

Draft

Report
by the Sub-Committee on the
Representation and Appeal from
the Royal Burgh of Dornoch
to the Convention of
Royal and Parliamentary Burghs.

Committee - The Assessors for
Edinburgh, Whithorn, Kilmenny,
Lochmaben & Dornoch.
The Assessor for Dornoch, Comenier.

In terms of the permit
on the Appeal to the
Convention by the Burgh of
Dornoch, regarding the loss
of portions of their Common
Good, the Sub-Committee
appointed by the Annual
Committee have considered it
and beg now to report on
such points in the representation
as they have been enabled
to investigate.

The claims preferred by
the Burgh are -

I. For the restoration, by the
Duke of Sutherland, of
nearly 20 imp. acres of
good arable land,

II. For the restoration by the Duke of Sutherland of the ground rents of certain houses built on the Burgh Links, which His Grace has collected since about the year 1820.

III. For the restoration by the Duke of Sutherland of the Salmon-fishing et aduers of the Burgh's lands.

IV. For recovery of Burgh lands presently occupied by Lady Matheson.

The Committee have the greatest pleasure in reporting that Claim II - for the restoration of the rents or feu-duties of the Houses, has been most amicably settled by His Grace the Duke of Sutherland. In September last Mr. James Auldjo Jameson W.S. visited Dornoch and on behalf of the Duke renounced all claim to the feu-duties of the 22 Houses built on the Burgh Links at Littleton, the Corporation foregoing any claim for

for any obligations undertaken
by the Duke in feu charters
or long leases. These
voluntary concessions by
His Grace have given ~~the~~
great~~est~~ satisfaction to the
towns people, and the Committee
~~most~~ heartily congratulates the
Burgh on the ^{result} ~~outcome~~ of
their agitation and appeal
to the Convention. This
concession will add £5.10.0
annually to the Common Good.

Remains

Regarding Claim III— for
the restoration of the Salmon-
fishings ex adverso of the
Royalty, the Committee heard
with considerable satisfaction
that it also had been conceded
by the Duke of Sutherland,
& ~~it~~ recorded the matter as
having been settled in their
minutes; recently, however,
they found to their regret
that the report was inaccurate
or at least premature. The
Committee having been misled
by the report, did not go into
this claim, but they hope
that His Grace's concession
of the feu-dukes is a

further concession of the
Fishings at an early period.

Claim I — for the restoration
of 20 acres of good land
which once formed part of
the Lonemore Community,
demanded and has received
the serious attention of the
Committee, and it has proved
a very arduous undertaking,
being an admittedly difficult
question.

When the Appeal from
Dornoch came before the last
Convention, the Clerk also ^{of the Convention}
submitted and read a letter
from Mess^{rs}. Jods, Murray &
Jamieson, W. S. Agents for
the Duke of Sutherland,
transmitting a copy of the
correspondence which had taken
place between the Town-Clerk
of Dornoch and them, in
regard to the claims ~~of~~ made
by the Burgh. These documents
related chiefly to the claim
for the land, and were
carefully considered by the
Committee along with the
other productions — a voluminous
Decree of the Court, Crown
Charters, &c.

Letters &c. —

The lands in question formed part of a very large Common over which several of the adjoining proprietors, and the smaller Feuars and inhabitants (or burgesses?) of Dornoch had common rights of pasturage and of casting feul or divot. It is not a Community in the sense of an exclusive Burgh Common, but of lands ⁱⁿ which certain specified persons and the inhabitants of Dornoch generally had common rights or servitudes. In one of the letters of Messrs Todd, Murray & Jamieson which they sent to the Convention they remark, — "It would have been incompetent to divide the Community of the burgh as a corporation had had any interest in it, because by the Act of 1695 c. 38, under which the process of division was raised, committees belonging to the Crown and to Royal Burghs are specially precluded from its operations." There is no contention that the Lornmore Community was ever

Reichart
Anteman

held in Burgage. Fortunately
for Dornoch the Commonly
or Links which are burgage
and cannot be divided are
in the ^{happy} possession of the Burgh
to this day; they extend to
about 1000 acres, on which the
burghers graze upwards of 70
head of cattle; so long ago
as 1630 Sir Robert Gordon
described them thus - "About
"this town along the sea coast,
"there are the fairest and
"largest links or green fields,
"of any part of Scotland, fitt
"for archery, golfing, ryding, and
"all other exercise; they doe
"surpasse the fields of
"Monrose or St. Andrewes."

It is on the outskirts of
these Links that ~~that~~ the
houses referred to in the
2nd claim are situate, and
because they are burgage the
Burgh has substantiated
their title to the rents.

For the expiscation of the
matter in dispute the Committee
felt it necessary to incur an
outlay of £5. 10. 6 in obtaining
Excerpts from the "Deceet of
"Division of the Common of
"A.

Countess of and Earl of
Sutherland ^{against} Sir Hector
Munro and others 1785 & 1786.

Arkmar

Butcher

The division of the Community
under the direction of the Court
of Session became necessary by
several adjoining proprietors
objecting to the Countess of
Sutherland claiming the
whole lands as her exclusive
property. The court however
held that it proved "that
"the following persons proprietors
"of lands and crofts have
"been in the constant use of
"pasturing their sheep and
"cattle on the Common of
"Loamnoe for a period of
"before forty years until
"interrupted of late by the
"managers of the Sutherland
"family"; and again "that
"the following persons proprietors
"of lands crofts and other
"tenements in the neighbourhood
"of the said Common of Loamnoe
"were in constant use until
"interrupted within these few
"years as above of casting
"turf peal and dwot within
"the bounds of the said Common
"without interruption, and that

"and past the memory
"of man."

The Corporation of
Dornock aver that the
inhabitants or burgesses en-
joyed the privileges above
named of pasture, turf
feal, and dwoot, and
base their claims to the
several allotments of the
lands on the following
sections of the Decree -

"Found and hereby find
"that each person having
"interest in the said Common
"is entitled to the under-
"mentioned quantities of
"land in the same lying
"and situated in manner
"after mentioned as marked
"in the plan and filled with
"march stones placed in the
"lines of division of the different
"allotments viz: . . .

This lot has been
in the possession
of the Burgh since
1786 when they
appear to have
got it absolutely,
and hold it on
no other title than
this Decree.

"No 5th, The allotment for the
"inhabitants and possessors of
"Houses and yards in Dornock.
"is bounded at the west by
"a straight line of march
"stones with the letters G S
"upon the west side, and the
"letter D upon the east side,
"at the north by a straight

Mitchell
Sharp

"line of march stones with
"the letter D, upon the
"south and the letter NT
"upon the north, and
"at the east by a straight
"line of march stones
"with the letter D at
"the west side and the
"letters G & J upon the
"east consisting of 26
"acres 2 rods and
"28 falls x x x being bounded
"by the sea at the south."

This lot is in
the possession of
the Duke of Sutherland,
and is now claimed
by the Burgh as
forming part of
the Common Good.

"H. Thwell. This allotment is
"laid off for the inhabitants
"of Dornoch adjoining their
"division of the Moss from
"which they can have
"access either from the
"county road at the
"north or the great road
"leading west through
"the Common from Sandy
"Croft, and is bounded
"as follows viz at the
"south by the great road
"with march stones lettered
"upon the north side D
"upon the south side with
"the letter R, upon the
"north side by the
"hill of Dornoch hill?"

Two march stones marked
with the letter D upon
the south and G S upon
the north side; at the
west by a line of march
stones lettered upon the
east side D and on the
west side G S, and
consisting of seven acres
one rood and 39 fall, xxx
And assigned and hereby
assign the said respective
quantities of land in said
Commonly lying and de-
scribed in manner foresaid
to the several persons named
their heirs and assigns
respectively as their absolute
property in time coming.

Harp
Adm

No Fourteenth; the allot-
ment of the moss for the
inhabitants of the Town
of Dornoch is bounded
upon the east by a line
of March stones running
along the west side of the
Maire Deans park lettered
upon the west side D upon
the east side G S; upon
the north side by the
edge of the Moss a little

This lot is also in
the possession of
the Duke of Sutherland
and is now claimed
on the same grounds
as the above.

Lots 12 and 14 are
about 20 acres imp.
and of about £12,000
agricultural value
annually.

"road, upon the west side
"by a straight line of march
"stones lettered upon the
"east side D and upon the
"west side G S, and upon the
"south side by the allotment
"of 7 acres 1 rood and 39 fells
"of pasture aforesaid and
"consisting of seven acres.

The "Inhabitants"
shall the expense
of the process.

"Ordain the several proprietors
"before and after named to
"make payment to the Pursuer
"of their respective proportions
"of said expenses as stated
"in said scheme of Division
"and after specified, viz
"xxx the said Inhabitants
"of the Town of Dornock of
"the sum of £13. 17. 1."

The Committee have been unable,
as yet to discover how the Burgh
got possessed in 1786 of the
allotment "Sixth" in the process,
and failed to get the
allotments "twelfth" and
"fourteenth". If they were
not conveyed to the Burgh of
Dornock, they were ~~was~~ cer-
tainly were not conveyed by separate deed
to the Sutherland family?

describing the several allotments
in the Deed are so ^{alike} identical,
the march stones (now non-existent)
being all marked D - doubtless
for Dornoch, that it is difficult
to see how any doubt as to
the Burgh's ownership could
have arisen.

There is a strong
presumption in
favor of

Hall
Christie

The lands in dispute
appear to have been let on
lease in 1830 for 12 years at
a nominal rent to Mr. Fraser
- father of the late Provost,
and in the letter of Tack are
described as "part of the
"Lornmore formerly allotted
"to the Town of Dornoch as
"Burgh Common and now
"become Lord Stafford's property."

The Town Council are of the
opinion that the Lands were
never disposed by the Burgh
to Lord Stafford. This point
should be of easy settlement
and the Committee look with
confidence to the Agents of the
Duke of Sutherland to throw
whatever light they can on
this transaction.

The Burgh was in the
unique position of having down
to 1886 all the various estates

incidental to the Corporation,
including the Town-Clerk's salary
paid by the Sutherland estate,
and therefore the Minutes of the
Burgh are most meagre, and
contain no details of administration
or accounting, as is the case
in burghs having a common good.

out of which their
burdens are paid.

In the letter previously
referred to from Mess^{rs} Jods,
Murray & Jamieson it is
stated "that the Burgh also
"intimated a claim for the
"rents received by His Grace
"for the pieces of ground in question
"while they were in his possession.
"Whether the Duke's right to the
"subjects is doubtful or not, this
"claim for past rents, &c, cer-
"tainly surprised us, as all the
"expenses of the Burgh, usually
"met by rates levied on the
"inhabitants, (S) have been paid by
"the Duke and his predecessors
"from a very early period, and the
"inhabitants have thus been
"relieved of this burden. We have
"a note made up from the estate
"books showing that, during the
"present century, the payments made
"by His Grace, on behalf of the burgh,
"to the end of last year, amount
"to nearly £3000.

Christie
Fulchrest

The Committee consider this statement of the case hardly in accordance with the facts, for against the £3000 should be placed, per contra, the revenue from the Burgh's patrimony during the same period as factored by the Sutherland Estate; for instance, the concession of Clamir II accounts for between £300 and £400, and if the Salmon-fishing was once rented at £20 a-year, the balance, if any, against the Burgh in some years would be small. In older times the revenue from the Town's Fairs were considerable, and were intrusted by the Estate.

Sutherland

The present extraordinary position of the Burgh has arisen from the circumstance that when the Sutherland Estate ceased in 1886 to pay the burdens of the Corporation &c, they omitted to restore the Burgh's patrimony which they had previously factored. This your Committee believe was done through inadvertence, and will be righted as soon as the facts are established.

The Committee...

10
confidence that the kindly relations
which have always existed between
the House of Sutherland and the
Royal Burgh will not only re-
main intact, but be strengthened
by the discussion of these claims
in a friendly spirit, and that the
Ex-Provost and Feudal-superior
His Grace the Duke of Sutherland
will be only too glad to make
all fair concessions to the Burgh
if by so doing he can add to
the dignity, independence, and
prosperity of the ancient City &
Royal Burgh. The progress of
Dornoch in recent years is evidence
that the Burgh deserves all encou-
ragement. Ten years ago the assess-
able rental was only £600, two
years ago it had risen to £1000,
and last year it was about £1260.
The magnificent Links are becoming
increasingly attractive to golfers,
and the town with its delightful
air and sea-bathing is becoming
a health-resort. At present the
Corporation are arranging to introduce
a water supply and drainage system
at a capital outlay of £2400.

Silchrist

Arthur

The Convention may be interested
in being reminded that in former

frequent function of the Convention to help Royal Burghs in recovering their Common Good and other rights. The following cases may be cited.

Kirk Burgh
Dunbar
Leith

As the Committee have not exhausted the remit, they beg to recommend the Convention to re-commit the whole Subject to the same Committee, with powers to take the opinion of Counsel if necessary, or to make the matters in dispute the subject of a legal Reference, or such other action as they may deem necessary short of litigation.

not to refer to the Annual Committee with power to call and to call to take such steps as they may consider advisable

D. William Kemp.
Assessor for Dornoch & Convener of Committee

Edinburgh April 1891.