

William Officer Esq.  
21 Castle St  
Edinburgh.

66. Queen St Edinburgh,  
6<sup>th</sup> July 1891

Dear Sir,

Dornoch Community  
Duke of Sutherland

We have now carefully considered your letter of the 13<sup>th</sup> ult. and the copy which accompanied it of the Report regarding this matter made by the Committee to whom it was remitted by the Convention of Royal Burghs.

With regard to the Question of Salmon fishings we have really nothing to say in the present position of the matter. The Burgh of Dornoch - without any authority

so /

so far as we are aware - made  
an entry in their Minutes to the  
effect that the Duke of Suther-  
land did not insist in his  
claim to the salmon fishing.  
We pointed out to the Town  
Clerk of Dornoch that this  
Statement was incorrect, and  
nothing further has been done  
in the matter. We are per-  
fectly willing to give any  
statement of the Burgh's Claims  
& the evidence which may be  
submitted to us in support  
of it, careful consideration,  
but until the Burgh Author-  
ities think proper to bring  
the question again before us  
in a form such as we have  
indicated, we do not think any  
progress can be made towards a  
solution of the Question.

The main question treated  
of in the Committee's Report is  
the /

the claim made by the Burgh  
of Dornoch to Lots 12 and 14 of  
the Lonsmore Community, and it  
appears to us upon considering  
the Report that the Committee  
have been unable to discover  
any circumstances which can be  
founded upon in support of the  
Burgh's claim other than those  
stated by the Town Clerk in  
his letters to us, and fully  
discussed in our replies to these  
letters. We understand from  
the Report and your letter  
that the whole of our correspond-  
ence with the Town Clerk  
has been considered by the  
Committee, and if this be the  
case, the circumstance that the  
Report substantially repeats the  
various arguments stated by  
the Town Clerk and replied to  
by us, but does not attempt  
to refute the reasons assigned  
by

by us for rejecting the Town Clerk's contentions, leads to the conclusion that the result of the Committee's investigations has been to confirm the Duke's claims rather than those of the Burgh.

In order to illustrate the view above expressed with regard to the Report we may specially direct your attention to the following points.

1. In the Paragraph which commences at the foot of page 2 of the Report reference is made to a passage in the Decree of Division of the Community which sets forth that certain persons proprietors of lands and crofts had been in the constant use of pasturing their sheep and the cattle on the Community and of casting turf feal and divot. The Report states that the corporation of Dornoch

Dornock aver that the inhabi-  
tants or burgesses enjoyed the  
privileges abovenamed. In our  
letter to the Town Clerk of 30<sup>th</sup>  
October 1890 we fully discussed  
this part of the Decree and  
pointed out that it did not  
support a claim at the instance  
of the Corporation of the Burgh,  
but the passage as already  
mentioned is set forth in the  
Report as if it were a finding in  
favor of the Burgh as a Corporation  
instead of being (as it obviously  
is) a finding in favor of the indiv-  
idual proprietors of particular

2. properties. At the foot of page 3  
of the Report there occurs a  
quotation from the Decree of  
Division setting forth that the  
several Proprietors therein named  
were ordained to make payment  
of their proportions of the expense  
including "the said inhabitants  
of

"of the Town of Dornoch". In our letter of 31<sup>st</sup> October 1890 we pointed out that the attempt to construe the passage in question into a decerniture against the Burgh was entirely at variance with the terms of the Decree, which is distinctly a finding directed against certain individuals and not against the Corporation of the Burgh which was not a party to the process of division.

3. With reference to the first and second paragraphs on page 4 of the Report, we have to point out that paragraph first rather makes an admission that the Burgh obtained possession of Lot No 6 without any adequate title, than alleges any good reason why the Burgh should also get possession of Lots Nos 12 & 14.

We may further add that

if

of reference be made to the quotations from the Decree which appears on page 3 of the Report it will be observed that while Lot No 6 is described as the "allotment for the inhabitants and possessors of houses and yards in Dornoch Lot No 12 is assigned "to the several persons before named their heirs and assignees respectively as their absolute property in time coming." This very clearly shows that the Lot No 12 was never intended to be the property of a Corporation but of individual proprietors of lands and crofts & their successors in these subjects. We think the same remark is undoubtedly true of Lot No. 14.

In the first and second paragraphs of page 4 there appears to be (1) an assumption that the Duke

Duke of Sutherland requires a title to Lots 12 and 14 flowing from the Burgh as a Corporation, and (2) a suggestion that the Burgh is under no obligation to establish a title to the lands which it claims, but is justified not only in requesting the Duke to produce his title, but also in prescribing the nature of the title to be produced viz: - as appears from the Paragraphs referred to - a title flowing from the Corporation of the Burgh. -

The whole question at issue is whether or not the Burgh has a title to lots 12 & 14 and we have shewn upon grounds which these acting for, or assisting, the Burgh in this matter have not been able to controvert, that the Decree of Divisioin did not give the Burgh a



a Title to these Lots. To assume therefore that the Duke requires a Title flowing from the Burgh is obviously to beg one of the principal questions at issue, and to require evidence that the Burgh was divested of property which, so far as yet appears, clearly did not belong to it at all but to others.

The proposal that the Duke should in circumstances such as the present, produce his Title before the Burgh has instructed any Title to dispute his possession is, as you are no doubt aware, quite contrary to the invariable course of procedure in questions regarding the possession and ownership of heritable property, and you will find that we have already replied to this request in our letter of 11<sup>th</sup> November

November last to the Town Clerk.

We have now dealt with all the leading points that arise upon a perusal of the Report, and if the Committee, after considering this letter, have any further communications to make to us as Agents for the Duke we shall be glad to hear from you again.

We are

Yours faithfully  
Sgt Jods Murray & Jamieson

Copy.  
Letter

Mess<sup>rs</sup> Lods, Murray  
& Jamieson, W.S.

To

William Officer S.S.C.  
Agent of Convention  
of Burghs.

Dated 6<sup>th</sup> July 1891

8 July 1891  
comp. H.

Wm Officer S.S.C.  
Agent of Convention