

*This is an early, working draft of a chapter of my dissertation. In the dissertation I examine how, in the process of seeking access to land where they can grow food, farmers and gardeners in Chicago have also reimagined and sought to rework the rules and norms that govern urban land use. Other chapters explore and compare these processes in Chicago from the 1890s to the present. Here I trace connections between ideas about reclaiming the commons and projects to connect unemployed people with unused land, from the 1600s through the late 1800s. The aim is to provide a broader historical and conceptual context for understanding how Chicagoans have tried to rework the physical and socio-legal landscapes of their city. Please send any comments or suggestions to [nela@wisc.edu](mailto:nela@wisc.edu). Thanks!*

## **Reclaiming the Commons, Activating Space: A Dual Genealogy**

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On the South Side of Chicago, urban farmers and gardeners are trying to figure out how to get and maintain access to land. Even in parts of the city where vacant land is abundant, this can be a struggle. Over the four years I've spent observing and working with farmers, gardeners, and urban agriculture advocates, I've learned that part of the struggle is to figure out how, in a patchwork landscape of public and private land, to imagine, and bring into being, forms of land tenure that support urban farming and gardening.

From time to time, someone will mention the commons. Erika Allen (2013), an urban farmer by day and park commissioner by evening, has said she thinks land shouldn't be owned by anyone, and is interested in models based on the commons. Ken Dunn, a craggy-faced older farmer, told me about a day when he dumped compost on a vacant lot frequented by drug dealers, to turn it into a community garden. To justify his action, he said private land "reverts to the commons" if it's not used. He cited John Locke.

Social scientists have also been propagating claims about urban agriculture and the commons as a fix to the problems of private property. For David Harvey (2012, 73-74), community gardens are prime examples of "a social practice of commoning." Geographer Nathan McClintock (2010, 200) writes that urban agriculture "produces new commons, by returning – at least partially – the means of production to

urban populations.” McClintock and Cooper (2010) have scoured Oakland, in search of “the fallow, vacant, or unused commons that could potentially produce food for the city.” Meanwhile, public health scholars extol the virtues of gardens as “restorative commons,” (Campbell and Weisen 2009) and urban ecologists cite “urban green commons” as examples of common property systems that promote resilience (Colding & Barthel 2013; Colding et al. 2013). The list could go on.<sup>1</sup>

And I’ve done it myself. The proposal that framed this dissertation research was titled “Cultivating a Commons? Urban Farming and the Possibilities of Property.” The question mark served as a hedge, both in the sense of marking a boundary and of limiting risk. The question mark guards against the flock of assumptions and arguments that urban farms and gardens *are* a commons. Posing the connection between urban agriculture and the commons as an open question might reduce the risk of conceptualize the emergent, inchoate forms of governance emerging in Chicago and other U.S. cities as the commons – as concept, institution, and social practice – when that concept may in fact obscure certain aspects of what is actually going on.

There are, after all, real questions to be answered. Why do urban growers and activist scholars imagine urban agriculture to be related to the commons? What work does the concept of reclaiming the commons do for people that use it? If we exposed the historical roots of efforts to reclaim the commons, where might they lead?

Perhaps there is something about urban agriculture that, unlike other contemporary references to the commons – as knowledge (Frischman et al. 2014), information (Bollier and Watts 2001), or even the metropolis itself (Foster and Iaione 2015; Hardt and Negri 2009, 153) – suggests urban farms and gardens have a tangible, non-metaphoric connection to the “original” commons. Hundreds of years ago, people drew sustenance from common lands; today they do the same, at least to some degree, from urban

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<sup>1</sup> See, e.g., Donahue (2001); Chatterton (2010) (“We can see these practices of urban commoning through a range of examples... such as urban gardening”); Eizenberg 2011 (“This article examines New York City community gardens as another manifestation of actually existing urban commons”); Lawson and Miller (2013) (“A balanced citizen-land model might benefit from equating urban gardens with the “commons” concept.”); Lang (2014) (“Urban commons are shaped here by the biophysical capacities of plants, as well as the labors these require from commoners.”); Follman and Viehoff (2014) (“urban gardening has been noticed as an example of commoning within the critical urban studies literature.”)

gardens. Both involve complex connections between people, land, and plants. And both are often thought to be opposed to the logic and practice of private property. These parallels may foster the impression that there is some real, historical link between the commons that existed as an institution and set of social practices hundreds of years ago and contemporary urban agriculture projects.

Contemporary efforts to “reclaim the commons” via urban agriculture, then, are not only interventions in the political economy of urban space, but also claims to political and cultural memory. To reclaim the commons is to make an appeal to history, and to the contemporary relevance of past institutions and practices. It is an appeal to genealogy, an assertion, even if just implicit, that urban gardeners are descended in some way from the commoners of yore.

In this chapter, I sketch a genealogy of efforts to reclaim the commons, as both concept and practice. I trace how social thinkers and reformers have mobilized ideas about the commons to imagine reform projects that solve social problems understood to be the result of private property. These imaginations have often, but not always, been tied to ideas about how to activate both space and people, by making un- or underused land available as a productive resource for the un- or underemployed. Conversely, projects to connect the poor and unemployed have often, but not always, been imagined as efforts to bring back the commons.

My aim in tracing this dual genealogy – of imaginations of how the commons might be reclaimed, and of projects to activate unused space and labor – is not to demonstrate some unbroken, coherent lineage of social thinking or social practices that links the types of commons that existed in Europe some 500 years ago with and contemporary urban agriculture in the United States. If anything, my aims are the opposite. By examining how ways of mobilizing the commons as concept and social strategy have varied at different times and in different places, my goal is to better understand what work reclaiming the commons has done for past reformers, for today’s urban farmers and gardeners, and for scholars who might hope to be the academic allies of commoners.

After briefly laying out my analytical methods, the bulk of the chapter traces a genealogy of efforts to reclaim the commons. The story takes us from the English countryside of the seventeenth

century to Chicago at the beginning of the twentieth century. Our cast of characters is a group of social thinkers and reformers who are not usually seen as related, ranging from John Locke, Thomas Jefferson, and Thomas Paine to Henry George, Ebenezer Howard, and Peter Kropotkin. I conclude by comparing contemporary and historical visions of how agriculture figures in efforts to reclaim the commons. Such strategies, I argue, have never sought to reclaim the *original* social institution that was the commons, but rather to refashion it in some way. While noting some similarities between current and past practices, I focus on certain discontinuities – particularly concerning the role of the state, taxation, and inequality – that help contextualize how contemporary growers and scholars imagine the commons might be reclaimed.

### ***A longue-durée* genealogy of a sociolegal imaginary**

Social scientific studies that take urban agriculture as a means of reclaiming a commons often fail to connect theory and history (e.g. Colding and Barthel 2013). This disconnect is surprising, since the notion that urban growers are reclaiming the commons implies both a deep history, and an engagement with theories of how land can and should be governed. The genealogical approach I take here seeks to advance efforts to imagine alternative futures by tracing how, over a relatively long time period, people have imagined and theorized ways in which the commons could be reclaimed.

Social scientific studies that link urban agriculture with claims to (and about) the commons sometimes gesture briefly to a deep history (e.g. Eizenberg 2012), but are generally grounded in the present (e.g. Colding and Barthel 2013). The leading history of urban agriculture in the U.S. picks up the story in the 1890s, and follows it through World War II (Lawson 2005). This is relatively expansive, compared to other histories of urban agriculture, which often cover just a decade or two (e.g. Moore 2006; Cialdella 2014). But it is confined to the U.S., which does not afford an understanding of how European allotment gardening during the 1800s (Burchart 2002; Nilsen 2014) informed urban gardening at the beginning of the twentieth century. Nor, for that matter, does it seek to reach farther back, and explore the links between allotment gardening, land reform projects of the early 1800s, and the enclosure of the commons.

Connecting these periods can help us understand how ideas and practices around urban agriculture, the commons, and unused land and labor have developed and changed over the *longue durée*. The instinct to dig deeper than social scientists generally do is inspired by a recent call by historians David Armitage and Jo Guldi (2014) for their professional colleagues to return to longer-term projects. They argue that such narratives allow us to identify the long-term processes that frame contemporary problems, to explore past utopian ideas, and to envision alternative futures.

But in digging deep, what to look for? Here, I trace *ways of thinking* (about reclaiming the commons) and their connection to *reform projects* (that address unemployment and inequality). I take various ways of thinking about reclaiming the commons as instances of different *sociolegal imaginations*. This is an adaption of *sociotechnical imaginaries*, a concept developed in recent work by Sheila Jasanoff and others working in the field of science studies. Jasanoff (forthcoming, 28) describes imaginaries as “‘collectively held and performed visions of desirable futures’ (or of resistance against the undesirable).” They are “‘animated by shared understandings of forms of social life and social order attainable through, and supportive of, advances in science and technology.’”<sup>2</sup> (Id.) In focusing on sociolegal imaginations, I would simply substitute “law and legal science” for “science and technology” in the latter sentence. This moves law, a particular social technology, to the center of the frame.

In this story, then, people imagine ways to bring about improved social orders by reviving (and often reconceptualizing) the commons. The sociolegal imaginaries in play are collectively held and performed visions of how social conditions and order might be achieved by reclaiming the commons. Although the commons is sometimes understood as a particular configuration of property rights (e.g. Ostrom 1990), as we will see, people have also looked to many other forms of social and legal ordering – taxation, land use, employment relations, even natural rights – when imagining how the commons could be reclaimed.

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<sup>2</sup> Jasanoff’s approach fits well with *longue-duree* historical methods. “By following ideas through time,” she writes, “one gains a feel for what is fixed and what is changeable in social self-understandings, as well as the reasons why.” (41) Like a *longue-durée* perspective, a focus on imaginaries provides a way to understand how “people’s hopes and desires for the future—their sense of self and their passion for how things ought to be—get bound up with the hard stuff of past achievements.” (32)

Before moving on, it is worth emphasizing what is *not* the goal of this chapter. The aim is neither to establish a definitive, fine-grained history of social practices spanning hundreds of years, nor defend causal claims that one way of understanding the commons led to another. Nor is this genealogy a means of identifying an origin – which would risk assuming that some fixed event or form “precede[s] the external world of accident and succession.” (Foucault 1984, 78) Although I will note similarities between different sociolegal imaginations, they are not meant to prove an “unbroken continuity” or that “the past actively exists in the present.” (Foucault 1984, 81)

Instead, the aim is more modest. By drawing on existing historical accounts and the writings of a wide range of social thinkers and reformers, I construct a genealogy that illustrates the diverse ways in which people have imagined the commons might be reclaimed – and sometimes attempted to act on those imaginations. As Foucault (1976, 203) put it, genealogy offers a way “to establish a historical knowledge of struggles and to make use of this knowledge tactically today.” At the least, this genealogy might help refresh social scientific thinking around urban agriculture and the urban commons; by doing so, it might possibly contribute to helping people imagine tactics that would help bring about alternative urban futures.

### **From the Diggers’ Provocation to Locke’s Proviso**

Even without assuming that there is some “original” commons with which a narrative begins, one must pick up the thread somewhere. One place to do so is on George’s Hill in Surrey, about twenty miles southwest of London. There, in the spring of 1649, that a radical reformer named Gerrard Winstanley and a group that became known as the Diggers occupied an expanse of common land. Their occupation was a protest of how the enclosure of common lands had robbed peasants of their customary rights to the commons, and forced them to work for landowners.

But Winstanley and his followers were not simply reasserting the usufruct rights that were part of the system of common lands when they reclaimed the commons on St. George’s Hill. Customary rights, such as rights to pasturage, estover, and herbage, depended based on the setting. But they generally did

not include rights to till the land, or cultivate food.<sup>3</sup> Yet that is just what the Diggers did: they dug up the commons and planted crops.

They also published a manifesto, *The True Levellers Standard Advanced* (1649), which reveals how they imagined the act of reclaiming the commons – and the sort of world that doing so would bring about. Winstanley, a Protestant reformer, believed that “In the beginning of Time, the great Creator Reason, made the Earth to be a Common Treasury.” His theorization of the commons, its enclosure, and its potential to be reclaimed, works from this premise. The “Creator is mightily dishonoured” when the earth that he made as a “Common Store-house for all, is bought and sold.” Anyone who buys and sells land “have got it either by Oppression, or Murther, or Theft” – and in so doing, violates two of the ten commandments.

For Winstanley, digging and working the commons on George’s Hill demonstrated what was needed to free England’s poor, who had been deprived of land by enclosure. “England is not a Free People,” he wrote, “till the Poor that have no Land, have a free allowance to dig and labour the Commons.” He saw the system spreading from St. George’s Hill to “all the Commons and waste Ground in England, and in the whole World,” which would be “taken in by the People in righteousness, not owning any Propriety.”

This would, of course, have implications for labor. In Winstanley’s vision, “None shall say, This is my Land, work for me, and I’ll give you Wages.” A voice “heard in a Trance” commanded to laborers and the poor that

they shall not dare to work for Hire, for any Landlord, or for any that is lifted up above others.... He that works for another, either for Wages, or to pay him Rent, works unrighteously, and still lifts up the Curse.

; but they that are resolved to work and eat together, , doth joyn hands with Christ, to lift up the Creation from Bondage, and restores all things from the Curse.

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<sup>3</sup> Usufruct rights sometimes overlapped with open field systems of farming, but the farming itself was not understood as part of the commons.

According to the manifesto, the Curse could be lifted by people working and eating together, “making the Earth a Common Treasury,” and joining hands with Christ to lift creation from bondage. In effect, the call to reclaim the commons was also a call for a general strike.

The Diggers’ attempt to reclaim the commons didn’t last long. Within months, a combination of legal moves and violence ejected Winstanley and his followers from the commons. But the episode provides one imagination of what reclaiming the commons means, and how it might be achieved – not by reasserting customary rights, but by rethinking the institution along more utopian lines. The basis for Winstanley’s imagination – what made it not only just, but also inevitable – was grounded as much in religious and moral claims as legal ones, though obviously for the Diggers these realms overlapped.

When Winstanley and his followers dug up George’s Hill, John Locke was a sixteen-year-old student at an elite school in London. We don’t know directly what Locke might’ve heard or thought about the Diggers, but there is some evidence that he knew of Winstanley’s writings (Ashcraft 1986). More generally, Locke’s thinking developed in the shadow of the same radical shifts to England’s legal and physical landscapes – the conversion of common lands to private property – that the Diggers had resisted.

Locke’s wrote his Second Treatise on Government (1690) in the context of this great transformation. In the chapter on property, Locke imagines the relation of people to the earth much like Winstanley had. “God,” Locke wrote, “gave the world to men in common.” (Ch. V sec. 34) He also saw that enclosure could lead to social problems. In what has become known as the “Lockean Proviso” (Nozick 1971, 175) he identified the central problem of converting common land into private property:

Nor was this appropriation of any parcel of land, by improving it, any prejudice to any other man, since there was still enough, and as good left; and more than the yet unprovided could use. (Ch. V sec. 33)

At some point, Locke saw, there would not be enough left, and those without property would be prejudiced. He didn’t not offer a solution to this problem. The closest he got was to propose that surplus property reverts to the commons:

As much as any one can make use of to any advantage of life before it spoils, so much he may by his Labour fix a property in: whatever is beyond this, is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy.



Although Ken Dunn didn't cite God as the ultimate authority when, 425 years later, he justified turning a vacant lot into a garden without the owner's consent, Locke's approach was the basis of his reasoning.

### **Two Potential Solutions**

Locke's observation about the problem of converting the commons into private property didn't stop the transformation that was underway. Nor did his imagination that surplus could revert to the commons solve the problem for people who were "yet unprovided." A century later, Thomas Jefferson and Thomas Paine each imagined a solution to much the same problem stated by Locke, and aspects of their visions have been echoed and reworked in later sociolegal imaginations.<sup>4</sup>

Jefferson (1785) was inspired to reflect on the social problems of property, and envision possible solutions, while visiting the chateau of Louis XVI, near the French village of Fontainebleau. While walking amidst lands reserved for the King's hunt, Jefferson met a poor woman, a day laborer who said she often couldn't find work, and had no bread to eat. He found this juxtaposition of poverty and unused land deeply unsettling, and that evening, wrote a letter to James Madison. "Whenever there are in any country uncultivated lands and unemployed poor," he wrote, "it is clear that the laws of property have been so far extended as to violate natural right." Unlike Locke and Winstanley, Jefferson didn't cite God as the giver of the earth, but that seems implicit in his reasoning based on natural rights. After restating the problem that Locke had identified, he went a step further, and imagined a potential solution:

The earth is given as a common stock for man to labor and live on. If for the encouragement of industry we allow it to be appropriated, we must take care that other employment be provided to those excluded from the appropriation. If we do not, the fundamental right to labor the earth returns to the unemployed.

What would it mean to have this right revert to the unemployed? Jefferson didn't entirely think this through, but he made clear that the problem had come to a head in France. In the United States, by

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<sup>4</sup> Of course, other thinkers came in between. Rousseau (2002 [1755], 113), in his search for the origins of inequality, cited enclosure and private property as the cause of "many misfortunes and horrors," asking how things might've been better if people had "pull[ed] up the stakes" and realized that "you are lost, if you forget that the fruits of the earth belong equally to us all, and the earth itself to nobody!" Thomas Spence (1920 [1775]) and William Ogilvie (1920 [1781]), for their part, wrote proposals for land reform that slightly predate Jefferson and Paine, and go into greater depth. Here I focus on Jefferson and Paine because their writings succinctly state two contrasting imaginations of how the commons might be reclaimed.

contrast, with abundant land available for the taking by settlers, it was “too soon yet” to implement one possible solution – “to say that every man who cannot find employment, but who can find uncultivated land, shall be at liberty to cultivate it, paying a moderate rent.”

Jefferson proposed a sort of “land fix” to the problem that Locke had foreseen. When landless people were unemployed, and “we” – landowners – do not provide other employment, the fundamental right to labor the earth might permit the unemployed poor to rent unused land at moderate rates.

A dozen years later, Thomas Paine, in *Agrarian Justice* (1797), proposed an alternative solution. Like his predecessors, Paine understood land to be “the free gift of the Creator in common to the human race.” But for the invention of agriculture, land could have continued to be common property. “When cultivation began the idea of landed property began with it,” Paine reasoned, “from the impossibility of separating the improvement made by cultivation from the earth itself.” Paine saw cultivation as both blessing and curse: it multiplies land’s value by an order of magnitude, but creates a “landed monopoly.”

Paine advocated for the right of people dispossessed by cultivation to benefit from a share of the natural property that they were due. Since cultivators only have property in the value of the improvement, not the land itself, “Every proprietor, therefore, of cultivated land, owes to the community a *groundrent*.” Paine proposed a levy on inherited land, which would go to a national fund. This fund would send a one-time payment to twenty-one year olds, and annual payments to anyone who lives past fifty.

The plan, Paine argued, would have several benefits. First, it could remedy the injustice created by the monopoly of land without “diminishing or deranging” the property of present possessors, who were not to blame. Second, benefits paid to the young would allow them to “buy a cow, and implements to cultivate a few acres of land.” This would keep them from being burdens to society, and could improve sales of “the national domains.” (Reclaiming the commons through a tax and transfer system would thus in fact speed the privatization of public lands.) Finally, it would prevent revolutions. Paine noted that inequality in Europe was rampant, and that the consciousness of this, and that it could not be maintained, “makes the possessors of property dread every idea of a revolution.” His proposal would both keep the poor from wretchedness, and secure the holdings of the propertied class.

Although they do not appear to have discussed these proposals in their many letters, Jefferson and Paine imagined two alternatives to how the commons might be reclaimed, in order to remedy the social problems and injustices resulting from enclosure. Traces of these visions remain with us in contemporary debates over social policy and land use. On the one hand, one can devise a scheme for returning land to something like common use, by giving the poor access to resources to help themselves. On the other, one can tax property and transfer the revenue to support the landless.

### **From Imaginations to Policy Programs: Experiments and Visions**

From the late 1700s through the 1800s, European social reformers imagined how, in the face of inequality understood to be the result of private property, the poor and unemployed might regain access to land (or its value) as a common resource. Although the initial focus was on the rural poor who had been excluded from enclosure, reformers soon imagined ways such schemes might also aid the urban poor.

### **Land Reform and Allotments**

One early proposal was to let poor families farm waste lands. In 1800, the famed agrarian expert Arthur Young toured the English countryside, seeking possible responses to the social problems enclosure had created for the poor. In 1801, he published *An Inquiry into the Propriety of Applying Wastes to the Better Maintenance and Support of the Poor*. In it, he imagined a system in which waste lands would be provided to families that were dependent on support from parishes. Although this was not exactly reclaiming common lands, it was perhaps the next best thing available – according to the usage of the time, “wastes” referred to pieces of land “not cultivated or used for any purpose, and producing little or no herbage or wood,” but that in legal terms referred to “such land not in any man’s occupation, but lying common.” (OED Online 2015)

Young argued that allowing the poor to claim wastes would solve three problems. First, Young found that enclosure hurt commoners in 19 out of 20 cases; his plan would provided the dispossessed with a place to live and grow some food. Second, it would reduce the rate of taxes that parishes collected from property owners to support the poor. The proposal thus aligned more closely with Jefferson’s vision than that of Paine, which would have raised taxes on property owners. Finally, Young reasoned that receiving

property would better the morals of the poor, by orienting them toward productivity and frugality. Like Paine, Young cited a “more powerful motive to instigate to this inquiry” – the threat that “religion, liberty, and independence will not long survive” if the social problems of the poor were not addressed.

Unlike Jefferson, Young imagined that the unemployed poor would have access to waste land on something more than simply a temporary basis. Instead, they would be granted a few acres of waste land as an allotment, which would spur them to be productive and support themselves. There was a catch, though. Title to the land or cottage would remain with the parish, and use would be conditional on the father and the rest of the family never again becoming dependent on support from the parish. (Young 1801, 39) This condition would run with the property, even if it was later inherited by a widow or children. If they failed to stay of the parish rolls, the property would revert to the parish, which could either allow the widow or children to remain, or remove them and place another family on the land.

Young’s proposal was never taken up by Parliament, but he was among the leaders in pushing for access to land as a means of supporting the poor from the 1790s through the early decades of the 1800s. (Burchardt 2002) He advocated for this policy as editor of the *Annals of Agriculture*, and secretary of the Board of Agriculture. The Society for Bettering the Condition and Increasing the Comforts of the Poor also published reports on how the poor could be given access to land, focusing on how this would increase their wellbeing and industriousness, while also reducing poor rates. (Burchardt 2002, 16).

Over the course of the nineteenth century, projects that provided working people and the poor with land for allotment gardening spread in Britain, France, and Germany. In Britain, this eventually led to a law giving cities the power to reserve land and rent it at below-market rates to urban workers who wanted to grow food (Burchardt 2002). In Germany, the last few decades of the 1800s saw the establishment of allotment gardens for poor relief, as well as workers gardens sponsored by firms and the Red Cross (Nilsen 2014, 64).<sup>5</sup> Workers gardens sprouted up in France as part of Catholic social programs

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<sup>5</sup> Like England, nineteenth-century Germany also saw the elimination of traditional rights to the commons, which the young Karl Marx (1975 [1842]) commented on in writings denouncing laws prohibiting the theft of wood. Rather than see rights to the commons as rooted in God’s gift of the earth, Marx imagined the customary right to collect downed wood as analogous to the place of the poor in the body politic.

during the 1890s (Nilsen 2014, 101). Across Europe, allotments were the realization of a reformist vision of access to land as a way of remedying the social effects of eliminating rights to common land, industrialization, and urbanization. But others were imagining more radical visions of how people might reclaim common land.

### **Urban agriculture and revolution**

In the late 1800s, Peter Kropotkin, the anarchist Russian prince in exile in western Europe, imagined how agriculture and legal technologies could combine to support an urban revolution. Kropotkin had seen intensive vegetable gardening techniques during trips to Belgium and the outskirts of Paris. He was excited by the innovations in season extension and soil fertility which allowed incredible productivity. Particular forms of land tenure, he realized, helped to foster this productivity. The market gardens outside Paris were successful in part thanks to leases that allowed farmers to cart their soil from one plot to the next (1912 [1898], 126), which incentivized investment in soil fertility.

Kropotkin imagined a system in which urban workers would split their time and effort between fields, factories, and workshops. This was already the case for many workers in Europe, whom he noted did some work in industry, while maintaining connections to the land. Many British workers in small trades, he observed (1912 [1898], 245), also had a garden or some rights of pasture on the commons.

This division of labor struck Kropotkin as not only a humane way of living, but also a way to support urban revolutions. *The Conquest of Bread* (1907 [1892]) concludes with a chapter proposing that agricultural technologies, if taken to scale, could eliminate a key vulnerability that had plagued prior revolutions. “Every time we speak of revolution,” Kropotkin observes, “the face of the worker who has seen children wanting food darkens and he asks – ‘What of bread? ... What if the peasants, ignorant tools of reaction, starve our towns ... what shall we do?’” To this, Kropotkin replies: “Let them do their worst! The large cities will have to do without them.” (p. 275) To show this was possible, he offered meticulous calculations of how many acres of land around Paris would have to be put into different types of production to provide enough food to feed the city. Grounding his vision in greenhouse and soil fertility

technologies already in use, he concluded that Paris could feed itself if half of its able-bodied workers spent five hours working in agriculture, for just 58 days per year.

### **Taxing land value: the Georgeist imaginary**

The late nineteenth century also saw the revival and popularization of Paine's imagination of a system that would tax land values. The leading proponent was Henry George, the American social thinker and reformer. His bestselling *Progress and Poverty* (1879) imagined how a land-value tax could address rampant inequality and unemployment, which he saw as the consequence of the concentration of privately owned land. "The only remedy for the unjust distribution of wealth is in making land common property," George argued (1929 [1879], 329). Like Paine, he went on to argue that it is not necessary to confiscate land itself. Instead, simply by confiscating rent, he wrote, "we may, without jar or shock, assert the common right to land by taking rent for public uses." (405) Although George did not cite Paine as inspiration, historian Harvey Kaye (2006: 169) has described his vision as "descended directly from *Agrarian Justice*."

George suggests such a system would vindicate the historical tendency of land to be held in common. Through a survey of historical examples, he emphasizes "the universality and long persistence of the recognition of the common right to the use of the soil." (379) Private property, which "nowhere grown up save as the result of usurpation," is the exception to the rule; by contrast, George argues, "common right to land has everywhere been primarily recognized." (369)

In support of his vision, George lists a litany of problems created by private property. To describe how it can deprive people from access to nature or the soil, he describes a hypothetical agricultural strike. Farm workers demand higher wages, and so farmers demand lower rents from landowners. "If cultivation thus come to dead-lock, the land owners would lose only their rent, while the land improved by lying fallow. But the laborers would starve." (314) Landowners, George noted, could live off their savings, but laborers would have to choose between starving and emigrating. Land ownership is thus tantamount to slavery: "when starvation is the alternative to the use of land, then does the ownership of men involved in the ownership of land become absolute." (347) Yet even as George examines how private property has

hurt farm workers, his argument for reclaiming the commons via a tax on ground rent does not imagine putting people back to work on the land. Instead he focuses on denying speculators the ability to hold land unused. For George, what is important is that land be used productively; it is of less import whether his land value tax would compel owners to build housing, a factory, or a farm.

### Intertwined Imaginations

By the beginning of the twentieth century, social reformers were experimenting with projects that wove together different strands of sociolegal imagination concerning how the commons could be reclaimed, and unused space could be activated. In projects to develop garden cities in England, and farms and gardens for the unemployed in England and the U.S., people adapted and intertwined the imaginations of Henry George, Peter Kropotkin, and others before them.

**Garden Cities.** Kropotkin's vision helped inspired the English landscape planner Ebenezer Howard. In *Garden Cities of Tomorrow* (1902), Howard imagined a new type of suburban town that would integrate agriculture and industry, and balance urban and rural. His vision – partially realized in Letchworth Garden City, north of London – included space for allotment gardens that workers in small industries could use, as well as for intensive farms that would be managed by full-time farmers. Howard cited both Kropotkin and George as inspiration for his vision, in which a municipal trust would hold all the land, and receive payments equivalent to the incremental increase in ground rents as land became more valuable.

**Farms and gardens for the unemployed.** Supporters of farms for unemployed workers in the U.S. and England were also followers of Kropotkin and George. In the wake of the Panic of 1893, Detroit mayor Hazen Pingree, a follower of George and advocate for the single tax (*Single Tax Review* 1922), created a municipal program to get private land donated so that unemployed workers could grow gardens.

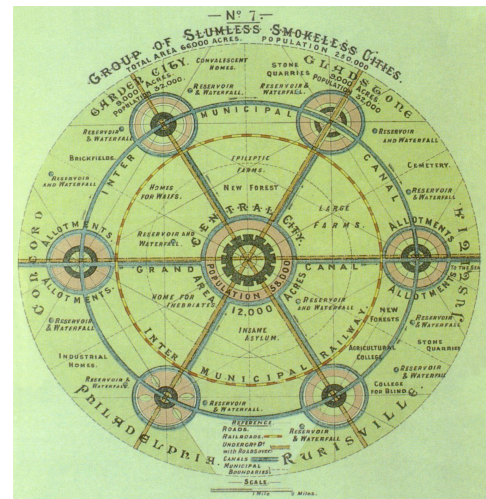


Figure 1 Howard's Vision of Garden Cities

As Young had before, Pingree argued that the program would reduce the tax burden on the city's elite. (Cialdella 2014, 62) He convinced landowners to make available 430 acres of land, then ensured it would be used by ordering the poor commission to strike from its rolls the names of anyone who received aid but did not apply for a garden (Id., 63). Urban reformers from around the U.S. took note, and soon similar programs blossomed in other cities.

In Philadelphia, Joseph Fels helped to found the Philadelphia Vacant Lots Cultivation Association. Fels was a soap magnate – the namesake of Fels-Naptha soap – and a major supporter of organizations that advocated the single tax on land. He was also taken by the idea of putting the unemployed to work on unused land, and after moving to London to open a new market for his soap, he founded two experimental farms for the unemployed in the English countryside. During this time he became an acquaintance of Kropotkin (Dudden 1971), who later wrote the forward to a book on how French gardening methods had been adapted at Fels' farms (Smith 1909). As in earlier work, Kropotkin praised the intensive and efficient growing techniques, but went on to predict that such progress “will necessarily contribute to the development in civilised mankind of the idea that the land belongs to all, and that nobody has the right to appropriate more of it than he, with his family, can cultivate.” (Smith 1909, x)

Kropotkin may also have inspired the spread of vacant lot gardening to Chicago. In 1905, he visited Chicago, staying at the Hull House social settlement, where he gave talks on topics he would later include in *Fields, Factories, and Workshops*. As I discuss in the next Chapter, Hull House residents soon started the City Gardening Association, which created gardens on land donated by industrial firms – a projects that a leading single-tax publication hailed as an “economic object lesson.” (*The Public* 1910)

### **What is being reclaimed?**

In later chapters, I will examine how this genealogy might be extended – via vacant lot gardening, the subsistence relief gardens of the Great Depression, the gardening programs of the two world wars – to the present day. But the aim here is to begin to sketch a genealogy, sufficient to draw some preliminary conclusions from a tracing of efforts to reclaim the commons up to the point where Americans brought



the practice of gardening across the Atlantic. What is being reclaimed when people reclaim the commons? How do different imaginations compare, and how do they relate to projects that seek to activate space?

First, it is worth noting the imaginations of how to reclaim the commons traced so far are also efforts to *reimagine* or reconceptualize the commons itself. They do not seek to reestablish some context-specific set of customary rights to usufruct – rights to pasturage, estover, and the like – that formed the bases of the feudal institution. Instead, the general move is to 1) assert the morality of a past practice, 2) highlight how the current maldistribution of resources is problematic, and 3) imagine a future that is different than both past practice and current conjuncture.

The genealogy also shows how visions of what the commons could be have changed over time. Even as people have imagined how the commons could be reclaimed, they have had quite different ideas of what that commons should be. Some visions, like those of Jefferson and Young, feel more like temporary responses to a shock, to be dismantled when a period of crisis has passed. Others, like allotment schemes, visions of revolutionary or garden cities, and imaginations of a tax on ground rents, aspire to set a new equilibrium – an ongoing transformation. Sociolegal imaginations and projects to reclaim the commons may be a process of resilience in response to a shock (as sociologist Thomas Rudel (2010) has hypothesized), but may equally well support efforts at societal transformation.

Before we delve further into discontinuities between these sociolegal imaginations, what might we learn from their similarities? In some sense, they appear to be repeated and iterative effort to imagine and sometimes enact solutions to the basic problem posed by Locke, along the lines of the alternative solutions proposed by Jefferson and Paine. This thread of thinking has often intersected with projects to activate space by connecting idle people with idle land: reclaiming a commons often relate to projects to activate space (as in “land-fix” visions), but not always (“tax-fix” visions); projects to link people with land are sometimes (e.g. Kropotkin’s view of Fels farm) but not always (e.g. allotment and workers’ gardens) conceived in terms of reclaiming the commons.

A genealogy of imaginations of how the commons might be reclaimed also helps one see how the land-fix and tax-fix projects have relate to one another, almost as two sides of the same coin, over the

course of several centuries. At times, they have been imagined together, as in Howard’s garden city. But they have also been posed as alternatives, as in Arthur Young’s and mayor Pingree’s claims that a land fix would reduce tax rates on property owners.<sup>6</sup> And sometimes one has been made conditional on the other, as in Young’s plan to make allotments conditional on a family not returning to the parish list, and Pingree’s requirement that recipients of aid apply for gardens.<sup>7</sup>

Visions of reclaiming the commons have often turned on imagining land as a collective resources. Sometimes, as Jefferson’s vision in Fontainebleau, and Howard’s vision for garden suburbs, the focus is on vacant, unused, or underused spaces.<sup>8</sup>

These turns to imagining what can be done with vacant land have inspired exercises in calculation – how much land is available; how much food could be grown; how many people fed; how many people put to work. The method behind Kropotkin’s calculations for a Paris under siege resonates in claims by contemporary urban agriculture promoters. Will Allen, father of Erika and a MacArthur “genius” grantee for his work in urban farming, notes that Chicago has 77,000 vacant lots.<sup>9</sup> Like Kropotkin, the elder Allen spent time in Belgium and was taken by its intensive farming methods, which are key to his vision for a “good food revolution.”<sup>10</sup> (Allen and Wilson 2012)

Even the contradictions built into contemporary visions of reclaiming the commons through urban agriculture are akin to those of prior imaginaries. Although community gardens are often imagined as urban commons (e.g. Harvey 2012), they are also routinely divided into individual or household plots, rather than worked collectively. This would run counter to the Diggers’ vision of people working the land together, but echoes Young’s vision of allotting waste lands for use by individual households.

### **What *isn’t* being reclaimed?**

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<sup>6</sup> A later chapter will examine how the 1935 creation of the food stamp program (a tax fix) was also framed as an alternative to land-fix relief gardening projects – the introduction of the former ended support for the latter.

<sup>7</sup> Similarly, recipients of relief during the Great Depression often had to have gardens or work on urban farms.

<sup>8</sup> There is an echo in contemporary efforts to map the urban commons conducted by activist geographers in U.S. cities like Oakland (McClintock and Cooper 2010) and New York (596 Acres 2015).

<sup>9</sup> Elizabeth Royte. “Street Farmer.” *New York Times Magazine*, July 1, 2009.

<http://www.nytimes.com/2009/07/05/magazine/05allen-t.html?pagewanted=all>

<sup>10</sup> In Chicago, Ken Dunn estimates that 40,000 vacant acres could take care of the food needs of the city, so long as residents ate more vegetables, particularly root crops. “Interview: Ken Dunn.” *Rooting: Original Networks, Global Connections*, April 15, 2013. <https://rootingourfood.wordpress.com/2013/04/15/interview-ken-dunn/>

Despite these similarities, there is also much to distinguish past sociolegal imaginations of reclaiming the commons from one other, and from contemporary sociolegal imaginations and practices. Starting the story in the mid-1600s highlights how few activists today imagine the commons in terms of natural rights, or see the earth as something God gave in common. Such claims wouldn't persuade many judges or social scientists these days, but they actually do better than other arguments for redistribution to gain support in religious circles.

**A role for the state.** Contemporary efforts to reclaim the commons frequently ride the wave of commons scholarship produced by Elinor Ostrom and her coauthors and collaborators in the Indiana Workshop on Political Theory and Policy Analysis. Since studies in the Ostrom school often focus on self-organization, efforts to reclaim a vision of the commons that pick up from this model have a relatively thin theorization of the role of the state. Even as Harvey cites community gardens as an example of the urban commons, he proposes filling in questions about the local state's relation to the commons left unaddressed by the Ostrom school with work by Bookchin on municipal governance.

A genealogical take on imaginations of how the commons might be reclaimed offers a different way to bring the state back in to commons scholarship. An imagination of reclaiming the commons as a claim to use land held by the state (as in Jefferson's vision), or a share of the value of private land (as in Paine's vision) could both destabilize and broaden contemporary imaginations of what it means to reclaim the commons. Reclaiming the commons might lose its valence as inherently progressive: is Nevada cattle rancher Ted Bundy claims to public land all that different from community gardeners seeking to use publicly-owned lots in Brooklyn? Or we might ask how ongoing efforts to reclaim the commons might be rooted in a lack of faith in the ability of the market and the state to allocate resources efficiently and fairly.

**Taxation and the commons.** A second difference between present and past imaginations of reclaiming the commons relates to the role of the state in taxation. Despite efforts by scattered groups inspired by Henry George's vision – among them the Lincoln Institute of Land Policy, which helped fund this research – land value taxation is currently not on the policy agenda in the U.S. And the trend over the past 40 years has been cuts both to taxation and to benefits for the poor and unemployed.

In an era when inequality is driven largely by the value of financial assets often seen as disconnected from land,<sup>11</sup> it is not wholly surprising that taxing land values is not a policy priority. Yet land values still account for a large share of U.S. wealth. Larson (2015) recently calculated that U.S. land values totaled \$23 trillion in 2009 (only \$1.8 trillion of which was held by the federal government). This is a substantial share of total U.S. national wealth, which a recent estimate put at \$144 trillion for 2010, inclusive of human capital. (UNU-IHDP and UNEP 2014, 226)

Contemporary efforts to increase land access for urban agriculture often aim to reduce property taxes. California and Maryland have both enacted laws allowing municipalities to assess private land dedicated to urban agriculture at agricultural use rates, rather than at highest and best use. This tax break for landowners is intended to make more land available for the urban “commons” – but it might also make Thomas Paine or Henry George shudder. A historical take on the very different ways people have imagined that the commons might be reclaimed, helps to contextualize, and potentially critique, contemporary projects.

**The commons, inequality, and poverty.** From the Diggers to Henry George, Jefferson to Pingree, concerns about the relationship between private poverty and inequality have motivated many past visions for reclaiming the commons. At least when it comes to urban agriculture, such concerns figure somewhat less centrally in the contemporary imaginaries in the United States and Western Europe. That is not to say they are entirely outside the frame (cf. McClintock 2010), but that the connections between urban agriculture, poverty, and access to land are often envisioned as relevant primarily to prior historical moments, or to cities in the global south (e.g. Smit and Nasr 1992; Maxwell 1995).

Why is this? One possibility is that contemporary projects to use urban agriculture to respond to poverty are examples of how we may imagine ways to activate space (and people) without linking that to an imagination of reclaiming the commons. Conversely, some imaginations of urban farms and gardens as a way to reclaim the commons link that practice less to poverty or inequality than to community

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<sup>11</sup> Although financialization has also taken a turn toward securitization of farmland. (Fairbairn 2014)

participation in land management (e.g. Eizenberg 2011). It is less common to hear people link urban agriculture, inequality, and reclaiming the commons.

A genealogical perspective on the various ways in which people have imagined reclaiming the commons can shed light on current trends in social welfare provision. At a time when it is harder to imagine a “tax fix” than it is to imagine deep cuts to social welfare programs such as food stamps,<sup>12</sup> interest in “land fix” strategies that would leverage low-cost access to land to support the poor and unemployed is flourishing in U.S. cities. As later chapters will explore, in Chicago this form of reimagining urban governance is taking the form of trusts that hold land for programs that use farming to teach job skills to the homeless, people coming out of prison, and young people from poor and minority neighborhoods. Understanding these projects in historical perspective helps to denaturalize them as responses to poverty and other urban ills, and reimagine them as a particular mode of responding to the social problems produced by our cities’ privatized landscapes.

### **Sociolegal imaginaries: tracing the roots**

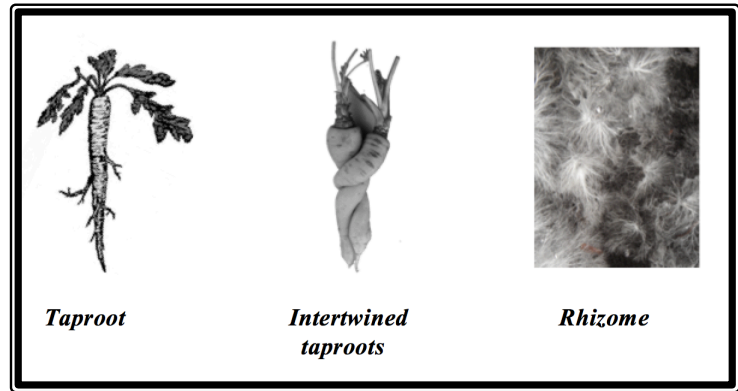
“Before we can reclaim the commons we have to remember how to see it.” This was the epigraph to a recent article by legal geographer Nicholas Blomley (2008, 311) on the urban commons. Blomley borrowed it from commons activist Jonathan Rowe (2001), who argued that the commons is the “hidden economy, everywhere present but rarely noticed.” This chapter has suggested that the sociolegal imaginary of reclaiming the commons itself has genealogy that, if not hidden, is more varied than is often understood. Scholars and activists today who imagining themselves to be reclaiming the commons (or to be studying people who are doing so) would do well to appreciate previous ways people have imagined that social process.

This chapter provides a preliminary genealogical tracing of reclaiming the commons as a type of sociolegal imagination. But what has been uncovered? How might we trace the roots of this sociolegal imagination?

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<sup>12</sup> In 2014, President Obama signed legislation cutting \$8.7 billion in funding for food benefits over the coming decade. Republicans in Congress doubled down in their 2015 budget, proposing a further \$125 billion in cuts by 2025, which would reduce the size of the program by 34%.

One image might be that of a taproot. If we dig carefully enough, this would suggest a direct, unbroken line to some original commons. This image is implicit in Eizenberg’s (2012) suggestion that urban gardens are “live relics of the



ideal of the commons,” even if they are “never complete and perfect” and may even contradict some original ideal type. Yet based on the genealogy sketched here, I would suggest that the simple taproot image misconceives the varied visions people have developed for reclaiming the commons over time.

A more plausible image might be that of two taproots, intertwined. These would represent the “land fix” and the “tax fix” approaches that Jefferson and Paine proposed to solve the problem of private property stated by Locke. Each of these imaginations claims land as a commons, but on the way to very different conclusions: a temporary redistribution of land, or a permanent redistribution of its value. This image might suggest the contemporary imagination of urban agriculture as means to reclaim the commons as part of the “land fix” taproot, which extends back through vacant lot gardening and European allotments, to the visions of Arthur Young and Thomas Jefferson.

A third image might represent the roots of the contemporary imagination of reclaiming the commons as a rhizome – a network of multifarious but interconnected ideas, rather than one or two clean lines of descent. This could suggest that projects to reclaim the commons tug at a web of prior endeavors which have left in their wake varied ideas as to how we might reallocate land, property, and value. What might become part of our sociolegal imagination when we pull at the threads extending from one node, rather than another? Such an image of how people imagine the commons and tactics by which it might be reclaimed could help make connections between concepts – like land use, natural rights, and taxation – that might seem unrelated. If we think of these conceptual threads as interconnected, we might better be able to imagine, and weave into being, future projects.

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