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# The Land We Share: Private Property And The Common Good



## Synopsis

Is private ownership an inviolate right that individuals can wield as they see fit? Or is it better understood in more collective terms, as an institution that communities reshape over time to promote evolving goals? What should it mean to be a private landowner in an age of sprawling growth and declining biological diversity? These provocative questions lie at the heart of this perceptive and wide-ranging new book by legal scholar and conservationist Eric Freyfogle. Bringing together insights from history, law, philosophy, and ecology, Freyfogle undertakes a fascinating inquiry into the ownership of nature, leading us behind publicized and contentious disputes over open-space regulation, wetlands protection, and wildlife habitat to reveal the foundations of and changing ideas about private ownership in America. Drawing upon ideas from Thomas Jefferson, Henry George, and Aldo Leopold and interweaving engaging accounts of actual disputes over land-use issues, Freyfogle develops a powerful vision of what private ownership in America could mean--an ownership system, fair to owners and taxpayers alike, that fosters healthy land and healthy economies.

## Book Information

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## Customer Reviews

"The Land We Share is an extraordinarily lucid and creative analysis that clears the fog that has descended on issues of property ownership and rights. This is essential reading." (David W. Orr author of *The Nature of Design*) "What does it mean to own land? No one has thought more deeply or written more lucidly about this question than Eric Freyfogle. He brings to the discussion a sure knowledge of American history and law, a keen awareness of our ecological predicament, and a

lively tongue." (Scott Russell Sanders author of *Hunting for Hope* and *The Force of Spirit*) "Freyfogle's argument that private property is an organic, natural entity that has evolved from age to age "not a static concept bound by immutable laws" comes just in time for a renewed debate on the subject. Goodness knows we need some fresh thinking on the matter, and Freyfogle has supplied it." (John Hanson Mitchell author of *Trespassing: An Inquiry into the Private Ownership*)

Eric T. Freyfogle is the author of *Bounded People, Boundless Lands* (Island Press, 1998), winner of the 1999 Adult Nonfiction Award of the Society of Midland Authors, and co-editor of *For the Health of the Land* (Island Press, 1999). He teaches natural-resources, property, and land-use law at the University of Illinois, Urbana-Champaign.

This is the best historical review of the institution of private property in the US that I have read. Unlike many scholarly books, it is written in very clear prose without a lot of technical jargon (at least, what technical jargon is deployed is explained). Highly recommended. Holds up to multiple readings. Very relevant to many current land-use debates. I appreciate also - even if I do not share - his optimism. One can only hope he is right and that we can manage to foster a better social stewardship of the land.

"Few ideas have bred more mischief in recent times, for the beauty and health of landscapes and communities, than the belief that privately owned land is first and foremost a market commodity that its owner can use in whatever way earns the most money." So begins a remarkable study of the changing views of private property throughout American history. The dynamic tension is between land health, in the Leopoldian sense, and unfettered freedom. Freyfogle explores the major common law doctrines dealing with private property, as well as evolving statute law. Interwoven throughout the book are reviews of relevant Supreme Court cases. Landowner rights are seen as a "bundle" of rights that are subject to change as societal priorities shift. Although the book is fundamentally about law, it does not at all read like a legal brief. It is a very engaging read. Freyfogle reviews in detail the "tragedy of the commons", contrasting it with his own "tragedy of fragmentation." The two prophets that serve as his muses are Aldo Leopold and Wendell Berry. It is clear that we are going to have to rethink property law issues as we begin to face the limits of our growth. Freyfogle's book will be an important guidebook for us for years to come as we begin to grapple with these issues.

Reading this book has made me probe the fundamental assumptions that I make about what it means to own land. This book presents a fresh and very well-sustained argument that private land ownership entails public responsibilities. It also discusses what those might include. The author weaves together legal and general history, philosophy, economic theory, conservation writings, ecology, and literature into an engaging and telling story about the institution of private property in America.

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