

Notes by the Town Clerk  
of Dornoch on letter from  
Messrs. Jock Muncy & Jamieson  
to him, of date 29 March 1890.

Paragraphs of printed letter. No. I. The exact words of the  
Decree are quoted.

Lot VI to "the inhabitants & possessors  
of houses and yards in Dornoch".  
Lot XII to "the inhabitants of Dornoch  
acknowledging their division of the moss".  
Lot XIV to "the inhabitants of the  
Town of Dornoch". This latter is  
the division of the moss referred  
to in Lot XII.

II Though the Burgh was not  
called as a party to the action,  
still the Burgh bore a share  
of the expenses in proportion  
to the acreage allotted to it.  
See Scheme of Division of  
Expenses in the Process.

The Act of 1695 here referred  
to does not apply to the case.

This



This Act of 1695 refers to communities belonging to Royal Burghs in Burghs. The links of Dornoch may be taken as a specimen of such a community. These lands belong to the Burgh, and the Burgh uplifts the rents and profits thereof. Yet the "possessors of houses and yards" or other burgesses having right thereto, cannot alienate the same to a stranger, nor yet divide it among themselves in proportion to their respective holdings. This latter is guarded against by the 1695 Act.

It is not pretended however that the Conemore community was ever the property of the Burgh or held in Burghs. If it were so, it could never have been divided, and the Duke of Sutherland could only exercise any rights over it as



as a Burgh of Dornoch -  
 As a matter of fact certain individuals had rights of casting fuel and pasturing cattle on the Community in question - From the proof it appeared that not only the surrounding individual proprietors exercised these rights through their tenants, but that the Burgh of Dornoch exercised similar rights through its burghesses.

Over and above this an important fact must be borne in mind, viz that the ground on two sides of the Community was, at the time of the division, Burgh lands, and marked on the plan of the Community in process as such. It would be therefore absurd to suppose that a persona, like a Royal Burgh (which not only had rights or servitudes over the Community, but



but was owner of lands contiguous thereto) would be passed over in any Scheme of Division.

To this day the Burgh is proprietor of the Dornoch Links, which bound the Community for nearly a mile on the East side. When the Community was divided, and the divisions thereby became the absolute property of individuals, rights of pasturage &c over the whole community of course lapsed, - the compensation being the right of absolute property in a part. The burgesses of Dornoch, or to use the words of the Decree "the inhabitants" then lost their rights of pasture, and now by the ~~law~~ law of 66 Queen Street they are to get no compensation in the shape of absolute property in a part.



15.  
III This paragraph in Todd Munday  
& Jamesons letter has no bearing  
on the point at issue.

In any given community those  
who had disposed their rights in a  
privilege, & those who had not,  
must of necessity include the  
whole community. It is not  
denied that a great part of  
Dornoch has always belonged to  
the Sutherland family, and indeed  
the Countess gets large slices  
of the community in respect of  
her houses &c "in and around  
the town of Dornoch". & in respect of the

rights disposed to her. The allotments in question were for the remainder  
of these ungranted occupants generally &c.

IV The contention of the Burgh  
is that the operative part  
of the Decree must receive  
effect in any question with  
the Duke of Sutherland.

Let it be assumed however  
that the allotments were  
really intended for proprietors in  
the Burgh in respect of  
their

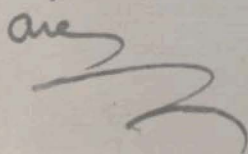


their possessions there, as distinguished from the inhabitants thereof.

These are the parties who are erected into a Corporation by Royal Charter by which Charles I. erected "the said Burgh and City of Dornoch with all lands, tenements, houses, buildings, yards, and other outlets within the same, built and to be built, together with the port and harbour of the same, into a Free Burgh Royal, Free Port and Harbour, with all privileges liberties and immunities pertaining to a Royal Burgh, Free Port and Harbour" - His Grace must therefore be able to shew a title derived from that corporation, or from the individual members thereof, or claim to be the Corporation himself.

The Minutes of the Town Council (the legal representative of this corporation) of 1812

are



are referred to, and it will be seen that the estate officials of that day never looked upon the allotments in question as the property of the then Duke. See Rept to Convention.

II Some confusion appears to exist in this paragraph between tenements in the town and allotments in the commonly. Granted that His Grace has acquired numerous tenements, there are still numerous properties in the Burgh which never belonged to the Sutherland family and it is emphatically denied that His Grace is owner of all the allotments of the commonly referred to.

III In Dr Bethunes account of Dornoch (Old Stat: Acc:) he states that the commonly of Conemore, though divided  
by  
2



by the Court of Session  
 some years previously still  
 remained in its natural state.  
 In fact though the Scheme  
 was made out on paper in  
 1786, thirty years elapsed  
 before any attempt was made  
 to reclaim any part of the  
 commonly - If His Grace  
 received rent for this part  
 so early as 1819, his guilt  
 is only all the greater -  
 Why however should the  
 Letter of Tack of these Canals  
 be presented to the Burgh  
 authorities in 1831? -

It is denied that His Grace  
 has any title whatever, and  
 it is avowed that his only  
 right is possession.

VII The inhabitants of Dumoch  
 (who are a corporation) conceive  
 that they cannot have a  
 better title than a direct  
 disposition



9.  
disposition from the Court of Session. The proof in the process clearly shows that these inhabitants had rights over the Commonly prior to the division, exactly similar to the other neighbouring proprietors of rights of pasture and fuel. or at any rate of fuel.

X In 1863 Mr. Joseph Peacock (who is an honest man) wrote to the Town Clerk in terms sent herewith. He at the same time caused the boundary between the Burgh lands and the Commonly to be distinctly marked out. This boundary gave to the Town Lot II of the Commonly which is contiguous to the links. Mr. Peacock never seemingly doubted but that this lot should belong to the Town, and it is believed had he known of the other allotments



10.

allotments, there would not  
be the present unhappy dispute.  
The boundary referred to in  
Mr. Peacock's letter is shewn  
on the accompanying plan.

The sum of £5. is believed  
to be a fair rent for  
the ground in question.



Notes

by

Town Clerk of Dorchester  
on letter from John Munroe  
of 29 March 1890.

Sept. 1890.