

Metes and Bounds: A Revisionist History

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Maureen E. Brady, *The Forgotten History of Metes and Bounds*, 128 **Yale L.J.** ___ (forthcoming, 2019), available at [SSRN](#).

A decade and a half ago, as a neophyte property teacher, I read [Andro Linklater](#)'s history of the surveying and distribution of land west of the Appalachian Mountains. The central animating principle in the book—[Measuring America: How the United States was Shaped by the Greatest Land Sale in History](#) (2002)—was simple, and seemingly self-evident: When it comes to surveying and selling land, straight lines are better than squiggly ones.

(I was less convinced by Linklater's side effort to convince readers that the metric system is infinitely better than the imperial system, although his arguments on this front brought back fond memories of my elementary school teachers' assurances that the United States would adopt the metric system by the year 2000.)

In the years since the publication of Linklater's book, economists have amassed substantial evidence supporting his argument that the "grid" system of land demarcation employed by the federal government in the Northwest Territories and (for the most part) thereafter in the distribution of western lands is far more efficient than the older metes-and-bounds system used in the original thirteen colonies and other early states such as Tennessee and Kentucky.

The former system relied on trained surveyors to divide land into rectangular six-by-six mile "townships," which were subdivided and sold as 160-acre "quarter sections." The latter, which the colonies inherited from Great Britain, relied upon idiosyncratic descriptions of parcels that utilized non-standard and impermanent features (e.g., walls, rocks, streams, trees).

[Gary Libecap](#) and [Dean Lueck](#), in particular, have convincingly demonstrated that the metes-and-bounds system is inefficient and that, over time, parcels of land demarcated by metes and bounds come to be worth less than similar and geographically proximate parcels laid out in a grid.¹ This, of course, is hardly surprising. After all, thanks to the ground-breaking work of [Tom Merrill](#) and [Henry Smith](#) (among others), we know that the standardization of property forms lowers information costs and facilitates efficient resource allocation.²

Against this scholarly backdrop, Professor [Maureen Brady](#) steps in with new insights in the role of metes and bounds. Brady does not challenge this important point, nor does she attempt to refute or undermine the findings of Libecap and Lueck. Rather, her article is revisionist history in the classic sense: She convincingly demonstrates that modern critics misapprehend the goals of the metes-and-bounds system.

At least in the early New England colonies, Brady shows that metes-and-bounds surveying techniques were not conceived primarily as a way to facilitate efficient land transfers. Rather, they were designed to convey customized information both about land and landowners that could not be expressed in standardized terms. In so doing, the metes-and-bounds system formed and reinforced social bonds by rooting colonists to particular communities and particular parcels of property.

Moreover, while the language of many metes-and-bounds deeds might seem obtuse to the modern reader, long-forgotten customs (such as the annual ritual of communal boundary walking) provided clarity lacking in written descriptions of land parcels. In a relatively closed and homogeneous social system, where land was plentiful, these customs, and customized descriptions, actually helped reduce conflicts over property and facilitate land transfers.

As Brady points out, information-costs theorists acknowledge that standardization involves tradeoffs: Standardization reduces transaction costs by making information easier to interpret across a broad audience, but customized information is more capable of being tailored to the needs and preferences of smaller communities.

Therefore, not surprisingly, she demonstrates that standardization became more important as the populations of the colonies grew, diversified, and became more mobile—and land became more scarce. The colonies, and later the fledgling federal government, sought to standardize the system of land demarcation in order to minimize disputes and facilitate land transactions.

Brady argues that this forgotten history of metes and bounds calls into question the dominant assumption that standardization is an important prerequisite to economic growth. Instead, she argues, customization and standardization can both be rational growth strategies at different periods of time. Perhaps—but what struck me about the article was that the metes-and-bounds system worked in the early colonial experience in large part because growth and mobility—at least not as we understand these terms today—were not the point of land records.

Of course, the American colonies were engines of imperial growth, emigration to the colonies represented mobility on a massive scale, and the readily available land on the shores of North America provided unprecedented economic opportunity for British colonists. (By the mid-eighteenth century, Americans were approximately three inches taller than their European counterparts!) ³

But, Brady's account also reminds us of a time when property was more than just a commodity, when mobility was not necessarily the end-goal of life, and when communal bonds mattered far more than they do today. Reading it, I was reminded of Andrew Sullivan's surprisingly positive essay reviewing my colleague, Patrick Deneen's best-selling book, *Why Liberalism Failed* (2018). The title to the essay? "*The World is Better than Ever. Why are We Miserable?*"

Molly Brady's article is a historical *tour de force*. But, it is more than that, and it does more than challenge presuppositions about land-demarcation systems and information standardization. It also invites readers to remember that property is not only an economic institution, but also a social institution that serves to bind people together in geographic communities.

The "rootedness" that Brady described has faded in our modern mobile culture, but like the metes-and-bounds deeds that persist in many parts of the United States, I hope that it has not disappeared completely.

1. Gary D. Libecap & Dean Lueck, *The Demarcation of Land and the Role of Coordinating Property Institutions*, 119 *J. Pol. Econ.* 426, 429-32 (2011).
2. Thomas W. Merrill & Henry E. Smith, *Optimal Standardization in the Law of Property: The Numerus Clausus Principle*, 110 *Yale L.J.* 1 (2000).
3. Burkhard Bilger, *The Height Gap: Why Europeans are Getting Taller and Taller-and Americans Aren't*, *New Yorker*, April 4, 2004.

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