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# THE MARCH STONES AROUND EDINBURGH CASTLE

JOHN M BARTON WS

Fearing an invasion from England in 1450, a dam was built around the line of the present North Bridge, with a sluice to regulate the level of the water which was to become known as the North Loch, or more colloquially as the Nor' Loch. At its greatest extent, it was about 560 yards long and about 130 yards across. Until about 1670, the Loch was notorious for the public "dooking" of those who were regarded as witches. In 1716, the Town Council of Edinburgh purchased the ground between the Loch and what is now Rose Street. Thereafter the Loch was neglected and gradually dried out. Smugglers took advantage of this new access and casks of brandy found their way into cellars without the payment of excise duty. The gradual disappearance of the Nor' Loch was accelerated when dry foundations were required for the building of the original North Bridge in 1764; and what was left of the Loch was divided by the formation of the Mound in 1781. The remains of the Loch became an open sewer.

Meanwhile, the New Town was being built; and in 1816, the owners of the properties in Princes Street were permitted to enclose the ground to the South Princes Street and create the present Gardens. When the railway was built through the Gardens in 1844, the Edinburgh and Glasgow Railway Company was obliged to pay compensation and a dispute arose over whether this compensation was payable to the Magistrates of Edinburgh or to the Board of Ordnance, as the War Department was then known. A critical issue was the precise location of the Nor' Loch.

An Act of Parliament of 1455 had given to the Crown the title to the Castle and the surrounding ground; and a Royal Charter granted by James VI in 1603 (popularly known as the "Golden Charter") had given the Town Council a title to the Nor' Loch. In

neither case were the precise boundaries specified... the specification in the Golden Charter having been as follows -

totum et integrum alium lacum dicti nostri burgi nuncupatum the North Loch, fundum, terras, locos palustres, et marresias ejusdem, ripas vulgo lie bankis et brayis australes et borealis, ex occidentali parte dicti burgi nostri situat, prope nostrum Castrum de Edinburgh ex utrisque lateribus dicti nostri Castri, a communi et publica via et illa parte dicti nostri burgi nuncupata under the castellwall, per boream, et sic descendendo ad dictum lacum borealum.

(Freely translated as "all and whole, the loch called the North Loch, lands, pools, and marishes thereof, the north and south banks and braes situated on the west of the burgh, near the Castle of Edinburgh, on both sides of the Castle from the public highway, and that part of the said burgh situated under the Castle Hill towards the north, to the head of the bank, and so going down to the said North Loch". A precept followed on the Golden Charter and the Town Council was accordingly on 5 October 1611, infest in the subjects. In retrospect, it is generally acknowledged that the Golden Charter was overgenerous having regard to what had already been covered by the earlier Act of Parliament of 1455. The matter was then further confused by a Charter granted by Charles I in 1636 and an action (in the Court of Session) by the Magistrates in 1769 in respect of which the Board of Ordnance entered appearance but did not lodge answers.

Following the completion of the railway, the expectation of compensation caused the Board of Ordnance to bring successive actions of declarator in the Court of Session. The actions were defended by the Magistrates of Edinburgh – with each party claiming title to the Castle Esplanade, and ground to the north, south and west of the Castle. The first

action, which was raised in November 1849, was inconclusive; and a second action was raised in December 1853. That action was the subject of an appeal by the Magistrates of Edinburgh, to the Inner House of the Court of Session, and the judgment of that court was finally delivered by Lord Deas in December 1859. Lord Deas summarised the issues as follows -

1. Whether the esplanade of the Castle of Edinburgh, the banks on each side of it, and the ground round the base of the Castle rock, belong in property to the Crown or to the city of Edinburgh ?
2. If these subjects belong to the Crown, where is the boundary-line between the foot of the north bank of the Castle and the ground known as the Nor' (or North) Loch, which admittedly belongs to the city ? Is the line of the old dyke (and ditch) marked on Sibbald's plan of 1805 as "old boundary dyke between the town and crown lands" or is it a line farther south, identical or nearly identical with the old city wall, also shewn on that plan ?<sup>1</sup>

In relation to the first question, the Magistrates' claim was dependent upon establishing "possession". Lord Deas observed -

It does not appear when and at whose expense the walls of the esplanade were built. But I observe that the esplanade is delineated as enclosed in connection with the Castle, and fortified along its northern side on the oldest plan referred to in the proof, viz Gordon of Rothiemay's plan of 1617. Many of the records of the Board of Ordnance were destroyed by fire in the Tower of London in 1841. But the records of the Town-Council of Edinburgh are extant, and we have extracts from them before us from the middle of the sixteenth century downwards; and if the city had either built or repaired the walls of the esplanade, I have no doubt we should have had some evidence as to the payment of the expense. The Board of Ordnance paid for repairing the walls, both on the south and the north sides, so far as there is evidence of repairs at all. The Board paid for levelling and gravelling the esplanade in 1797 and 1799; and they have all along paid for keeping it clean and in order. It has been immemorially used as an adjunct to the Castle for parading, drilling, and exercising the troops, and for no other purposes whatever. The city never paid a shilling of expense connected with it and never used it in any way. As to the banks, the pasture was let, and rents drawn for it by the Crown so far back as can be traced. The encroachers, or squatters, who erected buildings, from time to time, on portions of the south bank, paid quit-rents to the Crown, and nothing to the city. In short, the city never either disbursed expense or drew profit in connection with any part of these disputed subjects. It is said the citizens frequently walked upon the esplanade, and strolled over the banks before they were enclosed. But these were liberties taken, or privileges used, not by the citizens only, but by all the Crown's subjects, who have always been admitted to the Castle itself precisely on the same footing as to the esplanade;

and who, when they trespass on the banks, are not asserting the right of property of the Magistrates of Edinburgh.

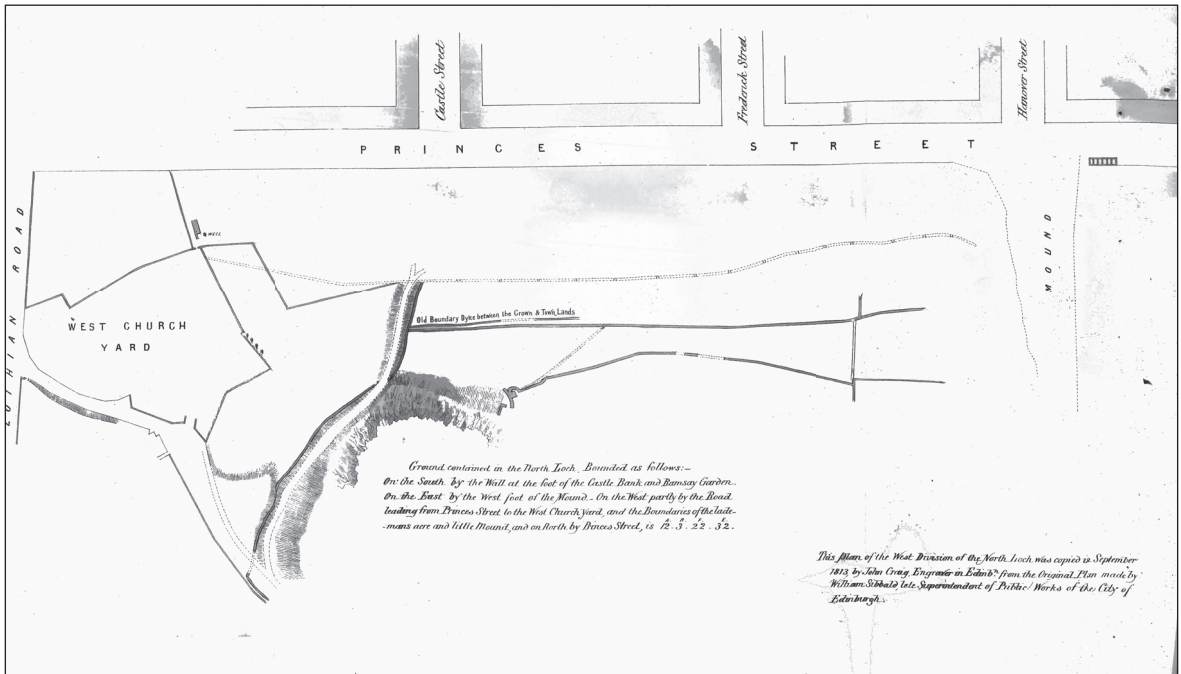
Lord Deas concluded that possession had been immemorially with the Crown, and not with the city; and that this was fatal to the claim based on the Charter of 1603. Other issues, based on the subsequent Charter, were also dismissed.

It appears to have been conceded that the Magistrates had a title to the solum of the Nor' Loch; but there remained the question of the boundary-line between the foot of the north bank of the Castle and the Nor' Loch. In *Castle and Town* by David Robertson and Marguerite Wood (Oliver & Boyd 1928), there is reference to a Minute of the Town Council dated 19 March, 1740 wherein it is noted that the Loch itself was the only boundary on the north side. An Improvement Act of 1816 authorised the conversion into gardens of the ground to the west of the Mound. It was stated that the line ran from the keystone of the middle arch of North Bridge westwards along the middle of the low ground formerly the north Loch. Additionally, the Princes Street proprietors entered into an agreement with the Crown for the occupation of the north bank (of the castle) extending to 2058 square yards.

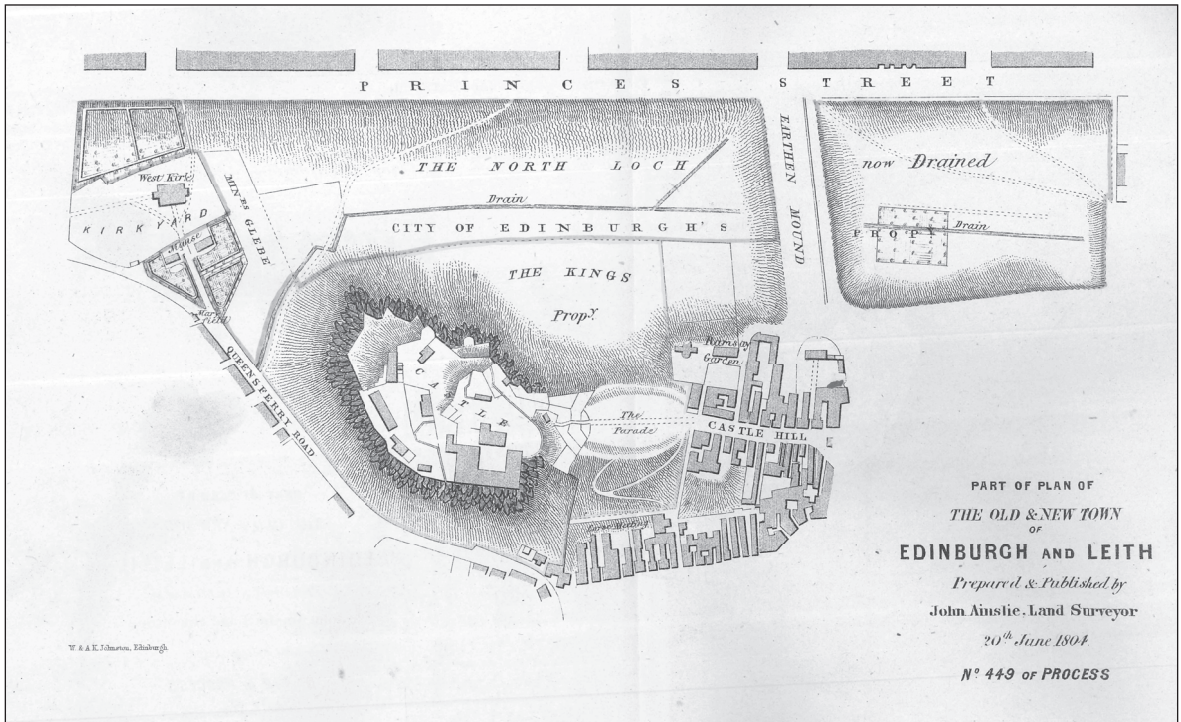
A dry-stane wall had been taken down when the Princes Street proprietors took possession of what was to become the Gardens in 1818. The Board of Ordnance particularly referred to this wall, claiming that it had existed from time immemorial, that it ran in a line from east to west at 146 feet to the north of the Wellhouse Tower - as shown on a plan made by William Sibbald, superintendent of works, in 1805. In the course of the action, evidence was led from witnesses who were able to speak to the location of the wall and in particular that it was to the north of the present railway line. In considering the evidence, Lord Deas observed that a dry-stone dyke with a ditch at the foot of it, was a very usual mode of fencing swampy ground in Scotland. Sibbald's plan also showed, to the south of the dry-stane wall, the line of the old city wall - and it was this wall that the Magistrates founded on in defence of the action. In regard to the disputed ground between the two walls, a witness for the Crown gave evidence that successive members of his family had (by cutting the

<sup>1</sup> *Officers of Ordnance v Magistrates of Edinburgh* Dunlop's Session Cases (1859) 22 D 219

THE MARCH STONES AROUND EDINBURGH CASTLE



Plan of the Western Division of the North Loch, William Sibbald 1805 (as copied by John Craig, September 1813). The old boundary dyke is marked and the property claimed by the City described. Copy in possession of the WS Society.



Part of Plan of the Old and New Town by John Ainslie, 1804. As part of the Court of Session process this gave another view of the Crown and City property boundaries.



Castle boundary (black dotted line) with positions of March (boundary) stones (indicated B.S.) excerpted from Ordnance Survey Town Plan of Edinburgh (Sheet 35, as revised 1877)

grass) continuous occupation as tenants of the Crown until 1817 at a rent of £14 per annum.

In disregarding the line of the old city wall, Lord Deas observed that elsewhere the city wall did not indicate the property of the city. The city wall was built in the line most consistent with economy and defence. The object of building the city wall had not been to inclose a field or to divide one property from another but to protect the city; and the wall had been necessary at that place because the water there was not capable of being sufficiently raised to serve for

a defence.

The final interlocutor of the appeal court concluded with a remit to the Lord Ordinary for the preparation of a plan showing the precise lines of boundary between the parties “or for otherwise marking out and preserving evidence of such line or lines of boundary”.

The Magistrates appealed to the House of Lords and after a hearing extending over five days, a decision was issued on 6 March, 1862 refusing the appeal. Although the whole *raison d’être* of the court

proceedings had been to secure the compensation being paid by the railway company, the parties acknowledged the need for a tangible record of the whole boundary of the Castle and some 27 march stones were placed on the boundary line around the whole of the Castle. This line, and the approximate position of each of those stones, are clearly marked on the 1:500 Ordnance Survey map of 1895, although the earlier OS Map of 1877 gives a more accurate position for certain of the stones. Each stone is of roughly dressed sandstone and those that are free-standing have a cross section of precisely 12 inches square. Nearly all the stones bear the letters “WD” with an upward pointing arrow between the two letters, and there then follows the consecutive number in Roman numerals.

The numbering begins in Princes Street Garden, on the south side of the Railway near to the westmost of the two bridges. Stone number 1 was positioned on the side of the path, a few yards to the west of this bridge. In *Castle and Town*, there is specific reference to this stone but there is now no trace of it.

Stone number 2 should be a few yards to the east of the same bridge, in or about the retaining wall of the railway cutting – but this stone could not be found.

According to the 1895 Ordnance Survey map, stone number 2A should be between the railway lines, further east of the same bridge, stone number 3 was on the north side of the railway, and stone number 4 was in the grass between the shrubbery and the main path. None of these stones could be found and it is possible that the stones adjacent to the railway were lost when a further double track was laid in or about 1892.

Stone number 5 is still in the shrubbery but close to the path, a few yards short of the eastmost railway bridge. This stone bears the date “1860”. It is of a different shape and does not have the letters “WD”. It is interesting to note that 1860 reflects the date of the Inner House of the Court of Session and no cognisance has been taken of the subsequent decision of the House of Lords.

Stone number 6 is the only other stone referred to by Robertson and Wood’s *Castle and Town*, and it was situated in the shrubbery about 70 yards east of the same bridge but it no longer appears to be there.

Stone number 7 is again in the shrubbery – a few yards to the east of the road into the Garden yard. The significance of this stone is that it shows where

the boundary turns through 90 degrees to the south and would have formed the boundary with General Ramsay’s property comprising the present Ramsay Garden. Stone number 7 is similar in shape to Stone number 5.

Stone number 8 is particularly obscure. It is set into the retaining wall of the Esplanade, adjacent to the south west corner of Number 16 Ramsay Garden. Looking from the Esplanade, only the top of the Stone can be observed, but from the communal gardens of Ramsay Garden, the usual letters and the specific number can be seen.

Stone number 9 is perhaps the most prominent of all the stones – situated on the Esplanade at the corner of the former Reservoir (which is now a tourist centre).

According to the earlier maps, Stone number 10 should be immediately across the road, at the corner of Cannonball House – but it is not obvious. The 1895 Ordnance Survey map suggests that it might be on the west side of the Castle Wynd steps, and there is indeed a free-standing stone at that corner, but that stone is rounded and contains no inscription. However, after looking again at the corner of Canonball House, the top of a rectangular stone can be seen which has precisely the same dimension of 12 inches square as the other stones. It can only be concluded that, at some time, the pavement was raised level with the top of this stone and that the inscription on the side of the stone is therefore obscured.

Stone number 11 is behind railings at the foot of Castle Wynd North steps, where these stairs meet with Johnston Terrace. It is not known whether these stairs still belong to the Army !

(It should be added that in 1828, the City obtained the consent of the Duke of Wellington as the Master-General of the Ordnance to the formation of Johnston Terrace.)

The boundary then crosses over Johnston Terrace and down the first flight of stairs of Castle Wynd South. At the foot of these stairs there is a wooden door on the left. The Ordnance Survey map of 1895 indicates that stone number 12 should be immediately behind that door on the wall of what was the Public Health Chambers and is now the Castle Hostel. Unfortunately, there is a large open barrel adjacent to where the stone should be and there is thus no way of confirming the survival of this stone.

The boundary turned West at this point and

stone number 13 is prominently situated high up on the south retaining wall of this part of Castle Wynd South. This stone indicates that the precise position is six foot six inches out from the wall, a point that coincides with the parish boundary.

The open ground above Castle Wynd South and below Johnston Terrace is in the charge of the Scottish Wildlife Trust and Stones 14 to 16 are within that garden. The unusual line of the boundary may be explained because the area of the Gaelic Church, established in 1765, would have been excluded. Stone number 14 is largely buried by loose soil but part of the inscription can be identified; Stones 15 and 16 are high on the South wall (below Johnston Terrace).

Stones numbers 17 to 21 inclusive could not be found. Stone number 17 may be on the wall of a garden adjacent to Castle Wynd South but access has not been gained to that garden. Stones numbers 18 and 19 seem to have been within the area of what is now the Dance Base. Granny's Green Steps have been established to the west of a part of the old City Wall and Stone number 20 may be on the inside of that wall within the Dance Base building.

The Ordnance Survey map places Stone number 21 in the middle of Kings Stables Road adjacent to

the foot of Granny's Green Steps. The road here is cobbled but there is no sign of any implant.

In contrast, Stones numbers 22 and 23 have survived: they are both high up on the South Wall of Kings Stables Road – within about 50 yards from Granny's Green Steps and before a slight angle in the wall.

Stone number 24 is also prominent. There is an obelisk on the right, a short distance before the tunnel under Johnston Terrace and this stone is in the wall immediately to the right of that obelisk.

Proceeding through the tunnel and continuing along Kings Stables Road, Stone number 25 is on the left at the gated entrance to Princes Street Gardens, having been repositioned when a bell mouth was recently formed.

The final Stone, number 26, is also free standing, on the left of the driveway, adjacent to where the wall of St Cuthbert's Graveyard turns to the North.

The surviving Stones do not appear to be "listed" in any way, but they are a tangible link with a significant part of the history of the City; and hopefully they will remain undisturbed .