



**COMMON GOOD ZINE 2**

**HOW DOES COLLECTIVE  
RELATE TO THE  
COMMON GOOD?**

**(STUDY RESOURCE)**







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## COLOPHON



# INTRODUCTION



## ZINE RESEARCH RESOURCE: A MATTER OF PRECEDENTS

*A Matter of Precedents* is a research resource that has evolved through multiple forms, such as an installation, a map, study walks, a website and zines.

In Summer 2022 a first iteration of the research resource was presented at Collective in the City Observatory Library, Edinburgh, titled *A Matter of Precedents*. It included a study board, a map of common good sites in Edinburgh (based on the 2018/19 and 2020/21 Edinburgh City Council Common Good Registers), and an audio library of recorded interviews with those involved in the particular activation of the common good at the City Observatory reopened in 2018 under the custodianship of Collective, a contemporary art organisation. With manifold input by cultural workers who have encountered issues surrounding the common good in their own communities and work, the research resource attempts to demystify and expose some of the legal mechanisms and institutional processes around publicly owned items. In May, we – Annette Krauss, Alison Scott, and Frances Stacey – together with many collaborators engaged in two in-person walks to gather around and discuss other common good sites in the city. We walked and talked along two routes in central Edinburgh taking in a variety of sites, objects and spaces held in the common good, exploring and imagining forms of custodianship, collective ownership, maintenance, and community use of these sites.



Here, in print, we are pleased to make available further aspects of the resource, launched in tandem with an online presentation where you can listen to the interviews made in the first part of the project *A Matter of Precedents*.

This print resource is formed of three zines. They act as records of the project, as a reader and an invitation for further study: holding transcripts of recorded conversations, online material, previously published articles, and two newly commissioned texts. Much of this gathers in printed form the contributions made for the display in the Library at Collective – whether that be audio interviews or material added to a study board – and contributions offered as part of the common good walks.

The three zines feature topics and items that closely follow the structure of the online resource, starting with zine one which covers general notes on the common good in Scotland and materials that situate this in relationship to wider debates on commoning. Zine two unfolds material contextualising Collective’s specific relationship to common good through their inhabitation of the City Observatory as a site held in common good. This zine is divided into two chapters “Administrative Chores: The Labour of The Common Good”, gathering administrative-organisational material related to common good in Edinburgh, and “Common Good and Colonialism” exploring aspects of the relationship with colonial legacies. Zine three looks toward other struggles surrounding the common good and documents the Study Walks along common



good sites in Edinburgh. The various angles from which this documentation takes place hopefully spur re-imaginings of common good in Scotland and offer avenues for further study.

All in all, the zines attempt to share information on the common good in the spirit of open access and free distribution, and connect this particular form of Scottish commons to wider discourses and learning.

## A MATTER OF PRECEDENTS

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*A Matter of Precedents* examines the City Observatory's status and designation as a 'common good asset'. The 'common good' is a form of collective property, unique to Scotland, comprising buildings, land, structures, and monuments gifted to the people of a specific historic burgh. Categorised as 'common good', these items are today managed by local councils and their partners for the good of the people. This study is developed in dialogue with a number of people involved in Collective's redevelopment of this site, alongside artists, cultural thinkers and others.

Developing on Annette's long-term research on the commons, *A Matter of Precedents* considers the specificity and lack of visibility of the Scottish commons, particularly in Edinburgh; and draws on Collective's journey to the City



Observatory as a way to study the (imaginative) potential of the ‘common good’ as a particular legal, historically philanthropic, early capitalist anomaly entangled with colonial histories.

In the face of the increasing pressures of commercialisation and privatisation of public space in our cities, *A Matter of Precedents* seeks to understand the obligations, responsibilities, and restrictions around the use of common good items as opportunities for public agency.

Alongside this specific focus on the common good, the project takes an intersectional approach, considering the relevance of colonial, feminist, and educational histories in Edinburgh. It seeks to (un)learn from ongoing debates around colonial cultural heritage, and practices of reparative justice, while unpacking the philanthropic principles of educational Enlightenment projects. These convergences are explored through the input of different stakeholders, and with those participating in the walks, and now unfold in yet a different constellation, here, in the zines.



### *Annette Krauss*

Artist, educator, and writer Annette Krauss has been working with Collective in Edinburgh, Scotland over several years on *A Matter of Precedents*, a research project exploring the ‘common good’. Annette’s collaborative work is dedicated to practices of ‘unlearning’ and ‘commoning’, addressing questions of institutional responsibilities, feminism, and privilege.

### *Alison Scott*

Alison Scott is a Scottish artist, writer and art-worker often working with other artists on collaborative and research-led projects. She has been assisting Annette closely with the research and production for *A Matter of Precedents*.

Recent projects in print, film and performance work through feminist approaches to weather, land, and the inherited environment.

### *Frances Stacey*

Frances Stacey is a curator and producer who collaborates with artists, filmmakers, and others to develop new commissions, films, exhibitions, and pedagogical programmes. As a freelance producer she has supported the development of *A Matter of Precedents* with Annette and Alison, informed by experiences working with Collective from 2013 – 2020 and co-producing in the context of ongoing socio-political struggles.

AUDIO  
TRANSCRIPTIONS  
2

(AMATEUR  
OF  
PRECEDENTS)



The following transcriptions are derived from the recorded conversations that were held during the project *A Matter of Precedents*. The conversations took place between the artist Annette Krauss and key people involved in Collective's activation of the City Observatory as common good, and with artists and researchers who have encountered issues surrounding the common good in their own work and communities.

The transcriptions were produced as working files for the audio installation in the library at Collective. They are summary transcriptions and in some cases word by word. Extracts from the recorded conversations can be accessed online [www.collective-edinburgh.art/held-in-common-good](http://www.collective-edinburgh.art/held-in-common-good)

Part 1 and 3 of the audio transcriptions can be accessed in Common Good Resource ZINE 1 and 3.

## HOW DOES COLLECTIVE RELATE TO THE COMMON GOOD?

### PUSH AND PULL TOWARDS COMMON GOOD

#### AUDIO-TRACK 4

Part 1. Collective's early research into the relationship between public and private space in Edinburgh; in conversation with Kate Gray, former Director of Collective, 13.8.2021 (12min)

*Present during conversation: Kate Gray, Annette Krauss, Alison Scott*

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00: 01:58 (Kate Gray):

I suppose, it's worth saying this has a longer history, the idea it came from was further back, in both the history of Collective and my own interests. When you sent me the questions, I was thinking, when did this start? It wasn't one day I woke up and thought: I need to move Collective up to Calton Hill, but it was a long iterative process that had major turning points in it. In order to give it context, I have to go back to the One Mile project. At that time I was employed as a lead artist, and the previous director had this concept to look at how artists could collaborate with communities within a mile of Collective, and develop new communities. And then that led on to a project that we did around 2009, a collaboration with artists Tatham and O'Sullivan.

00:06.00

As an extension of that work, I invited Tatham and O'Sullivan to come to Edinburgh to look at spaces that on the surface looked public but were private – and to do work in that space. What ended up happening was they did a project called An Indirect Exchange of Uncertain Value and it was based in Fettes, a (public) private school. I say 'public' as that's the term elsewhere in the UK but that doesn't make much sense.

It has this incredible history. It looks a bit like a wedding cake on top of a hill. From a distance, it looks like it should be accessible, it's our heritage. But it was built as a school for orphans by a philanthropist with a charitable mission. During the time it was built the philanthropist died and the board got carried away with the design, an elaborate gothic design that took up all the funds that would have paid for the orphans to be educated. So, by the time it was completed they didn't have the money to pay for orphans to be educated and so it became a private school immediately.

00:08.02

At that point we were particularly interested that it was the school that Tony Blair was educated in. Felt very poignant. This blurring of what's good work and where the state fits in, and all these different complicated issues, felt entwined with it.

So, we did this project at Fettes that was about making this private space public, mostly in the grounds. There were works by Tatham and O'Sullivan, Chris Evans and Elizabeth Price. They were all interested in this dynamic of public and private. We weren't allowed to give access to the inside of the building, only the grounds. So, we did a choreographed tour of the works and one work wasn't visible or accessible but could only be described. What is important to say is, these conversations were very live, they involved lots of different people and had lots of different iterative outcomes.

When that project finished or during the course of that project, the then Director of Collective left and I applied to be director of Collective. I think most people in the Scottish visual art scene would have thought that quite unusual, because I had been a practising artist and I suppose it depends how you categorise yourself, but other people wouldn't categorise me a practising artist. At some point that changed, and I am not 100% sure myself when and how that happened. I became more and more interested in organising and what structures allowed or didn't allow for different forms of organising; what structures were public or private, particularly in Edinburgh.

00:11.00 – 00:13.19

By that time, I had kids and I felt committed to living and working in the city, and was interested in part of the conversation around organising and how organisations function in Edinburgh. Long story short, I did become Director. One of the first projects we did after I became Director was with Kim Coleman and Jenny Hogarth. It was a commission that started from funding that became available through the visual Art Festival to commission emergent Scottish artists within the festival context. So, we commissioned Jenny and Kim, and they were interested in the backstage of the festival and making that more visible, which very much connected to the idea of public and private. Again long-story short, we fixed on the City Observatory to present that work in. It was very much around the idea of: what is seen and unseen? What's an observatory? How does it make the unseen seen and so forth? And again, what's public and private, particularly in the festival where there is a very clear definition between things that are presented to a public from a stage, and Edinburgh becomes a stage. Is everything then public in the city for a period of time? What does that mean for a city that is generally conservative (with a small c) and private for the rest of the time.

That was the first time I came across the City Observatory, through that project, so it has that lineage for the organisation as well.

00:14.04

We did the project there just for a few weeks through the festival. We were working a lot off-site and that's what I was driven by. I was less interested in an exhibition space and more interested in working outside, and the gallery as a platform or base for things to happen, but not the focus necessarily.



## AUDIO-TRACK 5

### Part 2. Collective's eviction from the previous space at Cockburn Street; in conversation with Kate Gray, former Director of Collective, 13.8.2021 (3.20min)

00:13:39 (Kate)

I think it was 2009 in the summer, ...

00:14:39

... when we first came across the Observatory and it just so happened that as soon as I became Director, one of the first letters I received was from the City Council. It said as you will know the CEC has made the decision that no third sector organisation should be in commercial properties. Any third sector organisation in a commercial property will be expected to pay commercial rent. You are in a commercial property so within the next six-months you will be paying full commercial rent.

Needless to say, the gallery hadn't been paying commercial rent. In fact it had been paying no rent. This was on the basis that they had invested money from the Lottery to redevelop the gallery when it was on Cockburn Street, which made it more accessible to people. Having invested this money, the council wouldn't pay rent for this period.

So, then I sent back a letter that the council had provided with details of the rent free period, because of this investment. They returned saying, oh yes, this letter but it isn't legally binding. We will help you find somewhere else to go that isn't commercial or you can choose to pay commercial rent. But commercial rent would be, what was then the Arts Councils, entire funding to Collective. There was really no way we could have considered that, it would mean there was no programme or we would have to become a commercial gallery, or would expect artists to self-fund in a space we just serviced, neither of which seemed viable.

## AUDIO-TRACK 6

### Part 3. Collective's search for a non-commercial space; in conversation with Kate Gray, former Director of Collective, 13.8.2021 (14.30min)

00:19:00 (Kate)

To go back to, we were in a quandary then what do we do – do we become an office-based organisation that just works in the public realm? Do we become a commercial gallery? But from my perspective and from the history of Collective, it felt important to honour the principles of those that set up the organisation, the collective of artists; to honour their intentions as stated in the articles of association that Collective would provide space for artists to experiment and would give artists their first solo-shows. That felt really important to carry on.

Then the question was, if we cannot be in a commercial space then what is not a commercial space? This is when we came across the idea of the common good. Eventually we got there.

The council said they would help us find a non-commercial space, so by that time I was sitting down with the council looking at their property portfolios and they were saying "you can have this garage in Granton". Thanks but this will not work for us.

00:21.07 (Annette Krauss)

Why would they propose that?

(Kate)

Well, because they had it on their books and they didn't know what else to do with it. To be honest, they knew that they had an obligation to help us but there wasn't a will for us to succeed. They recognised that they had produced this letter and in real financial terms, they could be liable for some of the investment in the building from the lottery. There were real levers at work.

In terms of thinking that, if we went public with the reasons why we were being asked to pay lottery money for not being that building – when you get Lottery money you have to state that you will be in the building for 25 years and in that way the Lottery money is depreciated over time, to safeguard it and ensure you don't sell the building. So, the letter was on the basis you would stay in the building for 25 years and would have a period rent free.

They kind of knew there were big issues, but nonetheless, were making a movement to get more rent and taxes in from the centre of town. They knew that they had to help us or at least go through the motions of helping us. And if that was exhausted and we hadn't succeeded, they would be able to say: we have done the best we could, we've had this many meetings, seen this many properties, our hands are tied. The politicians have made a decision about commercial properties and that's where we've ended up. I might be being a bit cynical, the officers you are then dealing with, it's a job, they are not going to be like "I must save this organisation".

00:24.00

*(Kate meets Dorothy and astronomers at City Observatory; 24:00–27:00)*

So anyway, we are going through all these processes, going to look at their portfolios, properties, none of them were suitable. In parallel we were doing this project in the City Observatory as a one off and part of the festival. We got to the end of that festival project and I was sitting up in the City Observatory with the then curator of that space, called Dorothy, employed by the City Museums service and her job was to oversee all the monuments.

And the Observatory was categorised as a monument. So, there was the Observatory, the Scott Monument, Nelson Monument... She was curating but not as we know it, her job was to oversee these buildings that were classified as monuments. She was telling me about what they were trying to do. It was very clear that the City Observatory was about to fall apart.

00:26:13

At that time the Astronomical Society had a lease on the building. They had a 'full repairing and insuring' lease, which means that when you take on the lease you are responsible for insurance, repairs and maintenance. But as an amateur association they didn't have any income, so from 1930 until 2008 they hadn't been able to have a programme of maintenance or even regular access to the site by the public. They had done private observations, built some toilets in the 1970s and additional domes funded by private individuals, the details of which are very high-geldy-piggeldy with little records. And no maintenance.

So, the building had fallen into disrepair and was put on the at-risk-register. That's important because that's a real marker for local authorities. They have to try to get buildings off the at risk register, if they have any in their domain. (00:27:00)

00:28:19

So, I was talking to Dorothy, the then curator. She was saying, you know, before you came and proposed this exhibition, we've had a year of getting stakeholders together, trying to review what we are doing with this site. We have all these



people, they all have very different points of view and are stuck in what the observatory to be but don't have any funding, so we don't know what we are doing with it.

And I was like, ah, well that's really interesting. Edinburgh is funny like that, it's full of these historic places that are not commercially viable but at the same time, there is this overabundance of heritage. We don't need another heritage attraction. And she said, well it can't become commercial anyway because it's held in the common good.

What? It's a categorisation that falls within the council's reason – a common good categorisation where things that are held in the common good cannot be used for commercial purposes.

*How did that come about?* Cloak and dagger no one really knows.

00:30:20

To do anything in a common good site you need to go to the court of session and get permission to do it. And it has to go back to these principles of the common good. As far as I understand it, when things were recategorised when different boundaries were drawn up (– you probably know more than this, as you've been researching, my research is just talking to people) and in order to transfer them at that point and keep them as they were intended to be when they were categorised as in the common good.

It's a quirk of Scottish law as far as I understand it. The City Council in Edinburgh and many places in Scotland – most local authorities have a common good account with the assets sitting in it. Held in this way that is in a way separate from the subsequent commercialisation of what it is to be a local authority.

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I was very interested, as what happened to us in the gallery was a result of commercialisation of local authorities. Essentially what they were saying was: we value more the commercial asset than anything a third sector organisation can do in our city. And that's why they were recategorizing things and not allowing organisations like Collective to have a foothold within the city centre and cultural life of the city.

It very much links to conversations around the festival in Edinburgh and the commercialisation of culture. Set up as a peace-making mission but over time becomes an economic driver of the city, very little about artistic new work, more about being an economic generator for the city, and the city reorients around that. For someone living and working here, this is an experienced culture. This is a systematic thing. Organisations like Collective are increasingly marginalised.

00:34.03

Back to the City Observatory, this is why my ears pricked up so much when she told me about it and also knowing many of my peers in the visual arts across the world were talking about the commons at this time.

I mean, wow, Edinburgh has legal commons and no one knows about it. I've been doing all these projects about public and private space, and I didn't know about it.

We are all talking about this sort of the commons as if there is nothing between commons as grazing on meadows and when the internet happened. There is this gap. I am sure there are lots of actual connections that actually have been ongoing but have been invisible. I got very interested in common good and that made me very interested in the observatory, because I did not know what else was in the common good. All I knew was that Dorothy told me that the observatory was.

EXCURSION:  
SOME NOTES ON FUNDING: LOTTERY HERITAGE

00:36:00 – 00:39:00

There was a policy at the time for no new museums with Lottery funding, as lots had been set up but couldn't survive without business plans, sustainability and without public funding. Lots of them were set up and then collapsed a few years later.

Heritage Lottery, which is a very conservative proposition, comes from people playing the Lottery. During the Blair Years it was very systematically replacing the public funding of culture. This has happened, done incrementally over time. Now, Lottery is the majority of how culture is funded in the UK. As we all know, the Lottery is played by many people on the lowest income. So, it's essentially a tax the wrong way round, where people that are desperate to win the Lottery and are playing are the sole funders of culture and sport in the UK. And the people that use culture and sport are not those same people. There is a real issue there. The biggest part of Lottery funds is targeted under the Heritage Lottery and about conserving 'our' heritage.

## COLLECTIVE INHABITS THE OBSERVATORY

### AUDIO-TRACK 7

Part 1. Director Kate Gray convinces stakeholders that Collective can take over the City Observatory; in conversation with Kate Gray, former Director of Collective, 13.8.2021 (17.50min)

00:40:00

In another conversation with Dorothy (curator of City Observatory, employed by the City Museums service), she said 'What the observatory needs is someone like you' 'you have different ideas about what it could be.' And I'm saying 'ah no, I think you have the wrong person, I don't want to run a big historical thing. No way would the stakeholders like me or the Collective to do this.'

She said why don't you just see and come to some of these stakeholder meetings. Everyone else is at loggerheads. You are already a stakeholder, having done a project here. You know more about this site than many people do.

Calton Hill is not embraced by local people despite being in the centre. It can feel like a long way away to visit, and it had a history, being close to the theatre district, and had become known for cruising, so you might be advised not to go there particularly at night.

It is a blank space for people from the city but embraced by tourists. Abandoned by the people that live there but embraced by others. People didn't realise the observatory was there, trees had grown up all around the perimeter wall. Most people are drawn to looking out, because of the incredible views. Most people stand with their backs to the wall, and don't think about what is behind the wall, it's just a blank space. I had really enjoyed opening it up for this one-off project. It was particularly enjoyed by people who live in the city discovering both the hill and the site. We had also had the biggest number of visitors we'd ever had. Others



thought no one would pass by (as art viewers) while they were attracting many more. Actually, lots of people are up on the hill and they are spending lots longer in the exhibitions than they ever spent at Cockburn Street.

We had a glass fronted space, visitors thought they'd seen it all from the windows. We didn't have passing traffic, because we were on the wrong, shady side of the street, opposed to up the hill where people were 'in a different frame of mind'... a place about looking out and reflecting on the city ... felt like it could be an interesting proposition.

00:45:57

The third aspect of the push-pull related to the Observatory, was Creative Scotland funding on standstill and pressure to generate organisations own income. We had limited options for this on Cockburn Street and if we opened a cafe for example, this would be competing with others just running cafes. Thus, it didn't make sense to open a cafe on Cockburn Street. Lots of organisations who tried to do income generating projects became loss making. But in a site on Calton Hill, there is the possibility of raising money, and do it in a way that is categorically not commercial as it is held in the common good.

Then I got involved in the stakeholder meetings and found an ally in Frank Little from Edinburgh Museum Services, who played a big part in our ability to move to a real proposition. Previously people wouldn't have believed that this artist led space would be running that site. I'd met Frank before and we had a long discussion about commercialisation of festivals and the impact of this on the cultural/museums sector, because you are always compared to a commercialised festival and told, why can't you do this.

The observatory was in Frank's remit (Dorothy was a member of staff), his property. He started to buy into the idea that it was better for the city to have a grass roots organisation grow and develop something (rather than someone from outside to come in and run it as a museum, he knew it was financially not viable because it would not generate the income it would need to operate either. They were in quandary, an equation that didn't add up, so from my perspective it was about strategically going in and saying 'Collective can solve these problems':

1. We are a charity, so there are no Common Good issues (court of session e.g.)
2. We can raise money while the council can't (to take it off the buildings-at-risk-register)

3. Edinburgh is offering itself up to be "managed" by other organisations (e.g Underbelly). Underbelly who delivers the festival fringe, also get paid to deliver Hogmanay. They are a business. The council is paying these businesses lots of money and they are coming in and making lots of money. Meant to be a service to the community, but more and more a business.

01:06:01

Frank was very instrumental in convincing the rest of the council that it was a good proposition for them. It was a very new proposition, setting up a partnership with the council. They hadn't done that before. They were attracted that we would raise the money, but worried that they would remain responsible for their building. But this worked well because they wanted to remain responsible for the delivery of the building project. We did all the fundraising, the biggest part from the Heritage Lottery. Though a patchwork of about fifty funders. When I spoke to people that have done big cultural capital projects, oh yeah, we had 4 funders: I would dream of that! 50 funders, with 50 different ways of monitoring. But the council needed to maintain control and responsibility for it. They contracted the builder, although we were in partnership with them in terms of finding the architect, getting the master plan done, and applying for funds like the heritage lottery: we had to apply in partnership with the council. We did all the funding applications, and all the work working with the architects on what the plans would be, and how to meet all their criteria. There had to be on paper a partnership application. The

council has to completely sign up, then the funding goes to the council and the council has to administer the contraction of the building work. This meant that they were exposed when over-budget. It was a bit of de-risking for us, and it was a very different way than in the past. They would have their project and use their money and deliver their projects. Or they would give a lease on a building and the third party would then develop it. What had not happened previously or not in the cultural sector so much, is this kind of partnership. This was because we are really small, so you would not think that we can cope with a massive capital project overrunning and going over-budget. But also, the council would not say, we are giving the responsibility for this major national monument to a small visual art charity. It was a way to allow a grassroots organisation to develop this major city-wide building with the backing of the council as well. I probably think they were exposed at the end of the project, but they still got a project that they pretty much didn't have to fundraise for.

## AUDIO TRACK 8

Part 2. The role of the City of Edinburgh Council in activating the common good site on Calton Hill; in conversation with Frank Little, formerly Museums Service Manager at the council, 22.11.2021 (9 min)

*Present during conversation: Frank Little, Annette Krauss, Frances Stacey, Alison Scott*

00:08.00

### ANNETTE ASKS FRANK LITTLE TO DESCRIBE HIS ROLE AT THE COUNCIL OF EDINBURGH

Frank describes his role as Cultural Venues Manager, an officer for the council. Reporting to a committee run by councillors (decision makers): Culture and Communities committee (who approved lease), subject to planning, common good issues, and court of session.

Frank describes how Common good assets sat within other departments ie. Parks department. Not one section of Council who deals with Common Good. Not long since there was a Common Good Audit: interestingly documentation wasn't clear so some artefacts were contested. Lack of clarity in departments, like objects held in the City Chambers. Describes how committee papers are online - Council reports on accounts of the Common Good fund every year. Following Annette questioning if we could access the debate around the reports, Frank says the debate around committee meetings are unlikely to be reported.

00:02:52

### FRANK INTRODUCES THE MOVE TO CALTON HILL FROM HIS EXPERIENCE

Frank reflects that it really goes back to 2010: when Collective had to leave Cockburn St premises. Frank was responsible for 13 venues, on Royal Mile and including Calton Hill. Property in the Common Good and change of use had to comply to Common Good and be of benefit to all the citizens. If they wanted to rent or lease (legally the term was 'dispose of') any properties, they had to go to the Court of Session for permission. On Calton Hill, most of the buildings (part of UNESCO site etc) had fallen into disrepair, due to lack of council funds and Astronomical Society leaving.

### OLD OBSERVATORY HOUSE NEGOTIATIONS

Firstly, looked at Old Observatory house: Council invested and restored the site, but had no alternative use. Looked at historical use, and decided it had always been a house, so they could turn it into commercial property/ house to gain in-

come. Could lease on a month by month basis to Vivat Trust without needing to go to court of session (which would take a long time) but had to get permission from council committee (political support). Vivat took on the building; council started to look at legal process for future investment and long term lease. Any operator/ lease under Common Good would need a lease for minimum 25 years to be stable financially (as agreed with Collective in 2016). Concern in regards to Common Good, was if they were to rent property, there would be no access and one of the terms of common good was free access. Part of the lease agreement would be that public access is granted in between holiday makers' use (in change-over time), therefore it complied with Common Good. Another key thing was that any money raised would be ring-fenced and held in the common good fund/ reinvested in the common good buildings for the benefit of the venues (whether fabric, maintenance or programming). Asset was therefore being used, but not drained of funds.

### PARTNERSHIP APPROACH

Frank describes the partnership approach between the council of Edinburgh and Collective. It had to be appropriate for the vision of the council, common good, and Collective. Council still had a large stake in the site: put £1.1 million in the project. Funds secured from many other places. Describes an approach that is also for an appropriate use of historic buildings.

Describes taking the disposal to court of session, which took 2 years to go through the system. Prior to doing this, set up a Calton Hill stakeholders group: residents association, Cockburn association, Edinburgh World Heritage, council, Astronomical Society, to be clear that there was a consensus for the future of the buildings. Astronomer Royal (part of stakeholders group) complained, along with senior architects in the city: Frank describes then how they had to demonstrate due diligence to all appropriate uses of the buildings. Then it was agreed they could dispose of (ie. lease) the Calton Hill site. (00:06:27)

19 00:34:11 (Frances Stacey)

And just a small technicality: What is the difference between disposal and change of use?

(Frank)

Nothing. The legal term is disposal. It always struck me, when we went to court, and they used the term disposal. It would not go well down with people, because they thought Calton Hill will be disposed of, "while it meant it would be leased." (00:34:47)

### AUDIO TRACK 9:

Turning an observatory upside down; in conversation with Kate Gray, former director of Collective, (10.50min)

00:55:18

What is an observatory? What does an observatory do if it is not looking at the stars? I am thinking about the observatory of the favelas, this idea of the observatory looking at Edinburgh, observing the city itself having the function in making that public. In a way that was the first thought that made it feel very compulsive. To make it play a part in and comment on the city itself, as well as stay true to the group that set up Collective in the first place.



01:31:18

Coming back to the reason why I am really happy that you are doing the project, Annette, because during the process of moving we were taken over by actually making things happen. All these kind of drivers for it: What kind of public art organisation is Collective? How can it hold public space? As a publicly funded organisation how can it demonstrate this through how it operates? All these things take a bit of a back seat when practicalities take over, in order to deliver this project. But they were very foundational in what we were trying to do. They were very important in the book "Toward a City Observatory" to open up a bit, with all the projects around public space, and they felt choral. It felt very much how we operated, even with Frank: taking what would normally be a solo and making it choral.

01:33:11

Annette describes the work with the team at Casco Art Institute, Utrecht. How they explored the separation between the back and front of an organisation, how they relate to each other, and how they explored making them work in tandem.

01:34:08 (Kate)

Why do you think this separation between the back and front happens?

(Annette)

I think because of a capitalist-colonial history. A history where institutions and people focus on making money, profit, rule over other people. Ownership, identity, labour is in service of this. It's really on this whole level. It's interwoven subtly and not so subtly into the whole system. And it's so difficult to make it explicit.

01:35:07 (Kate)

And you actually cannot know. Anyone who is operating in it does not know all of it and can never be able to know. Also something that is really absurd to it, this observatory that is held in the common good, and foregrounding the collectiveness, also has this awful colonial history as well, it is absolutely foundational to the site - even though it's held in the common good - a paradox in itself. It is held in the common good, but it has a role in globalising and colonial trade. Absolutely has.

20

01:37:05

And it does not end here. You can't operate outside of it as well...In some of the early projects I was looking for the outside of it. I was looking for where I could find the outside of it, with the observatory project, it was very much foundationally accepting that you cannot be outside of it. And a lot of things that have happened since then have really helped me see that I am still a product of these things that I thought I was looking outside of. Accepting this is part of the journey.

I remember early on I was joking about de-gentrifying the observatory - though now it looks like we've gentrified it. But I suppose the impetus feels like it's important still. I recall talking to Tom O'Sullivan after his project when he was on the board - who said 'ok so we're turning the observatory upside down'. You have to be aware that there are lots of different realities and you can't always deliver your biggest hope. For me, it is really important to keep this as a history of the institution. I would love to see more grassroots organisations, not even necessarily cultural, to use the common good, rather than asset transfer which arguably offloads too much responsibility onto small organisations. We have this asset that is draining the local authority, but they are still responsible for the upkeep. And we offload it to a grassroots org. and expect them to voluntarily pick it up and run with it. It's not necessarily about an asset, it's the labour that feeds into it. There are lots of possibilities within the common good, to actually keep the responsibilities in place, but allow the asset to have a different life. Even now the council is still responsible for the external upkeep of the Observatory buildings. Actually, they are more responsible now than when they gave a lease to the Astronomical Society back in 1930. We wouldn't take a full repairing lease, saying this is still

your responsibility, the roof, the walls, etc, and this is what they should be doing. It's not necessarily fair to transfer a whole building to a grassroots organisation's responsibility. It is very much in the spirit of it that grassroots organisations can operate and deliver programmes out of common good spaces. I'd love it if more people did.

Kate Gray

Kate Gray was artistic director and CEO of Collective, Edinburgh, from 2009 to 2022. Kate became Director having previously worked with Collective as lead artist on the One Mile Programme. She oversaw the contemporary art organisation's move to Calton Hill from its former location on Cockburn Street, including the major redevelopment of the City Observatory. Currently, Kate is Director of Enterprise and Public Value at BALTIC Centre for Contemporary Art, Gateshead.

Frank Little

Frank Little was formerly Museums and Galleries Manager for City of Edinburgh Council. Frank played a key role in supporting Collective's relocation to Calton Hill and its redevelopment of the City Observatory site.



Matter of Precedents Installation in the library at Collective – Center for Contemporary Art, Edinburgh, Summer 2022.  
Photograph courtesy of Tom Nolan, 2022.



Annette Krauss  
*A Matter of Precedents*

1 June — 4 September 2022

### About this research resource

Following the invitation of Collective, artist Annette Krauss chose to reflect on the organisation's recent history, its move to the City Observatory on Calton Hill, a site held in the 'common good'.

In dialogue with a host of collaborators, *A Matter of Precedents* explores understandings of the site's status, designation, and responsibilities as a 'common good asset'. This is a form of collective property unique to Scotland, comprising buildings, land, structures, objects, and monuments gifted to the people of a specific area, such as the building in which you are standing, Edinburgh's City Observatory. Categorised as 'common good', these items are managed today by local councils and their partners for 'the good of the people'.

Annette was struck by the specificity and lack of visibility of this form of Scottish commons and has instigated a process to explore the imaginative potential of the common good

as a particular legal, historically philanthropic, and early capitalist anomaly. Alongside this specific focus on the common good, the project looks for an intersectional approach, considering interconnecting colonial, feminist, and educational histories in Edinburgh. It seeks to (un)learn from ongoing debates around colonial cultural heritage, and the philanthropic principles of educational Enlightenment projects.

In the library is a research resource, including a map of common good sites in Edinburgh, and an audio installation.

The audio comprises extracts from conversations that took place between the artist and key people involved in Collective's activation of the City Observatory, and with artists and researchers who have encountered issues surrounding the common good in their own work and communities. These accounts attempt to demystify and make visible some of the legal mechanisms and institutional processes

that surround publicly owned items, sparking ideas around custodianship, maintenance, and future community use.

This unfolding research resource offers a fledgling framework to explore the common good, attempting to connect to a legacy of research on common good in Scotland (such as that undertaken by Andy Wightman, Emma Balkind, Simon Yuill, et al), and from which to examine, document, and reimagine the common good as a particular form of commons. It will continue to be developed, through gatherings at other common good sites and an online resource.

In the face of the increasing pressures of commercialisation and privatisation of public space in our cities, *A Matter of Precedents* seeks to understand the obligations, responsibilities, and restrictions around the use of common good items as opportunities for public agency.

# COLLECTIVE

# LIBRARY

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## Annette Krauss *A Matter of Precedents*

1 June — 4 September 2022

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**Contributors:** artist, educator, and writer Annette Krauss; writer and researcher Emma Balkind; sound design Luke Collins; sound recording for walks Dougie Fairgrieve and Jonathon McLoone; design Benjamin Fallon/Romulus Studio; poet Jane Goldman; former Director of Collective Kate Gray; former Museums Manager at City of Edinburgh Council Frank Little; poet Nat Raha; artist Eva Weinmayr; artist and researcher Simon Yuill. Produced by Frances Stacey with artist and research assistant Alison Scott.

**Annette Krauss** is an artist, educator and writer. Her collaborative work and long-term participatory practices include *Sites for Unlearning*, *Hidden Curriculum*, *Spaces of Commoning*, *Read-in*; *Read the Masks*. *Tradition is Not Given*; and *School of Temporalities*. These practices reflect and build upon the potential of collaboration while aiming at disrupting taken-for-granted truths in imagining and living forms of collectivity.

*A Matter of Precedents* is funded by Art Fund and supported by Annette Krauss' Postdoctoral Grant 495 from the Academy of Fine Arts Vienna, financed by the Austrian Science Fund (FWF).

Thanks to the team at Collective, Petra Bauer, Katie Brennan, Sorcha Carey, Siobhan Carroll, Moira Hille, James N Hutchinson, Kirsten Lloyd, Frances Stacey, Julia Wieger, and Lesley Young.

## Annette Krauss *A Matter of Precedents*

1 June — 4 September 2022

### Resources

#### Table

Audio: Six tracks on a loop, with extracts from conversations that took place between Annette Krauss, Emma Balkind, Kate Gray, Frank Little and Simon Yuill (2022)

Book: *The Poor Has No Lawyers: Who Owns Scotland (and How They Got It)*, Andy Wightman (Birlinn Ltd, 2015)

Book: *Common Good Law*, Andrew Ferguson (Avizandum Publishing Ltd, 2019)

Book: *Spaces of Commoning: Artistic Research and the Utopia of the Everyday*, Eds. Anette Baldauf, Stefan Gruber, Moira Hille, Annette Krauss, Vladimir Miller, Mara Verliß, Hong-Kai Wang, Julia Wieger (Sternberg Press / Publication Series of the Academy of Fine Arts Vienna, 2016)

Book: *Send Back the Money!: The Free Church of Scotland and American Slavery*, Iain Whyte, (James Clarke and Co Ltd, 2012)

Book: *Unlearning Exercises: Art Organizations as Sites for Unlearning*, Casco Art Institute: Working for the Commons, Utrecht (Valiz, 2018)

#### Study Board

Transcript: *The Uncommonality of The Commons*, Simon Yuill (Scottish Sculpture Workshop, 2013)

Screenshot: Black Abolitionists in Edinburgh Map, featuring Amanda Berry Smith (*Our Bondage and Our Freedom*, Edinburgh University, AH and National Library of Scotland, 2018-19)

Screenshot: Excerpt from *My Bondage and My Freedom*, by Frederick Douglass (Project Gutenberg, 1855)

Article: *On the Commons: A Public Interview with Massimo De Angelis and Stavros Stavrides*, (e-flux Journal #17 - An Architecture, 2010)

Article: *Commoning*, Anette Baldauf, Moira Hille and Annette Krauss (Krisis: Journal for Contemporary Philosophy, Issue 2, 2018)

Map and key: Extract from *Report on the common good of the City of Edinburgh*, Thomas Hunter, Robert Paton (Edinburgh: Printed for the Lord Provost, Magistrates, and Council, 1905)

Poem: 'Here too there was fruit', Jane Goldman (from *Writer's Shift*, Fruitmarket, 2022)

Article: *Feminism and the Politics of the Commons*, Silvia Federici (The Commoner, 2018)

Policy: Community Empowerment (Scotland) Act 2015

Map: *Common Good Detective Work* from [inthecommongood.org](http://inthecommongood.org)

Spreadsheet: Common Good Asset Register (Edinburgh City Council, 2021)

Article: *Common Good: A Quick Guide*, Andy Wightman (Caledonia Centre for Social Development, 2007)

Article: *Black anti-slavery campaigners in Edinburgh traced* (The Scotsman, 2018)

Thesis: *Estovers: practice based research on the concept of the commons within contemporary art*, Emma Balkind (University of Glasgow and Glasgow School of Art, 2018)

Transcript: *Edge Effects Discussion*: Emma Balkind, Nuno Sacramento and Simon Yuill (CCA, Glasgow, 2017)

All resources are reference only.  
Please read in the library.

ADMINISTRATIVE

CHORES:

THE LABOUR

OF THE COMMON GOOD

- Memorandum of Understanding on Common Good
- A Matter of Precedents – Printed Map
- Common Good – Google Map
- Common Good Register Edinburgh, 2022
- City of Edinburgh Council – Common Good webpage
- Community Empowerment (Scotland) Act 2015, Part 8
- Grace Brown and Jonty Leibowitz: A report to the Scottish Land Commission, 2019



# MEMORANDUM OF UNDERSTANDING ON COMMON GOOD

# MEMORANDUM OF UNDERSTANDING ON COMMON GOOD

MEMORANDUM of Understanding on Common Good, to Collective (Edinburgh), from Annette Krauss, Frances Stacey and Alison Scott, September 2022.

# MEMORANDUM OF UNDERSTANDING ON COMMON GOOD



Matter of Precedents, Upside down image of the Thomas Guthrie Statue with text reading *How to do commoning with a statue?*



## A Matter of Precedents, Printed Common Good Map, design by Benjamin Fallon? Romulus Studio, Collective, 2022.

### Building

- 1 City Chambers
- 2 City Observatory
- 3 Custom House\*\*\*
- 4 Dalmeny House<sup>o</sup>
- 5 Gardener's Cottage (Great Aunt Lizzie's)<sup>o</sup>
- 6 Lady Stair's House, The Writer's Museum
- 7 Rosebery Memorial Hall
- 8 The People's Story Museum

- Asset is listed as common good but there are exceptions
  - Formerly the property of a school board
  - An asset of the fund but not listed as common good
  - 2020/2021 Common Good Register, 'items added following representation'
  - † 2020/2021 Common Good Register, 'under further research'
  - 2020/2021 Common Good Register, 'Property Unconfirmed as CG and still under investigation'
- Unless otherwise stated, items are listed in 2018/2019 and 2020/2021 common good Registers.

Also listed on the Common Good Register are 'non-heritable assets': objects like books, records and silverware which are in the care of the city. A number of objects categorised as common good are housed in the City Chambers.



This map shows common good items across Edinburgh. Common good items are a particular form of collective property that are unique to, and active in, Scotland today. They are a combination of historical commons, such as grazing meadows and drying greens, and items, such as monuments and buildings, gifted to the people of a specific area (formerly a burgh), in this case Edinburgh. Categorized as 'common good', such items and associated funds are now managed by local councils and their partners for the good of the people.

Following the City of Edinburgh Council's 2018/2019 and 2020/2021 Common Good Registers, the map lists the items in four key categories: 'land', 'building', 'monument', and 'structure'. Making visible the abundance of common good items in Edinburgh, the map is an invitation to explore the (imaginative) potential of the common good as a particular legal, historically philanthropic, and early capitalist anomaly, entangled with colonial histories. In the face of the increasing pressures of commercialisation and privatisation of public space in our cities, the common good items are opportunities for public agency.

Developed by artist Annette Krauss with art organisation Collective and a host of collaborators, the map forms part of *A Matter of Precedents*, a research resource exploring the common good in Edinburgh. The research situates Collective's move to the City Observatory on Calton Hill, a site held in the common good, in relation to a legacy of research on the common good in Scotland. The resource brings together the map; interviews with those involved in Collective's particular activation of the common good, and with artists and cultural thinkers who have encountered issues surrounding the common good in their own work and communities; and a series of gatherings around other common good sites in central Edinburgh. These accounts and encounters attempt to demystify and make visible some of the legal mechanisms and institutional processes around publicly owned items, sparking ideas around custodianship, maintenance, and future community use.

Arthur's Seat

ABBEVHILL

Easter Rd.

07

9

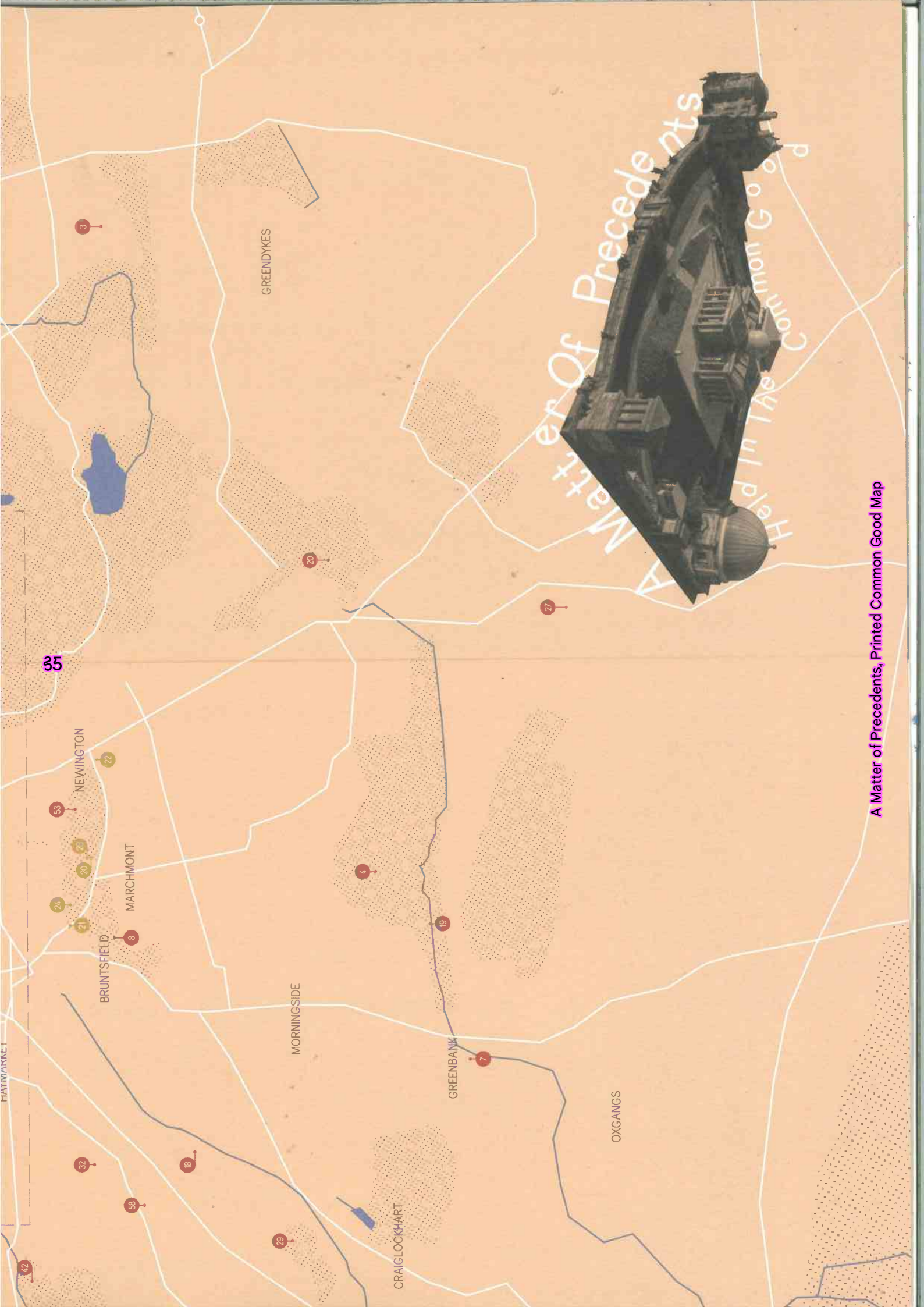
2



Land	Structure	Monument
1 Bangholm Recreation Ground (inc wooded area)**	1 Adam Smith Statue	1 Adam Black Monument
2 Barony Street Play Area*	2 Alexander and Bucephalus Statue	2 Burns Monument
3 Bingham Park	3 Allan Ramsay Monument	3 Canongate Well (The Cross Well)
4 Blackford Hill Public Park	4 Antigua Street Pigeon Statues†	4 Charles II (Equestrian Statue)
5 Bloomiehall Public Park	5 Antigua Street Pillar and Clock (currently absent)†	5 City Chambers War Memorial/ Stone of Remembrance
6 Bonaly Country Park*	6 Belford Bridge*	6 Covenanters' Memorial/ Martyr's Cross
7 Braidburn Valley Public Park	7 Catherine Sinclair Monument‡	7 Dugald Stewart Monument
8 Bruntsfield Links	8 David Hume Statue	8 Hobocaust Memorial Stone
9 Calton Craigs	9 Dr. Thomas Chalmers Statue*	9 Inverleith Park - John Charles Dunlop Fountain*
10 Calton Hill	10 Flodden Wall (various places)	10 Mercat Cross
11 Colinton Village*	11 Floral Clock	11 National Monument of Scotland
12 Corstorphine Hill*	12 Gate Piers, Middle Meadow Walk	12 Nelson Monument
13 Craiglockhart Dell Public Park	13 Genius of Architecture Statue	13 Norwegian Memorial Stone
14 Craigmoad Park and Foreshore	14 George IV Statue*	14 Playfair Monument
15 Cramond Walled Garden Park	15 Inverleith Park Gatepiers, East*	15 Professor Wilson Statue
16 Davidson's Mains Public Park	16 Inverleith Park Gatepiers, West*	16 Robert Louis Stevenson Memorial
17 Figgate Burn Public Park	17 Inverleith Park North Archway*	17 Scottish American Memorial
18 Harrison Park, East and West	18 Inverleith Park Sundial, 'Kinloch Anderson'*	18 Scott Monument
19 Hermitage of Braid	19 James Clerk Maxwell Statue*	19 Statue of Walter Francis Montagu Douglas Scott/ Duke of Buccleugh War Memorial
20 Inch Park*	20 Jaw Bone Arch	20 The Royal Scots Greys Monument
21 Inverleith Park	21 Mason's Pillars	21 Wellhead at John Knox House (known as 'Fountain Well' or 'Netherbow Well')
22 Keddle Gardens and Play Area*	22 Nelson Pillars	
23 King George V Public Park	23 Parliament Square Well	
24 Land at East Scotland Street Lane	24 Prince Albert Victor Sundial	
25 Land opposite 20 Ballantyne Road*	25 Portobello Burgh Clock, Portobello Baptist Church	
26 Leith Links*	26 Ross Band Stand	
27 Liberton Public Park	27 Ross Fountain	
28 Lochend Public Park*	28 'Sister Cathedral' Helen Acqueroff Fountain	
29 Meggetland Recreation Ground***	29 South Queensferry Harbour	
30 Mid Terrace, South Queensferry	30 South Bridge	
31 Montgomery Street Park	31 Spanish Civil War Volunteers Memorial†	
32 Murieston Park	32 Statue of David Livingstone	
33 Pilrig Public Park*	33 Statue of Sir James Young Simpson	
34 Portobello Community Garden	34 Statue of Thomas Guthrie	
35 Portobello Park	35 St Bernard's Bridge	
36 Portobello Promenade	36 'The Bowfoot Well'	
37 Princes Street Gardens (East)	37 'The Portuguese Cannon' (Calton Hill Cannon)	
38 Princes Street Gardens (West)	38 William Pitt The Younger Statue*	
39 Ravelston Public Park	39 Wojtek the Soldier Bear Memorial†	
40 Regent Road Park		
41 Rocheid Path*		







A Matter of Precedents  
Held in the  
Common Good

A Matter of Precedents, Printed Common Good Map



MUIRHOUSE

BARNTON

QUEENSFERRY

Hopetoun Rd

The Loan

38

4

14

15

16

39

32

30

23

7



CORSTORPHINE

45

43

57

SIGHTHILL

44

SAUGHTON

WESTER HAILES

13

5

11

50

6

The City of Edinburgh Bypass

#### Acknowledgements

Contributors to *A Matter of Precedents*: artist, educator, and writer Annette Krauss, writer and researcher Emma Balkind; sound design Luke Collins; sound engineers for walks Dougie Fairgrieve and Jonathon McLoone; former Director of Collective Kate Gray; former Cultural Venues Manager at City of Edinburgh Council Frank Little; producer Frances Stacey with artist and research assistant Alison Scott; artist Eva Weinmayr; artist and researcher Simon Yüill.

Thanks to the team at Collective, Katie Brennan, Sorcha Carey, Siobhan Carroll, Moira Hille, James N Hutchison, Julia Wieger, and Lesley Young.

Commissioned by Collective, City Observatory, 38 Calton Hill, Edinburgh, EH7 5AA

Design by Benjamin Fallon/ Romulus Studio

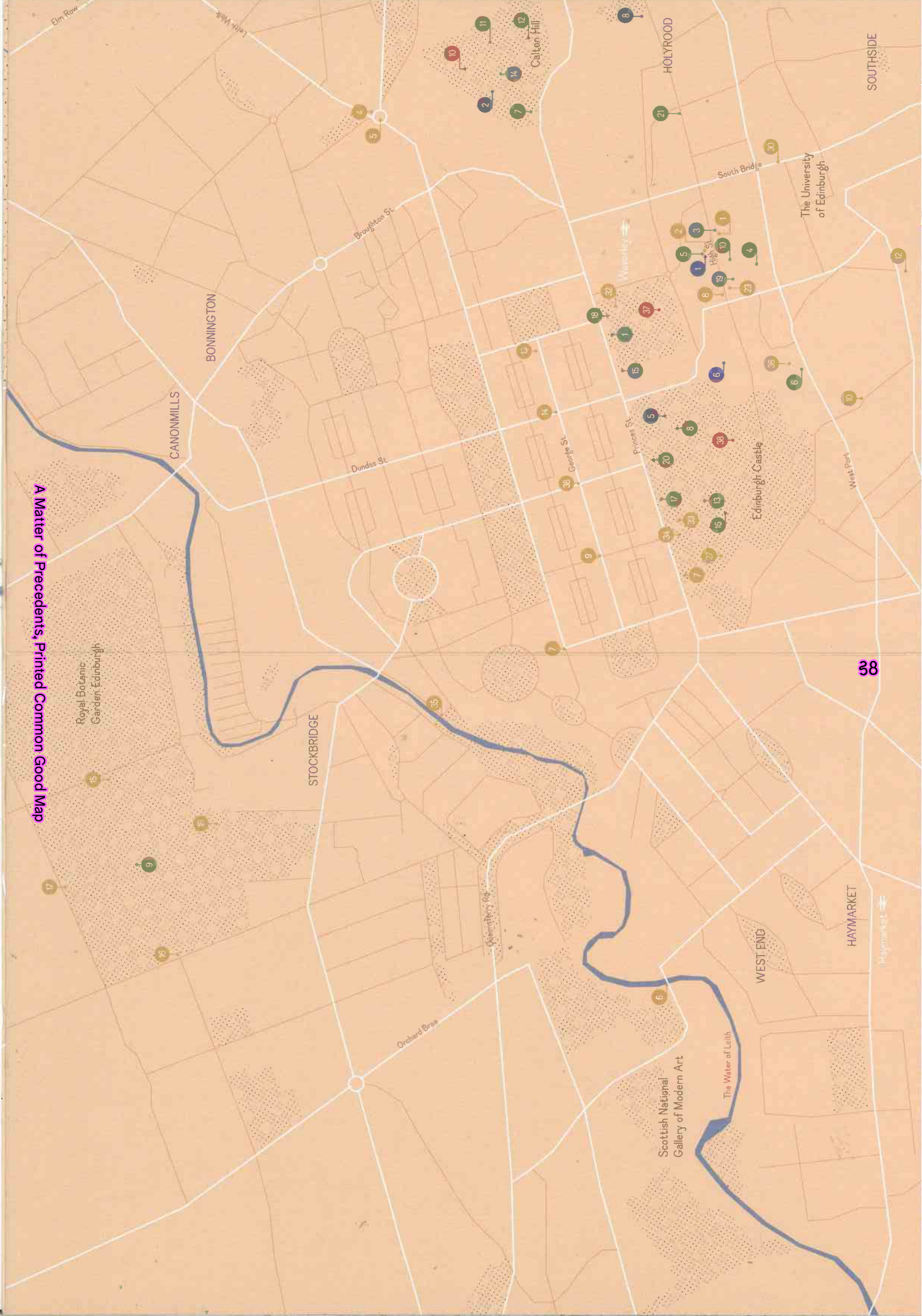
Set in Dauphine, a typeface designed for <http://www.esad-gv.fr>. Inspired by characters found on cartography from XIX until middle XX

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A Matter of Precedents, Printed Common Good Map

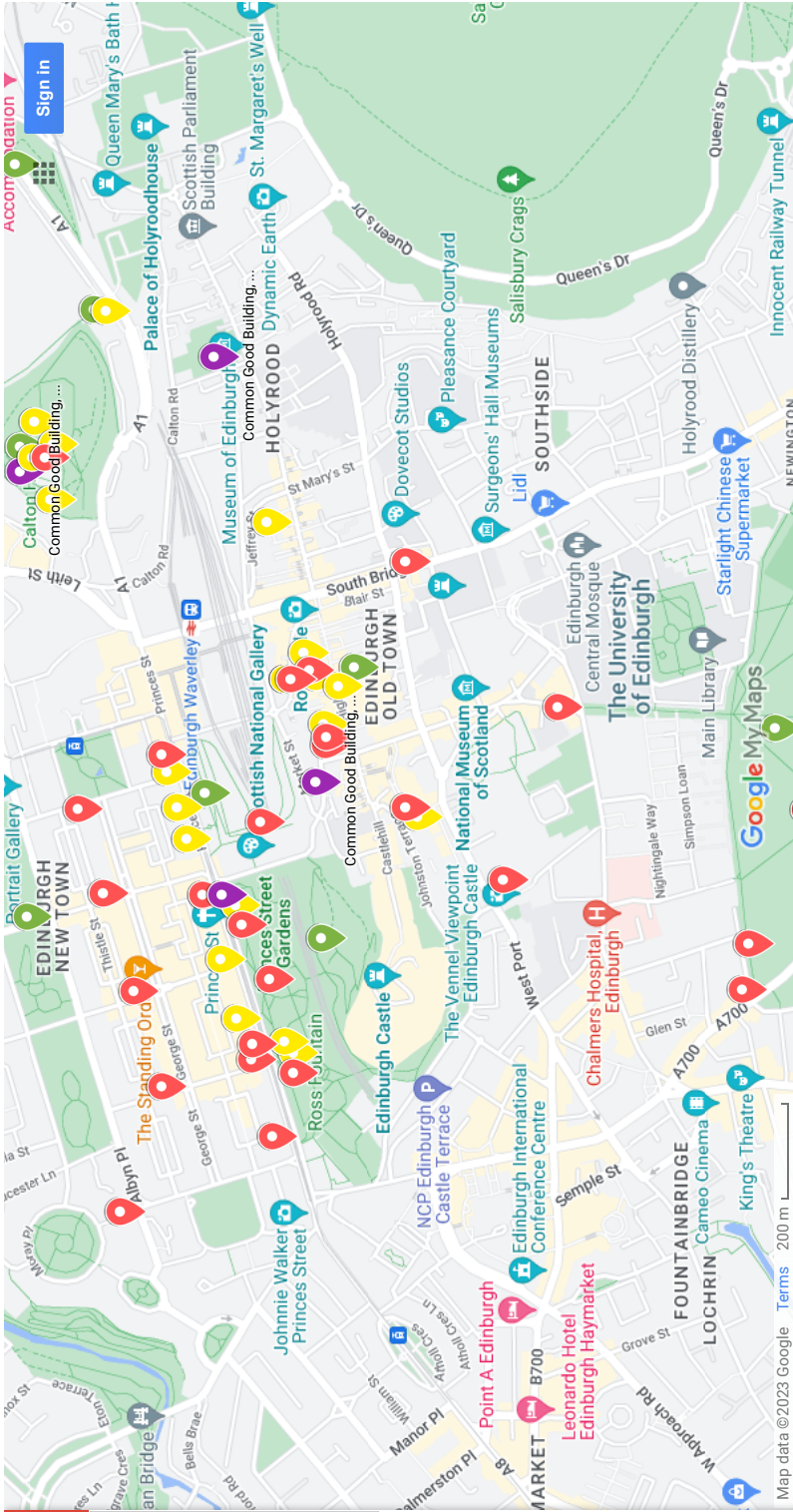




**Common Good Map 2022**

A map of Edinburgh's Common Good sites, based on the 2018/19 and 2020/21 Edinburgh City Council Common Good 432 views  
Published 11 days ago

SHARE



- Common Good Land (2018/19 register)
  - All items
- Common Good Building (2018/19 register)
  - All items
- Common Good Monument (2018/19 regi...
  - All items
- Common Good Structure (2018/19 register)...

Common Good Google Map. A map of Edinburgh's Common Good sites, based on the 2018/19 and 2020/21 Edinburgh City Council Common Good Registers. Made as part of 'A Matter of Precedents', a project with Annette Krauss for Collective's Constellations Programme. Available at: <https://www.google.com/maps/edit?mid=1oicMirjo8yiy14E1nPwSRTpnA-T3hBCE=usp=sharing>

## COMMON GOOD ASSET REGISTER as at 1/5/22

Name of Asset	Type of Asset	Location	Post Code	Reference	X-Coord	Y-Coord	Former Burgh linked to asset	Additional Information
Ballantyne Road*	Land	20 Ballantyne Road	EH6	2198	326468,87	676317,12	Leith	Common Good Register, City of Edinburgh Council, 2022. Available at: <a href="https://www.edinburgh.gov.uk/commercial-property-sale-let/common-good-register">https://www.edinburgh.gov.uk/commercial-property-sale-let/common-good-register</a>
Bruntsfield Links	Land	Bruntsfield Links	EH10	3127	325036,9	672499,4	Edinburgh	
Calton Hill	Land	(34) Calton Hill	EH7	3512	326240,44	674236,02	Edinburgh	
Calton Hill - City Observatory	Building	38 Calton Hill	EH7	2011	326200,11	674182,31	Edinburgh	
Calton Hill Cannon	Structure	Calton Hill	EH7	745	326224,92	674138,9	Edinburgh	
Calton Craggs	Land	6/1 Regent Road	EH1	809	326296,95	673973,51	Edinburgh	
Dugald Stewart Monument	Monument	Calton Hill	EH7	1711	326138,83	674132,69	Edinburgh	
National Monument, Calton Hill	Monument	36 Calton Hill	EH7	2993	326308,2	674154,48	Edinburgh	
Nelson Monument	Monument	Calton Hill	EH7	3508	326253,96	674114	Edinburgh	
Playfair Monument	Monument	38B Calton Hill	EH7	3468	326226,71	674162,95	Edinburgh	
City Chambers	Building	253 High Street	EH1	906	325764,18	673656,58	Edinburgh	
Custom House***	Building	65-67 Commercial Street	EH6	32365	327027,58	676593,66	n/a	
Grassmarket - Martyr's Cross Monument	Monument	(114) Grassmarket	EH1	1862	325482,36	673396,56	Edinburgh	
Grassmarket - Bowfoot Well	Structure	118/1 Grassmarket	EH1	1235	325500,62	673416,66	Edinburgh	

High Street - David Hume Statue	Structure	High Street	EH1	32074	325629,2	673591,26	Edinburgh	
High Street - Adam Smith Statue	Structure	High Street	EH1	32076	325789,69	673615,07	Edinburgh	
High Street - Alexander & Bucephalus Statue	Structure	(253A) High Street	EH1	1984	325768,5	673647,38	Edinburgh	
High Street - The Cross Well	Monument	172/1 High Street	EH1	962	325826,01	673618,1	Edinburgh	Also known as Canongate Well, by Old Assembly Close
High Street - Mercat Cross	Monument	192/1 High Street	EH1	1824	325771,69	673597,89	Edinburgh	
High Street - Stone of Remembrance	Monument	253(A) High Street	EH1	13343	325771,04	673631,18	Edinburgh	Also known as City Chambers War Memorial
High Street - Duke of Buccleuch War Memorial	Monument	253B High Street	EH1	1826	325757,62	673628,4	Edinburgh	
High Street - Netherbow Well	Monument	45/1 High Street	EH1	853	326082,62	673692,41	Edinburgh	Also known as John Knox House Well and Fountain Well
Inch Park*	Land	Gilmerton Road	EH16	13269	327625,43	670824,26	Edinburgh	
Lady Stair's House	Building	3 Lady Stairs Close	EH1	561	325546,55	673607,17	Edinburgh	Also known as Writer's Museum
Meadows	Land	Meadows	EH3	13268	325663,44	672675,08	Edinburgh	
Meadows - Jaw Bone Arch	Structure	West Meadows	EH3	13391	325479,82	672580,89	Edinburgh	
Meadows - Masons Pillars	Structure	Meadows	EH3	1757	325125,28	672760,81	Edinburgh	

Meadows - Nelson Pillars	Structure	(3/1) East Meadows	EH3	1812	326201,07	672567,13	Edinburgh	
Meadows - Sister Cathedral Fountain	Structure	Meadows	EH3	32221	325478,76	672611,58	Edinburgh	Also known as Helen Acquoff Memorial Fountain.
Meadows - Sundial	Structure	West Meadows	EH3	32218	325214,7	672730,12	Edinburgh	
Middle Meadow Walk - Gate Piers	Structure	Meadows	EH3	2185	325689,55	673107,88	Edinburgh	
People's Story Museum	Building	161-163 Canongate	EH8	3639	326413,07	673790,52	Edinburgh	Also known as Canongate Tolbooth
Portobello Municipal Clock	Structure	N/A					Portobello; merged Edinburgh 1896	
Portobello Park	Land	(21) Stanley Street	EH15	13257	330559,64	673162,97	Portobello; merged Edinburgh 1896	
Princes Street Gardens (East)	Land	Princes Street	EH2	17739	325538,48	673857,46	Edinburgh	
Princes Street Gardens (West)	Land	Princes Street	EH2	16458	325102,45	673716,7	Edinburgh	
PSG - Walter Scott Monument	Monument	(4A) Princes Street	EH2	2280	325586,11	673905,09	Edinburgh	
PSG - Floral Clock	Structure	(5B) Princes Street	EH2	2279	325336,34	673838,41	Edinburgh	
PSG - Genius of Architecture Statue	Structure	(5C) Princes Street	EH2	2458	325268,61	673755,86	Edinburgh	
PSG - Adam Black Statue	Structure	(4D) Princes Street	EH2	1745	325510,97	673884,98	Edinburgh	
PSG - Allan Ramsay Statue	Structure	(5F) Princes Street	EH2	1783	325329,99	673835,24	Edinburgh	



PSG - David Livingston Statue	Structure	(4E) Princes Street	EH2	2251	325617,83	673912,98	Edinburgh	
PSG - Professor Wilson Statue	Monument	Princes Street	EH2	32085	325446,77	673866,54	Edinburgh	
PSG - Robert Louis Stevenson Memorial Grove	Monument	West Princes Street Gardens	EH2	32082	325009,32	673659,55	Edinburgh	
PSG - Ross Bandstand	Structure	West Princes Street Gardens	EH2	1508	325152,19	673727,29	Edinburgh	
PSG - Ross Fountain	Structure	(5H) Princes Street	EH2	1889	324970,16	673659,55	Edinburgh	
PSG - Royal Scots Greys Monument	Monument	(5L) Princes Street	EH2	1892	325200,25	673795,49	Edinburgh	
PSG - Scottish American War Memorial	Monument	(5N) Princes Street	EH2	1874	325089,93	673766,96	Edinburgh	
PSG - Sir James Young Simpson Statue	Structure	(5P) Princes Street	EH2	2323	324845,2	673699,11	Edinburgh	
PSG - Memorial Stone (W)	Monument	West Princes Street Gardens	EH2	32255	325224,34	673701,02	Edinburgh	Also known as Belsen Liberation & Holocaust Memorial
PSG - Norwegian Memorial Stone	Monument	(5E) Princes Street	EH2	1851	325141,29	673679,46	Edinburgh	
PSG - Thomas Guthrie Statue	Structure	(5D) Princes Street	EH2	1342	324996,09	673741,59	Edinburgh	
South Queensferry Harbour	Structure	(C) Head of Harbour	EH30	3375	312983,8	678500,43	Queensferry	
Scotland Street Lane	Land	(1) Scotland Street Lane East	EH3	2601, 3479 & 3580	325559,51	674729,95	Edinburgh	

Streets of Old Town*	Land	Various							Edinburgh	
Streets of New Town*	Land	Various							Edinburgh	
Streets, Ways and Passages of Leith*	Land	Various							Leith, Edinburgh after 1920	
Burns Monument	Monument	Regent Road	EH1	32449	326519,84	674007,84			Edinburgh	
Flodden Wall	Structure	Various	EH8 & EH3	13351 & 52	326236,7	673486,61			Edinburgh	
Mid Terrace, South Queensferry	Land	4/1 Mid Terrace	EH30	3779	313034,64	678314,99			Queensferry	
Parliament Square - Charles II Statue	Monument	(12B) Parliament Square	EH1	335	325748,94	673550,12			Edinburgh	
Parliament Square (West) - 5th Duke of Buccleuch	Monument	(12A) Parliament Square	EH1	245	325675,39	673580,81			Edinburgh	Also known as Queensberry Memorial
Parliament Square Well	Structure	(12C) Parliament Square	EH1	679	325646,81	673577,64			Edinburgh	
Portobello Garden	Land	67A Promenade (John Street)	EH15	514	331162,97	673769,27			Edinburgh	Also known as John Street.
Promenade, Portobello	Land	Promenade	EH15		330729,66	674125,06			Portobello, Edinburgh post 1898	
Rosebery Memorial Hall and House	Building	17 West Terrace, S Queensferry	EH30	2471	312951,36	678337,44			Queensferry, Edinburgh after 1918	
St Bernard's Bridge	Structure	MacKenzie Place - Water of Leith	EH3	2426 & 2956	324483,02	674311,87			Edinburgh	
South Bridge	Structure	Various	EH1		325969,72	673529,99			Edinburgh	

Bingham Park	Land	35 Bingham Avenue	EH15	25015	329947,21	672552,82	Portobello, Edinburgh after 1896	
Blackford Hill Public Park	Land	(4) Charterhall Road	EH9	1979	325609,22	670629,21	Edinburgh	
Bloomiehall Public Park	Land	(13) Juniper Park Road	EH14	1442	319446,68	668763,79	Edinburgh	
Bonaly Country Park*	Land	Bonaly Road	EH14	157	321035,35	666928,47	Edinburgh	
Braidburn Valley Public Park	Land	(168) Comiston Road	EH10	2013	324174,17	669841,22	Edinburgh	
Campbell Park	Land	(114A) Woodhall Road	EH13	2579	320554,3	668679,65	Edinburgh	
Corstorphine Hill Public Park*	Land	(2B) Clermiston Road North	EH4	3258	320481,99	674474,28	Edinburgh	
Craiglockhart Dell Public Park	Land	(31) Lanark Road	EH14	2056	322075,9	670480,76	Edinburgh	
Cramond Park and Foreshore	Land	(2) Cramond Foreshore	EH4	3477	319380,92	677230,17	Edinburgh (part)	
Cramond Walled Garden	Land	20/2 Cramond Glebe Road	EH4	3602	319099,1	676764,57	Edinburgh	
Davidsons Mains Public Park	Land	27 East Barn-ton Avenue	EH4	3188	320312,54	675255,54	Edinburgh	
Figgate Burn Public Park	Land	Hamilton Drive	EH15	13295	329699,49	673569,53	Edinburgh	
Harrison Park (East and West)	Land	(4) West Bry-son Road	EH11	2662 & 31696	323579,38	672000,57	Edinburgh	
Hermitage of Braid Public Park	Land	(163A) Braid Road	EH10	2375	325000,27	670258,76	Edinburgh	
Inverleith Park	Land	8(01) Portgower Place	EH4	2598	324142,74	675174,74	Edinburgh	

King George V Public Park	Land	(13) Logan Street	EH3	2502	325307,07	674823,61	Edinburgh	
Leith Links*	Land	11 Links Place	EH6	21489	327401,82	675936,77	Edinburgh	
Liberton Public Park	Land	Rear of 8-50 Liberton Gardens	EH16	2429	327212,74	669235,34	Edinburgh	
Lochend Public Park*	Land	25 Lochend Road South	EH7	2140	327639,94	674779,4	Edinburgh	
Montgomery Street Park	Land	119A Montgomery Street	EH7	1388	326750,11	674664,51	Edinburgh	
Murieston Public Park	Land	(39) Murieston Crescent	EH11	3267	323456,69	672590,9	Edinburgh	
Pilrig Public Park*	Land	69 Pilrig Street	EH6	2309	326381,6	675676,61	Edinburgh	
Ravelston Public Park	Land	(17) Keith Crescent	EH4	1411	321873,3	674234,6	Edinburgh	
Regent Road Park	Land	(12) Regent Road	EH7	1873	326813,35	674181,62	Edinburgh	
Roseburn Park	Land	(6) Roseburn Park	EH12	3154	322626,81	673108,51	Edinburgh	
Saughton Public Park*	Land	172(09) Balgreen Road	EH11	3276	321977,15	672003,75	Edinburgh	
Sighthill Public Park*	Land	250 Broomhouse Road	EH11	3590	319721,11	671195,61	Edinburgh	
St Margaret's Park*	Land	(29A) Corstonphine High Street	EH12	3599	319852,3	672568,67	Edinburgh	
Starbank Public Park	Land	(18) Laverockbank Road	EH5	3259	325149,74	676899,01	Leith then Edinburgh 1920	
Victoria Public Park*	Land	(161) Newhaven Road	EH6	3121	325606,76	676442,06	Leith then Edinburgh 1920	
White Park	Land	(1) White Park	EH11	3148	323151,75	672305,95	Edinburgh	



Wardie Playing Fields**	Land	Granton Road	EH5	3	324351,79	676660,15	Leith, originally Leith School Board
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## ASSETS ADDED FOLLOWING REPRESENTATION

Colinton Village*	Land	Various titles. Only Colinton Dell Park is CG					
Areas surrounding Water of Leith	Land	Various titles, included above, plus five acres acquired from Charles McKendrick is CG					
Barony Street Play Area	Land	(2A) Barony Place		13398	325730,36	674593,99	
Inverleith Park - Gatepiers (East)	Structure	1A Arboretum Place		AIS Rec Rqd	324359,11	675257,91	
Inverleith Park - Gatepiers (West)	Structure	15A Fettes Avenue East		3153	323891,45	675088,57	
Inverleith Park - Monument (John Charles Dunlop Fountain)	Monument/ Structures	15B Fettes Avenue East		AIS Rec Rqd	324089,23	675160,67	
Inverleith Park - North Archway	Structure	63 Inverleith Place		2136	323992	675355,14	
Inverleith Park - Sundial (Kinloch Anderson)	Structure	15C Fettes Avenue East		AIS Rec Rqd	324255,92	674993,98	
Keddie Gardens and Play Area	Land	1/1 & 1/2 Largo Place		52 & 1699	326365,09	676342,42	

Rocheid Path	Land	34 Arboretum Avenue	2891	324689,68	675038,79		
St Mark's Park	Land	(28A) Warrington Road	941	325663,55	675716,28		
Belford Bridge	Structure	Belford Road	AIS Rec Rqd	323795	673774,52		
PSG - Gardeners Cottage	Building	5A Princes Street	2230	325333,27	673803,31		
George Street - Dr Chalmers Statue	Structure	107A George Street	505	324944,3	673924,54		
George Street - William Pitt Statue	Structure	69A George Street	554	325141,42	673980,82		
George Street - George IV Statue	Structure	31A George Street	194	325357,95	674035,99		
Taylor Gardens Public Park	Land	(176) Great Junction Street	1571	326639,14	676319		
Spylaw Public Park*	Land	25(A) Spylaw Street	5775				

NON HERITABLE ASSETS

Car registration S0	Car reg plate						
Car registration S10	Car reg plate						
All Burgh Charters	Books & records						



# Common Good

We own property that has Common Good status. This includes land, buildings and cash. Property has a Common Good status if it had been bought by or gifted to a former Burgh. There are laws that restrict how they can be used or sold.

Property can be Common Good if the asset was gifted to or acquired by the Burgh on or before 15 May 1975 and

- it has been used by the general public for a long time
- it was dedicated for a specific public purpose
- has title conditions ensuring public use were agreed in the original charter.

There can be other factors that help us decide if a property is Common Good or not, such as

- statutory reasons for owning a property
- how it was acquired
- if it is held by a separate trust.

Common Good status means that restrictions apply on what can be done with the property. Restrictions on leasing or selling of some Common Good assets exist but these can be altered by obtaining approval from the courts, where required. Proceeds from leasing or selling these assets are retained in the Common Good fund.

## Common Good register

*part 8 / 102*

49 Under the Community Empowerment (Scotland) Act 2015  and following Scottish Government Guidance , we have a duty to publish a Common Good register. This lists all our Common Good properties.

Overall Common Good funds stood at £2.669m at 31 March 2021 of this £1.815m is in an earmarked fund for planned maintenance on Common Good assets as per page 115 of the 2020/21 audited annual accounts

Download the Common Good register (XLSX 27 KB)

*most recent register uploaded replacing previous list (historic registers not available)*

## Representations received

We have received many representations which are submitted comments and views about Common Good assets. We are undertaking research on each property or asset submitted to establish if they meet the Common Good criteria or not. We aim to respond to submissions within 12 weeks of the date of the enquiry.

Download the list of Common Good asset representations (XLSX 20 KB)

This list will be updated when additional submissions are received and when our research is completed on a property.

If you wish to make representations or express views about potential Common Good assets email [common.good@edinburgh.gov.uk](mailto:common.good@edinburgh.gov.uk) and we will consider your request.

*— yet to have a response ...*

## Selling or changing the use of a Common Good asset

If we aim to change the use or sell an asset we need to consult on our plans. We will promote our proposals widely to ensure that local communities can comment before any final decision

*— as happened with collective*



- In July 2022 Scottish Government began a review of the CESA 2015 to evaluate its impact on community ownership  
- this review is due in the second half of 2023



# Community Empowerment (Scotland) Act 2015

2015 asp 6

## PART 8

### COMMON GOOD PROPERTY

#### Registers

#### 102 Common good registers

- (1) Each local authority must establish and maintain a register of property which is held by the authority as part of the common good (a "common good register").
- (2) Before establishing a common good register, a local authority must publish a list of property that it proposes to include in the register.
- (3) The list may be published in such a way as the local authority may determine.
- (4) On publishing a list under subsection (2), the local authority must—
  - (a) notify the bodies mentioned in subsection (5) of the publication, and
  - (b) invite those bodies to make representations in respect of the list.
- (5) The bodies are—
  - (a) any community council established for the local authority's area, and
  - (b) any community body of which the authority is aware.
- (6) In establishing a common good register, a local authority must have regard to—
  - (a) any representations made under subsection (4)(b) by a body mentioned in subsection (5), and
  - (b) any representations made by other persons in respect of the list published under subsection (2).
- (7) Representations as mentioned in subsection (6) may in particular be made in relation to—
  - (a) whether property proposed to be included in the register is part of the common good,

- followed the 2014 report of the Land Reform Review Group 'The Land of Scotland and the common good' report (an independent review group est 2012) 50

- City of Edinburgh Council have public list on website

- CEC also makes these comments public on web

flexible...  
hard to compare local authorities

Community Empowerment (Scotland) Act 2015



- (b) the identification of other property which, in the opinion of the body or person making the representation, is part of the common good.

(8) A local authority must—

- (a) make arrangements to enable members of the public to inspect, free of charge, its common good register at reasonable times and at such places as the authority may determine, and
- (b) make its common good register available on a website, or by other electronic means, to members of the public.

**103 Guidance about common good registers**

- (1) In carrying out any of the duties imposed on it by section 102, a local authority must have regard to any guidance issued by the Scottish Ministers in relation to the duties.
- (2) Before issuing any such guidance, the Scottish Ministers must consult—
  - (a) local authorities,
  - (b) community councils, and
  - (c) such community bodies as the Scottish Ministers think fit.

*Disposal and use*

— (Sale/lease)

**104 Disposal and use of common good property: consultation**

51

- (1) Subsection (2) applies where a local authority is considering—
  - (a) disposing of any property which is held by the authority as part of the common good, or
  - (b) changing the use to which any such property is put.
- (2) Before taking any decision to dispose of, or change the use of, such property the local authority must publish details about the proposed disposal or, as the case may be, the use to which the authority proposes to put the property.
- (3) The details may be published in such a way as the local authority may determine.
- (4) On publishing details about its proposals under subsection (2), the local authority must—
  - (a) notify the bodies mentioned in subsection (5) of the publication, and
  - (b) invite those bodies to make representations in respect of the proposals.
- (5) The bodies are—
  - (a) where the local authority is Aberdeen City Council, Dundee City Council, the City of Edinburgh Council or Glasgow City Council, any community council established for the local authority's area,
  - (b) where the local authority is any other council, any community council whose area consists of or includes the area, or part of the area, to which the property mentioned in subsection (1) related prior to 16 May 1975, and
  - (c) any community body that is known by the authority to have an interest in the property.



- (6) In deciding whether or not to dispose of any property held by a local authority as part of the common good, or to change the use to which any such property is put, the authority must have regard to—
- (a) any representations made under subsection (4)(b) by a body mentioned in subsection (5), and
  - (b) any representations made by other persons in respect of its proposals published under subsection (2).

**105 Disposal etc. of common good property: guidance**

- (1) In carrying out any of the duties imposed on it by section 104, a local authority must have regard to any guidance issued by the Scottish Ministers in relation to the duties.
- (2) A local authority must have regard to any guidance issued by the Scottish Ministers in relation to the management and use of property that forms part of the common good.
- (3) Before issuing any guidance as mentioned in subsection (1) or (2), the Scottish Ministers must consult—
- (a) local authorities,
  - (b) community councils, and
  - (c) such community bodies as the Scottish Ministers think fit.

*Interpretation of Part 8*

**106 Interpretation of Part 8**

In this Part—

“community bodies”, in relation to a local authority, means bodies, whether or not formally constituted, established for purposes which consist of or include that of promoting or improving the interests of any communities (however described) resident or otherwise present in the area of the local authority,

“community council” means a community council established by a local authority under Part 4 of the Local Government (Scotland) Act 1973.



SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H ALBA

# DELIVERING GREATER BENEFIT FROM COMMON GOOD LAND AND BUILDINGS

A report to the Scottish Land Commission  
September 2019

53

Grace Brown and Jonty Leibowitz, 'Delivering Greater Benefit from Common Good Land and Buildings'

Grace Brown and Jonty Leibowitz, 'Delivering Greater Benefit from Common Good Land and Buildings', Scottish Land Commission, Commissioned Report, 2019. Available at: <https://www.landcommission.gov.scot/our-work/good-practice/common-good-land>  
Annotations by Alison Scott.



SCOTTISH LAND COMMISSION  
COMISEAN FEARAINN NA H ALBA

## Delivering Greater Benefit from Common Good Land and Buildings

**Authors: Grace Brown (Centre for Local Economic Strategies)  
Jonty Leibowitz (Centre for Local Economic Strategies)**

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*see five  
3*

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# 1 Introduction

## 1.1 About this report

This research was conducted by the Centre for Local Economic Strategies (CLES) on behalf of the Scottish Land Commission (SLC) to investigate the potential for Common Good land and buildings in Scotland to deliver greater public benefit.

The SLC was established in April 2017 to provide direction, leadership and strategic thought to land reform in Scotland. The purpose of this report is to aid the SLC in developing strategic policy on how best to advance the diversity, accountability, and productivity of Common Good land and property assets. Within this, the overarching aims of this paper are to:

- provide a basis for informed public debate on the key issues; and
- inform the SLC's longer term research priorities in this area.

This report is written for citizens, policymakers, and activists who are interested in making sure that Common Good assets are better utilised to help achieve social, economic, and environmental justice in Scotland.

where & how does this happen?  
how do these 2 things interplay?

## 1.2 Approach

The approach to this research included a number of key steps.

Firstly, a Research Framework was established in order to scope out the key questions necessary to drive strategic policy interventions:

- Context: What is the historical basis for the maturation of the legal, social, and cultural approaches taken by local and national government to Common Good land and buildings in Scotland?
- Issues: With the context in mind, what are the main issues facing local authorities in managing and governing Common Good assets today?
- Definitions: What are the major barriers to providing a clear statutory definition of Common Good land and buildings, with specific regard to the legal debate on the differentiation between alienable and inalienable rights?
- Ownership: What are the current ownership structures of individual assets of Common Good land and buildings, and how do different models of ownership across Scotland impact the social and environmental value of the asset?
- Opportunities: What is the potential social and economic value of Common Good land and buildings for communities across Scotland? How can local authorities develop a comprehensive ownership and management structure for these assets in ways that will maximise the productivity, diversity, and accountability of these assets for all citizens?

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research produced by people/orgs within traditional commercial/academic publishing

→ how do we relate to this as artists / cultural workers?

These questions were applied to in two stages. First, a literature review was conducted to analyse the key academic and 'grey' literature on the state of Common Good land in Scotland. Second, a practice review was conducted. This involved conducting desk-based research on how Scottish local authorities are managing Common Good land and buildings on the ground, for example by surveying Written Submissions to the Scottish Government's Local Government and Communities Committee in February 2017. Phone interviews were also held with a range of stakeholders from the Scottish Parliament and local authorities, as well as community representatives.

Finally, the two reviews were brought together to shape a series of strategic policy directions for the SLC to consider. These have also drawn on CLES' decades of experience in place-based economic development, offering a series of 'first steps' that could help unlock the social, economic, and environmental potential of Common Good land and buildings.

## 2 Literature Review

### 2.1 Context and background

This section briefly describes the historic background of Common Good ownership and management, covering key definitions, and paying particular regard to the changes occurring between the implementation of the Local Government (Scotland) Act 1973 to the present. The review then moves on to a discussion of the issues surrounding Common Good assets, including management issues, legal imprecision and financial mismanagement.

In recent years, the Scottish Government has recognised that the people of Scotland are not getting the best from our land.<sup>1</sup> The report of the Land Reform Review Group (2014, 74) notes that this particularly applies to Common Good land and assets, and suggests that there has been a steady erosion in the social, cultural, and economic status of the common good in recent years. Since before the Common Good Act of 1491, Common Good assets have played an important role in the civic and cultural life of local communities, however, over subsequent centuries their status has been degraded and many Common Good assets have been lost.

The 'Common Good' is an ancient concept with a very long tradition in Scotland, stretching back to the creation of burghs by Medieval Kings (Ferguson, 2013: 3). Common Good Funds represent a 'substantial portfolio of land, property and investments and by law continue to exist for the common good of the inhabitants of the former burghs' (Wightman and Perman, 2005: 4). The Common Good Act 1491 remains in force in Scots law as part of the current legislation governing these common lands,

#### Definition: burghs

Ferguson (2013, 3-4) describes burghs as 'an attempt to stimulate trade in a particular area by granting a settlement certain powers so that economic activity was channelled and focused on that area.' Customs and duties which flowed into the burgh would become part of a central general fund, known as the Common Good, which was 'held on behalf of the inhabitants of the burgh' alongside any land held in the Burgh Charter. Some original examples of their use were for municipal buildings, and other land was set aside for recreational use, 'the most common being links which were left as open space for the playing of golf.'

<sup>1</sup> 'Getting the best from our land – A land use strategy for Scotland' (SG, 2011) Op. cit pg.8

Author of  
'Common  
Good  
58  
(2006)



however subsequent legislation has impacted upon management and usage of Common Good land and funds.

During the 18<sup>th</sup> and 19<sup>th</sup> centuries, <sup>sell</sup> many burgh councils were insolvent or heavily in debt and thus began to permanently dispose of burgh land in order to raise revenue (Bartos, 2012: 1). The General Report of the Commissioners Appointed to Inquire into the State of Municipal Corporations in Scotland (published in 1835) revealed 'the sorry state into which municipal administration within Scotland had fallen and in particular the diminution of Common Good land as a result' (Bartos, 2012: 2).

Indeed, it was these financial concerns of a burgh which triggered what still 'represents the leading case on Common Good': Sanderson v Lees (1859) which made a clear distinction between alienable and inalienable Common Good. This case was brought

#### Definitions

Ferguson (2013, 7) suggests that while alienation is 'a slightly more difficult concept to pin down', in a Common Good context 'it means that the local authority propose to cede control of a piece of land, on a permanent or semi-permanent basis, in such a way that its public use will be lost or at least temporarily disrupted.' inalienable common good land cannot be disposed of or appropriated by the local authority for other uses except with the consent of the Sheriff or the Court of Session..

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Close to Edinburgh

after Musselburgh Burgh Council allowed private building work on common good land (Bartos, 2012: 2).

The Local Government (Scotland) Act 1973 brought an end to the burghs, by abolishing the town councils which had been responsible for them. Town councils' Common Good assets were transferred to the new district or islands councils and then, in 1996, to the current unitary local authorities (Scottish Parliament, 2017).

The 1973 Act also set out what local authorities can do with Common Good land; it allows authorities to dispose of or appropriate for another use Common Good land which is inalienable.

appropriate - interesting word choice

Wightman and Perman (2005: 13) argue that while Common Good assets had been 'reasonably well understood prior to 1975', this 'rapidly disappeared' with the further reorganisation of local government in 1996 'as institutional memory faded, and personnel and administrative systems changed.'

Shifting people - memory having a material role

\*

The tensions that this depleting lack of understanding raised can be best demonstrated in the case of Portobello Park. In 2012, Edinburgh City Council proposed to use Portobello Park as the site for the new Portobello High School. This decision was challenged by a local residents' association, and the Inner House of the Court of Session

found that 'not only did local authorities have no power to appropriate inalienable Common Good land', but the Courts also had no power to authorise appropriation. However, after a Private Bill was introduced in the Scottish Parliament by Edinburgh City Council, which allowed them to appropriate the land for educational purposes, Portobello High School was built (McKinlay, 2014).

The Land Reform (Scotland) Act 2016 subsequently changed the law so that local authorities can appropriate as well as dispose of inalienable common good land.

The Community Empowerment Act (Scotland) 2015 helps to empower community bodies through the ownership or control of land and buildings, and places new duties on local authorities in relation to Common Good property. Authorities now have to 'create and maintain a publicly available list of all their Common Good property' (Scottish Community Development Centre, 2015: 15). It also requires local authorities to publish their proposals and consult community bodies before disposing of or changing the use of Common Good assets (Community Councils, 2015).

Definitions

Ferguson (2013, 7) defines disposal as 'selling or leasing the land to a third party. Short term leases are included; and case law has also found that some other actions, and particularly demolition, also constitute a disposal.'

Appropriation is when the local authority uses the land for something other than its current purpose. In the case of Portobello Park in Edinburgh, the Council proposed to use some of the park land to build a school. This was 'generally recognised to be a proposed appropriation from its current common good use, to an education purpose' Ferguson (2013, 7).

## 2.2 Issues

The reasons for the declining status of Common Good land are varied, yet the LRRG (2014, 76) identified that the fundamental issue is that the legal framework governing Common Good is 'archaic and not fit for purpose.' The LRRG (2014) also suggests that the archaic nature of Scots law with regards to the Common Good has meant that the debate has been clouded by hundreds of years of disagreement, administrative change, and evolving socio-economic contexts and landscapes. The legal framework applied to the management and governance of Common Good assets has often tagged behind the practical ways in which the land and concept has been utilised by real people, and this has created conditions of confusion, inertia, and hesitancy. This has particularly been the case in recent decades, in which there have been substantive and often contradictory changes to the approach of the Scottish Government to Common Good land and assets.

CONFUSION  
INERTIA  
HESITANCY

— how does this match with what we have encountered so far



The confusion about the status of Common Good land and assets in Scotland means that the sense that Scotland is 'not getting the most' from its assets is pervasive at all levels, from both national and local government down to individual citizens (Wightman & Perman, 2005, 13). The Scottish public and state are therefore a long way from having the adequate knowledge to make the most of their long-standing heritage, and within this there are a number of critical issues:

we have foundations in speaking to councils, those caring for assets, having names.

### **2.2.1 Poor record-keeping**

It is clear that local authorities across Scotland lack knowledge of Common Good assets in two related areas. Firstly, local authorities often do not know whether land and assets they own are classified as Common Good, and within this there is further confusion about the *type* of Common Good asset something might be, for example alienable or inalienable.

Wightman & Perman (2005, 13) note that the numerous occasions throughout the twentieth century in which responsibility for Common Good assets have changed hands means that 'institutional memory...has been lost'. In practice, knowledge of these assets has been inadequately passed on from burgh, to town council, to district councils, and on to local authorities since 1996.

The practice of local burghs keeping assiduous records began to decline as early as the 1830s, meaning that by 1996 local authorities took control of common good assets with insufficient registers on the Common Good assets in their local area. The LRRG (2014, 76) found that out of the 197 original burghs (analogous with the respective town councils wound up in 1975), 54 reported no Common Good assets. However, since all burghs formerly held such assets, these findings were likely due to town council's and their successor's keeping insufficient records rather than having no assets in the first place. These findings were reflected in the work of Wightman & Perman (2005, 15-22), who asked for records on Common Good funds and assets from all 32 Scottish Councils. They found that, although a few councils kept adequate records, in general the 'standard of record keeping means that it is impossible for Councillors...to properly discharge their fiduciary duties.' In other words, local authorities had so little understanding of what Common Good assets they were meant to be holding, that it was 'impossible' to provide even the most basic answers to the survey, let alone develop comprehensive strategies for how said assets could help deliver good social, environmental, and economic outcomes for local citizens.

if we don't have the records, what can we do? what lets slip?

### **2.2.2 Legal imprecision**

Why has record keeping been so difficult with regards to Common Good assets? It is evident that the lack of legal clarity regarding what constitutes a Common Good asset has made it difficult for Council's to keep adequate records. In Wightman and Perman's

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(2005, 15-22) study, the fact that some Councils replied that they held zero Common Good assets (when this is clearly not the case) implies that many Councils suffer from confusion over the terminology.

Furthermore, even once it has been established whether an asset is held under Common Good or not, there is further confusion; especially regarding whether said asset is held as alienable or inalienable by the council. Neil (2017, 3) notes that the distinction between alienable or inalienable assets in Scots Law is relevant in understanding the legal status of a common good asset. The 1835 Commission appointed to enquire into the state of Municipal Corporations in Scotland found that alienable assets referred to houses, mills, fishing, feu-duties and other descriptions of heritage, whereas properties not usually alienable consisted of churches, town halls, market places and common greens or ground set apart for the general use or enjoyment of the inhabitants. Neil (2017, 3) suggests that the distinction set out in the original 1835 is still instructive today.

Whether an asset could be considered alienable or inalienable has significant ramifications for its status within Scots Law (Ferguson 2013, 2). Local authorities cannot grant a valid disposal or lease of buildings that (1) form part of the common good and (2) which are considered to be 'inalienable' or appropriate them for other council uses, unless authority has been obtained from a court under section 75 of the Local Government (Scotland) Act. Whereas, if assets are alienable, a local authority can dispose of or appropriate this land for other use without court authority.

### 2.2.3 Management and usage

Legal imprecision has also had a detrimental effect on the management of Common Good land and assets, with Miller (2018) noting that prior to the Community Empowerment Act (2015), there was no stated provision for local authorities to maintain Common Good land to 'any particular standard', other than the vague formulation of using such assets 'for the good of the residents of the former burgh.' This has meant that the statutory responsibilities of a local authority have been hard to pin down, and oftentimes has failed to keep up with the changing socio-economic circumstances of the communities such assets are meant to serve. For example, there are many cases of developments around environmental sustainability. Miller (2018) gives the example of East Lothian District Council v National Coal Board as one such case, wherein a local authority was given permission to develop a new school on an area of wildlife preservation, despite local resident's desire to see the local land preserved. It could be argued that this case reflects the extent to which current Common Good law is prejudiced in favour of more traditional interpretations of 'the Common Good', for example prioritising economic over environmental concerns.

### 2.2.4 Lack of transparency

Grace Brown and Jonty Leibowitz, 'Delivering Greater Benefit from Common Good Land and Buildings' such as falton hill? this is what Collectric did? Court of Session? exactly - what do we want to do with these assets - how do they serve us?

and the community's will!  
-> it was never just in the first place -> philanthropic beginnings  
-> how are councils using CG to prioritise their own commercial aims - what is the impact -> this is a clear example.



Poor record-keeping and legal imprecision on the part of local authorities has created a situation in which ordinary citizens feel disempowered and disconnected from assets to which they themselves arguably own. /

It's ours  
- do we want it?  
- who is stopping who?

The Scottish Government has sought to redress these issues through the provisions of the Community Empowerment (Scotland) Act (2015), which mandates local authorities to keep and maintain a register of all Common Good land and assets. Some Scottish local authorities have taken positive steps as a consequence of this Act. Along with the development of the Scottish Government's Open Data Strategy (2015), it is clear that since 2015 there is a new focus on the registration and record-keeping of Common Good land and assets. Despite this, Gianna (2017) notes that Fife Council's proactive approach is atypical for the vast majority of Scottish local authorities, most of which are yet to take adequate steps in this direction. For example, some local authorities have no public information at all on the status of its Common Good assets.

how to regain this connection  
'sense' of ownership  
→ also autonomy in how that ownership is enacted?

### 2.2.5 Financial mismanagement

Poor record-keeping, legal imprecision, and a lack of transparency are conditions in which it is relatively easy for financial mismanagement (or even outright corruption) to go unchecked. Wightman & Perman (2005, 15) suggest that the data held by Scottish councils often displayed a 'worrying incompatibility between property records and financial accounts' with regard to Common Good land and assets. This has led to the mismanagement of Common Good assets, for example local authorities using revenue generated from the sale of Common Good assets to fund other council activities, which could be illegal if the assets in question have alienable status.

For example, over £50 million pounds was raised by South Lanarkshire Council through the sale of land held by the Hamilton Common Good Fund. Wightman and Perman (2005, 22) note that this activity could be considered illegal under the historic precedent of Scots law, in which the value produced from Common Good assets does not belong to a local authority in and of itself, but instead is considered to be held by such an authority on behalf of local citizens. In this case, the value from any sales should have been retained by the Hamilton Common Good Fund, rather than South Lanarkshire Council as a corporate entity. This raises a series of further questions about the legality of local authorities extracting value from Common Good assets, for example whether a local authority should pay rent into a local Common Good fund if it uses a municipal town hall, which it could be argued are inalienable Common Good assets.

Data management, → related to Emma Beal's research mapping exercise

However, the law on what Councils can spend common good money on is relatively unfettered: in doing so, the main constraint is that they must 'have regard to the interests of the inhabitants of the former burgh.'

interesting who would hold them accountable

how to map this difference in approach? how does your council compare?

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### 3 Practice Review

#### 3.1 Context

The purpose of the practice review is to understand the practical realities 'on the ground' in the governance, management, and ownership of Common Good land and assets in Scotland. Specifically, the practice review focused on how Scottish local authorities have fared in carrying out the duties imposed by Part 8 of the Community Empowerment (Scotland) Act 2015. The Act contained two direct instructions for local authorities;

- ✍ Section 102 places a duty on local authorities to *"establish and maintain a register of property which is held by the authority as part of the Common Good."*<sup>2</sup>
- ✍ Section 104 places a duty on local authorities that, *"Before taking any decision to dispose of, or change the use of, such [Common Good] property the local authority must publish details about the proposed disposal or, as the case may be, the use to which the authority proposes to put the property."*<sup>3</sup>

The Scottish Government also published a guidance document offering local authorities' advice and support on how to carry out this instruction. This included advice on how to establish Common Good registers; how to identify and contact community bodies; and how to consult when planning to dispose of or change the use of Common Good property.<sup>4</sup>

In understanding how Scottish local authorities have interpreted and acted upon these instructions, two concurrent methodological approaches have been deployed. Firstly, the research team looked at local authority websites to see how they have collected a Common Good register (as per the provisions of the Empowerment Act), as well as written evidence submitted to the Scottish Government's Local Government and Communities Committee in February 2017.<sup>5</sup> Secondly, a series of short interviews were held with with relevant stakeholders who have experience of working for (or with) local authorities in the implementation of Sections 102 and 104 of the Empowerment Act.

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#### 3.2 Establishing a Common Good register

The practice review found that local authorities have adopted a variety of different strategies to act on and implement Section 102 of Part 8 of the Empowerment Act. As per the Guidance published by the Scottish Government, local authorities have been

<sup>2</sup> Community Empowerment (Scotland) Act 2015, Part 8, Section 102, (1)

<sup>3</sup> Community Empowerment (Scotland) Act, Part 8, Section 104, (2)

<sup>4</sup> Scottish Government (2018), Community Empowerment and Common Good Property; Guidance for Local Authorities

<sup>5</sup>



instructed to establish a comprehensive register of all Common Good assets within a local jurisdiction. Crucially, the Empowerment Act also stipulates that local authorities must undertake this process in consultation with local residents and community groups, in order to ensure a transparent and democratic process.

It is clear that the Empowerment Act has prompted Scottish local authorities to put more thought and resource into questions around the Common Good than was previously the case. The exercise of carrying out a register has forced local authorities to 'get to grips' with the Common Good process, in the words of one interviewee, and that this was 'necessary because Common Good was previously an orphan in the local authority - nobody wanted to deal with it.'<sup>6</sup> By forcing local authorities to carry out the supposedly simple task of establishing a register, the Empowerment Act has succeeded in bringing a refreshed focus to Common Good land and assets in Scottish local authorities.

Strong language.

→ proven by the time taken to do it?!

In particular, the new focus on Common Good has allowed local authorities to overcome one of the key reasons for their historically poor management of these assets; that Common Good often 'fell through the cracks' of departmental silos within local authority administrations.<sup>7</sup> One interviewee at a local authority noted that Common Good issues tended to sit between their local authorities' planning, legal, and assets departments; meaning that none of the three took on adequate responsibility for Common Good as a whole.

→ indeed from what we have found no specific council role person oversees

evidenced by partial accounts, passing the buck.

The registration process has evidently begun to redress this imbalance by forcing local authorities to clarify the place of the Common Good within internal organisational structures. In particular, it was found that the registration process has been particularly effective in local authorities where an individual officer has been given designated responsibility for carrying out this task. One local authority has created a dedicated post of a Common Good Fund Officer, spreading the cost of creating the post equally across the local committee areas of the local authority.

great - would like to know who/when

### 3.3 Community Consultation

Section 106 of the Empowerment Act refers to the need for local authorities to engage in substantive consultation with 'community bodies'<sup>8</sup> in the registration process and beyond. The Guidance document pointed local authorities towards the National

<sup>6</sup> CLES Interview, March 2019

<sup>7</sup> CLES Interview, March 2019

<sup>8</sup> "Community bodies", in relation to a local authority, means bodies, whether or not formally constituted, established for purposes which consist of or include that of promoting or improving the interests of any communities (however described) resident or otherwise present in the area of the local authority. Empowerment Act, Part 8, Section 106

Grace Brown and Jonty Leibowitz, Delivering Greater Benefit from Common Good Land and Buildings



Standards for Community Engagement, a series of good-practice principles designed to support community engagement in Scotland.<sup>9</sup>

In relation to the registration process local authorities have taken these instructions in a number of different directions. In some places, community engagement on Common Good has a long-standing history. A number of interviewees suggested that community councils and groups of these kinds actually had more knowledge of which assets were or were not Common Good than the local authority, on the grounds that such community groups often predated local authorities and contained individuals with more intimate knowledge of specific plots of Common Good land or buildings. For example, an interviewee described how consultation with a coastal community group had revealed that a set of steps leading down to the beach were in fact Common Good, where the local authority had previously been unaware.) — new good example

Another example of this was provided by Hawick Callants Club in written submission to the Local Government and Communities Committee in May 2017.<sup>10</sup> When the Scottish Border Council (SBC) began the community consultation process, the Callants Club provided a number of corrections and clarifications that helped the Council better clarify the Common Good register. In one case, this involved demonstrating to the Council that a number of possessions donated to the local museum should not be recorded as Moveable Assets because the donors had stipulated that the items were donated to 'the town' rather than to the Council; thereby falling under the Common Good.

These examples demonstrate the crucial role community consultation plays in helping local authorities to collect their Common Good register, and of course in ensuring a transparent and democratic process. The Empowerment Act is clearly a stimulus to make this process work even better; for example, once local authorities have a clear register available on their websites, community groups will be better placed to provide comments and clarifications. Yet despite this, it was found that there are a number of unresolved issues within the current community consultation process:

- Consulting with community groups at the ultra-local level can be a resource and time intensive process. One interviewee described the instruction of the Empowerment Act as 'almost impossible' to implement without significant investment (of which most local authorities do not have access to).
- It was also found that the Guidance published by the Scottish Government was viewed by some local authority officers as 'weak' in suggesting which 'community groups' should be prioritised.

<sup>9</sup> Scottish Government, The National Standards for Community Engagement (2015)

<sup>10</sup>

local people using knowledge to oppose council decisions (such as Caltongate) rather than just helping fill gaps in the records.

Grace Brown and Dorothy Bellamy, Delivering Greater Benefit from Common Good Land and Buildings

— makes sense! what happens though when/if community knowledge is lost/dismpted eg. by loss of homes

— we haven't yet looked much at objects - in the City Chambers, Museum Edinburgh

— and spot omissions?

— the 'choir' feeling of the task - a 'burden' is how it has been described to us.

— eg what happens if there is conflict? different ideas of how land is used, buildings uninhabited, monuments upkeep...



- In some cases, there is a lack of trust between community groups and local authorities. Community groups have suggested that some local authorities 'seldom wish to discuss openly Common Good issues', which demonstrates a lack of trust or good faith in this discussion.<sup>11</sup>

- how to unpack this ...

### 3.4 Defining Common Good

In undertaking the registration and consultation processes, local authorities have sought to redress the confusions about defining what does or not does constitute a Common Good asset.

#### 3.4.1 Management of Common Good Funds

The consequence of imprecision around defining the Common Good means that mismanagement of Common Good assets is rife, specifically with regards to Common Good Funds. A recurrent theme throughout the practice review was a lack of clarity about whether an asset was held under the Common Good. This meant that local authorities and councils often processed finances inappropriately by either taking profits on Common Good assets that should be retained by the fund, or conversely by passing costs on to Common Good Funds that were actually built up by other Council activities.

One example of this is from 2013, when Highland Council was forced to write off £390,000 of "fees" which it had charged to the Nairn Common Good Fund for the mismanagement of Common Good land that had been erroneously declared alienable by the local authority.<sup>12</sup>

!!!

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#### 3.4.2 Effect on the planning process

The review found that a significant consequence of confusion around defining, managing, and funding projects related to the Common Good is that these assets are often under-utilised in the community planning process. A number of interviewees suggested that Common Good issues were so complicated that planners often 'gave up' on local planning projects that might take place in Common Good land or buildings, for fear of being caught up in acrimonious and lengthy judicial processes and community consultation.

- risky, costly, time consuming

**This is especially the case with regards to the lack of clarity on the distinction between alienable and inalienable assets.** One interviewee in particular stressing that their local authority planning department 'tip-toed around Common Good' in order to

<sup>11</sup>

<sup>12</sup>



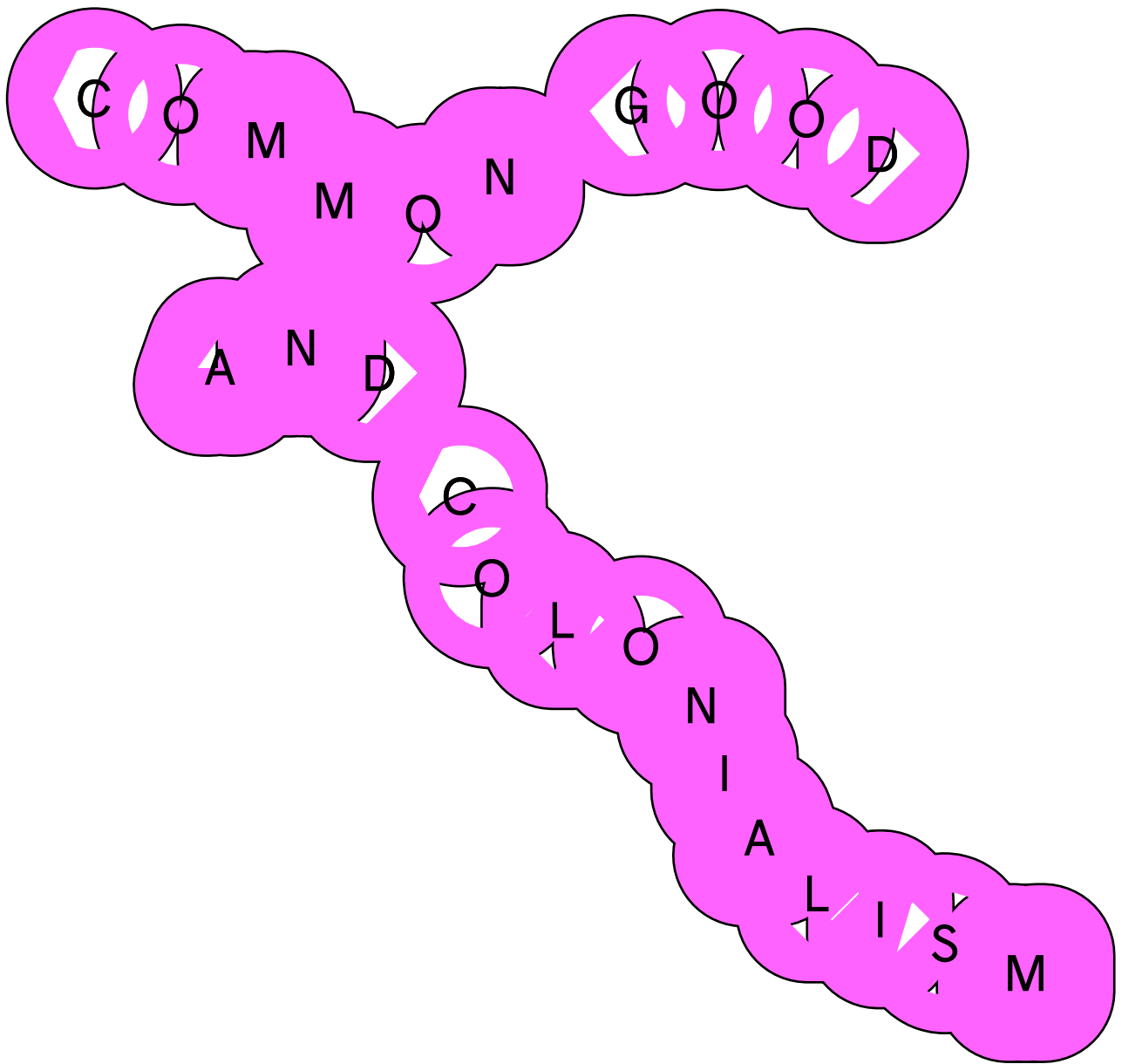
avoid having to prove in judicial review that a plot of land was alienable.<sup>13</sup> The interviewee described this in terms of 'wanting to avoid an incident similar to Portobello Park', a reference to the dispute between Edinburgh City Council and local residents on the Common Good status of Portobello Park.<sup>14</sup> There was a general sense amongst interviewees that this lack of understanding meant planners were less likely to utilise Common Good resources than other Council-held assets, which in turn contributes to the under-utilisation of Common Good assets for socially, economically, and environmentally productive purposes.

— avoidance -  
negligence  
fear

— management at the moment (local authority / historic structure)  
stumps potential community engagement - never mind benefit  
— needs change

<sup>13</sup> CLES Interview, March 2019

<sup>14</sup> City of Edinburgh Council (Portobello Park) Bill



- [Collective Observations: Lisa Williams, 'Sugar, ships and science: The City Observatory and Caribbean commerce'](#)
- ['Our Bondage and Our Freedom' – Frederick Douglass in Scotland; Black Abolitionists in Edinburgh – Map Viewer](#)
- [Caroline Douglas, 'Frederick Douglass: Witness to Early Scottish Photography'](#)

Collective Observations: Lisa Williams, 'Sugar, ships and science: The City Observatory and Caribbean commerce', 2020. Recorded talk (screenshots). Available at: <https://www.collective-edinburgh.art/programme/collective-observations-lisa-williams>



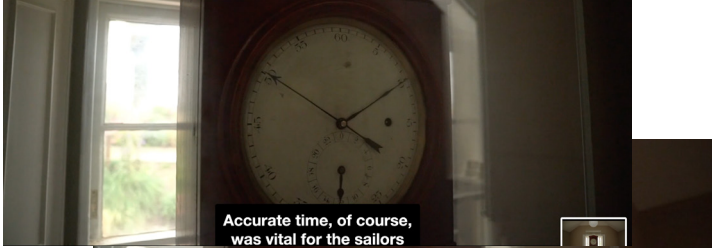
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Made by city clock makers James Ritchie.



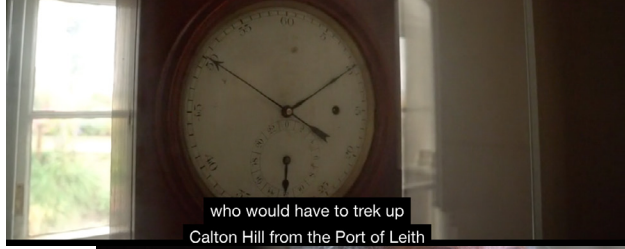
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the Politician's two-faced clock was installed in 1812.



02:04

Accurate time, of course, was vital for the sailors



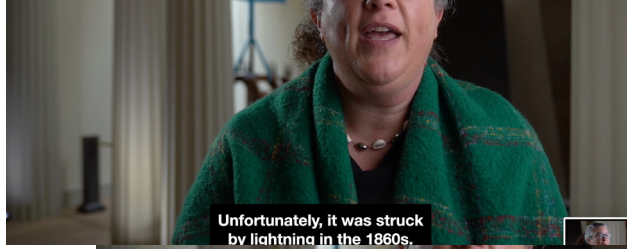
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who would have to trek up Calton Hill from the Port of Leith



02:10

and set their ship's chronometers using the clock.



02:14

Unfortunately, it was struck by lightning in the 1860s.



02:31

So many people who were involved in shipping



02:34

lost vast amounts of money in times of peace.





02:38

as it would lead to the overcapacity of ships



02:40

and underemployment – vessels just sitting around idle and unused.



02:54

However, Leith didn't suffer as much as other British ports,



02:57

and by 1817 colonial goods were managing to maintain high prices.



03:03

So, even in 1829, for example,



03:06

Leith imported 11,725 gallons of rum.

03:16



03:19

It's important to mention, also, that the linen industry in Scotland



had been subsidised during its development in the mid-18th century.



03:23



03:27



03:29

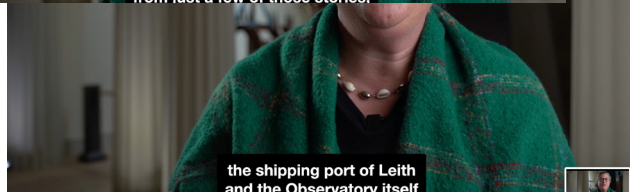


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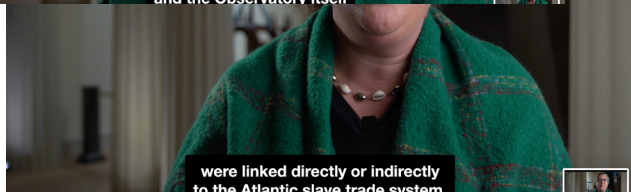
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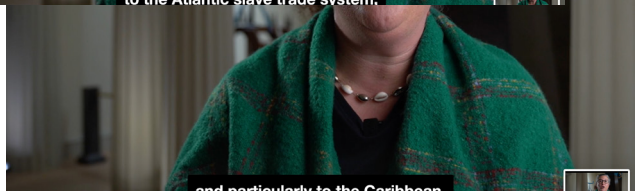
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13:08



13:11




13:16

Lisa Williams  
Lisa Williams founded the Edinburgh Caribbean Association and curates a range of arts events across Scotland to promote Caribbean culture, spanning film, art, literature and live music. She runs educational and anti-racist programmes in schools and universities and leads walking tours focusing on Edinburgh's Black History. She is an author and poet, has an MA in Arts, Festival and Cultural Management, and is an Honorary Fellow in the School of History, Classics and Archaeology at the University of Edinburgh.



Frederick Douglass in Edinburgh x +  
 geo.nls.uk/maps/douglass/index.html

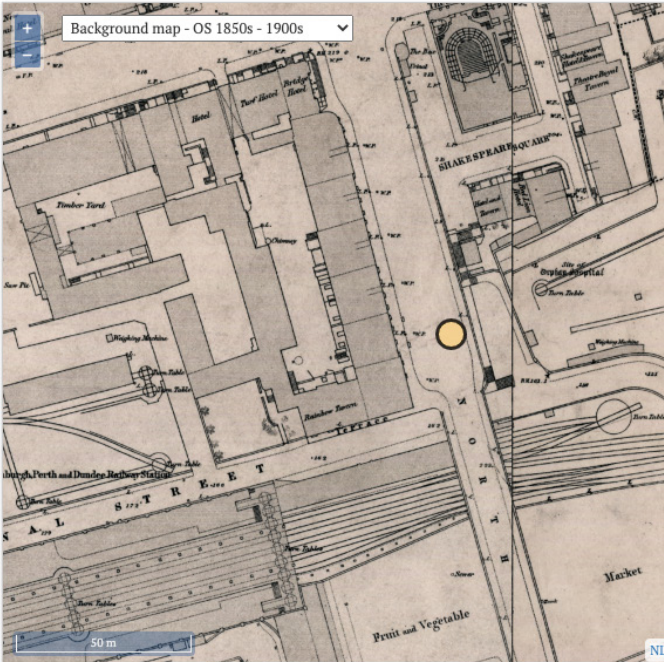
#### 4. North Bridge



Standing in front of the Balmoral Hotel on North Bridge, you have a clear view of Salisbury Crags. In May 1846, British social justice campaigner George Thompson urged his audiences that the 'Send Back the Money' plea, calling for the Free Church of Scotland to return the blood-stained funds from US slaveholders, be carved into these very same crags. One member of his audience was intently listening: "Mr. Frederick Douglass... immediately hied, spade in hand, accompanied by two ladies belonging to the Society of Friends... and began to carve this vulgar cry in graceful characters upon the great sward... we understand that Mr. Douglass was immediately taken to task... upon which the philanthropic man of color expressed deep contrition for the crime." *The Fife Herald*, 21 May 1846.

Background map - OS 1850s - 1900s

1. Frederick Douglass in Edinburgh 2. Black Abolitionists in Edinburgh 3. Fred



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About

• 'Our Bondage and Our Freedom: Frederick Douglass in Scotland; Black Abolitionists in Edinburgh', Digital Map Viewer, National Library of Scotland, 2018. Produced as part of a collaboration between the University of Edinburgh, the Walter O. and Linda Evans Foundation, the National Library of Scotland, the Frederick Douglass National Historic Site, the Maryland State Archives, the Black Studies Research Center at the University of California Santa Barbara, and the SCAD Museum of Art in Savannah. (c) The University of Edinburgh 2018. Available at: <https://geo.nls.uk/maps/douglass/>



'Our Bondage and Our Freedom' - Black Abolitionists in Edinburgh  
Browse people (left) or zoom in and click/tap on the circles

Amanda Berry Smith (1837-1915) - John Knox House, 43-45 High Street - 1870

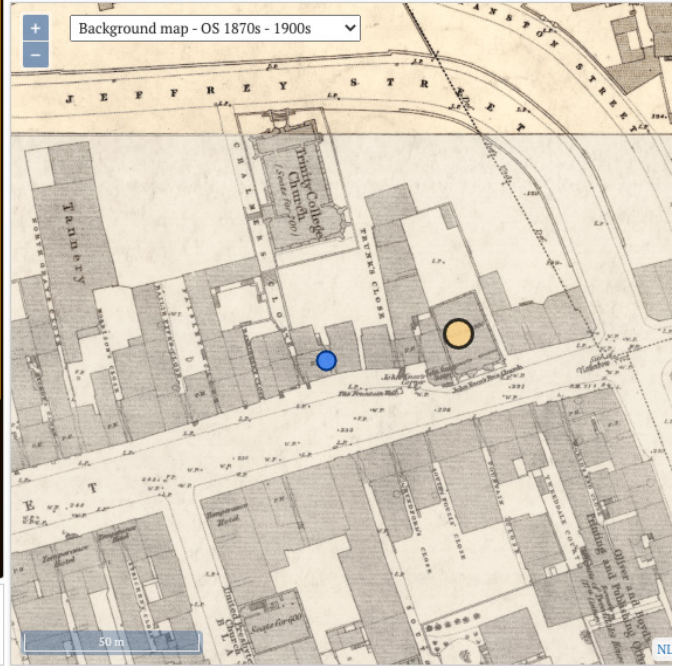


Born into slavery in Maryland, Amanda Smith lived a new life in freedom as a renowned evangelist. In *An Autobiography: The Story of the Lord's Dealings with Mrs. Amanda Smith the Colored Evangelist* published in 1893 she shared stories of her visit to the city: "I was very glad to go. The Scotch ladies... are so well versed in the history of their country that they can with ease detail almost any event of any time."


Samuel Ringgold Ward (1817-1866) - Albany Street Chapel, 24a Broughton Street

A self-emancipated individual who had

- 1. Frederick Douglass in Edinburgh
- 2. Black Abolitionists in Edinburgh
- 3. Fred



**Frederick J. Loudin (1836-1904) - Carrubers Close Mission, 65 High Street - 1899**



World-famous as one of the Fisk Jubilee Singers, an internationally renowned group of musicians who performed African American spirituals to raise funds for Fisk University, a historically Black University in Nashville, Tennessee, Frederick J. Loudin (pictured here) was not only an inspirational singer but a social justice campaigner and activist. During a visit to Edinburgh, he, like Ida B. Wells-Barnett spoke at a "crowded meeting" at the Carrubers Close Mission and condemned the atrocities of lynching. As a reporter remembered, "Loudin, manager of the Fisk Jubilee Singers, spoke of the reign of lawlessness... whereby negroes under the barest suspicion of crime were being either lynched or burned alive". A blistering social and political commentator, Loudin brooked no dissent by urging: "The state of matters now existing could not go on much longer, for the coloured people had stood it up to the limit of their ability, and they were becoming desperate, as they were determined to have the rights of manhood".

**'Our Bondage and Our Freedom' - Black Abolitionists in**  
 Browse people (left) or zoom in and click/tap on the circles

1. Frederick Douglass in Edinburgh 2. Black Abolitionists in Edinburgh 3. Frederick Douglass in Edinburgh





Black Abolitionists in Edinburgh | X +

geo.nls.uk/maps/douglass/abolitionists.html

← → ↻ ☆

years old... and broke the door open, effecting deliverance from  
 durance for myself and party.”

**Ida B. Wells-Barnett (1862-1931) - Carrubers Close Mission, 65 High Street - 1893**



As a woman born into slavery in Memphis, Ida B. Wells-Barnett became one of the most famous anti-lynching and civil rights campaigners and journalists in US history. Armed with letters of introduction from Frederick Douglass, her staunch supporter, Wells-Barnett visited Scotland in 1893. She delivered speeches denouncing the barbarous practice of “Lynch Law” at Carruber’s Close Mission and at the Edinburgh Ladies’ Emancipation Society at 5 St. Andrew Square.

**‘Our Bondage and Our Freedom’ - Black Abolitionists in**  
 Browse people (left) or zoom in and click/tap on the circles

1. Frederick Douglass in Edinburgh
2. Black Abolitionists in Edinburgh
3. Frec



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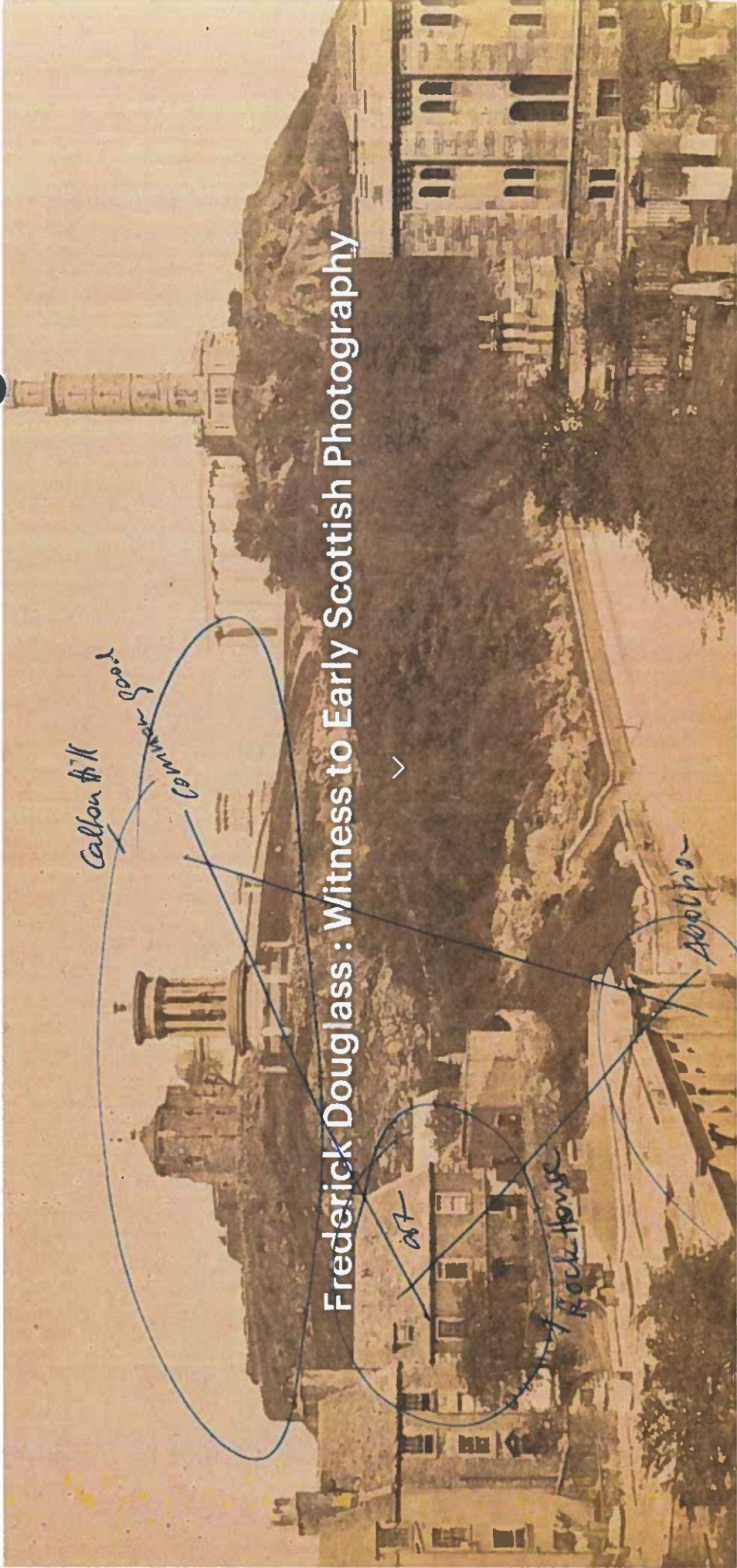


# Frederick Douglass : Witness to Early Scottish Photography

 share feature

1

Caroline Douglas, 'Frederick Douglass: Witness to Early Scottish Photography', National Galleries of Scotland, 2021. Available at: <https://www.nationalgalleries.org/art-and-artists/features/frederick-douglass-witness-early-scottish-photography>  
Annotations by Annette Krauss.  
This text was previously published on the National Galleries of Scotland website, in response to the UK and European premiere of Isaac Julien's 'Lessons of the Hour' at Modern One, Edinburgh. Copyright remains with the author.







### Artist and photography specialist Caroline Douglas sheds light on a pivotal moment in early photography and social history in nineteenth-century Scotland.

Frederick Douglass is back in Edinburgh. His radical campaign for abolition and freedom first brought him to Scotland in 1846, and his time here is at last gaining the attention it deserves. Douglass held Scotland, particularly its landscape and literature, in high regard. He named himself after a character from Sir Walter Scott's *The Lady of the Lake* (1810) and was devoted to the work of Robert Burns. But there is at least one chapter in the story of Douglass and Scotland that has yet to be written.



From left, David Octavius Hill and Robert Adamson, Henry Thomas Cockburn, Lord Cockburn, 1779 - 1854. Judge and author, 1843-1847; David Young and an unknown man, 1843-1847 and Isabella Burns, Mrs John Begg, 1771 - 1858. Youngest sister of Robert Burns, salted paper prints

As Douglass arrived in the capital in 1846, a revolution in visual culture was underway. Scotland had free use of the patent for William Henry Fox Talbot's 'calotype', a remarkable invention that followed in the wake of the birth of photography in 1839.

The calotype is a photographic process using a paper negative that is reproducible in the form of a positive salt print. Between 1843 and 1848, Robert Adamson and David Octavius Hill pioneered this method as an art form from their studio at Rock House in Edinburgh. Together with their assistant Jessie Mann, they produced a collection of portraits that are today known as one of the foundational works of nineteenth-century photography.

Their subjects were drawn from different social classes, from Edinburgh high society to the working fishing community of Newhaven. When Douglass first set foot in Scotland in 1846, calotype production was in full swing at Rock House.

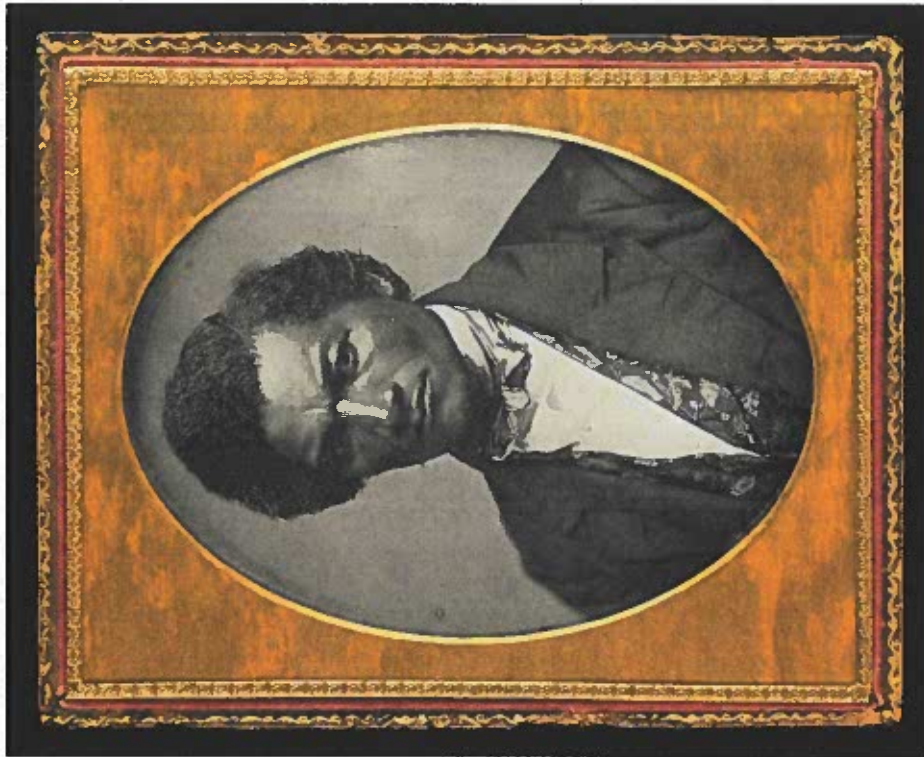


Douglass was deeply interested in photography. His own biography was closely connected to the emergence of the medium. He escaped slavery in the United States in 1838, a year before Talbot and Louis-Jacques-Mandé Daguerre each declared the invention of photography.

By 1843, as a self-liberated man, Douglass had already sat for at least two daguerreotype portraits. Even at this early stage, he understood the potential of photography and the significance of placing himself within the frame. Remarkably, he would go on to become the most photographed American of the nineteenth century and purposefully used photography to advance the cause of abolition and emancipation.

*asthetic practices  
to advance  
abolition and reparative justice*

Significantly, Douglass was an early theorist of photography, authoring a series of articles and lectures on the subject. Taken together, they represent a major theoretical engagement with the photograph and its capacity to be harnessed for social change. Long overlooked, this body of work is finally gaining a wider readership.



Samuel J. Miller Frederick Douglass, daguerreotype, 1852, Reference No. 1996.433, The Art Institute of Chicago.

Isaac Julien's *Lessons of the Hour* presents us with an opportunity to examine Douglass' time in Scotland through the lens of photography. By turning to calotypes held in the National Galleries of Scotland collection, these histories of abolition, enslavement and photographic production can be drawn together.

From its inception, photography was intimately bound up in empire. As Ariella Aïsha Azoulay has argued, the arrival of photography 'didn't halt the process of plunder but accelerated it and provided further opportunities to pursue it'. She reminds us, for example, that the daguerreotype was welcomed in the French *Chambre Des Deputies* in 1839 by *Dominique François Arago*, who noted the 'extraordinary advantages' of photography for the colonial administration.

But what of the calotype in 1840s Edinburgh? The Hill and Adamson partnership was forged in a major disruption of Scottish society. In 1843, a group of ministers broke from the Church of Scotland to form the Free Church. Hill, a painter, was present at its inaugural meeting and was moved to capture the scene. Also present was the physicist *David Brewster*, who introduced Hill to Adamson, suggesting that he make use of the newly invented 'calotype', which could serve as an aid for his painting. And so their partnership was born. In the months that followed, Hill and Adamson set about assembling a series of portraits of the ministers who had been present at the formation of the Free Church. Meanwhile, the Church had solicited funds from white enslavers in the United States, and it is here that Frederick Douglass enters the fold. While in Scotland, he threw himself into the campaign to 'Send Back the Money!', denouncing the Free Church for accepting the 'price of blood into its treasury' and 'holding fellowship with traffickers of human flesh'. Douglass clashed with several of Hill and Adamson's sitters, including Thomas Chalmers, leader of the Free Church, who insisted that 'being a slave holder in itself is no sin.'

↳ slave of Chalmers in Edinburgh  
 ↳ held in common good →



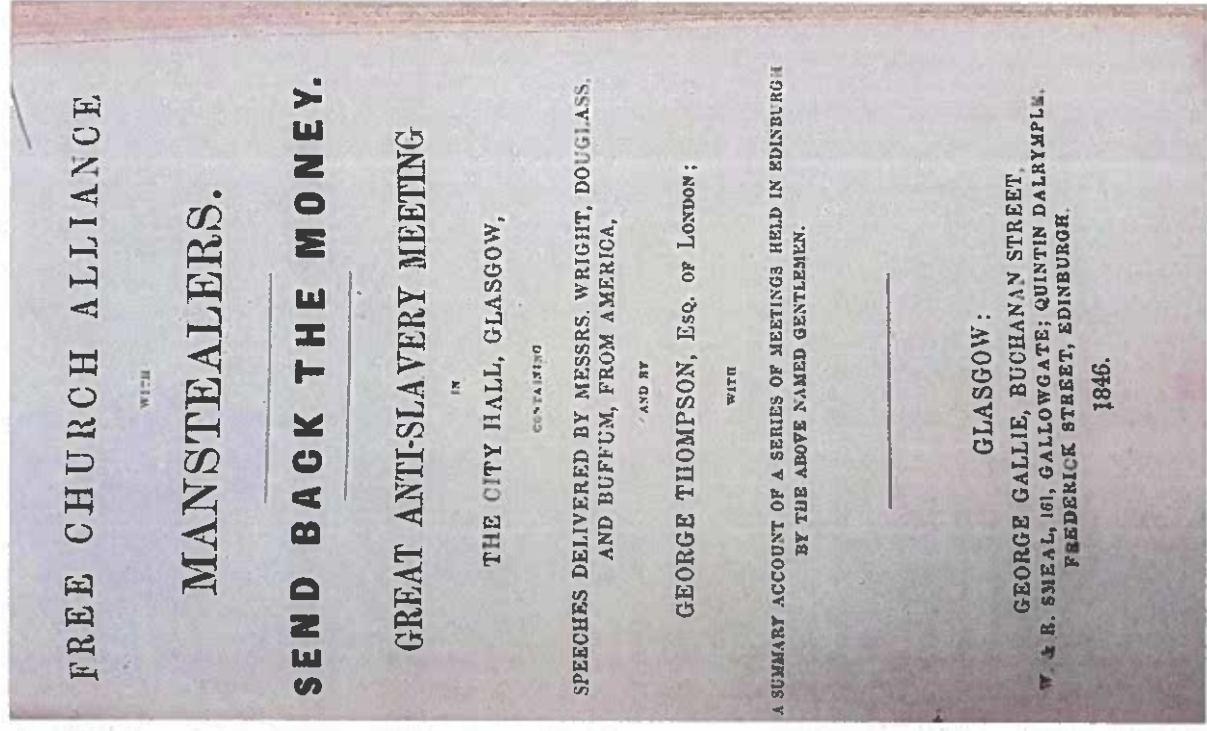
Caroline Douglas, Frederick Douglass: Witness to Early Scottish Photography

the name is in the documents



David Octavius Hill and Robert Adamson. Rev Dr. Thomas Chalmers, Preacher and Social Reformer. Free Church of Scotland Moderator. 1843-1847, salted paper print

as Common Good  
Stable: George Street, Edinburgh  
Looking to Home, father's stable  
(Princes Street)



Free Church Alliance with Manstealers. Send Back the Money. 1846, pamphlet

University of Edinburgh M.d. 9/60 !!!

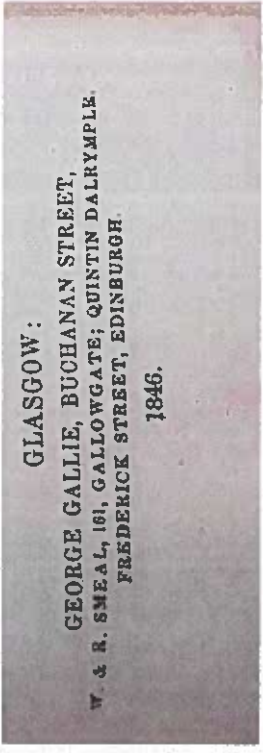
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David Octavius Hill and Robert Adamson, *Rev. Dr Thomas Chalmers, Preacher and Social Reformer, Free Church of Scotland Moderator*, 1843-1847, salted paper print



David Octavius Hill and Robert Adamson, *Hugh Miller*, 1802 - 1856.



*Free Church Alliance with Manstealers. Send Back the Money*, 1846, pamphlet, University of Edinburgh, M.d.9/10

One of Hill and Adamson's early significant subjects was the geologist Hugh Miller. Miller was a close friend of Hill's and took an early interest in photography.

In his essay 'The Calotype', published in July 1843, he described the invention as a 'magic art' of reflection and suggested its qualities were to be found 'only [in] the highest walks of art.'

By the time Douglass was in Edinburgh three years later, Miller was regularly denouncing him and his fellow campaigners for their 'irreligious brand of abolitionism' which, he claimed, was 'not indigenous to Britain.'



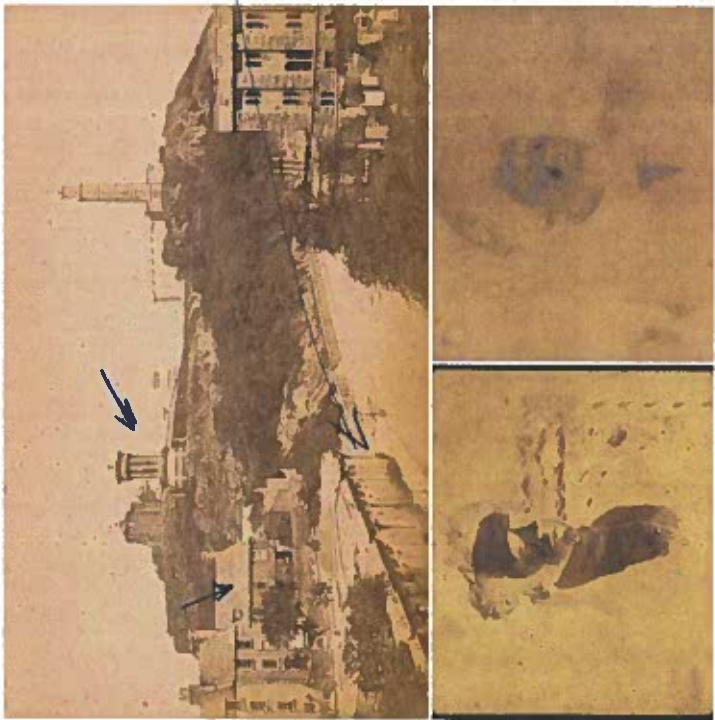
Miller also took aim at women activists of the time, calling them 'female dragoons emancipated from matrimonial thral' who 'assailed unnatural rebellion from within'.

While in Scotland, Douglass worked closely with women abolitionists, in particular Eliza Wigham and Elizabeth Pease, two prominent figures in the Edinburgh Ladies Emancipation Society.

Wigham invited Douglass to Edinburgh and played a crucial part in planning his antislavery lectures. She and her associates promoted the cause of abolition and emancipation, supporting figures of black female resistance, including Harriet Tubman in the United States.



Unknown Photographer, Eliza Wigham, Mary A. Estlin, and Jane Wigham ca. 1840-1860, ambrotype, Accession 07\_05\_000034, © Boston Public Library



Clockwise from top: Archibald Burns, *The Calton Hill, Edinburgh*, about 1858, albumen print; David Octavius Hill and Robert Adamson, *Rev. Dr Robert Smith Candlish, 1807 - 1873. Of St George's, Edinburgh; Principal of New College, probably 1843 and Rev. Dr William Cunningham, 1805 - 1861. Principal of New College, Edinburgh, 1843-1846*, calotype negatives

On 1 May 1846 at the invitation of the 'Edinburgh Ladies Emancipation Society', Douglass delivered a rousing speech at a meeting 'crowded to excess' at the Waterloo Rooms.

Meanwhile, at this time Hill and Adamson were regularly engaged in outdoor calotype activity at Rock House, situated at the foot of Calton Hill and directly above the hall where Douglass was speaking. From the vantage point of their garden studio, they would have had a clear view of the assembling crowds below.

It is quite possible, then, that as Douglass was addressing his packed audience at the Waterloo Rooms, just metres away, Hill and Adamson were calotyping those Free Church ministers who were the object of his searing critique.



### Caroline Douglas, Frederick Douglass: Witness to Early Scottish Photography

ART & ARTISTS VISIT WHAT'S ON LEARN JOIN & SUPPORT SHOP JOIN NOW

Photo

These themes of abolition, enslavement and calotypes were brought together in the pages of the Witness, a twice-weekly newspaper set up to support the establishment of the Free Church. In May 1846, readers would find an advert inviting Free Church ministers to Hill and Adamson's studio in Rock House. On the very same page they would also encounter an article by Miller attacking the 'Send Back the Money' campaign. The connections are there to see, and they present a mixed picture. At Rock House, Hill and Adamson photographed abolitionists as well as the leading defenders of the Free Church. This portrait of the Dundee Presbytery becomes more poignant knowing ministers in Dundee voted unanimously to send the money back (it never was).



Unknown artist. *Send back the money!!!* A cartoon about the money received by the Free Church of Scotland from the slaveholding states of the South, c 1846, lithograph. © Boston Public Library.



David Octavius Hill & Robert Adamson *Dundee Presbytery*. Unknown man standing, Rev James Ewing seated, unknown man standing, Rev. James Miller seated, unknown man standing, Rev. Dr John Roxburgh, three unknown men and Rev. Dr Samuel Miller seated, 1843-1847, salted paper print

- Common good items  
(monuments, buildings)  
Now!

- Histories of empire, slavery, abolition

→ Sites adjacent  
to each other  
across times ...

← role of art in practice ??

Shortly after the first calotypes were produced by Hill and Adamson, Hugh Miller wondered if photography 'is content, in its infancy, to thrive in silence'. Though silent, the calotypes were witness to these events. By returning to these extraordinary images and placing Douglass, Hill and Adamson together, we can trace the links between early photography and Scotland's role in both empire and abolition.

Research method?

conjecture -  
by bringing in proximity again  
what was broadly close and  
related.

**[P]ictures do not change, but we look at them through favourable or unfavourable prevailing public opinion... [they] should be left to make their own way in the world. All they can reasonably ask of us is that we place them on the wall, in the best light, and for the rest allow them to speak for themselves**

Frederick Douglass, Lecture on Pictures, 1861

- work along relationships
- 1905 mags ??
- Conjuror walks
- how to entice common good sites?
- for reparative justice?

Caroline Douglas is a Scottish artist working with photography. She is currently studying for her PhD at the Royal College of Art, with a focus on women in early photography in Scotland. She can be found on Twitter and Instagram @carolindouglas

By Caroline Douglas, 6 October 2021

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# COLOPHON

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**The online resource is available at:**

[www.collective-edinburgh.art/held-in-common-good](http://www.collective-edinburgh.art/held-in-common-good)

There, you can listen to interviews corresponding to *A Matter of Precedents Audio Transcriptions*, as well as view digital versions of the Common Good Google map, and further resources.

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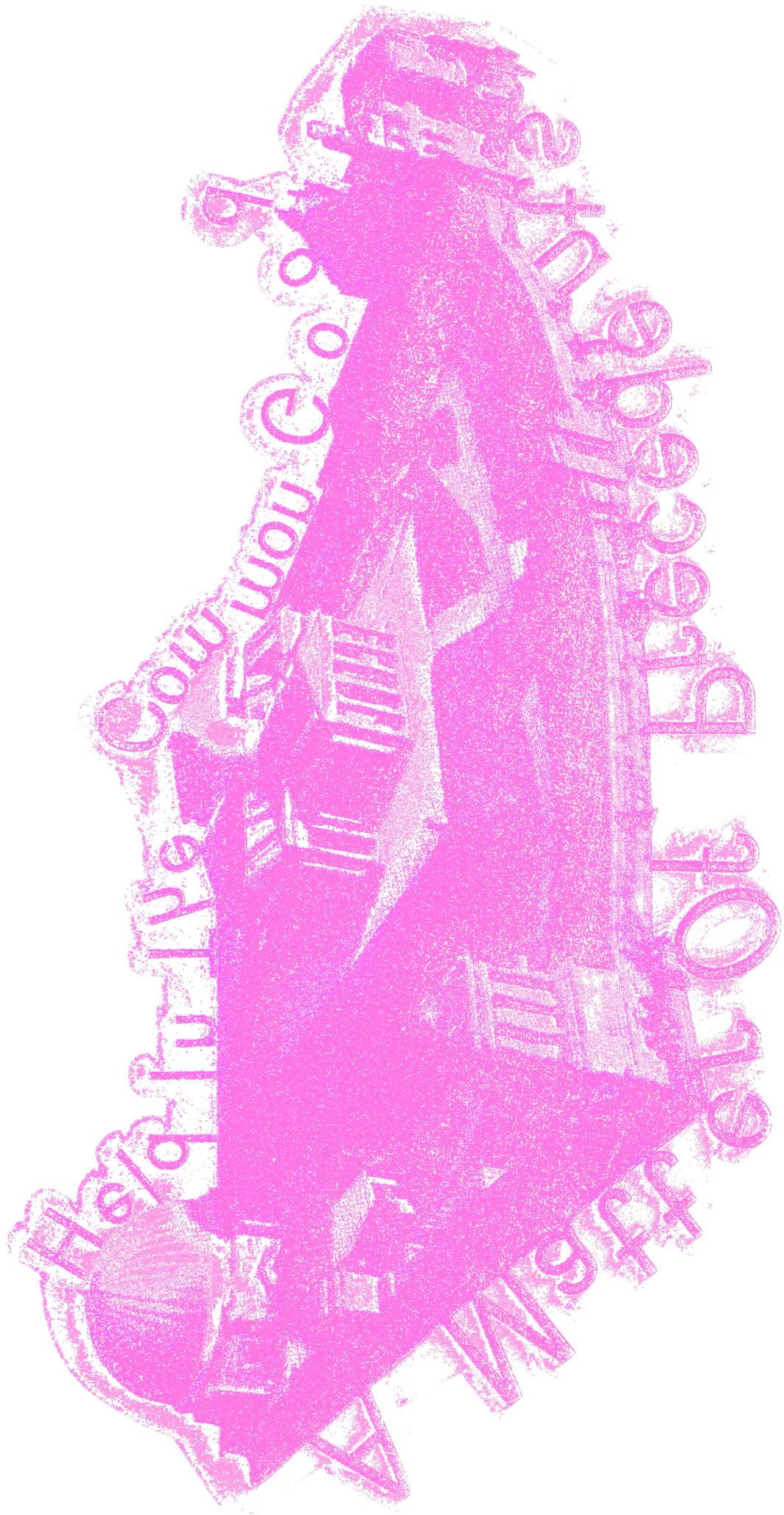
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