The commons, the Battle of the Book and the cracked enclosures of academic publishing

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Abstract

Contention about the ownership of texts and what we now know as copyright stretches back to at least the sixth century and the controversial copying of a biblical script by the Irish monk Colm Cille that resulted in the Battle of the Book. This article traces how my co-editors and I stumbled into this ongoing battle in our efforts to ensure this Supplement to the Community Development Journal on the commons would be freely available on the knowledge commons. Describing our search for cracks in the pay walls that commodify and enclose much publicly subsidised research that should be common knowledge, paradoxes in the current drive in academic publishing towards Open Access are considered, including its potential closing down of the publication of non-funded independent research.

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Stumbling into the ongoing Battle of the Book

Late one night and illuminated by magical lights on his fingertips, the sixth-century Irish monk and renowned scribe Colm Cille is said to have surreptitiously copied a precious biblical script owned by his mentor. This caused one of the earliest battles about ownership of cultural works and what we now know as copyright (Corrigan, 2007). In the ensuing legal case Colm Cille’s pleas that books are different to other kinds of possessions because they form part of a shared heritage of knowledge and should be freely available to anyone who wants to read and copy them fell on the deaf ears of Diarmuid Uí Néill, then High King of Ireland. Upholding the Brehon ownership regime, Diarmuid ruled ‘Le gach bó a bhóinín, le gach leabhar a leabhraí’ – to each cow its calf and to each book its copy, and therefore, the copy made by Colm Cille was the property of his mentor. Legend has it that the resultant Battle of the Book at Cúl Dreimhne led to the death of 3000 men. Though triumphant in the battle, Colm Cille was tormented by its human cost and promised never to set foot on Ireland again. Self-exiled on the Scottish island of Iona, he is said to have strained this promise by returning on occasion, but standing on sods of turf.

Almost a millennium and a half later, battles over the ownership of texts and other cultural works are still being fought. Today ‘copyfighters’ promote the arguments purportedly put forth by Colm Cille in the contemporary politics of cultural ownership (Gallagher, 2013). And lives continue to be lost. I have no idea if Aaron Swartz ever heard of Colm Cille, but suspect if he had he would have felt a certain affinity with the unruly monk. Deeply concerned about how the restrictions of copyright prevent creative works from entering the public domain, Aaron Swartz was the controversial US cyber-activist and co-developer of the Creative Commons who died by his own hand in January 2013 (MacFarquhar, 2013). Two years previously he was convicted of illegally downloading millions of articles from the academic database JSTOR, an action his supporters argue was a victimless alleged crime and provoked an excessively punitive retribution.

This is the centuries-old battle into which my co-editors and I stumbled when we began working on this Supplement to the *Community Development Journal* on the commons. With curiosity about the commons roused by a review of the documentary film *This is Our Land: The Fight to Reclaim the Commons*, written by Tom O’Connell and published in the journal in 2012, I approached Tom and subsequently Mary McDermott to co-edit a Special Issue on the topic. By then, along with my dear friend Rosie Meade, I had served as the journal’s Reviews Editor for a number of years and my suggestion of a Special Issue on the commons was met with enthusiasm from the other members of the Editorial Board. As pointed out by Mae Shaw in her review essay of the landmark book *The Wealth of the Commons. A World
Beyond Market and State (Bollier and Helfrich, 2012), commons perspectives have much to offer to people involved in the world of community development given their shared preoccupations, including the search for ‘alternative ways of thinking about and living the relationship between individual and society, state and market, policy and politics’. Though having previously encountered invigorating ideas in the writings of the Mexican depersonalized intellectual Gustavo Esteva (1991) about the commons as an antidote to disillusionment with the ethnocentric and violent project of development, I was largely ignorant of but curious about the renewed efflorescence of commons thinking and projects. This efflorescence is at odds with the prevailing logic that commons are doomed to fail. Ecologist Garrett Hardin’s influential treatise ‘The Tragedy of the Commons’, published in Science in 1968, is a classic expression of that logic: ‘ruin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruin to all’ (Hardin, 1968, p. 1244). In some parts of the world the blossoming of interest in the old idea of the commons has been helped in no small way by the awarding of the 2009 Nobel Memorial Prize in Economic Science to Elinor Ostrom for her work on the commons. But also, more quietly, as noted by Gustavo Esteva in his contribution, ‘a silent and almost invisible revolution’ of commoning is underway, evident for example, in the proliferation internationally of community gardens and Community Supported Agriculture projects that are redefining food sovereignty. However, the very term ‘the commons’ had rarely appeared on the pages of the Community Development Journal. The aim of the Special Issue was to introduce readers and ourselves to the burst of commons activity and the debates taking place within the commons movement. Furthermore, we aimed to begin a conversation between the commons and community development, exploring their various convergences and divergences, and potentials for mutual learning. What my co-editors and I had not anticipated was that this conversation would force us to recognize and reflect upon the academic publishing ownership regime we were upholding and our positions within the ongoing Battle of the Book.

Opening the Creative Commons

My experiential learning about the Creative Commons began with the responses from some ‘commoners’ we invited to contribute articles. Tom reported that commons champion and producer of This is Our Land David Bollier had declined our invitation, but enquired if the Community Development Journal is published and thus made freely available under a Creative Commons license. Though accepting the invitation, defender of the traditional music commons (and anything but a mercantilist) Fintan Vallely gracefully pointed out the absurd social relations of production, ownership and con-
consumption on which the journal rested – I as a publicly salaried academic had asked him, an independent scholar, to contribute an article for no remuneration for publication in an academic journal for which he and other members of the public have to pay for access. Derek Wall, Green activist and advocate of a commons-based economy, also raised questions about the accessibility of the journal and enquired if his article would be an ‘open source document’, a value practice he prioritized.

For many commoners, the prevailing copyright regime in the academic publishing industry upholds intellectual monopolies and prevents publicly subsidized research from entering the public domain. In their vocabulary, the copyright regime is a ‘new enclosure’, a metaphor of the land enclosures that began in the sixteenth century in England and Scotland and destroyed the land commons by commodifying them. Their concerns overlap with those troubled by the intensification of for-profit higher education or ‘academic capitalism’ and the emergence of the ‘McUniversity’ (Paasi, 2005). This is part of the general trend towards the production and circulation of commodified instrumental knowledge and the belittling of contemplative knowledge and learning for its own sake (Rabinow, 2013). Although ubiquitous in commons writing, this metaphor of enclosure to signify the commodification of more and more aspects of life, and even life itself, is deemed too narrow by feminist theorist Donna Haraway. In an interview with Nicholas Gane (2006, p. 147) she contends ‘there is a whole lot going on besides enclosure’ and that we need other terms that point to ‘where the cracks are, where the liveliness is’ in processes of commodification. For her, the key political challenge of opponents of commodification is ‘trying to live on [the] edges—not giving into nightmares of apocalypse, staying with the urgencies and getting that everyday life is always much more than its deformations—getting that even while experience is commodified and turned against us and given back to us as our enemy, it’s never just that’ (Gane, 2006, p. 151). Taking her point on board, perhaps the term ‘cracked enclosures’ works better?

Contemporary commons thinking invites us to recognize an array of commons, both material (such as books and land) and non-material (such as knowledge, friendship and cultural heritage), and to see in a profound way how in contemporary Western society we are possessed by the idea of possession in our relationships with nature, things, each other and other living beings. It invites us to adopt a new mode of being in the world, in mutuality rather than ownership of our shared commonwealth. Copyright is deemed antithetical to the knowledge, intellectual and cultural commons; as pointed out by David Harvey (2011, p. 103) ‘[w]hen publishing companies charge readers for access to articles in the scientific and technical journals they publish, the problem of access to what should be common knowledge and open to all is plain to see’.

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The contributors’ questions about the accessibility of the journal forced Mary, Tom and me to familiarize ourselves with the Creative Commons, not just as a US-based non-profit organization established in 2002 – with the help of Aaron Swartz – that offers a suite of licenses for the knowledge commons, but also one seeking to cultivate alternative and more democratic relationships between readers and writers. We learnt that it was born out of a desire to ‘invigorate the commons of culture, education, and science’, and followed in the footsteps of a number of earlier legal initiatives, such as the wonderfully named Electrohippie Collective’s Ethical Open Documentation License (Linksvayer, 2012). It offers licenses under which authors retain ownership of the copyright for their work, but allow anyone to download, reuse, reprint, distribute, and/or copy the articles, so long as the authors and source are cited. No permission is required from the authors or the publishers.

As explained by Mike Linksvayer (2012), initially the main users of Creative Commons licenses were bloggers, photographers and musicians who helped publicize and validate the alternative copyright regime. Later when national governments such as those in Australia and the Netherlands used these licenses to release public sector information, they helped to mainstream and establish the Creative Commons as the ‘standard means to create and participate in intellectual commons’ (Linksvayer, 2012, p. 303). When surveying the literature on Creative Commons, we became aware that its strategy of relying on property rights to subvert the meaning of copyright troubles some commoners, and that there are many internal debates and open questions. Creative Commons activists readily acknowledge that ‘By comparison to the deep well of knowledge and experience concerning how to create and market intellectual monopolies, our knowledge and experience about commons-based peer production and governance of intellectual commons is puny’ (Linksvayer, 2012, p. 304). In their contributions to this Supplement, Silvia Federici and George Caffentzis, and Richard Pithouse warn us that versions of ‘commoning’ have been embraced by the Right to socialize poverty but in a way that absolves the state and the market of any responsibility, including the World Bank which requires all research it funds to be made available under a Creative Commons license. Indeed, how the Creative Commons can be appropriated by projects of cracked enclosure and rendered counter-productive to what Swartz and its other creators sought to promote became apparent as instructive negotiations about our Special Issue progressed. We came to see that the prevailing approach in academic publishing to Open Access, using Creative Commons licenses, can involve a paradoxical process of opening up by closing down and be simultaneously functional and dysfunctional to academic capitalism. As the economic basis of academic journals shifts to a reliance on big research grants, the drive to open and democratize access to academic publications is simultaneously closing down and restricting whose work and the kinds of knowledge that get published.
Furthermore, as part of a broader process of neoliberalization, the Creative Commons has been hijacked to serve the commercialization of higher education and the prospering of for-profit colleges, which amongst other functions, are relieved of having to provide libraries (Holmwood, 2013). Concerns have also been raised about changes in the means of validating knowledge claims associated with the proliferation of open access electronic journals where peer review is being replaced by ‘consumer reaction’ (Barnett, 2000). Therefore, far from being a straightforward struggle between proponents and opponents of the Creative Commons, the contemporary Battle of the Book is a complex field of contention in which Creative Commons licenses are used by an array of players to promote very different visions of academic publishing.

I enquired if it would be possible to publish our Special Issue under a Creative Commons license. That query led to a series of discussions between members of the Editorial Board about the journal’s Open Access policy. Below I trace my experiential learning about the commons that flowed from them. This story serves as an illustration that the commons is not something ‘out there’ that ‘other people’ need consider, but if engaged with seriously, challenges us all, including those in the world of academic publishing, to recognize (and possibly change) the property regimes and relations we sustain.

**Opening up by closing down**

Similarly to many other academic publishers, Oxford University Press, which publishes the *Community Development Journal*, allows authors to publish open access in two ways. Authors with funding can pay an Article Processing Charge (APC) in order to make an article freely accessible at the point of use immediately on publication. The APC for the *Community Development Journal* is set at £1,750 per article, although there are discounts for authors from ‘developing countries’. This ‘free but paid for’ model of open access publication is often referred to as ‘gold’ open access. Alternatively, authors can make their papers freely available on a subject or institutional repository after a proscribed embargo – in the *Community Development Journal* case this is twenty-four months. This is usually referred to as ‘green’ open access. Clearly, gold open access was not the solution to the ‘pay walls’ and other problems with academic publishing that had been highlighted by some of the contributors to the Special Issue, many of whom were not salaried academics and none of whom were reporting on funded research. This was acknowledged immediately by members of the Editorial Board and discussions began about if and how our Special Issue on the commons could be made available on the commons. Additionally, a more general discussion began about the journal’s policy regarding the Creative Commons and open access.

One source of learning were the experiences of Frank van Laerhoven, editor of *The International Journal of the Commons* and a contributor to our Special
Issue. Reminiscent of the pleas of Colm Cille, in an email he explained that his journal operates on the basis that ‘knowledge and insights generated by us – i.e. hired brains largely paid for by tax money – should NOT be put behind pay walls, but should instead be treated as a public good that everyone (and not just those who happen to work at institutions that are willing and able to pay the steep journal licenses) should be able to benefit from.’ Frank provided us with short reports on the struggles to establish their journal as both available on the Creative Commons and one that meets the requirements of the holy grail of indexing whereby the quality (measured by ‘impact factors’) of academic journals are calculated. In many countries, these highly dubious bibliometric ranking calculations have become important in the institutional imaginations that inform funding allocations to academic units and academic appointments. It is not all about funding however; these rankings also shape the non-monetary basis of the hidden economy of academia and its trade in status, credibility and prestige which operates in a culture obsessed with expertise and is profoundly unsure of itself. Similar to The International Journal of the Commons, those of us in the Community Development Journal had expended considerable effort negotiating its inclusion in the world of indexing. In 2011 the Community Development Journal Editorial Board celebrated the journal’s acceptance onto the Social Science Citation Index (SSCI) and the awarding of an impact factor of 0.689, a score few if any of us knew how to interpret. It is a game those of us involved in academic journals are told we have to play, but have no part in determining and little understanding of the rules.

An option my co-editors and I proposed was that the Special Issue on the commons and possibly some other issues be made freely available and paid for in the normal way from discretionary Editorial Board resources. The International Journal of the Commons was offered as a possible alternative model as all their articles are published using the Creative Commons Attribution License (CC-BY). Frank van Laerhoven had explained that the ‘CC-BY license is something we work with for all of our contributions – rather than having authors handing over the author rights to us, these rights stay with the authors (as it should be, I think). As an independent journal outlet, we could easily make this decision’. Eventually through negotiations with Oxford University Press, it proved possible for the Special Issue to be made freely available and published alongside a normal issue of the journal as a Supplement if the Editorial Board would fund the production and distribution costs, which they agreed to do.

The initial proposal led to animated discussion about the possible ways forward. There was however agreement by the Editorial Board of the need in principle to move towards freer access to journal materials, particularly given the practice focused aims of the journal and the difficulties practitioners often have in accessing relevant journals via costly subscriptions. Similar to Fintan Vallely’s gracious observations, members of the Editorial Board not affiliated
to academic institutions spoke with exasperation about the barriers to accessing the journal to people in their position. Beyond the specific discussions about the Special Issue, questions were also raised about the various and possibly conflicting sources of impetus for the recent drive to establish Open Access as a new norm in academic publishing and about the potential for a privileging form of enclosure of who gets to publish and what gets published in this drive to open the circulation of knowledge published in academic journals.

Concurrent with our discussions about the possibility of publishing the Special Issue under a Creative Commons license, public policies in the wider world about access to research publications were also rapidly changing. These happenings illustrate how the norms of academic publishing are in a state of flux, but also how the prevailing model of open access to academic publications is potentially closing down many authors’ access to those same publication routes, and closing down the publication of certain forms of research. Though self-identifying as an international forum, because of the *Community Development Journal*’s roots in Britain and its bonds with Oxford University Press, policy developments in the British context have particular significance. The point here is not to advance an Anglo-centric view of academic publishing but to recognize that British academic publishing policy shaped, in a crucial way, perceptions of the publication possibilities for our Special Issue. One important development in the national policy context in which Oxford University Press operates was the publication in 2012 of the Finch Report on Open Access and the British government’s requirement that from April 2013 all research funded by the Research Councils UK (RCUK) must be published in journals which are compliant with its policy on open access. Incidentally, each year, RCUK distributes in excess of £3 billion of public funds to academic research.

Bear with me as I try to outline how this drive to open access to academic publications is unfolding in Britain, as revealed in the Editorial to the November 2012 newsletter of the British Sociological Association. The newsletter highlighted the cracked enclosures that are part of the RCUK’s efforts to promote open access. More implicitly, the newsletter pointed to the distorting over-production dynamics of the much-disdained British approach to promoting ‘academic excellence’, the Research Excellence Framework (REF), dynamics that appear to be the enemy of intellectual creativity. In the words of a *New Left Review* editorial, the REF has been crucial to the subordination of ‘scholarship to the needs of business. . . . [whereby] research is to be assessed according to whether it brings “demonstrable benefits to the wider economy and society,” helpfully defined as “commercializing new products or processes” or “creating new businesses”’ (Wood 2010, p. 19). The newsletter discussed the RCUK’s approach to the allocation of £100 million of public funds to make academic research available on open access, and specifically its plan to give block grants to universities towards the cost of fees to make publications
available under the gold open access model. These allocations were to be made on the basis of the gross grant incomes of the universities and limited to thirty institutions. The possible closing off of publication opportunities for non-elite institutions and individual researchers with less or no grant funding was underscored, thereby reducing their chances of faring well in the impact assessments of the REF. Concern was raised that for the year 2013–2014, public funds would only be made available to cover the open access costs of 45 percent of the staggering number (26,000) of research papers produced annually via RCUK funding. The scenario described in the newsletter illustrates the ironies of the opening up by closing down approach to open access in British academia, not to mention the mass production of articles by the British academic-industrial complex.

The undecidability of the supplement

As mentioned above, the Editorial Board debated a range of publishing options before the possibility of publishing a freely available Supplement emerged in discussions with Oxford University Press. Before this emerged, Mary, Tom and I feared we might lose some of the contributors to the commons Special Issue if only temporary open access was offered. Though the distinction between a Community Development Journal publication in the form of a Special Issue and a Supplement may be significant to some, Mary, Tom and I thought it irrelevant and welcomed this solution to the challenge of making our publication on the commons available on the commons. Returning to Donna Haraway’s (interview with Gane, 2006) grumble about the metaphor of enclosure, this was a crack in the imperfect enclosures of copyright, though of course at this point only an exception to the general rule, and an illustration that everyday life in academic publishing is more than its deformations. What is more, as pointed out by Mary, in philosophy the idea of a supplement has particular significance, and one that resonated with our discussions about the commons. For the French philosopher Jacques Derrida (1967), the concept of a supplement was prominent in his reflections on the linguistic constraints within which philosophical discourse takes place. Renowned for his strategy of deconstruction of the categories and binary oppositions that can imprison or enclose our thinking and being, he highlighted ‘undecidables’, things that conform to neither side of an either or dichotomy. For him, a supplement is always ambiguous and can be interpreted in two ways, as signifying a presence and an absence, an infinitude and a finitude. He used many examples from the realm of sex to explain this idea, but regarded writing as the supplement par excellence where a supplement to a text is a sign of a sign. A supplement is always undecidable as it represents both an addition to but also a lacking in the original text. Colm Cille’s copy of his mentor’s text can be regarded as a supplement, but so too is this publi-
cation. This publication signifies both a tiny victory and a defeat in the ongoing Battle of the Book of academic publishing, a crack in the copyright and intellectual property pay walls that usually surround the journal. Furthermore, like Colm Cille’s fingertips, its production illuminated commoners’ hard questions for those of us involved with the Community Development Journal, our collective response to which is, for now, undecidable.

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References

Gane, N. (2006) When we have never been human, what is to be done?: Interview with Donna Haraway, Theory, Culture and Society, 23 (7–8), 135–158.
O’Connell, T. (2012) Review of This is Our Land: The Fight to Reclaim the Commons, Community Development Journal, 47 (1), 156–158.
Rabinow, P. (2013) Interview for Figure/Ground.