

BOUGHT FOR A SONG

The other day, for some mysterious reason, I got to thinking about the Louisiana Purchase. I confess, I didn't know much about it except that I live in it now, have lived in it for over half my life, and the only property I've ever owned—my sliver of the pie—was 1,875 square feet of the Louisiana Purchase with a house on it, built in 1908. When in a fit of research mania I began tracing the chain of title on the land about fifteen years ago, I eventually ended up all the way back to Jefferson's purchase from Napoleon. What was never clear from the records at the county courthouse was how Napoleon ever got his hands on all that land, roughly the middle one-third of the continental United States.

I can't recall exactly how much I paid for my property in 1989, but I do know it was a good deal more than the three cents an acre paid in 1803. By the time I bought it, that particular postage-stamp-sized fragment of land had changed hands about two dozen times since it was part of the half a billion acres purchased from France by the U.S.

Here's how the story goes. In about 1801, President Thomas Jefferson started wangling to purchase the city of New Orleans from France in order to gain control of this important port of entry from the Mississippi River to the Gulf of Mexico, for which he was prepared to fork over no more than two million dollars. What Jefferson and his negotiators ended up buying by the time the deal was closed in 1803 was a good deal more than that: just shy of 530 million acres for fifteen million dollars (including parts or all of present-day Arkansas, Missouri, Iowa, Minnesota west of the Mississippi River, North Dakota, South

*Let the Land
rejoice, for you have
bought Louisiana
for a Song.*

-Gen. Horatio Gates to
Pres. Thomas Jefferson,
July 18, 1803



Dakota, Nebraska, New Mexico, northern Texas, Oklahoma, Kansas, the portions of Montana, Wyoming and Colorado east of the Rocky Mountains, the portions of southern Manitoba, southern Saskatchewan and southern Alberta that drain into the Missouri River, and Louisiana on both sides of the Mississippi River, including, thank goodness, New Orleans).

Conquest, to my mind, is a very gray area, predicated as it is on the questionable notion that good Christians everywhere have the God-given right to claim any land occupied by heathens. *The earth is the Lord's* and the Lord God said *subdue and have dominion*, an edict that left a frightening amount of wiggle room for those in the *explore and conquer* frame of mind.

If ever there were a shady deal for a pig in a poke, the Louisiana Purchase was it. At the time of the transaction, the French were unable to clearly specify the boundaries of the parcel, the indigenous people who occupied the land were not informed of the sale, the territory had not yet been explored or surveyed, nor was the land truly France's to sell; they merely sold their *claim* to the land, which consisted of various treaties and other pieces of paper that had changed hands between France and Spain several times since the initial conquest. To his credit, Jefferson is said to have been reluctant to make the deal, since buying Louisiana from France so clearly implied that France had a right of ownership in the first place, which was dubious, but in the end that didn't stop him from overstepping his constitutional authority in authorizing the purchase.

These are swampy waters indeed. We may well have *bought Louisiana for a Song*, but it was an awfully long and sad song. The U.S. continued to pay the Native American nations for "Louisiana" throughout the nineteenth century while restricting them to smaller and smaller allotments and reservations. We fought more than fifty Indian wars in the Louisiana Purchase between 1819 and 1890. The estimates of the native population of aboriginal America north of Mexico in 1492, depending on who is trying to prove what point, range wildly from a low of under a million to as many as 18 million; by 1900 there were only about 400,000 native people in the entirety of North America. This has been referred to as a holocaust—as genocide—and I have a hard time arguing with that.

Do any of us who think we own land truly have clear title to it? Or a clear conscience?

"All the territorial possessions of all the political establishments in the earth—including America, of course—consist of pilferings from other people's wash," said Mark Twain. "No tribe, howsoever insignificant, and no nation, howsoever mighty occupies a foot of land that was not stolen."

These matters have been debated in virtually every court in the land, including the Supreme Court, and I do not pretend to have anything other than a tenuous grasp of the scope or detail, but I do have a few provocative thoughts on the issue of buying, selling and owning land. If, as Twain so succinctly suggests, nobody owns land that was not stolen, this levels the playing field for a different sort of discussion.

I'm not certain that the land consents to be owned by us just because it's been surveyed, platted, bounded, deeded and recorded by the proper authorities any more than the Missouri or Mississippi Rivers consent to stay within their banks just because they've been dammed, diked, leveed and revetted by the Corps of Engineers. Control, as I am so often reminded, is largely an illusion.

Ownership, I believe, was once synonymous with stewardship. The *Genesis* mandate to *be fruitful and multiply and replenish the earth* did not, I'd like to think, imply procreation so much as co-creation, a shared responsibility for husbanding the resources of the earth. As best I can tell, this is exactly what the indigenous tribes were doing when Columbus arrived in America. While group and individual *rights* to the use of the land were recognized, the land did not *belong* to the present generation and therefore could not be purchased or sold. Those who occupied, hunted, fished or cultivated particular pieces of ground were simply trustees of it for future generations. Some of the tribal elders who struck the first deals with early colonists were said to have scratched their heads in puzzlement or even chuckled amongst themselves as they walked away with beads, knives, blankets, kettles and axes in exchange for land that was not theirs—or anyone's—to convey. They were further baffled and understandably angry when they were later shot at or imprisoned for trespassing, hunting or fishing on that same land. Who but the *Great Spirit* could own the rivers, fish, animals and plants? Indeed.

We Americans are unique in the lengths to which we've carried the notion of real property rights. "Virtually the entire population of the world lives on land it does not own," writes Thom J. McEvoy (School of Natural Resources, University of Vermont), "but in our country, such is not the case." We are all still riding a two-century-long backlash against the King of England, still jealously guarding sovereignty for private property (and the longer a piece of land has been in the family, the more sovereign we suppose ourselves to be), with our ownership of private land and the right to sell or bequeath it to whomever we wish as proof that we do not answer to the King, or anyone else.

This is based more on feeling than fact, for the state has in many ways stepped in to replace the King by retaining a number of significant rights: to tax land, to exercise eminent domain, to control land use in order to ensure protection of public interests, and to take possession in the event an owner dies without will or legal heirs. The state also owns the wildlife on all private land; the owner must purchase a license and observe the proper seasons in order to harvest wildlife on his or her own land. The only significant shackle of English property law we've managed to shuck off is the bit about leaving entire estates intact and passing them down to either the first-born son or another male relative by blood.

There is, however, an extensive "bundle of rights" that enables American property owners to do as they wish with their land, as long as that does not violate any federal, state or local laws. In many rural counties, ours included, the lack of any zoning or land use ordinances makes this a pretty broad field of play. Industrial wind complex, golf course, corporate hog farm, landfill or subdivision—none of these are disallowed by law around here, despite how far-reaching their effects on adjacent land owners might be.

Much is implicit in the owner's bundle of rights, and much can therefore be construed. One of the



oddest of all spins on what can be bought and sold is a public-private scheme for trading carbon credits, whereby, for example, someone out here in the Flint Hills with lots of native grass that very effectively sequesters carbon may sell credits that will be purchased by a factory in New Jersey that is generating more than the allowable limit of carbon dioxide. That something as ineffable and essential as the land's capacity to store carbon can be sold is only half the wonder; that poor stewards of the land can pay good stewards to expiate their environmental sins seems seriously out of whack.

I have heard it argued many times that homeowners generally take better care of their property than renters. In fact, when assessing the health and property value of a neighborhood, a high percentage of rental properties automatically warrants a poor mark. This generalization raises a number of interesting questions: Is the condition of rental properties a reflection of a lack of personal pride among renters or a function of economic disadvantage? More to the point, perhaps, whose values are reflected by the condition of the property, the renter's or the landlord's? In the case of single family homes, why was the property converted to a rental in the first place? Did the previous owners move to a more fashionable address? What is it about our culture that promotes class and status differentiation based on where we live or whether or not we own our property? What has driven us to such heights of acquisitiveness that families buy spacious new homes with mortgage payments so large that they cannot afford to fill the house with furniture?

And the biggest question of all—the fifteen million dollar question—is this: What would happen to the gap between the *haves* and the *have-nots* if no one owned property, if everyone were given the privilege of occupying a piece of land as long as they were good caretakers of it, and all the remaining land belonged to everyone and could be accessed by anyone without fear of trespassing, as long as they treated it with honor and respect? This, of course, was the way things were before Columbus, Ferdinand and Isabella, Bonaparte and Jefferson. No real estate industry. No mortgage

banking industry. No homeowner's insurance. No monthly payments. No foreclosures. Just for a minute, imagine.

CYCLES ON THE GREAT PLAINS	
Boom to Bust I	
1862	Homestead Act: federally subsidized settlement & cultivation (160 free acres)
1880s	Blizzards and drought
1890s	Drought & financial panic prompt major exodus
Boom to Bust II	
Early 1900s	New homesteading subsidies (640 free acres)
1920s	Locusts, rural depression
1929	Great Depression
1930s	Dust Bowl
1934	Homesteading abolished
1937	Federal government buys 7.3 million acres of abandoned farm holdings, designated "national grasslands"
Boom to Bust III	
Late 1930s	New Deal: crop subsidy programs introduced
1940s-1950s	USDA crop subsidy programs expanded
1970s	Average size of farms increases; new farming technologies available; agricultural commodity prices rise
1980s	High rate of bankruptcies, foreclosures and rural bank failures; soil erosion approaches Dust Bowl rates
Mid-1980s	New federal subsidies have little impact; the most effective program is one that makes bankruptcy simpler for farmers

In its own way, much of the Louisiana Purchase resisted (and continues to resist) settlement and ownership. After Lewis & Clark had returned from their explorations with a report on the new land holdings, it remained for the government to entice adventurous pioneers to inhabit the land. Lincoln's Homestead Act of 1862 was the first in a series of government giveaways and subsidies that made it possible for America's hinterland to be settled at all. When blizzards, droughts and financial panic threatened to depopulate the area at the end of the nineteenth century, the government answered by offering even larger tracts of free land.

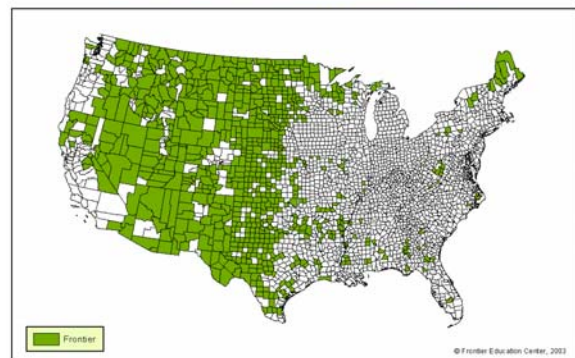
A pair of geographer/land use planners from the East Coast, Frank and Deborah Popper, were the first, in 1987, to call attention to a series of boom to bust cycles that had occurred on the Plains over the previous hundred years, noting that each boom was kick-started by federal subsidies. They predicted that within a generation the third cycle would be complete and radical new alternatives would need to be considered. That time is nearly here.

The Poppers introduced a concept, dubbed the *Buffalo Commons*, which they described as a *regional metaphor* and which suggested that a large-scale land reuse and restoration project, largely funded and overseen by the federal government, was a reasonable alternative for the

increasingly depopulated land between the 98th meridian and the Rocky Mountains. They called attention to water shortages, soil erosion, poverty, bank collapses, ghost towns, and population densities that have been steadily decreasing, many of them since the end of the first cycle in the 1890s.

How ironic to think that so much of the land bought from France, given away to homesteaders and periodically subsidized through various government programs over the years might eventually be purchased back—overgrazed and depleted by extractive agriculture—by the government. More than one economist has pointed out that it would be less expensive to buy the land back and hold it in a national grassland/ecosystem reserve than to continue the current subsidy programs. I wonder, how many times have we paid for that land?

USA Frontier Counties, 2000 Consensus



Historian Frederick Jackson Turner's 1893 announcement that the great American frontier was "closed" turns out to have been seriously premature. The frontier never closed and has been steadily expanding since shortly after his announcement.

In a further irony, as white population declines on the Great Plains, buffalo, wildlife and American Indian populations are slowly increasing. It's almost as if the land has quietly rebelled and patiently waited until the cycle reversed itself and began moving back toward the original pattern.

The Poppers, by the way, came up with their analysis, conclusions and the Buffalo Commons metaphor in an ivory tower on the east coast, using satellite maps, demographics, almanacs and historical data. They intended only to identify a trend and promote discussion, to get people moving toward a solution. After an unexpected avalanche of media attention, mail and invitations to speak, they actually came out to the Great Plains and saw things for themselves, which did little or nothing to invalidate any of their conclusions. After a speaking engagement in McCook, Nebraska they accepted an escort out of town by the Sheriff's department, so vehement was the local reaction to their message. Emotions all across the rural Great Plains were similarly intense. The Poppers were not deterred, only further convinced that they had put a finger very near a raw nerve.



A satellite map of the United States at night highlights the reverse of the pattern shown in the frontier county map

As you might expect, the audiences who reacted the most negatively and vocally were composed of the farmers, ranchers and small-town business owners who had hung on and were still trying to make a go of it. The intensity of their reactions was a measure of their own fear and desperation, not to mention their indignation at the idea that one more intervention from the government might be the thing that finally took them off their land for good. Some people were attracted to the buffalo part of the metaphor, but according to the Poppers, "many Plains people intensely disliked the commons portion of the metaphor, associating it with collectivism and lack of choice."

What is it about owning land that has become so important to Americans? Is it for love of the land itself, for the personal freedoms with which ownership of private property has become associated, or for the perceived value of the land as an investment? If given the option of remaining on the land and making a reasonable living there, but no longer actually owning the land, what would most people choose? These are rhetorical questions. I do not suggest any answers, but I am intrigued by something else that Thom McEvoy wrote: "It is ironic that many of the people who complain the loudest about erosion of private property rights are the ones who invariably want to retain the option of selling out to the highest bidder, for whatever use, and regardless of the cost to others in the community."

What have we done with this land in the two hundred years it has been under our stewardship, since we bought it for a song? We have paved, fenced, grazed, plowed, planted, fertilized, herbicided, irrigated and eroded it. We have dammed the rivers, sucked the huge Ogallala Aquifer all but dry, and gone at each other's throats over the rights to what precious little water remains. We have extirpated and endangered a stupefying number of plants, mammals, reptiles, amphibians, crustaceans, insects and birds.

Speaking of birds, *bought for a song* is meant to imply that something was purchased cheaply, for practically nothing, but if you are a bird, a song is about the only currency you have, and it becomes something much more precious. The ground-nesting Henslow's sparrow and its song are both so tiny as to easily escape notice. This habitat specialist who thrives on uncultivated grasslands, but does not tolerate much woody vegetation, is a unique harbinger of prairie integrity. The tiny sparrow's breeding habitat has been reduced by 90% in the last two hundred years and its numbers have declined by more than 80% since 1966. Who knows how many Henslow's sparrows were here in 1803? Now there are only an estimated 50,000 remaining.



The Henslow's sparrow is famous for tirelessly singing its courting tune all through the night and even in the rain. When we conducted our first spring breeding bird survey last May, we heard not a single note from this singer. But this year, after only a year under our new burning and grazing program, we were rewarded with identification of eleven Henslow's sparrows. With our diligent labors to restore the prairie we had bought back the Henslow's song, an accomplishment that to us is more precious than gold.

Much like the indigenous people before the Louisiana Purchase, I have no legal tie to this land, and yet I have a covenant with it that is every bit as binding as a deed, with a deep and abiding sense of responsibility toward future generations. My naturally charitable inclinations were sorely challenged in a recent conversation with a fellow of around fifty, father of three children and grandfather of one, who professed quite strongly not to care what impact his actions upon the earth would have on future generations. Before I abandoned all civility, he added a qualifier that brought me up short. "When am I supposed to have time to worry about what kind of world I'm leaving for my kids?" he asked. "I'm too busy trying to keep my head above water now." I dare say that these words are so familiar as to be a more apt national anthem for many Americans than The Star-Spangled Banner.

I wonder if the burdens of ownership and wealth-building have dulled and undermined our bond with the land. I wonder if the weight of our mortgages and real estate taxes has numbed us to the true value of the land: the wealth of species, the miraculous natural systems, ample open space in which to stretch and breathe, the inestimable worth of a single bird's song. I wonder if we have forgotten that ownership is a privilege that carries with it a moral and spiritual responsibility.

Ownership is not a prerequisite of stewardship, to that I can personally attest. That stewardship is no longer a condition of ownership, is cause for lament, but more productively, cause for question. How did we get here? And how do we find our way back to a more balanced, conscious approach to being citizens of the planet and managing our most precious resources?

I apologize. I have sped recklessly down the highway of history and veered off onto side roads without using my turn signals. There are many roads I might have taken, but did not. I have followed a mysterious map buried deep inside my unpredictable brain. I have shamelessly littered the route with facts and asked far more questions than I've answered. I can only hope I have also been provocative, like controversial public art; the more people find it atrocious and bewildering, the more people will become actively engaged in discussing the questions that are raised: What is art? Who owns the Louisiana Purchase? How much is a Henslow's Sparrow's song worth?

If you are interested in learning more about the Buffalo Commons, go to http://www.gprc.org/Buffalo_Commons.html