the most effective and efficient solution.

21- C. - Robert . C . Ellickson, Of Coase and Cattle:Dispute resolution between neighbours of Shasta County,vol.1, YLS,1986



SUPREMO AMICUS



VOLUME 3 | JAN | 2018

ISSN: 2456-9704

