Rites of Discovery: St. Junípero, Lewis and Clark

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I lost my country back in 1803, something that was cemented by the Lewis and Clark expedition of 1804–06. The legal act involved was called Discovery. Yet, incredibly, the (christian) Discovery Doctrine was largely ignored during the 2004–06 bicentennial commemoration of Lewis and Clark, even though they were called the “Corps of Discovery.” Instead, americans commemorated the american romance of Lewis and Clark, a romance only occasionally offset by the tragedy persistently experienced by Native peoples. This has been important for me to trace because nearly 10 percent of the so-called louisiana purchase was land inhabited by the Osage Nation. It worked this way.

In 1803, the United States bought my land, Osage land—from France. The U.S. did not, however, buy any actual “property,” which undoubtedly comes as a big surprise to most high school history students. No, the U.S. only bought the euro-christian legal pre-emptory right of (christian) Discovery, the only thing France had to sell. This was not insignificant. Even if the U.S. could not (yet) claim actual ownership of property, it did portend the extension of U.S. sovereignty and the eventual (and not too distant) conversion of the entire territory to “real property,” that is, legally designated property, so defined by the euro-christian Rule of Law. To ensure U.S. possession of the entire territory, President Jefferson proceeded to send a military unit, the Corps of Discovery, to enact the legal rituals of Discovery to seal the deal. Needless to say, the whole transaction transpired without U.S. politicians even contemplating talking over the acquisition with any of the current occupants, that is, the several dozen sovereign Native nations that lived on their lands, now suddenly U.S. territory. Perhaps we can begin to clarify this history by looking first at another act of Discovery, one that took place on the west coast of Turtle Island only three decades before Jefferson “purchased” my land—from the French.

For God and Country

The spanish claim on California is one of the most striking and blatant examples of the legal and ceremonial rituals invoking the Doctrine of Discovery. A key player was the newest saint of the catholic church, Junípero Serra. In the late springtime of 1770, the spanish expedition of descubrimiento (discovery) finally arrived at Monterey Bay on the central california coast. On June 3rd, Father Serra, the president of the california missions, gathered together all the people of the expedition—the military personnel are named first in Serra’s report (“all the officers of sea and land”) as literate witnesses—in order to initiate the formal and legal claiming of Indian lands for the spanish crown. This was the christian saint acting formally on behalf of his christian prince to legally steal Native peoples’ land (with all due attention to the Rule of Law, as Tocqueville might have averred).

The grand festivities began with the planting both of a large cross and the royal standard. “I then sang the first Mass,” Serra reports, “...celebrated here... [since Vizcaino].” After singing the Te Deum, Serra states that

...the officers performed the ceremony of taking formal possession of the land in the name of the King.

This whole celebration of Discovery and conquest was accompanied from beginning to end, says Serra,
...with much thunder of powder both on land and from the ship. To God alone be given all the honor and the glory.

Saint Junipero was, of course, very comfortable with having his masses accompanied by the explosion of colonial military weaponry, something that happened at the founding of virtually every mission during this expedition of Discovery beginning in 1769. Thus, Serra concludes, the wishes of “His Excellency, the Inspector General [of Mexico]” have been carried out, insuring “the success of this Spiritual Conquest.” Father Serra was free now to subjugate the Natives as a Spanish government functionary under conditions closely related to formal structures of slavery.

Another account of these festivities comes down from Gaspar de Portola, Serra’s military/civil government counterpart in the expedition. De Portola was governor of California, and military commander in chief of the expedition to the ports of San Diego and Monterey. His account differs only in that it adds specifics about the formal acts of Discovery:

Since it is among the articles of the orders which I am to execute immediately on my arrival at the cited port of Monterey, that I am to take possession in the name of His Catholic Majesty – I ordered the officials of sea and land to assemble, and I begged the Reverend Fathers to be pleased to assist in obeying the said order, directing the troops to place themselves under arms, after notifying them that it had been so ordered, and after these preparations had been made I proceeded to take possession in the name of His Majesty under the circumstances that the decree provides, performing the ceremony of throwing earth and stones to the four winds, and proclaiming possession in the royal name of His Catholic Majesty, Don Carlos III, whom God preserve, and whose possession of the said port of Monterey and other territories that rightfully ought and must be included, must be recognized. After planting the triumphant standard of the holy cross, primary cause of the Catholic, Christian, and pious zeal of His Majesty, which is manifested by the superior orders and perceived in the extent with which his royal exchequer is opened for the purpose of gathering the evangelical seed which is procured to the benefit of the numerous heathen dwelling in it, in order that it may appear at all times, I sign it and the gentlemen officials sign it as witnesses... (emphasis added).

As was the case with Columbus nearly three centuries earlier, the act of Discovery required particular ritual actions and witnesses, particularly literate witnesses. Hence, the summoning of missionaries and military officers. Now both the land and the Natives could be harnessed (and forced to convert to the colonial religion) for the economic benefit of a “Christian prince.” This was the requisite in church law according to the 1493 papal bull, Inter Caetera, the same Christian law cited in an 1823 U.S. supreme court decision, Johnson v. M’Intosh.

The Corps of Discovery

Across the continent, at the same time as St. Junipero served as a political functionary in the Discovery process, British-American colonialists also knew the (Euro-Christian) international law at stake. As they began the process of crafting their new Euro-Christian republic on American soil, and indeed, from the earliest English advances into North America, these Euro-Christian folk used the notion of “Discovery” to legitimize their brutal taking of Indian land. First named the Doctrine of Discovery by Chief Justice John Marshall in Johnson v. M’Intosh, Euro-Christian scholars to this day refer to it as international law. Yet this law is only in a limited and flawed sense international because it only adjudicates among European Christian nations (“Christian princes”). Namely, this Discovery principle helped Christian nations...
Two hundred years after his death, the US postal service creates a stamp in honour of Junipero Serra (c. 1745).

IMAGE: ISLANDLIFE-INNATIONACY.BLOGSPOT.CA | PUBLIC DOMAIN

Junipero Serra
A man of vision, compassion and inspiration, he helped settle present day California.

determine which country had the prevailing legal right to invade and seize particular pieces of prime Indian land. Both as a politician and a successful lawyer, Thomas Jefferson joined other Virginians in arguing (perfectly in order with Discovery principles) that the territory of Virginia must stretch as far west as the Mississippi River. Discovery was a fiction, a Euro-Christian legal device to divvy up Indian land amongst themselves according to some invented and then reified Rule of Law. Thus, Lenape scholar Steve Newcomb’s insistence that it be clearly called the Doctrine of Christian Discovery. In Johnson v. M’Intosh, Marshall based his unanimous decision on his and the court’s bedrock identification of the United States as a Christian nation. Indeed, by Marshall’s interpretation, it was Christianity that marked European folk as a superior race entitled to take Indian land.

Two decades before Marshall, Jefferson committed the U.S. to the purchase of the Louisiana territory by treaty with Napoleon. But that’s just the beginning. Converting Indian land into the Euro-Christian category of “property” would involve a longer legal/military process of Euro-Christian deceit and force. Jefferson insured the second part of the Discovery process would begin almost immediately. He knew exactly what he was doing in naming the Lewis and Clark expedition the “Corps of Volunteers for North Western Discovery.” This was not mere courageous romance and adventure, or the exciting expansion of the American frontier. Rather, it established an ironclad Christian legal claim to other peoples’ homes!

Thus like Spain in California, Jefferson was sending a military unit to perform the historically defined acts and rituals associated with Discovery—to mark the territory as the legal expansion of American sovereignty over the territory of Louisiana west of the Mississippi—and even to extend the American claim to that territory of the Pacific northwest that was as yet unclaimed by any other Christian nation. Of course, Native nations already lived across the entire expanse. Thus, one important aspect of Lewis and Clark’s charge was to announce to Indians that the United States was the new sovereign of the whole immense territory. Ultimately, their rituals of Discovery were intended to reify American possession. And finally, they were sent with a fixed Discovery eye towards also claiming the territory to the northwest of his official purchase: the mouth of the Columbia River and the Pacific northwest.
To grasp Jefferson's explicit understanding of the *Doctrine of Discovery* in appointing this expedition, one has to wait for an Indian historian and legal scholar to do the extensive archival research necessary. Shawnee scholar Robert Miller demonstrates from countless Jeffersonian documents that Jefferson was perfectly clear that his expedition was formally exercising *Discovery* on behalf of the United States. As a real estate lawyer and a land dealer himself, Thomas Jefferson ascended the presidency with a firm grasp and practiced understanding of the *Discovery* principles. He never uses the phraseology that Marshall created twenty years later; nor does he even mention the word "discovery" in any formal legal context. Yet it is clear that he did indeed function both legally and politically with a clear understanding of the foundational euro-Christian law. The importance of Jefferson's knowledge becomes apparent in the sheer mass of legal cases (over 400) he handled involving land and land title.

In the context of religious disestablishment and the separation of church and state, the blessing of a church was no longer deemed necessary for enacting (Christian) *Discovery*. Yet there were legal trappings that had to be observed and performed, both to insure the United States' right of *Discovery* to the Louisiana territory and to extend those claims further to the northwest. Miller demonstrates that Lewis and Clark "engaged in an amalgamation" of the formal and legal *Discovery* rituals that had been practiced by euro-Christian nations of Europe since Columbus as they competed with one another to claim as much foreign property as each could—and give their land grabbing some legal clothing. It is abundantly apparent that Lewis and Clark were exercising great care, Miller reports, "to ensure that they used all the rituals necessary to make *Discovery* claims."

Just as clearly as St. Junipero and Portola on the beach at Monterey, Lewis and Clark were enacting the rituals of *Discovery* to insure that their "Christian prince," the invasive sovereign called the United States, could legally and morally claim ownership of someone else's land. The expedition, concludes Miller, is a living embodiment of *Discovery*. Like Portola and Serra and countless other euro-Christian adventurers, they "took physical possession of land, built permanent structures, engaged in parades and formal procedures of possession and occupation, tried to obtain native consent to American possession, and engaged in mapmaking and celestial observations." Lewis even wrote a 2500-word speech that was recited to each Native nation they encountered. The speech explained to Indian folk the new, *Discovery*-based political structure of American sovereignty. Native leaders were given gifts of medals and American flags, marking people as well as territory as belonging to the U.S.

At the same time, Lewis was careful to delineate the new relationship of parent and child to the Native community. From that time on, the president of the United States—in English only, albeit—was to be known as the Great Father. Indians were to be his "children"—and should therefore be obedient children, not unlike the expectation of St. Junipero. In their typical romanticized interpretations of the Lewis and Clark Expedition, historians like Albert Furtwangler or Stephen Ambrose overlook these explicit legal discourses embedded in the actions of the Corps of *Discovery*. It is all merely a part of the American romance of continental conquest.

So that's how my people, the Osage Nation, lost our land. It was all done legally, with perfect attention to the (Christian) Rule of Law. Needless to say, I must insist that the *Doctrine of Discovery*, the legal device used, is a device predicated on extreme Christian arrogance. As an added benefit, once it is invoked, it can be relegated to the hidden depths of law libraries so that Settler Christians can live in their homes (on our land) with a distinct degree of plausible deniability. "We never knew." Yet as my brother is wont to say, "Denial is not a river in Egypt."
"Intotemak" translates as "my clan."

In trying to nurture Indigenous Settler relationships, kindness and solidarity,
Indians see the "clan" relationship as essential. Treat, elders.

INTOTEMAK

"Columbus Taking Possession" by L. Prang & Co., Boston.
IMAGE: PUBLIC DOMAIN / WIKIMEDIA COMMONS