

Hector M. Mackay Esq
Town Clerk
Dornoch

66. Queen Street. Edinburgh
31st October 1890.

Dear Sir,

Duke of Sutherland.
Burgh of Dornoch & Loanmore Community.

We have now considered your letter of the 29th September, and are in a position to reply to it so far as the information afforded by you - as to the nature of the claims intended to be made to the portions of the old Community of Loanmore marked Nos 12 and 14 upon the plan, - is sufficiently explicit to enable us as the advisers of His Grace to deal with the matter.

As regards any claim which may be put forward by the Burgh as a Corporation, it appears to us that there is a conclusive answer to such a claim in the fact that the Burgh as a Corporation is not - as already pointed out by us - a party to the process of division of the Community, and that by the decree of division no part of the Community was allotted to it. We do not understand you to allege that the Burgh can produce
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any other title to a portion of the Community, but if we are mistaken as to this point we shall be glad to hear from you upon the subject, because while with the information now before us we fail to see how such a title, even if produced, could avail the Burgh apart from possession - which has not been enjoyed - it is better that we should defer our remarks upon this aspect of the question until we actually know what title, if any, is intended to be put forward by the Burgh.

We have not the means of investigating at present the accuracy of your statement that the Burgh "was then owner of a large extent of land immediately contiguous to the Community" because a circumstance such as this would require to be established not merely by a plan, but also by the production of titles. While not admitting the accuracy of this statement, therefore, we can only now say that if the fact be as stated by you, and especially if it was made patent in the course of the process of division by being marked on the plan, the only conclusion - having in view the

absence of any reference to a claim by the Burgh, and of any allotment to the Burgh - which can in our opinion be arrived at is distinctly adverse to their having had, or even alleged, any right or interest in the Community. The mere circumstance of the ownership of land adjoining a Community does not appear to afford any ground upon which an interest in the Community can be claimed.

Your statement that the Town was called upon to pay a share of the expenses of the process of division is not borne out by the terms of the decree, which, in the decerniture relative to expenses, apportions the total amount among the several parties, including "the said inhabitants of the Town of Dornoch of the sum of £13.17.1"

as the Burgh of Dornoch is not proprietor of any part of the Community it follows that the inhabitants of the Burgh can only claim an interest in the portions set apart in respect of - to use the words of the decree - "the casting feudal or peat within the marshy part of the Loammore"

Loammore" - by shewing that they are the successors of the persons who at the date of the decree were proprietors of the subjects therein alluded to, in connection with which the right of casting feual or peat above referred to had been exercised, and that they have continued to exercise as a pertinent of their properties servitude rights over Lots 12 and 14, or that they are vested by their titles in a share of the Community which is proved by possession to have reference to the Lots mentioned. We think we may with safety say that no right, - either of servitude or of property, can by the law of Scotland be claimed by the general inhabitants of a town or Burgh, except in the case of land belonging to the Corporation of the Burgh.

If the proprietors of the twelve or more tenements to whom you refer are in a position to establish by their titles and the requisite possession that they have an interest in Lots 12 and 14, we shall be quite willing, on behalf of His Grace, to

investigate their alleged rights upon receiving the titles from you, and to give the matter a fair consideration, because we know the Duke of Sutherland would wish all reasonable claims to be fully enquired into. If the Burgh, in the absence of any title as a Corporation, is disposed - as indicated by you - to assist these proprietors of the twelve tenements by making "Common(?) Cause" with them, we feel sure that whatever ~~may~~ the right or interest of the Duke of Sutherland to object to the application of corporate funds to such a purpose - and to which we are not to be held as assenting - His Grace will be very glad to find that parties who allege rights in competition with his own have ample facilities placed at their disposal for establishing those alleged rights so far as they may be well founded.

We are
Yours faithfully

Wm Murray Jameson

Bunyo

31 Oct. 1890

Took Murray & Jamieson

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