



Convention of Royal and Parliamentary Burghs.

REPRESENTATION AND APPEAL

BY

THE MAGISTRATES AND TOWN COUNCIL OF THE ROYAL BURGH
OF DORNOCH

TO THE

CONVENTION OF THE ROYAL AND PARLIAMENTARY BURGHS OF
SCOTLAND.

THE Magistrates and Council of Dornoch beg respectfully to approach the
Convention in the following circumstances :—

The Dukes and Earls of Sutherland were from time immemorial down to
1868 Provosts of the Burgh, and have always been proprietors of a great deal of
property therein.

I.—LONEMORE COMMONTY LANDS.

In 1786 a large Commonty close to the Town, known as the Lonemore
Commonty, was divided by the Court of Session among the neighbouring pro-
prietors. The Countess of Sutherland got allotments of said Commonty in respect
of her property outside the boundaries of the Burgh, and also in respect of her
“lands and houses in and around Dornoch.” By this decree three allotments of
said Commonty were given to the Town, (1st) An allotment of 26 acres 2 roods
and 28 falls “to the inhabitants and possessors of houses and yards in Dornoch;”
(2nd) An allotment for fuel of 7 acres 1 rood 39 falls to “the inhabitants of
“Dornoch adjoining their division of the moss;” (3rd) An allotment of the moss
of 7 acres to “the inhabitants of the Town of Dornoch.” The second and third
allotments are contiguous. The first is apart, and is situated further to the south
of the Commonty.

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The first notice of these allotments in the Minutes of the Council is in 1812, and is as follows:—"The Magistrates and Town Council, taking into consideration "that the heritable property belonging to the Burgh is now chiefly possessed by "people who pay no rent, and who, by casting and winning feal and divot thereon, "and other acts of possession, injure the property without paying any consideration "to the Burgh, and without leave, asked or given, do therefor think it necessary "that the marches of the property belonging to the Burgh be forthwith correctly "ascertained and preserved, and that such property be improven and let out to the "best behoof. They therefore direct the Town Clerk to procure and report to the "ensuing Michaelmas Head Court of the Burgh the rights and titles of the Town "Lands, and in particular, an extract of the submission, decret-arbitral, and "scheme of division following thereon of the Lonemore of Dornoch and adjacent "grounds." And "thereafter the Clerk laid before the Council copy of the grand "decerniture pronounced by the Lords of Council and Session on the 28th. July "1785 and the 7th March 1786, in a process of division of the Commony of Lone- "more of Dornoch referred to in the Minutes of the meeting of Council on the "11th August last. But as the plan and scheme of division referred to in that "copy decerniture has not been produced, and also as there is considerable doubt "entertained whether the decree of division above mentioned contains the allot- "ment of the grounds mentioned in the former Minute, The Council postponed "consideration of the subject until Mr Sellar has an opportunity of reporting "whether there be any other decree or division or other papers on the subject in "the Charter-room of Dunrobin."

No report appears to have been given in by Mr Sellar. It may be mentioned that Mr Sellar was factor to the Countess of Sutherland as well as a Councillor of the Burgh.

In 1820 Mr Sellar ceased to act as a Councillor of Dornoch. He was succeeded by a Mr Suther, then factor on the Earldom of Sutherland.

Through the investigations of some members of the Council, the matter was again brought to light last year, and with the aid of a certified copy of the plan in the process of 1786, the lands have been identified, namely, the allotment of 26 acres 2 roods and 28 falls is, and has been from time immemorial, in the possession of the Town, and the grazings and game thereof are annually let along with those of the Town Links, to which this allotment is contiguous. The other two allotments, extending in all to 14 acres 1 rood and 39 falls Scotch measure, or nearly twenty acres Imperial, and consisting of good arable land, are, and have been for many years, in the possession of ex-Provost the Duke of Sutherland. The Council records throw no light upon when and how the lands passed into the private possession of the Provost.

The matter was duly represented to his Grace, who declined to receive a deputation of the Council, and simply repudiated the Town's claim.

In January last the Council resolved to complete their title to the lands in question, to get them surveyed and staked off by a competent surveyor, and to formally demand possession and payment of bygone rents from His Grace. This has been carried out, and a Notariel Instrument has been expedite on the Decreet of Division and duly recorded. A formal claim has been made to His Grace, and accompanying the claim a sketch on the ordinance survey of the lands claimed has been also sent.

II.—HOUSES ON TOWN LINKS.

In 1819 extensive clearances were carried out on the Sutherland Estate, and notice was given out forbidding all persons on the Earldom of Sutherland to give any shelter to the evicted people. Many of the families fled to the Burgh, and built Houses on the Town Links, within the Royalty.

On 21st December 1820, the Town Council passed the following Minute:—"The Council, considering that there are several persons who possess property in "the Links of Dornoch, from whom no rents have been yet received, they

“ request of Mr Fraser, Mr Gordon, Mr Suther, Mr Jaffray, and Mr Rose to meet
 “ with the Treasurer and Clerk at Dornoch on the 9th of January next, to call
 “ before them these possessors or others willing to pay rents for the said property.
 “ and to enter into Minutes of Lease for said ground for one year from Whitsunday
 “ next, and to report to next meeting.—(Sgd.) ANGUS FRASER, B.”

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“ Dornoch, 9th January 1821.

“ In consequence of the above Minute, Messrs Fraser, Gordon, Suther, Jaffray,
 “ and Rose met this day, when the several persons occupying houses on the Town’s
 “ property were called, and appearing in Court, acknowledged that they have built
 “ their present houses without authority from any one, but they are now willing to
 “ pay such rent as shall be thought proper, and to hold under such lease as the said
 “ gentlemen shall direct. The Committee nominate and appoint Mr Suther, with
 “ his earliest conveniency, to meet with the said possessors of houses, and fix the
 “ rents which they respectively pay, and the nature and endurance of their hold-
 “ ings. The number of persons possessing as aforesaid are fourteen, and two on
 “ the late Little-Torboll property.”—(Sgd.) ANGUS FRASER, B, WM. TAYLOR, T.C.

At this time the Marquis of Stafford was Provost. His factor, Mr Sellar, was Treasurer, and another of his factors, Mr Suther, was a Councillor.

No Treasurer’s Accounts are extant for several of the years subsequent to this Minute, and it does not appear whether these rents were ever paid to the Town. At the present day any rents paid by these people for the sites are paid to the Duke of Sutherland, and long leases have, in many instances, been granted by His Grace. All this is notwithstanding the fact that the Links which surround those houses are the property of the Town. In making the claim for Lonemore before referred to, the Council at the same time demanded that His Grace should desist from drawing those rents, and that the same should be paid to the Town.

A lengthy correspondence has taken place between the Duke’s Local Agent, and the Town Clerk, in regard to the Lonemore Lands and houses on Town Links, but as yet no definite answer has been made to the Town’s claim, nor will His Grace state upon what right or title he enjoys those lands.

III.—SALMON FISHINGS.

In 1815 the Salmon Fishing *ex adverso* of the Burgh Lands were let. The Minute of Lease is recorded in the Records of the Council, and bears to be between William Young, Esquire, on behalf of the Countess of Sutherland, and the Magistrates of Dornoch, on the one part, and Mr John Johnston on the other part. (This Mr Young was Commissioner on the Sutherland Estate, and a member of the Town Council.) The fishings were those *ex adverso* of the lands from the Pier of Dunrobin to the western boundary of Dornoch, the rent being £40 per annum; £20 going to the Countess and £20 to the Town Council. Since that time the Duke of Sutherland has, from time to time, let the fishings *ex adverso* of the Burgh Lands, but the Town Council do not get any share whatever of the rents received.

IV.—BURGH LANDS OCCUPIED BY LADY MATHESON.

In the old plan of 1786, before referred to, a large extent of fine arable land in the vicinity of the Town is marked “Burgh Lands.” No notice of these lands appears in the records of the Council, and at the present day they are possessed by Lady Matheson of the Lews, who is proprietrix of the neighbouring Estate of Balloan. The Town Clerk has ascertained that the Titles of Balloan Estate do not contain any boundary. Part of these lands appears to have been exposed by the Council to Public Roup in 1815.

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Down until 1886 the Duke of Sutherland paid the proportion of Lunacy Assessment and Land Cess falling on the Burgh, also Commission Dues, Town Clerk's Salary, and all the various expenses incidental to the Corporation. Since said year he has ceased making these payments. The Council now assess for Lunacy and Land Cess, but the Duke having retained possession of the Common Good, they are quite unable to pay Town Clerk's Salary, Commission Dues, and the other Town expenses, for which they cannot assess.

In these circumstances the Town Council feel that it is useless for them any longer to carry on the affairs of the Burgh as a Burgh. Before, however, they take any steps which may put an end to the existence of their ancient Corporation, the Council have resolved to bring the whole matter under the notice of the Convention, and, as one of the Royal Burghs of Scotland, to appeal to the other Burghs for some support in recovering their Common Good.

The case of the Lonemore Commonly Lands being the most flagrant, and the value thereof being under £50 per annum, the Members of Council are prepared, at their own charges, to raise an action in the local Sheriff Court to recover possession thereof, but as the Duke of Sutherland might carry the matter to the Court of Session, where they are not prepared to follow him, they think it right to ask the advice and assistance of the Convention before taking any legal steps.

Signed in name, and by the authority of, the Provost, Magistrates, and Town Council of Dornoch,

WM. SUTHERLAND, *Provost.*

Dornoch, 22nd March 1890.

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BY

THE ROYAL BURGH OF DORNOCH

TO

THE CONVENTION

1890.

WILLIAM OFFICER, S.S.C., EDINBURGH,
Agent of Convention.