

# **THE ROAD TO THE BEACH**

## **A DORNOCH CONTROVERSY**

**John Macleod,  
Dornoch,  
February, 1998**

## THE ROAD TO THE BEACH

In 1931 the community of Dornoch was split by controversy -- the Town Council was going to upgrade the road running in front of the 1<sup>st</sup> tee of the Royal Dornoch Golf Club "to provide better facilities for Motor Cars and Bathers to reach the Beach".

The background to this story is that the ground used for the original Dornoch Golf Club course, as laid out by Old Tom Morris in the 1860s, was almost entirely on the Common Good Land of the Royal Burgh of Dornoch, administered by Dornoch Town Council. In 1904 the course was extended onto Embo Street Common Grazing, and in 1948 extended further onto Embo Common Grazing. In addition the pre-war Ladies Course, much of which was flattened in 1940 to provide an airstrip, was on Common Good land, as is the present Struie Course. Today less than half of the Championship Course is on Common Good land. As a result of this Town Council control of the Common Good land the Golf Club had to apply to the Town Council for permission for any work done on that land, such as laying water pipes and so on, but not, apparently, for golfing alterations such as to tees and bunkers. This changed with the award of a 99 year lease in 1975 when the Golf Club could more or less do what it liked in the golfing sense on the leased area. However in 1930 the Town Council had firm control over the use of the Common Good land and it could do more or less what it liked there. As a result of an apparently innocuous motion passed by the Town Council strong feelings were raised both for and against the proposal, with reverberations that to some extent continue to this day.

At a meeting of the Town Council on 9<sup>th</sup> December, 1930 there was a lengthy discussion, following which Councillor I. Campbell moved that "the present road from the Golf House to the Bathing Huts be reconstructed so as to provide better facilities for Motor Cars and Bathers to reach the Beach". Bailie Grant seconded. Treasurer Sutherland moved an amendment that before taking action the Golf Club should be consulted in the matter in case the construction of the road should prove detrimental to the interests of the Club and community. Bailie Mackay seconded. Councillor Moore said he wished to remark that no matter what decision was arrived at, if the 1<sup>st</sup> Teeing Ground was put to the north side of the road the Hole would be spoilt. On a vote being taken there voted for the motion Councillor I.M. Campbell, Bailie Grant, Provost Murray and Dean of Guild Maclean and for the amendment Treasurer Sutherland, Bailie Mackay and Councillor H.F. Campbell, The motion accordingly became the finding of the meeting. (Councillor Moore abstained from voting. He was Convenor of the Golf Club's Committee of Management at the time). The "Northern Times", in a lengthy editorial piece, strongly suggested that the Golf Club should have been consulted before the decision was taken, and commented that not for many years has the public shown so much interest in the doings of the Town Council as at that time.

The point of the furore that later erupted was that the effect of this decision would be to route traffic to the beach in front of the 1<sup>st</sup> tee of the Championship Course rather than through Littleton, away from the golfers (this was not really true, but more about that later). Both routes had rough tracks that had been used possibly for centuries, and were, indeed are, the only routes available for wheeled traffic to the bathing beach. Sheriff Donald Booker Milburn when still an Advocate in Edinburgh expressed the opinion that the various tracks across the Common Good land were

designated for specific purposes in the days of the horse and cart, e.g. the road to the beach was for the purpose of collecting dulce (a type of seaweed) from the Dulce Rocks, east of the present 16<sup>th</sup> tee, to be used as fertiliser, while the present road to the sewage works on the lower links was for a similar purpose, to collect seaweed from the north shore of the Kyle of Sutherland. While his opinions were no more than informed intelligent comment, not a decision of a Court of Law, they did serve to cool the ardour of some long time residents of Dornoch who thought that they could do anything that they wished on the Common Good land so long as they were ratepayers in the Burgh of Dornoch. Some thought that they could drive motor vehicles anywhere that they wished regardless of any other concern. The opinion suggested that the existing tracks were designated for specific purposes and that the Common Good land was not a free-for-all, and certainly not for modern motor vehicles. Others thought that they could play golf on the Common Good land without charge because they were ratepayers. In turn their ardour cooled when they were informed that they could have free golf on that land, but not on tees, fairways, in bunkers, or on greens, or anywhere else that the Golf Club had spent money in preparation or repair – this left the uncut rough, and that was not going to be much fun!

Meanwhile matters were proceeding apace. At a further Town Council meeting on 19<sup>th</sup> December the report, estimate and plan of the proposed road from the Golf Club House to the beach were submitted. The Town Clerk was instructed to make application for a grant from the Unemployed Grants Committee. This would make one think that planning of this project had been in the making for some time, unless matters were dealt with more quickly than they are today, although subsequent events would make one doubt this. On 26<sup>th</sup> December the Town Clerk submitted the Specifications and Conditions of Contract for the road from the Golf Club House to the beach. These were approved and the Town Clerk instructed to advertise locally by way of handbills for the work. Offers were to be lodged with the Town Clerk by Saturday 10<sup>th</sup> January.

Unfortunately the Golf Club Minute Books do not go back earlier than 1<sup>st</sup> January, 1931, but it is evident that the matter had been discussed by the Committee of Management as it was then called. There is no record of correspondence between the Golf Club and the Town Council up to this point but apart from the difficulty of keeping anything secret in Dornoch, then and now, John Sutherland, Town Clerk, was also John Sutherland, Golf Club Secretary. Having been Secretary for 48 years at this point and having built the Club up from nothing to considerable eminence in that time there was no doubting where his prime loyalty lay. The Club would have been fully informed as to what was going on. He had not yet started writing letters to himself in his different capacities, but he did so quite soon. From whatever source the following letter and petition was presented by the Town Clerk to the Town Council on 31<sup>st</sup> December, 1930:-

The letter:

Dornoch, 31<sup>st</sup> Decr, 1931 (sic)

Dear Sir,

We, the undersigned ratepayers herewith enclose a Petition bearing the signatures of 231 Ratepayers, 82 Golf Club members and 24 citizens, who have signed under the belief that the proposed road for Motor Traffic, from the Golf Club House to the Beach would be detrimental to golf.

We most respectfully suggest before further action is taken, that your Council will invite the opinion of the Golf Club Committee at the forthcoming Conference.

We are,

Yours faithfully,

(signed) Charles D.Bentinck, Thomas Munro, Geo.McIntosh, R.Robertson,  
D.F.MacLeod, Andrew Innes, J.G.Macdonald, D.W.Murray, H.A.Moir.

The petition:

We the undersigned beg respectfully to approach your Council on a subject which is at present causing considerable alarm in the community. The decision arrived at by the Town Council on Tuesday evening 9<sup>th</sup> instant to construct a road for Motor Traffic through the Links from the Golf Club House has alarmed not only the members of the Golf Club but also a large number of the people of Dornoch and in particular those depending on the trade and industry of the Burgh.

Believing that such a road would prove seriously detrimental to the attractiveness of the Golf Course because of the disturbing influence of wheeled traffic not only to local golfers but also to city visitors who patronise our Golf Course, largely on account of its quiet and restfulness, we most respectfully suggest before any further action is taken, that your Council will invite the opinion of the Golf Club. This could well be done at the Conference between the Town Council and the Golf Club as already agreed on.

Your petitioners understand that your Council has set apart a portion of the Links East of Littletown as a Motor Tourist Camping Ground and we again respectfully suggest that the improvement of the road already there would serve both purposes and cause less interference with the play on the Golf Course.

Further communication:

A letter was read from the Committee of Management of the Royal Dornoch Golf Club strongly supporting the terms of the Petition.

After the submission of the petition the Provost, John Murray, invited each member of the Council to express his opinion with the result that four members favoured the Prayer of the Petition while the other four held the contrary view. After further discussion the Provost then ruled that the previous decision of the Council on 9<sup>th</sup> December to proceed with the construction of the road could not be altered, and that under Standing Orders, a period of six months must elapse before a resolution to rescind was competent.

This was followed by submission of offers for construction of the road with that of K.H.Ross of Tarbat Villa, Embo to do the work for £80 being accepted.

At this point it is necessary to digress somewhat. It should be pointed out that of the nine signatories of the letter accompanying the petition four, Messrs. Robertson, MacLeod, Murray and Macdonald were members of the Golf Club Management Committee. Also it would appear that perhaps Provost Murray was not as impartial as the Town Council Minutes would suggest. Standing Orders can always be suspended, although, in fairness, with a 4/4 split in the Council it is unlikely that the usual 2/3 majority in favour would have been achieved. In addition, he would have had a casting vote, which he did not use either way. At any rate if the matter could not be reconsidered for another six months opponents of the road would have been presented with a fait accompli - the work would have been done. Once again the "Northern Times" editorial was critical of the decision to invoke the Standing Orders ruling, remarking on the outcry and ill feelings roused by the project.

Meanwhile, back at the Golf Club the cause had not been abandoned. The Club had received an unsolicited letter from one of its members in Edinburgh, Mr. A.C.Black, K.C., The letter is lengthy and will not be quoted in full here. It was fairly typical of views expressed by regular visitors and newly arrived residents over the years where they wished for no changes to the Dornoch that had attracted them there in the first place. He expressed his dismay at what he perceived as the Town Council's determination to develop the beach area by attracting people to it - the wrong kind of people with charahanes and gramophones - and developing a camping site. His views on the tracks across the Common Good land were similar to those expressed by Sheriff Booker Milburn many years later, and doubted the right of the Magistrates to alter the existing tracks to accommodate motor vehicles. He also doubted the legality of the Town Council charging the Golf Club a rent for use of the Links (this was to have been £200 per annum; in the event when the last Town Council granted a lease to the Golf Club in 1975 the rent, for 99 years, was set at £150 per annum). In his opinion if this was done the Club as lessee could then exclude whom it wished from the ground in question, an interesting point even today! At any rate the Club went back to the Town Council to suggest that if the high road project was abandoned in favour of the Littletown route the Club would be prepared to make a financial contribution towards this. Once more the proposals were rejected by the Town Council, who granted permission for the Golf Club to develop the Littletown route at their own expense if they so wished.

At the same time the Town Council were having a few problems of their own. They did not know on 23<sup>rd</sup> January if they were going to get a grant from the Unemployed Grants Committee, but if they did the Council would be responsible for observance by the contractor of the conditions involved. Meanwhile work was suspended, albeit it

does not seem to have been for very long – until 9<sup>th</sup> March in fact. It was not until 5<sup>th</sup> May that they discovered the request for a grant for this and for other work in the Cathedral Square had been turned down.

On 25<sup>th</sup> January John Sutherland, writing in no official capacity but as a private citizen genuinely interested in the prosperity of his native town, he said, offered £25 towards making the road eastwards from Littletown if construction of the road from the Golf Club House to the beach was stopped. This too was turned down. It seemed that the Town Council held all the aces – certainly they, or Provost Murray, were giving nothing away.

On 19<sup>th</sup> February the “Northern Times” published a letter from W.G.Moore, under his own name – an unusual feature as nearly all the letters to the Editor at this time were published under pseudonyms – in which he stated that having been a member of the Town Council and the Golf Committee for 32 years he assured the readers that the Town Council would never do anything to harm the playing of golf, Dornoch’s principal industry.

However in March the picture changed again. The Town Clerk received a requisition from Wm. Sutherland, Treasurer, and H.F.Campbell, Councillor, for a meeting to be held right away. A letter had been received from A.N.Macaulay & Co. Solicitors, Golspie threatening to seek a note of suspension and interdict at the Court of Session in Edinburgh to stop construction of the road. The action was in the names of Hector Mackay Ross, Sutherland Arms Hotel, Dornoch and Roderick Robertson, Benoran, Dornoch. This was on Friday, 20<sup>th</sup> March and the meeting, which the Provost tried to stop on the grounds that under the Standing Order ruling they had nothing fresh to say on the matter, arranged for 10 a.m. on the next day. It provoked an immediate angry letter from Councillor I.Campbell who said that he could not attend, and anyway he had not been given the requisite 24 hours notice as required by Town Council Act of 1900. The meeting was ruled by the Provost to be incompetent and postponed until Monday, 23<sup>rd</sup> March. The Town Clerk was to telephone this information to Macaulay & Co. When he did so he was informed that the interim interdict had been granted by Lord Murray that day, 21<sup>st</sup> March. When the meeting of the Town Council took place on 23<sup>rd</sup> March the Town Clerk reported receipt of the Note of Suspension and Interdict. It was resolved that Counsel be instructed to defend the action against the Town Council and to try to have the interdict withdrawn without involving any sacrifice of principle on the part of the Council. Bailie Mackay dissented. The Provost then moved, and Councillor Campbell seconded, that Messrs. Arthur & Macrae, Solicitors, Dornoch, be appointed local agents for the Council. Councillor H.F.Campbell moved, seconded by Treasurer Sutherland, that Mr.R.S.Henderson, Solicitor, Dornoch, be instructed to take up the case for the Council as he was at present the Council’s legal advisor. This amendment was passed by four votes to two. The Provost then moved, seconded by Councillor I.Campbell, that in the event of Mr.Henderson declining to act that Messrs. Arthur & Macrae be appointed. Councillor H.F.Campbell then moved an amendment, seconded by Treasurer Sutherland, that Mr.Arch. Argo, Solicitor, Golspie, be appointed in that eventuality. This time the motion was carried, by four votes to three. Evidently Mr.Henderson did decline, because Arthur & Macrae did act as agents throughout the dispute. Henderson resigned as the Council’s legal advisor not long afterwards.

What seems to have happened is that the Golf Club had decided on this course of action some time earlier but had not put it into operation before in the hope that their appeals to the Town Council would be agreed to. Given the costs involved in litigation of this sort it seems a high risk strategy by Messrs. Ross and Robertson to put their names to the measure, even though the Committee approved of the steps taken and assured the Complainers of their full support in any way that lay within their power. It should be mentioned that H.M.Ross was the proprietor of the Sutherland Arms Hotel which stood in the Square where the present filling station and car park now stand. This was burned down in 1940, but no doubt many of Ross's clients were visiting golfers. R.Robertson was a member of the Committee of Management, who became Convenor at this time, succeeding W.G.Moore who had held the post for many years, but who had died recently, suddenly, aged 63. He had been a tailor in Dornoch for many years, and had held most of the offices of the Town Council, including that of Provost, plus becoming Convenor of the Golf Club's Committee of Management. (The Convenor was Chairman of the Committee and in effect acting Captain of the Club in the absence of the Club Captain, which was most of the time in those days. RDGC did not have a locally resident Captain from Rev.Dr.Grant in 1905 to Dr.J.Macleod in 1978, although to be fair one or two, notably A.J.Ryle and G.Spurling, did spend most of the summer in Dornoch). According to the allegations later bandied about in the Court of Session in July work was suspended, as we know, on 24<sup>th</sup> January, having started at the seaward end on 15<sup>th</sup> January, recommencing on 9<sup>th</sup> March, and was practically complete by 23<sup>rd</sup> March. In fact it should have stopped on 21<sup>st</sup> March with the granting of the interdict, and there would have been no work on the 22<sup>nd</sup>, being a Sunday. However the interdict did not reach Dornoch from Edinburgh until the afternoon of the 23<sup>rd</sup>. While the postal service may have been better in those days there were no instant transmission facilities then such as fax or e-mail. At any rate it was the recommencement of the work which triggered off the approach to the Court of Session. It is quite probable that the letter from the K.C., A.C.Black, inspired this course of action, and it appears that he with others, represented the Complainers in Court.

When the case was heard in the Court of Session, Edinburgh, on 9<sup>th</sup> and 16<sup>th</sup> June, 1931 before Lord Pitman it consisted of a series of Statements of Facts by the Complainers (Ross & Robertson) and Answers from the Respondents (The Provost, Magistrates and Councillors of the Royal Burgh of Dornoch). These are summarised here:-

Statement 1. The links land forming the Dornoch Golf Course has been designated for this purpose, the bye-laws making special provision for facilitating the playing of golf over that part of the links, with football and other games being relegated to other parts of the links. The Burgh minute dated 9<sup>th</sup> November, 1877, granted permission to the Sutherland Golfing Society to use the links but it had been used for the purpose by the inhabitants for many years before that.

Answer 1. This was admitted but it was pointed out that the inhabitants of Dornoch and the public had other rights in and over the links other than that of playing golf.

Statement 2. On or about 9<sup>th</sup> December, 1930, the Town Council resolved to construct a road for the use of motor traffic from the Golf Club House over and through the golf course to the beach, following the existing cart track to the disused

quarry, intended to be a continuation of Golf Road which at present ends near the Golf Club House. There is a closed gate at the east end of Golf Road and a notice prohibiting motor cars from passing the gate and entering the golf course. It is now the intention of the respondents by means of the new road to enable motor cars to run straight out of Golf Road past the Club House and eastwards over and through the course to the beach. Previously no such road existed, only the track previously referred to. The specifications of the road were such that it was not just a matter of repairing the track. The track had led to the quarry, which had been disused for many years, and there had been practically no wheeled traffic and only the very occasional cart on it since then. Pedestrians cross the links at all points to reach the beach, and motor cars occasionally go to the beach via the Littletown route, which does not substantially interfere with golfers. The new road would terminate 50 yards short of the quarry and is intended to be an access to the beach for motor cars. Motor cars have never been in the habit of going to the beach by means of the track mentioned, nor until now was it practicable for them to do so. In 1927 some work had been done to repair some of this track but it was done for golfing reasons as an unfair hazard had developed. No thoroughfare for motor cars was created.

Answer 2. From time immemorial there had been a public right of way by way of a road which leads from the east end of Golf Road to the beach. It has been used by the public as access to the beach and is the only route providing access to the beach for vehicular traffic. Carts used the said road, motor cars have also done so. The respondents believe that the Golf Club intended to improve the road on the same lines as the respondents.

Statement 3. The complaint attempted to show how close the proposed road would be to certain features of the course – the 1<sup>st</sup> tee, the 18<sup>th</sup> green (now practice green), the 12<sup>th</sup> putting green (now 18<sup>th</sup> green), the 13<sup>th</sup> tee (now Struie 1<sup>st</sup> tee), the 10<sup>th</sup> green (now 16<sup>th</sup> green). This would seriously affect and prejudice the playing of golf in an important part of the course. This could interfere with the playing of golf shots and there would be a danger of users of the road being struck by golf balls. Bye-law No.2 refers only to carting. The track to the quarry was not used as a road for carriages conveying people to the beach, nor does the bye-law authorise or contemplate any such use.

Answer 3. Disagreement regarding the proximity to the 10<sup>th</sup> (16<sup>th</sup>) green, which was 98 feet away from the centre of the road and 25 feet higher than the road. Claimed that apart from a small deviation at the 13<sup>th</sup> (1<sup>st</sup> Struie) tee carried out at the request of the Golf Club work was only in improving the road that was already in existence, and has been used as of right as the road for carriages and carts conveying people who desired access to the beach and for the inhabitants in general.

Statement 4. Alleged that the popularity of the Dornoch Golf Links, one of the leading golf courses in the country, would suffer if the road is constructed and motor traffic invited to pass freely along the said road. The prosperity of the town of Dornoch would suffer. It was denied that any persons were entitled to have access to the beach by the route suggested. Motor cars and other vehicles can and do have access via Littletown.

ANSWER 4. Admitted that Dornoch Golf Course has for some years attracted visitors to the town for the purpose of playing golf thereon. Denied that any road was being constructed. Said links are held by the respondents as subject to the enjoyment of other rights by the ratepayers and public. The road as now repaired did not interfere

with the players due rights of golfing and the respondents are entitled to maintain proper and suitable access to the quarry to enable ratepayers to have easy access to the beach. The Littletown track passes between and in close proximity to the 16<sup>th</sup> green and the 17<sup>th</sup> tee and proceeds directly across the fairway of the present 14<sup>th</sup> hole.

Statement 5. After the resolution to make the road became known through the press a petition largely signed by ratepayers and other citizens of Dornoch was laid before the respondents requesting them to confer with the golf club and suggesting an alternative access for motor cars to the beach by a more safe and convenient route which could not interfere with the playing of the game of golf. The respondents, however, have refused to alter their resolution and the making of the road is to go on. It is denied that the complainers ever acquiesced in the carrying on of the work. Work was suspended on 24<sup>th</sup> January and subsequent to this representations were made to the respondents by the management committee of the golf club to reconsider their decision about constructing the road. Work was resumed on 16<sup>th</sup> or 17<sup>th</sup> March, whereupon the complainers immediately gave instructions for the present proceedings to be raised. The respondents were informed on 19<sup>th</sup> March of the intention to apply for interdict and this note presented to the Court on 21<sup>st</sup> March. It is believed that when the respondents were aware of the complainers' intention they forced on and accelerated the work on the road, especially on Saturday 21<sup>st</sup> March, with the result that when the work was stopped on 23<sup>rd</sup> March the construction of the road was for the most part completed. The work for which the contract price of £80 was accepted was for the reconstruction of the road from the golf club-house to the quarry and not for repair work.

Answer 5. Admitted that a petition had been presented by certain ratepayers, and that the respondents declined to desist from the repair work. The petition was fomented by certain members of the golf club and signatures obtained upon a totally erroneous statement of facts. The respondents believe that had the petition contained the correct statement of facts many of the signatories would have refused to sign it. The work of repair was commenced on 15<sup>th</sup> January and was half completed by 24<sup>th</sup> January. Work recommenced on 9<sup>th</sup> March and was practically completed by 23<sup>rd</sup> March. The complainers had all along known that the work was being done and could have brought the present proceedings in January last. Instead of so doing they had acquiesced in the carrying on of the work and delayed bringing proceedings until the work was practically completed, and then only on the agitation of some golfers.

Statement 6 The complainers maintain that the making of the road for the purpose of allowing motor cars to pass over the golf course is illegal. The respondents hold the links under the obligation of preserving the same for the game of golf, and they were not entitled to carry out on the links any operations which have the effect of substantially interfering with the exercise of the right to play the game of golf thereon. The making of the road and opening it to traffic would seriously interfere with the prosecution of golf on the links and would be a breach of trust. Further, it would have a detrimental effect upon the future popularity of Dornoch as a summer resort.

Answer 6. Admitted that the respondents have refused to desist from the repair of the existing track. Admitted that the respondents hold the links under certain obligations. Denied that the road will seriously interfere with the playing of golf, or that the respondents are in breach of the trust upon which they hold the said links. Explained that the first intimation of objection from the complainers was by letter dated 19<sup>th</sup> March, 1931. Before the respondents had time to hold a meeting the present

note was presented and interim interdict was obtained on 21<sup>st</sup> March, 1931. In any event the objection of the complainers was to the construction of a motor road, an operation which the respondents have not carried out.

Supplementary Note In a Supplementary Note the complainers alleged that while the interim interdict had been granted on 21<sup>st</sup> March, 1931 preventing anyone from making a road for the use of motor and other vehicular traffic over the Dornoch links, and from inviting motor or other vehicular traffic to use the road, work had continued on 21<sup>st</sup> March. The Town Clerk had been notified by the complainers' agent by telephone that the interdict had been granted, and he informed the Provost and members of the Council. The respondents had engaged five extra men in addition to the three who hitherto had been employed and set them to work on the road that day, including two of the Provost's own servants with a roller belonging to him, keeping them at work all day although Saturday afternoon was normally a half day off. Work was continued on Monday, 23<sup>rd</sup> March until 11.45 a.m. It was believed that this was at the instigation of the Provost, who stated that the order of interim interdict was not effective until it had been formally served. The deliberate purpose was to get as much of the road completed as possible before formal intimation of the order. In the event intimation of the order arrived by registered post on the afternoon of the 23<sup>rd</sup>. These actions were illegal and in bad faith. The respondents knew that the order had been pronounced and would be served on them in due course, yet pressed on with the work. This was contempt of Court. A considerable stretch of road had been completed on the Saturday and the Monday. The respondents should be made to restore the ground to the condition it was in on the Saturday morning.

In reply the respondents stated that the Town Clerk received a telephone message on the Saturday morning regarding this matter, which he communicated to the Provost, but no communication was made to the respondents. The Town Clerk had no knowledge of either the authenticity or correctness of the information conveyed in the telephone message. It was specifically denied that any extra workmen or carts were put on the road after the telephone message was received. The road had been to all intents and purposes finished on Friday, 20<sup>th</sup> March. On Monday there was no carting, merely rolling and binding, which was finished by 11.45 a.m. By the time intimation of the order was received the repair of the road was complete.

Lord Pitman gave his judgement on 8<sup>th</sup> July, 1931. He had to decide whether the making of this road and introduction of motor traffic which will follow would interfere with the playing of golf on the Dornoch Links as it has been played from time immemorial. That was a question of fact which could only be decided after a proof, which he would allow. It appears that there had been similar cases in St. Andrews, at least one of which went as far as the House of Lords. The making of a road and introduction of motor traffic was certainly an innovation, as there was a question to try it would not be fair to allow the road to be used until after the question had been decided in favour of the defenders. He preferred to ignore the suggestion of the special squad being employed after the interim interdict was granted, although if there was any such employment of extra labour it would have been most reprehensible. It had been argued that the pursuers should have brought into Court the actual people who threaten to interfere with the pursuers' rights. It was not a case like that at all as it was not only the use of the road but the very existence of the road that

was said to encroach on the pursuers' rights. The status quo should be maintained until the case was decided in the defendants favour.

There it was then. The rights and wrongs would be decided in Court at a later date. What Lord Pitman would have made of this tissue of distortions, evasions, and probably downright lies we will never know. In the event the case was settled out of Court, but not just yet.

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While the frenetic pace of events that started this story had eased off once the interim interdict had been granted it did not mean that nothing else was happening. On 25<sup>th</sup> April J.C. Buist, Vice President of the Royal Dornoch Golf Club, had written to Provost Murray. There is no record of what he said in his letter but Provost Murray replied on 27<sup>th</sup> April as follows:-

Dear Mr. Buist,

I am in receipt of yours of 25<sup>th</sup> inst., and thank you for the same.

I am pleased to learn that you are not a party to the litigation which has incensed the whole community with a few exceptions.

In the first place the litigation in question is not due to the Town Council which had to defend itself against the unwarranted assumption of pursuers in contesting rights entirely within the jurisdiction of the Town Council.

During the discussion the Town Council decided to regulate in the interest of all parties, vehicular (motor) traffic to the bathing beach, and that no trailers or Charabanes be allowed. In fact the road was repaired for the purpose of making the bathing beach accessible to private motor cars which have right of access to the bathing beach. We have no objection - as far as I am concerned - to a private conference, as it is the height of absurdity to allow - if it can be otherwise arranged - public and private money to be wasted in the Law Courts.

If the Club has any suggestions to make we will be very pleased to consider them, but if the Golf Club insists upon the right of access to the Beach to be withheld from private motor cars, then in my opinion a conference would serve no purpose, but as far as I am concerned, I am quite willing to consider any suggestion of regulation, etc. which may arise out of the new conditions.

As ratepayers, you as well as I must deplore this stupid and futile waste, and if anything can be done to prevent it, I am only too willing.

Yours faithfully,

(signed) John Murray.

The Golf Club did not rush into action on receipt of this letter. There was no need to. The road had been repaired, or constructed, depending on your point of view, but could not be used. It did not see the light of day until the Club's Annual General Meeting on 17<sup>th</sup> August when the Secretary intimated that he had received the following notice, dated 14<sup>th</sup> instant:-

"In terms of Rule 8 of the Constitution, We hereby give notice that we desire the communication received from the Town Council dated 13<sup>th</sup> August, 1931 to be laid before the Annual General Meeting on Monday next for consideration and resolve thereon."

(Signed) D.W.Murray

(Signed) D.F.McLeod

(Both of these gentlemen were members of the Committee of Management)

John Sutherland, Golf Club Secretary, then read out a letter from John Sutherland, Town Clerk:-

Gentlemen,

Ross & Robertson v. Town Council

I am instructed by the Town Council to send you the enclosed copy letter dated 27<sup>th</sup> April, 1931 from Provost Murray to Mr.J.Buist and to enquire whether your Club is willing to meet the Council in conference with the Complainers, in regard to the litigation presently pending concerning the "Road to the Beach", on the basis of the Provost's letter.

(Signed) J.Sutherland, Town Clerk

He then read the letter from Provost Murray to J.C.Buist.

The Captain, Sheriff Mackintosh, then explained that a conference on the narrow basis of the Provost's letter would not lead the Club anywhere, and asked the Provost, who was present, if the Town Council would meet the Complainers and the Club in open conference without any limitations laid down in advance. The Provost stated that as far as he knew the Council would be willing to do so. It was resolved that the Committee of Management along with Mr.Buist would meet the Town Council and Complainers in open conference next week.

This conference duly took place on 24<sup>th</sup> August and the following proposals for the settlement of the dispute were put forward by the Town Council:-

1. The road from the Golf Club House to the Bathing Beach was never intended for the use of Charabanes, Caravans and Trailers, and these would be prohibited by the Town Council.
2. The Town Council were prepared during any important Competition or Tournament to prohibit as far as possible motor cars from using the road during such time as it may be necessary.
3. The Town Council were prepared to regulate the hours when motor cars may use the road to meet any reasonable demand of the Golf Club.
4. The Town Council were prepared to form a road through Littletown to the Bathing Beach provided funds are subscribed for that purpose.
5. The Town Council accepted a proposal from Captain Watson, a member of the Golf Club Committee, to erect a sign board at the corner of Church Street and

*Golf Road in the following terms " This road for motor cars to the Beach", and at right angles another sign board with the wording " This way to the Golf Course"*

That should have been the end of the matter, but, of course, it was not.

After a meeting on 11<sup>th</sup> September to consider the matter the Golf Club replied as follows:-

I have to acknowledge receipt of your letter of 2<sup>nd</sup> instant, to the Golf Club enclosing the Town Council's proposals for settlement of the present controversy about the road recently constructed by the Council from the Clubhouse to the Beach. The Golf Club has carefully considered these proposals and notes with satisfaction that as a solution of the question at issue the Town Council are prepared to erect at the corner of Church Street a sign board bearing a notice (pointing down Church Street) "This road for motor cars to the Beach", and at right angles another notice (pointing along Golf Road) "This way to the Golf Course". As it is assumed that it is the intention of the Town Council in erecting such a sign board would be that directions given by it should be observed and that the road thereby indicated, and not the road to the Golf Course, be used by motor cars going to the beach, the Club feels confident that the Town Council, in order to carry its expressed desire into effect, will be willing (1) to cause a remonstrance to the owner or driver of any motor car which in disregard of the directions given by the Council's sign board uses the road via Golf Road and the Golf Course for getting to the beach, and (2) to enact a Bye-law including power to impose penalties on anyone who wilfully disregards the Council's directions. For the Town Council to erect a sign board the directions of which it had neither the intention nor power to enforce would serve no purpose whatsoever, and would, it is thought, hardly be consistent with the honour and dignity of the Council. In requesting the Town Council to take these steps to make these notices effective the Golf Club takes the view that it is simply asking the Council to carry into effect proposal to which the Council have already agreed, and this the Club feels sure the Town Council will not refuse to do.

Upon the Town Council undertaking to make the directions of the sign board effective in the manner above described the Golf Club would consider that a sufficiently satisfactory solution had been reached and would be prepared to use its best endeavours with the Complainers and others with a view to getting the pending legislation settled, and the present controversy forgotten by all. In further of such a settlement the Golf Club hereby repeats its offer to contribute to the cost of putting in better repair the Littletown track which has recently been used by motor cars going to the beach, and which would be the route indicated by the Town Council's sign board.

The Golf Club further desires to add that in view of Head 5 of the Town Council's proposals no question as to the regulation of the use by motor cars by the road from the Club House to the beach would now appear to arise. If the directions upon the Council's proposed sign board are to be observed, and it is presumed that the Council after erecting the sign would insist on this, all beach bound motor cars will in future use the Littletown route. Accordingly in the opinion of the Club Heads 2 & 3 of the Council's proposals (and the further specifications thereof mentioned by the Provost to the Captain of the Club on 4<sup>th</sup> instant but not yet formally submitted by the Council) are now superceded and need not further be discussed. If the Club has

misconceived the purpose of Head 5 of the Council's proposals it would respectfully request the Town Council to elucidate their proposals further and in particular state what would be their purpose and intention in erecting the sign board referred to in Head 5, for at present the Club is unable to reconcile Heads 2 and 3 of the proposal with Head 5.

This was signed by the Secretary and sent off to the Town Clerk.

It had looked as if the Town Council had given up, and that the Golf Club had gained what it had been seeking. Indeed the Council's proposals of 24<sup>th</sup> August seemed to suggest that. However, if they thought that they were to be disillusioned quite quickly. Less than a week later another letter, together with a copy of a resolution by the Town Council arrived for the Secretary, from the Town Clerk. This read as follows:-  
The Golf Club have clearly misunderstood the proposals of the Town Council. The object in accepting the proposal for the erection of the notice board at Church Street was, that if in the future such an increase in motor traffic as the Golf Club seems to contemplate, such motor traffic would as far as possible be diverted by the road through Littletown and so prevent the possibility of interference with the game of Golf as the Complainers contend. It was stated quite clearly at the Conference that the Town Council did not agree to prohibit cars going by the top road to the beach. The Town Council have already stated their willingness to regulate if necessary the traffic for motor cars as set forth in Nos. I, II, and III. The Town Council, if satisfied that at any time during the months of July, August and September, it is reasonable in the interest of Golfers to regulate the motor traffic on the said road, are prepared to prevent cars using the said road from 8 o'clock to 11.30 forenoon.

It was remitted to a Committee of Messrs. MacLeod, Macdonald, Phimister and Robertson to draw up a reply to this, to be handed to the Secretary to be communicated to the Town Clerk. They eventually got round to this to write a letter to the Town Council on 8<sup>th</sup> October. It read as follows:-

At a Golf Committee meeting held on 7<sup>th</sup> October the resolutions adopted by the Town Council at their 18<sup>th</sup> September meeting were considered.

The Committee note the Council's object in accepting the proposal for erecting notice boards at Church Street, but regret they cannot reconcile the expressed desire "to prevent the possibility of interference with the game of golf" with the statement that they "did not agree to prohibit cars going to the top road to the beach".

The Golf Club's idea in suggesting the erection of notice boards was to secure that all beach-bound motor vehicles go by the Littletown road, and one road is enough. On that condition the Golf Club are prepared to contribute to the bettering of that road. If the old track to the quarry is to be used by motor vehicles going to the beach the Club will make no contribution towards the Littletown road. We hope this is quite clear.

At the conference on 24<sup>th</sup> August Provost Murray and Councillor Ian Campbell said they would send their own cars by the Littletown route to the beach, and so observe the Council's order on the proposed notice board. This gesture was appreciated by the Golf Club and it only remains for the Council to secure that the example be followed by other motorists. Clauses (1) and (2) of our Sept. 14<sup>th</sup> letter are considered necessary for that purpose. Clause (1) might be quite sufficient to stop motoring on the top road; if so the proposed Bye-law might never need to be enforced if motorists followed the examples quoted above. And surely the Council recognise they must have power to enforce the idea expressed on the proposed notice board. With these guarantees the

Committee are supporting them in maintaining up to its present standard the long established industry which has made Dornoch prosperous, but without them the Town Council must realise that Golf in Dornoch and Dornoch itself will decay. All we ask is that the Town Council take the necessary steps to see their own desire as expressed at the conference by the Provost and Councillor Campbell that all motor traffic go by the Littletown Road, be effectively carried out and without the guarantees asked this cannot be done.

This letter did not receive a reply. This hardly surprising as it simply asked the Council to do what they had consistently refused to do up to this point.

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In the meantime, back on 4<sup>th</sup> August, a dreadful rumpus had broken out within the Town Council. Councillor H.F. Campbell, who was known to favour the Golf Club side, attempted to introduce a motion that in view of the excessive load of taxation falling upon the Burgh in the current year, and the small prospect there is of any relief in the years to come, steps be taken to settle the litigation in the Court of Session in regard to the new road to the beach. The Provost said he had allowed the motion to be read out simply so that everyone might hear its contents, but as Mr. Campbell took up exactly the same position as when the action was served the motion was barred under Standing Orders. It implied that the Council was averse to discussing matters with the Golf Club, and he went on to explain at considerable length that the Council wished to take a common sense view of matters, and were perfectly willing to meet the Golf Club. He then read out his letter to Mr. Buist, which the Council instructed the Town Clerk to send to the Golf Club. Councillor I. Campbell, in a letter to the Town Council, put forward a motion to now record in the Minutes of the Council that the Town Council will regulate the use of motor cars over the road across the Golf Course and the prohibition of trailers and charabanes over the said road and that in accordance with the previous findings of the Town Council which was not then minuted. The Town Clerk then took strong exception to the suggestion that the Minutes were incomplete. In a lengthy explanatory memorandum he quoted the Minute of 9<sup>th</sup> December and denied that any such motion was ever passed. He felt that the motion was incompetent, and again took strong exception to the concluding sentences. The Provost then ruled that the motion was competent and criticised the Town Clerk for his memorandum. He put forward the motion in an amended form: To record in the Minutes of Council that it was the intention of the Town Council in December in deciding to repair the road to the beach to regulate the use of cars upon the said road and to prohibit the use of trailers, charabanes and other heavy traffic upon same though the recording of said fact was not then executed. Councillor I. Campbell seconded. Treasurer Sutherland moved the previous question seconded by Councillor H.F. Campbell who made a lengthy speech on the duties and responsibilities of the Town Clerk, stating that he was glad that the Provost had made it clear that there was no suggestion of partiality on the part of the Town Clerk by any omissions from the Minutes. The Provost's motion was passed by three votes to two, with Councillor McHardy abstaining and Councillor H.F. Campbell dissenting. It has to be said that the Provost's running of this meeting was odd, to say the least. Not only did he prevent what appeared to be a perfectly reasonable, if useless, motion, by Councillor H.F. Campbell on the Standing Orders pretext but he then allowed a motion which altered the Minutes of the Town Council seven months after their approval on 13<sup>th</sup> January, attacking his own Town Clerk in the process. On 24<sup>th</sup> August the

Provost added fuel to the fire. He stated that motor cars were being driven over the Littletown track and then diverting north eastward to the bathing huts. By doing so the Bye-laws were being contravened and a notice board should be erected in the following terms:- No road for vehicular traffic, anyone driving a vehicle across will be prosecuted in terms of the Bye-laws. This was accepted by the Town Council, but really it was utter rubbish. The Provost wished to encourage motor vehicles to use the high route but ban the use of the low route. The Burgh Bye-laws adopted in the 1890s did not differentiate between one track and another, so traffic could use either route or none. In effect it would be none as the high route was blocked by the Interdict and the low route by the Town Council.

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Now an outside agency entered the argument. Dr. Bentinck, Cathedral Minister, and the Rev. Wm. Macleod, Free Church Minister, put forward a proposal for settlement. This was considered by the Town Council on 7<sup>th</sup> October and by the Golf Club Committee on 28<sup>th</sup> October. It read -

In the interests of the Burgh, and to avoid costly litigation at this time of national distress when economy is so urgently needed, the Dornoch Town Council and Golf Club Committee agree to settlement out of Court of the question in dispute between them, viz:-

1. That the low road to the beach through Littletown be made suitable for motor traffic whenever the necessary funds are available, and that this road, when completed, be designated by a signboard as the "Road for Motors to the Beach". Another signboard be erected at the same corner indicating "The Road to the Golf Course".
  2. That should the road from the Clubhouse to the beach, notwithstanding the directions of the signboards, be used by motors so as to be detrimental to the interests and the playing of golf, the Town Council undertake to protect those interests by such measures as may be most effective, and to divert motor traffic to the beach by the road through Littletown from Mid-July until Mid-September in each year.
- This to be an amicable settlement, which does not enter into the merits of the case.

The Town Council resolved that the proposals be accepted as a basis for a settlement and that representatives of the Council and the Golf Club should meet together to endeavour to come to an understanding and draw up an agreement that would be acceptable to both parties, and the Rev. Dr. Bentinck and the Rev. Wm. Macleod be invited to be present. The Golf Club resolved that Messrs. MacLeod, Robertson and Phimister be appointed to confer with the Town Council and the ministers on 29<sup>th</sup> October.

Before the Conference could be reported on there had been an election on 3<sup>rd</sup> November, as a result of which there had been a change of Councillors, but not a change of Provost. When the new Council did meet H.F. Campbell, now Junior Bailie, moved, seconded by Councillor Mackintosh, that in view of the heavy assessments for the current year of 13-10 and that the litigants have settled the Court of Session case regarding the road to the beach the Town Clerk be instructed to withdraw the agency forthwith from Arthur & Macrae, and request them to lodge the accounts. Provost Murray, seconded by Councillor McIntyre, moved that the motion not be entertained.

as it was incompetent. The vote was 5-4 for the Provost. This was probably correct as the case had not been settled, merely an agreement apparently arrived at between the Golf Club, the Complainers, and the Town Council. The Minute of the Conference with the Golf Club and the ministers was then read. Bailie Campbell, seconded by the Provost moved that the Minute and related proposals be now confirmed. This was done. The Town Council resolution was as follows:- The Provost moved, seconded by Councillor I. Campbell, that the Council accept the document submitted by the ministers as interpreted by four questions annexed as a basis for settlement. Both parties agreed to accept the document as a basis for settlement (by this time the pretence that the Complainers, Ross and Robertson, were acting on their own initiative rather than as a front for the Golf Club had been dropped) and the Town Council agreed to accept the document as interpreted by the questions. The Golf Club agreed to put the four questions before their Counsel. The Provost then raised the question of expenses. Mr. Hynd, acting for the Complainers, offered that each should pay their own expenses, but the Provost refused to accept this. He stated that the question of expenses should be settled by Counsel. The questions submitted by the Provost to the Conference were as follows:-

1. Does the document embody the recognition that cars can go on both roads?
2. Do you agree that the Town Council erect notice boards at the junction of Church Street?
3. If the Town Council finds during the summer months motor traffic by the upper road is detrimental to the interests of golf the Town Council would take such steps as are competent to them to divert traffic to the low road
4. Do both parties agree that these data be submitted to Counsel in order that a settlement be arrived at?

Opposite each question, as recorded in the Minute Book of Dornoch Town Council is marked a large "YES". Each page of the Minute is signed by John Murray, Provost. It should have been all over, again, but of course, it was not.

Just what the problem was after seemingly reached agreement is not entirely clear. It seemed that the Provost took exception to something relating to the Bye-laws, exactly what has not been revealed; certainly the Bye-laws were not mentioned in the apparent settlement, although he had been prepared to use them to his own advantage at an earlier stage. At any rate at this point Lord Rothermere, proprietor of the "Daily Mail" and owner of Burghfield, formerly Northfield and subsequently the Burghfield House Hotel, stepped in to knock some heads together. A Conference was called, to be held at Burghfield, and took place on 19<sup>th</sup> November, 1931.

Present at the Conference were Provost Murray and J.H. Arthur, representing the Town Council, James Hynd, Solicitor, representing the Complainers, D.F. MacLeod, representing the Golf Club, Rev. Dr. Bentinck and Rev. Wm. Macleod in the interests of both parties, with John Cowley and Dr. Neal representing Lord Rothermere. The recently drawn up Joint Minute was the basis for discussion. This Minute the Complainers agreed to adopt, but the Respondents declined to do so although it bore the signature of their own Counsel. Mr. Cowley having made an opening statement invited Provost Murray to make clear what he objected to in the Joint Minute, and having done so it was remitted to Mr. Hynd and Mr. Arthur to endeavour to draw up recommendations which would satisfy both parties. Their recommendations, which were to be added to Clause 2 of the Joint Minute were:-

We, J.H.Arthur and James Hynd, representing respectively the Town Council of Dornoch and the Complainers, are agreed that an expression can be framed that will eliminate the word Bye-law and in its place one which will protect the interest of the Golf Links as hitherto, will have consultations with our respective Counsel, with whom we will in conjunction frame such an expression. Mr.Cowley's suggestion is that in order to eliminate "Bye-law" a phrase could be invented which could provide that on a complaint from the Golf Club or others, notwithstanding the sign-posts, that such complaint, in the opinion of the Golf Club and the Town Council, the Town Council would take such steps as are competent to them under the powers vested in them under the authorities and laws governing such matters to protect those interests and divert motor traffic to the beach by the road through Littleton, from mid-July to mid-September, in each year.

On the above recommendation being read over all the above gentlemen agreed to the terms therein stated, and it was agreed that as the settlement was so fair to all parties it was unnecessary to consult Counsel, and that the representatives of each side agreed unanimously that all legal proceedings be withdrawn forthwith, and that a formal Joint Minute be prepared by and signed by their respective Counsel.

This was signed by John Murray, C.D.Bentinck, W.M.Macleod, D.F.Macleod, James Hynd, J.H.Arthur, Dr.Neal, J.Cowley.

In due course the result of the Conference was given to the Committee of Management of the Golf Club and to the Town Council, with somewhat different if in the end the same results. On 21<sup>st</sup> November, at noon, this was reported to the Town Council. Councillor I.Campbell, seconded by Councillor McIntyre, moved that the document be accepted by the Council. Treasurer Sutherland, seconded by Councillor Mould, moved an amendment "That in my private opinion there is a doubt about the accuracy of these documents, and that the Council delay accepting them until the doubt is removed." In the event five, including the Provost, voted for the motion and four for the amendment. What the doubt may have been was not stated but there was a further meeting on the same day, at 7 p.m. The Provost had called the meeting to reconsider the Terms of Settlement and related findings as there was some misunderstanding at the meeting earlier in the day. Councillor Campbell, seconded by Councillor McIntyre, moved that the Council approve and accept the documents, and this was unanimously approved. The Provost was authorised to sign the documents in the name of and by appointment of the Council. What the misunderstanding had been was not stated.

On 24<sup>th</sup> November in the Golf Club Committee of Management the same report resulted in the Committee unanimously resolving to record their thanks to Mr.D.F.Macleod for his services in attending the Burghfield Conference and for the part he had played in this matter.

On 12<sup>th</sup> January, 1932 the Provost intimated to the Town Council that a settlement had been arrived at and called upon the Town Clerk to read the Minute adjusted by Counsel on both sides taking the case out of Court. The Town Clerk reported that he had received no Minute of Settlement but that he had been sent a letter dated 21<sup>st</sup> December last in the following terms:-

Dear Sir,

We now write to report to you that the action at the instance of Mr.H.M.Ross and Another V. the Provost, Magistrates and the Town Councillors of Dornoch has been taken out of Court.

You will please give instructions to have the Notices at the Club House taken down.

Yours faithfully,

Arthur & Macrae.

The Provost was surprised that a copy of the Minute had not reached the Clerk, and the Council instructed him to make application to Messrs. Arthur & Macrae for a copy of the documents so that it might come before the Council at the next meeting.

At the Town Council meeting on 2<sup>nd</sup> February, 1932 the Joint Minute was read, with an additional clause (3) except in so far as expenses of the action have already been dealt with by the Court no expenses shall be due or payable by either party to the other.

The minute from the Court of Session read:-

Lord Pitman interpones authority to the Joint Minute No.20 of the process and in respect and in terms thereof discharges the diet of proof meantime appointed for a date to be afterwards fixed; he refuses the prayer of the Note of Suspension and Interdict and decerns; he finds no expenses due to or by either party except in so far as expenses have already been dealt with by the Court.

Signed: J.C.Pitman

It was all over, or at least that bit of it was.

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The top road to the beach had been settled, although it was not until 5<sup>th</sup> April that the Town Council instructed the contractor to complete the work from the Golf Club House to the beach. The poor man was probably wondering if he was ever going to be paid all his money. It was reported that he still had £20 to get. It was pointed out that the road was to all intents and purpose completed, but not up to specification, according to the Provost. In the meantime there had been a meeting on 10<sup>th</sup> March at the Club House between representatives of the Golf Club and the Town Council regarding the Littletown road to the beach. The Golf Club wished to have this route suitable for motor traffic by the start of the golfing season. Funding was one problem – some things never change – and it was decided to issue a joint appeal for funds to members of the Golf Club and others. The suggestion by the Golf Club of a joint committee to administer the fund and carry out the work was turned down flat by the Provost – the work of reconstruction would be carried out by the Council and would not be delegated to any other body. A visit to the site produced another difference of opinion.

The Golf Club wished the road to terminate to the south west of the Bathing Huts, while the Town Council, i.e. the Provost, wished the road to join the high road, thus forming a circular route. (The Bathing Huts were placed about ten yards to the east of the present childrens' swings. This seems far from the sea today but the sea has receded, and the bent grass moved out, at least 100 yards since those days) In the event, as can be seen today, the circular route was eventually chosen. The Burgh Surveyor, E.W.Brannen, was to prepare specifications and estimates for both routes.

On 5<sup>th</sup> April, 1932, the specifications and estimates by the Burgh Surveyor for the reconstruction of the Littletown route were submitted. The estimate was for a cost of £500. This seems extraordinary given that the cost of reconstructing the top route, of more or less the same length, was only £80 a few months previously. One Councillor immediately demanded a lower estimate but, after a vote, it was agreed that at least 150 yards would be constructed, with the remainder of the work to be carried out as finances were subscribed.

On 3<sup>rd</sup> May, 1932 the offer of D.Maclean, Church Street, Dornoch to execute work conforming to the plan and specifications was accepted, for the sum of £362: 15/-. The notice for the contractor to proceed was not to be given meantime until funds were procured to proceed with at least 150 yards. The Council recommended to the contractor that local labour be employed so far as was possible.

The Golf Club were now trying to make sure that funds were available so that the work would go on. The Secretary reported on 2<sup>nd</sup> June that he had received a cheque from the Captain for £25, being a subscription from Mrs.Carnegie of Skibo towards the fund being raised by the Golf Club for making the low road through Littletown to the beach suitable for traffic. On the suggestion of the Captain he had opened a special bank account at the Bank of Scotland in the name of the Club for the purpose to be operated by himself as Secretary and Treasurer. On a further suggestion of the Captain he had arranged a credit with the Bank of £150, should it be required before receipt of sufficient subscriptions, to meet the contractor's instalments, so as to enable at least the minimum section of road undertaken to be constructed by the Town Council to be completed by mid-July at latest. It was agreed that before any money was disbursed to the Town Council on account of the road that the Council undertake to erect the sign-boards mentioned in the Burghfield House settlement. There was a correspondence between the Captain and the Provost on this subject, but what it said was not revealed. In addition the Provost had refused to sign the Joint Appeal to be issued by the Captain and the Provost. It was resolved that to avoid unnecessary delay that the Captain and Secretary would themselves issue an appeal to the members, and to any other interested parties.

Next day, 3<sup>rd</sup> June, the Town Clerk submitted the accounts of Messrs. Arthur & Macrae, Solicitors, Dornoch. These were detailed as:-

Messrs. Arthur & Macrae:	£91: 3: 3.
Messrs. Macleod & Rose:	£227: 17: 3.
To which are added the following:	
Pursuers Agent's expenses of Hearings in Procedure Roll and First Division:	£57: 17: 5.
Other miscellaneous Accounts:	£9: 7: 3.

TOTAL: £386: 5: 4  
Less paid to Account by Town Clerk: £100: 0: 0.

The offer by the Agents in the covering letter to modify the amounts if the Council so desired was, naturally, accepted.

When the Town Council met on 7<sup>th</sup> June the Provost, seconded by Councillor McIntyre, moved that the Report of the Finance Committee be accepted. However Councillor Mould, seconded by Treasurer Sutherland, moved an amendment that payment should be delayed until such time as the amount of modification was ascertained. Voting was three for the amendment and five for the motion. Bailie Campbell dissented.

After this a letter from the Golf Club was read. They had completed arrangements whereby that at least the minimum part of the road to the beach via Littletown undertaken to be constructed could be financed, and instalments to the contractor met by the Golf Club. The Committee considered that 15<sup>th</sup> July was the latest date for completion of the first section, which should more than clear the 14<sup>th</sup> hole. 15<sup>th</sup> July was, moreover, the date specified in the Burghfield House Agreement from which motor traffic was to be diverted from the upper to the lower Littletown route by the notice board to be erected by the Council at the junction of Church Street and Golf Road. The Council accepted the offer and the Town Clerk was instructed to ask the contractor to proceed with the work immediately on receipt of the required funds. However, the Provost ruled that notices could not be erected until the entire road was completed. This was no doubt a correct decision, but was also a good delaying tactic in that no one knew when the road would be completed – only 150 yards were to be made at this time.

On 5<sup>th</sup> July a letter was read from Messrs. Arthur & Macrae to the effect that the deductions allowed by themselves and their correspondents from fees in connection with the action was £22: 16: 8.

On 2<sup>nd</sup> August it was resolved by the Town Council to borrow £250 towards payment of the outstanding account. Treasurer Sutherland and Councillor Mould dissented.

On 3<sup>rd</sup> August at the Golf Club Annual General Meeting the Captain moved, seconded by H.D.Bright, that an appeal be issued to the members of the Club and others interested to contribute towards meeting of legal expenses incurred by the Complainers in the recent action with regard to the road across the links, and that authority be given to the Committee of Management, if necessary, to make a contribution for this purpose from the funds of the Club. Provost Murray, seconded by Sheriff Substitute J.W.Forbes, moved that authority be not given to the Management Committee to contribute any of the funds of the Club towards meeting the balance of the Complainers' legal expenses. The Captain's motion was carried by thirty seven votes to eight.

In the meantime there had been correspondence between Mr. Cowley, Chairman at the Burghfield Conference, the Captain, and the Provost. Mr.Cowley's letter, dated 20<sup>th</sup> August read:-

On my return to Dornoch for a few days I am greatly surprised, to my very great regret, that the unfortunate dispute regarding the beach roads is still simmering, and not as I expected find, finally closed, with complete good will on both sides.

This position is most regrettable. In November last, when I had the pleasure of meeting the representatives of the respective parties, after hours of discussion on all points of the dispute, an agreement was drawn up and signed by every representative present. Everybody left with the feeling that a most unfortunate incident in the history of Dornoch had been satisfactorily dealt with. It only remained for the spirit of the agreement to be carried out by both parties, with mutual goodwill and thought of the position of each party.

It really seems to me that if that spirit of goodwill and understanding of the agreement were adopted, the minor difficulty which has now arisen is quite simple of solution. My recollection of the cost of the road through Littleton to the Beach was that something like £250 or £300 would enable all the work to be carried out that was necessary, which would be "suitable for motor traffic".

These words I am sure you will agree were obviously intended to imply that such a road would be suitable for motor cars, used by visitors and others during the holiday season - Mid-July to mid-September.

Now, Mr. Provost, I suggest that you and your colleagues, together with the representatives of the Golf Club, get together at once, and fix the cost of the necessary work at say £300, which sum as I understand it, would provide a road, which would be in the spirit of the agreement, and would be of sufficient strength and quality to serve the purpose. I have inspected the site of the proposed road to the beach, and I think, that if it is made to the end of the present cart track, which is one of the nearest points to the beach, it would not spoil the green sward which is such an attraction to the townspeople and visitors.

As you know, I have taken a keen interest in this matter, and it would give me the greatest satisfaction to hear in due course that the whole problem has been satisfactorily and honourably settled.

For the information of the Golf Club Committee I have sent a copy of this letter to Sheriff Mackintosh.

Believe me,

Yours sincerely,

(Signed ) John Cowley

It is fair to say that the Provost did not appreciate getting this letter, which is why it is in the Golf Club Minutes but not in those of the Town Council.

At any rate, at their meeting on 6<sup>th</sup> September the Town Council agreed to meet representatives of the Golf Club. Treasurer Sutherland, seconded by Councillor Mould, moved that the Council meet with the Club's representatives in friendly

conference, with one of the ministers who had attended the Burghfield Conference. This resulted in a 3-3 split, and the Provost gave his casting vote for the motion. The fact that such a motion was put forward at all suggests that the conference might not have been so friendly, a point supported by the voting figures.

At the same meeting a letter from the Provost was read out which observed that a charabanc belonging to the Highland Transport Company had passed over the road to the beach. The Town Clerk had been instructed to erect a notice board at the Golf Club parking place with the words "No charabancs beyond this point" This had been done.

On 13<sup>th</sup> September the representatives of the Golf Club – Sheriff Mackintosh, A.S.Bright, R.Robertson, J.G.Macdonald, and J.G.Phimister – met the Town Council. Sheriff Mackintosh read a letter sent to the Provost by Mr.Cowley, Chairman of the Burghfield Conference, asking the Council if they would agree to certain suggestion in the letter relating to costs and the terminus of the proposed road to the beach via Littletown. The Golf Club was asked to submit the proposals in writing, a somewhat odd request as the Provost already had most of this in the letter received from Mr.Cowley. These were dated 24<sup>th</sup> September and were put before the Council on 11<sup>th</sup> October. However their consideration was postponed until 4<sup>th</sup> November. The proposals were as follows:-

1. That the Littletown road to the beach be made suitable for motor traffic for a distance of 440 yards or thereby, starting at the iron gate and ending at a point marked by the Committee with a stake in the ground at the South West of the Bathing Huts.
2. That provided the Council agree to make the road to the extent indicated, and that the cost thereof does not exceed £300, the Committee will be prepared to find the necessary funds for the execution of the work.
3. That when the above work is completed the signposts mentioned in the Minute of Agreement will be erected.

Councillor Mould moved, seconded by Treasurer Sutherland, that the Council accede to the Golf Club's request. The Provost, seconded by Bailie McHardy, moved an amendment that the Council did not accede to the Club's request, but submitted alternative proposals:-

(I) That the Town Council is willing to proceed with the construction of part of a road to the Bathing Beach via Littletown when cost of same is deposited, and to proceed with the remainder, to erect notices directing traffic that way from July to September each year, when cost of remainder is also provided, and access to the Bathing Boxes and Bathing at the rocks can be attained by this route; or (II) To proceed with the construction of a cheaper road all the way with the sum offered, provided the Golf Club undertakes to pay the Town Council from time to time the cost to keep such a road in reasonable repair for motor traffic to the Beach beyond the houses at Littletown, and there be a turning at the terminus of the road.

Councillor McIntyre, seconded by Councillor Arthur, moved an amendment that the Council did not depart from their previous finding.

Voting was three for the first amendment and three for the second amendment, the Provost then giving his casting vote in favour of his own amendment. Voting for the amendment was then six, against three for the original motion.

This must have been too much for the Golf Club who promptly withdrew their offer of £300, the Council being informed of this on 7<sup>th</sup> February.

Effectively that was the end of the matter. The rest is silence, with no further mention of it in either Golf Club or Town Council Minutes. Was it all over? One suspects that the Golf Club were by this time totally fed up with the Provost's attempts to delay or even subvert the Agreement which he himself had signed. The top road to the beach was a fact, and the alternative route could wait.

### The Aftermath

What is certain is that eventually both roads were duly completed, with the Provost's circular route being preferred for the low road. How it was paid for, in the absence of the Golf Club's £300, is not clear. In fact both roads, while passable by motor vehicles, remained rough tracks until they were eventually tarred in the 1950s. Now they are maintained by the Highland Roads Department to a good standard, although their twisting nature leaves something to be desired, except to keep down the speed of traffic. From the golf point of view the tarring of the roads was a relief as it is easier to play a ball off the tarmac than off the previous rough track. Traffic to and from the beach did become a severe nuisance and impediment to playing golf from the 1<sup>st</sup> tee and eventually, in the 1960s, a tee was constructed to the north of the road, although the medal tee remains to the south. As W.G. Moore forecast years earlier, it does spoil the hole. However the hole that was really spoiled was the 14<sup>th</sup>, when the Littleton route was completed, not because of beach traffic but because of the creation, in the 1950s, of the Dornoch Caravan Site where it is today (on the site of the rubbish dump it might be pointed out – this would not be allowed today). The tee was situated high above the fairway, at a level about 2/3 down the first fairway of the present Struie Course, onto a flat fairway and then across the Dornoch Burn to the green. With the advent of the site it was quite possible to hook into the caravans parked along the perimeter fence, and equally possible to hit a drive and find a speeding car and the golf ball heading for the same space. The tee was moved across the road, turning the hole into a difficult par three. The green was moved back across the Burn to the north, and then the Town Council of the day decided to re-route the Burn in front of it, with as before a fine disregard for the playing of golf, to try and improve the flow of this sluggish stream. This had little effect, and the Burn tries to return to its original tortuous course in wet weather. A request to Sutherland District Council from the Golf Club in the 1980s to restore the original course of the Burn was turned down flat. The hole, or holes, in the area are now quite different but at the time the 14<sup>th</sup>, or 2<sup>nd</sup> of the Struie Course as it became, was ruined. However, despite the forebodings mentioned in Statement 3 at the Court of Session the roads have had little effect on the playing of golf elsewhere. Off the old 18<sup>th</sup> tee the golfer was more likely to hit someone on the 1<sup>st</sup> tee than hit traffic on the road. At the 10<sup>th</sup> (present 16<sup>th</sup>) the road is well away from play, or should be. At the 12<sup>th</sup> green (present 18<sup>th</sup>) the old track was there anyway, on the left, and has been used as much by pedestrians as motorists. The hazard of use of the road was nothing new. The medal tee at the 13<sup>th</sup> (present 1<sup>st</sup> on the Struie Course) is north of the road, playing across it, but is seldom used.

In August, 1934 the Hon. Esmond C. Harmsworth, son of Lord Rothermere, became Club Captain two weeks after becoming a member of the Club. This may have been a

move by Lord Rothermere to prevent the same sorry mess happening again, but more probably it was a reward for father's services towards the resolution of the problem. Similarly Alex. Whyte (see below) became Captain years later, having ensured that the Club had a supply of whisky during the post-war shortage when they finally obtained a liquor licence.

In 1955 the then Club Captain, A.W. Whyte, one of the Whytes of Whyte and Mackay whisky, who only visited the Club for brief periods and who would have had little or no knowledge of the events and passions of 1931, wrote to the Club Council of Management, as the committee was now known, regarding the position of the road at the 1<sup>st</sup> tee. The Council unanimously agreed that it would not support any approach to the Town regarding this question. The Secretary was instructed to write to the Captain and explain the situation, and to mention that the matter could be brought in front of the proper authorities by a private individual, but that the Golf Council felt that the matter had caused enough friction in the past, and did not wish to be implicated.

In the 1960s the Golf Club applied to the Town Council for permission for golf to be played on the links on Sundays. This was eventually given, but not before there was further controversy in the community. During that time I went into Gillespie's, the local newsagent. The only people in the shop were the owner, Willie Sampson, and his assistant, Angie Munro, both in their 60s at the time, which meant that they were in their 30s when the "Road to the Beach" controversy raged. Knowing that I was a member of the Golf Club Council of Management they tackled me with some vehemence on the subject of Sunday golf. When I pointed out that it was not as controversial as the Road to the Beach had been they immediately attacked each other, having quite different but equally firmly held opinions on the subject. The argument continued to rage with some ferocity as I walked out of the shop.

In the late 1970s, 1980s, and again in the 1990s Highland Council's Roads Department were asked to introduce "sleeping policemen", now known as traffic calming measures, in fact raised bumps in the road to slow traffic, on the road at either side of the 1<sup>st</sup> tee. These requests were turned down, at first on grounds of their legality – probably nonsense as they were in place at the time on the old A9 near Blair Atholl – and latterly on grounds of economy. As it happens, to date, there have been no accidents in the area but where there is a road there will be some speeding traffic and people wandering to the tee or to the Club House do not pay too much attention to the traffic. Originally the entrance to the Club House faced east, then was changed to south, meaning that people leaving stepped straight onto the road. Another reconstruction restored the east facing entrance and this is much safer.

From time to time the Golf Club tried various methods of avoiding problems between users of the tee on the south side of the road and traffic on the road. Once they tried having men with red/green, Stop/ Go signs at each side of the 1<sup>st</sup> tee. This was not a success. Generally it was down to the competition starter to keep an eye open for approaching traffic and warning the golfer on the tee, although on at least one occasion there was a ludicrous situation when the starter tried to stop a car approaching from the beach and then sat on its bonnet, right in front of the tee, when the motorist kept coming! When Sheriff Booker Milburn produced the Court of Session agreement the Golf Club felt that it had the right to close the road during major competitions. In fact it should have been done in consultation with Sutherland

District Council which had replaced Dornoch Town Council but the system of placing "Road Closed" signs at the junction of Kennedy Avenue and Golf Road, and at the beach end of the high road from the beach worked well enough, and still does although the system in 1998 is slightly different. For several years the Golf Club did its own thing, until Councillor Ron Macdonald from Brora, a member of the Highland Region's Roads Committee decided to visit the beach during the Carnegie Shield tournament. He was somewhat upset to find that the road was closed. Nowadays the Golf Club Secretary notifies the Roads Department of the days on which the Club wishes to have the road closed and they put up notices to that effect, and advertise in the local press.

### COMMENT

What does one make of this affair? Was it an attempt by the Town Council to carry out its civic duty, to provide the means of getting to the beach for the increasingly popular motor car, or was it a power struggle between two men, each of whom was accustomed to getting his own way in his own domain? The answer is probably, a bit of each. It was a petty, parochial and probably unnecessary dispute which stirred up the community in which it was set, leading to life long animosities, and costing more money than either side in the dispute could afford. It is known how much the affair cost Dornoch Town Council in terms of the cash for the legal fees and road construction, and they never had any funds to spare – indeed in June, 1931 the Town Clerk reported that the Council was in a grave situation financially, having overspent the budget by £546: 15: 3.. What is not recorded is the cost to the Golf Club, but rumour has it that they had received a substantial legacy about this time, and spent it on the legal action. In any case they had to resort to an appeal to the members to raise the money for the Littletown route.

John Murray was a powerful man, physically and in local politics. He had been a tea planter and retired in his 40s. The longest serving Provost of Dornoch, from 1922 to 1946, he was an autocrat and accustomed to getting his own way. This was to be no exception. Whatever he agreed to he twisted and turned to get what he wanted, which was that the road to the beach would take the high route via the 1<sup>st</sup> tee. He was willing and able to use the system, and his control of the Town Council, to further his own ends, one suspects by dubious means at times. Lord Rothermere was probably a bit too powerful for him to confront directly but at the end of the day he did not carry out what he agreed to at the Burghfield conference, or if he did it was not for a very long time, certainly not in time for the next golfing season. This was not the last controversy with which John Murray, or Murray Balloan as he was usually referred to, was associated. He was a staunch Free Presbyterian, and in 1938 the Rev. McQueen, minister of that church in Inverness, was staying with him. After the minister and the elder Murrays retired to bed the teenage Murray children and friends decided to have a dance – totally anathema to the F.P. Church. Word got out about this later and the F.P.s indulged in one of their orgies of self destruction, much as they were to do years later concerning the Lord Chancellor, Lord Mackay of Clashfeam. The Murrays and the Rev. McQueen were forced to leave the Church. The former joined the Free Church while the latter set up his own church in Inverness.

John Sutherland was Secretary to the Golf Club from 1883 to his death in 1941. He had built up the Club from nothing to one of the most eminent in the country. While

the Golf Club minutes have repeated references to “the Secretary was instructed” to do this or that this was only a form of words. He decided what was to be done, and was not instructed about anything after 48 years in the post. In his own realm, lesser than that of the Provost, he was an absolute ruler. While this account has him in the slightly absurd role of writing letters to himself he must have been in a difficult position in his two, contradictory, roles. At any rate he kept his head below the parapet, letting others do the work, writing the letters, taking out the interdict, attending the meetings and so on. The only time he appeared at the front was when the Provost altered the Minute of 9<sup>th</sup> December, 1930, and even then he was overruled. One thing is certain – Messrs. Ross and Robertson would not have put their names forward for the legal action without the support of the Golf Club Secretary, and probably the promise of financial support from the Golf Club. The Provost, rather meanly, did try to block the latter at the AGM, no doubt adding to the bitterness that had developed.

What Lord Pitman would have decided we will never know as the case did not come to proof. He was interested in whether this was the repair of an existing road, or the construction of a new road. The track had existed for a long time – before golf was played on the links, according to one statement. However the specification called for it to be 10 feet wide, and for the provision of passing places for motor vehicles. It sounds more like a major upgrading of a previous rough track, but that could not be the case given the £80 budget and the speed of completion by only three men working manually. While it had been said early on in the dispute that repair of the Littletown route would cost four times as much as the high route Burgh Surveyor Brannen’s estimate of £500 for the work seems to have been excessive, indeed over 30 % higher than the offer by the Contractor, D.Maclean. He may have got his sums wrong; on the other hand he may have been told, privately by someone, to pitch the price as high as possible to discourage the Golf Club from paying for the work.

Two mysteries remain. Why was the Provost so adamant that the high route was the one to be used of the only two available? There is little doubt that the Council had to upgrade one or other road to accommodate the increasing traffic to the beach but it made no obvious difference, other than cost, for the Town Council to insist on one route rather than the other. It seems that the Golf Club were never consulted as to their preference, which was poor Public Relations apart from anything else. Was it an attempt by the Provost to exercise the Council’s control over the Common Good lands? It could well be, like many another Councillor over the years, that he resented the Golf Club’s use of such a large expanse of the Common Good land, with the Town Council having little say in the matter.

The other mystery is, who was telling the truth at the Court of Session? The accusation was made that work on the road was pressed on after news of the interdict, but not the interdict itself, reached Dornoch. This was flatly denied. The two statements are incompatible, so which is correct? We will never know, but for someone’s sake it was just as well that Lord Pitman did not pursue the matter.

Another oddity is the Golf Club’s insistence on the use of the low route via Littletown. While the route past the 1<sup>st</sup> tee would be, and is, a nuisance the low route would be, and was, totally destructive of the then 14<sup>th</sup> hole. However a conversation with Dr.J.H.Grant revealed a hidden agenda. His father, Robbie Grant, Head

Greenkeeper at the time, and John Sutherland wanted to expand the course onto Embro links, beyond the 6<sup>th</sup> hole, and destruction of what were known as the Burn holes by the road would have been the perfect pretext to do just that. If that was indeed the case it would have been a messy and costly attempt to achieve the objective. In fact this extension did take place in 1946-48, financed by the compensation paid by the Air Ministry for the destruction of most of the Ladies Course in 1940 to form the airstrip.

**POSTSCRIPT**

In 1998 there are those who propose closing the road along the high route, and grassing it over, on the grounds that the low route is so much better than it used to be.

Anyway, its all over.....is it?

“ # # #

**APPENDIX A**

MINUTE OF THE TOWN COUNCIL OF DORNOCH 9<sup>th</sup> NOVEMBER, 1877

“The Meeting having had laid before them an application by Mr. Alexander McHardy, Dornoch, Secretary to the Sutherland Golfing Society, to the Town Clerk dated 5<sup>th</sup> November \*\*\*\*\* for permission to use the Dornoch Links by the Members of the Society for the purposes of Golfing, hereby agree to grant the Society the permission applied for \*\*\*\*\* such permission being held by the Society at the pleasure of the Magistrates and Town Council, who hereby reserve to themselves power to withdraw the same at any time \*\*\*\*\*. The Meeting further instructed the Town Clerk to intinate this resolution to the Secretary.”

\*\*\*\*\* illegible words.

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**APPENDIX B**

The following document, which seems to have been reproduced by some photographic means if that was possible in those days, was presented to the Royal Dornoch Golf Club by H.M. Mackay, Town Clerk, in 1913:-

9 November, 1877

At Dornoch and within the Court House there upon Friday the Ninth day of November Eighteen hundred and Seventy seven years.

Within a Meeting of the old and new elected Council of the Royal Burgh of Dornoch held in terms of the Act of Parliament 3 & 4 Jul:IV. Cap76. for the election of Magistrates and Office Bearers for the said Burgh of Dornoch for the ensuing year.

Present:

- William S. Fraser, Banker
- Alexander Leslie
- Alexander Gunn

APPENDIX C

Any further communications should  
be addressed to:-  
THE UNDER-SECRETARY FOR SCOTLAND  
and the following Number should  
be quoted:-  
12824/90

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TELEGRAPHIC ADDRESS  
ALBYN, LONDON

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Scottish Office, Whithall, SW

15<sup>th</sup> June, 1906

Sir,  
I have had the honour to lay before the King the application of the Dornoch Golf Club to use the word 'Royal' in the title of the Club.

I have it in command to inform you that His Majesty was pleased to receive the Petition in the most gracious manner, and to signify that the Club shall hereafter be known as the Royal Dornoch Golf Club.

I am,

Sir,

Your obedient Servant,

(Signed)      John Sinclair

J Sutherland,  
Masonic Hall Buildings,  
Dornoch.

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John Macleod,  
Dornoch,  
February, 1998

Sources:  
Royal Dornoch Golf Club Minute Books  
Royal Dornoch Golf Club Archives  
Dornoch Town Council Minute Books  
The Northern Times  
Personal Recollections:    J.H.Grant  
   A.I.Macleod  
   E.C.Fraser