

Five Centuries of Dispute: The Common Land of St Andrews¹

Norman Reid

Like all Scottish burghs, medieval St Andrews had areas of common ground which were set aside for use by the populace for grazing animals and for other domestic and recreational purposes. One such area in St Andrews was the stretch of links land lying along the coast between the town and the mouth of the River Eden. From the sixteenth century onward there is documentary evidence of pressure on this land from a variety of commercial interests, causing periodic conflict – occasionally violent – between the town authorities, the people, and those who wished to exploit the land for profit. This article traces the history of that conflict using records accessible within the collections of the University of St Andrews Library, and reflects particularly on the changing role of golf within these events, as the game developed from purely popular recreation to its modern status as a lynchpin of the town's economy.

In the late 1150s King Malcolm IV gave to the priory of St Andrews – still only a little over a decade old, having been founded in 1144 – the right for the animals belonging to the hospital of St Andrews to have ‘community of pasture’ with those of all the men of Fife.² A decade later, in the charter by which William I confirmed the priory's foundation gifts by Bishop Robert of St Andrews and David I, he included reference to this gift of Malcolm, in the phrase ‘*communitatem etiam in paschuis de Fif pecoribus hospitalis*’.³ The precise

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² ‘*pecora hospitalis de Sancto Andrea habeant communitatem in pascuis vobiscum et cum vestris hominibus*’; G. W. S. Barrow (ed.), *Regesta Regum Scottorum, I, The Acts of Malcolm IV* (Edinburgh, 1960), 188 (no. 124).

³ G. W. S. Barrow (ed.), *Regesta Regum Scottorum, II, The Acts of William I* (Edinburgh, 1971), 136–9 (no. 28).

meaning of the Latin is perhaps slightly obscure, but it must in effect mean that the religious house should have the same communal rights to pasture as Fife's secular inhabitants. This may be the first obvious reference to 'common land' which might reasonably be supposed to be in the immediate environs of St Andrews.

In that respect St Andrews is no different from any other medieval burgh, having land laid aside for the communal use of its inhabitants. Many burghs still retain the memory, if not always the actuality, of such land through place name evidence: Lanark's Burgh Acres, Selkirk's Burgess Acres, Kirriemuir's Commonty, Edinburgh's Boroughmuir and Glasgow Green – all recall lands set aside over centuries for the common use of the townsfolk.

The particular piece of common land discussed below is the area of links land lying along the coast between St Andrews and the River Eden. It is perfectly clear that from early times parts of this ground were also used for non-agricultural domestic purposes such as washing and bleaching, and the taking of turf for roofing and building. Recreation took place there as well: we know from the rich archives of the University of St Andrews, for example, that in the fifteenth and sixteenth centuries students were taken to the common land once a week to partake in 'honest games' under the watchful eyes of their masters.⁴ Of course one of the recreational activities which took place there, certainly from the fifteenth century onwards, was golf.

The first surviving formal recognition that this land was a resource for the 'common good', and therefore that the people of the town had a right to access and use it, is in the form of a contract between the town council and the Archbishop of St Andrews, John Hamilton, dated 25 January 1552/3,⁵ in which Hamilton acknowledges that he has received licence to establish a rabbit warren on the Links with the right to take the profit from the rabbits for his own use – but reserving to the community

all manner of right and possession, propriety and community of the said Links, both in pasturing of animals, casting and lading of divots and sherrets for their use and profit, playing at golf, football, shooting at game, with all manner of other pastimes as ever they please, both where the rabbits shall be planted and in other parts of the said Links.⁶

He further confirms that the land will remain the uninhibited property of the 'provost, bailies, council, community and inhabitants' of St Andrews.

⁴ University of St Andrews Library (hereafter StAUL), UYSL165/2. This document is the 1544 manuscript statutes of St Leonard's College, which details the strict regime under which students lived.

⁵ StAUL, msdep106/1. The quotations from this document have been translated from the original Scots.

⁶ The expression 'casting and lading of sherrets' refers to the cutting and removal of thin pieces of turf for roofing, and more substantial pieces for building. The noun 'feal', which appears in some of the documents, is synonymous with sherret.

Locally, and among the devotees of golfing history, this document has become known as ‘the Golf Charter’, celebrated as the document which bestows upon the inhabitants of St Andrews the right to play golf on the Links. In fact, it does no such thing, and indeed in legal form it is not a charter. It does, however, record the fact that by this date the links land was already seen as common ground, held by the town authorities on behalf of the community for both grazing and other domestic and recreational use, and that any private – and specifically commercial – use of the land should not impinge on that common good. Of course the earlier references, such as the use of the Links by students, surely provide evidence that, rather than being a new idea in 1553, the use of the Links as common ground was already well established, and probably had been for centuries. The real significance of Hamilton’s contract is therefore not to do with the history of golf, but rather with the fact that this is the first recorded occasion on which there was raised the potential conflict between private economic interest and the common rights of the townspeople over use of the Links, a conflict which, as we shall see, was to remain a recurring feature of St Andrews life for centuries to come.

Hamilton’s rabbits were a cash crop: there is evidence in the harbour records of Königsberg (now Kaliningrad), a major Baltic port in eastern Prussia which was known for its prominence in the fur trade, that rabbit furs were being exported there in significant quantities from the East Neuk of Fife.⁷ It isn’t clear whether Hamilton paid the town for the privilege of raising his rabbits, but the fact is that the turning over of common to private interests in order to gain revenue for burghs seems to have been a feature of life in the later sixteenth century. A 1593 act of parliament ‘anent the common gude of burrowis’ tried to regulate (but not prohibit) such business, recognising that the burghs were short of cash, but that dispossessing them of the common land would ultimately further impoverish them.

... and nevirtheles be procurement of particular personis affecting thair privat commoditie and nawyis respecting the weil publick the small patrimonie aptening to the burrowis hes bene convertit and desyrit to be convertit to particular uses, to the quhilkis the same was nevir convertit of befoir, makand thairby the inhabitantis of the saidis burrowis (quha ar becum alreddie depauperat) to be unhable ather for his hienes service or to sustene the estait of the burgh ...⁸

By this time, it is clear, the rousing, or auctioning, of the rights to certain commercial activities on burgh land was already commonplace.

So mid-sixteenth-century St Andrews is probably typical of Scottish burghs of the period. Commercial interests are apparently being satisfied, and the rights of the people of the town to use their common land are safeguarded: perhaps there is an uneasy peace between private interests and the common

⁷ I am grateful to Professor T. C. Smout for this information, in conversation.

⁸ *Records of the Parliaments of Scotland to 1707*, <http://www.rps.ac.uk/mss/1593/4/58>.

good. But despite several seventeenth-century charters⁹ confirming the town's landholding and guaranteeing the customary public access in terms similar to Hamilton's contract, it becomes increasingly clear from the burgh records that the habit of setting the common lands in tack (i.e. lease) was thoroughly entrenched: there are regular instructions for the rousing of common lands, and by the mid-eighteenth century at least some portions of the land were under standard nineteen-year tacks.¹⁰

Obviously, as the 1593 act implied was becoming habitual, the council was indeed using the common land in an attempt to increase its revenue. In September 1726 the Council allowed William Gib, Deacon of the Baxters (who, of course, in virtue of his office, himself sat on the Council), to put his black and white rabbits on the Links, for personal gain, but the Links were 'not to be spoiled where the golfing is used'.¹¹ Of course, quite apart from any restriction on access involved in the leasing of the lands to private parties, a major problem with breeding rabbits is that they can do serious damage to the land, which curtails other activities – particularly, in this instance, golf.

Throughout much of the eighteenth century the burgh records reveal a series of petitions and agreements (and thus, presumably, disputes) about boundaries, pasture-rights, and access.¹² Although there was generally some sort of clause included in leases to safeguard public access, it seems that the situation was becoming less and less clear as time went on, and the potential for conflict was thus increasing. For example, on 28 March 1777 one of the tenants, Robert Nicol, asked for the golf links to be marked out, so that he could avoid encroaching on them 'by ploughing or otherwise', and that part of the rest of the links should be set aside for inhabitants casting feal and divot; the boundaries with the town lands of North Haugh were also to be confirmed, since he claimed that the tenants there pastured beasts on what he thought was the area of common land leased to him; and finally, he sought compensation for bits of sheep-pasture within the lands leased by him which appeared also to have been granted to others.¹³ Clearly, it was a situation which offered abundant

⁹ See, for example, the 1614 charter by Archbishop Gledstanus': StAUL, B65/23/402c; given royal ratification in 1620 (*Registrum Magno Sigilli Regum Scotorum*, VII (Edinburgh, 1984), no. 2140). The St Andrews burgh records are held, under the charge and Superintendence of the Keeper of the Records of Scotland, in the Special Collections Division of StAUL.

¹⁰ See various examples cited in D. Hay Fleming, *Historical Notes and Extracts Concerning the Links of St Andrews, 1552–1893* (St Andrews, 1893), 6–10 (StAUL, Don DA890.S1F6E93A).

¹¹ *Ibid.*, 8, quoting StAUL, B65/11/3 (Council Minutes, 1708–1729).

¹² Various examples conveniently cited in *ibid.*, 8–10.

¹³ The saga of Nicol's petitions to the council, and the lengthy process that ensued before he gained his compensation, is drawn together in *ibid.*, 13–14 (from StAUL B65/11/7–8, *passim*). Eventually it was agreed to pay him compensation on 15 November 1785; at the same meeting it was resolved to deprive him of his lease!

potential for legal challenge, especially in an age where litigation seems to have been a popular pastime within the upper echelons of society.

The inevitable crisis erupted at the end of the eighteenth century. St Andrews had suffered a massive change in its fortunes following the Reformation: no longer the epicentre of the Scottish church, the town went into a period of gradual decline that lasted from the later sixteenth until the early nineteenth century. It declined as a place of pilgrimage, as a place of trade and commerce, and indeed also as a place of learning. With both status and revenue dwindling, the town council found it increasingly difficult to make ends meet. The populace, too, found the economic situation difficult: by the late eighteenth century there are frequent references to the purchase of oats, meal and potatoes by the town to be offered for sale at discounted prices to the town's poor, on which the town made an annual loss. It has to be noted, however, that these goods were generally being sold to the town – and not at a loss – by one or two of the merchants who had senior places on the council.¹⁴ In October 1797, in view of the state of the town's finances, the council resolved that the annual magistrates' election dinner would be restricted in size; and that the king's birthday celebration would be limited to drinking a toast at the market cross, rather than the usual entertainment in the town hall. Indeed in 1812 the council resolved not to have an election dinner at all, and gave some money to the poor of the guildry instead.¹⁵ Clearly, these were challenging times.

On 21 January 1797 the newly elected provost, Col. Alexander Duncan, called a meeting of the council to discuss the financial crisis. Very significant encumbrances on the town were listed, including debts to local merchants (some of whom, of course, were members of the council). Many of these debts were not new – over many years the town had been engaged in 'public-spirited undertakings', including the laying of the public streets, bringing water into the town, and repair of the town's mills and schools: the negative balance of payments was clearly of long standing. The solution they came up with was to give the common lands up as security against personal settlement of the debts. At first, it was the magistrates themselves who offered their personal bond for payment of the debts on that basis.¹⁶

What the council had in fact done was to use the common lands as security for the personal payment of their debts, some of which were owed to themselves, by the senior members of the council. Only a month later it

¹⁴ See, for example, the minute of the town council meeting of 14 November 1796, when accounts were given of losses sustained by the town on the discounted sale of oats, meal and potatoes; note that two of the five loads of oats were bought from Charles Dempster & Son; StAUL B65/11/9, 22–3.

¹⁵ Minutes of the town council meetings, 13 October 1797 and 8 September 1812, *ibid.*, 46–9, 536–8.

¹⁶ Minute of the town council meeting of 21 January 1797, *ibid.*, 25–9. The outstanding debt was in excess of £2,000.

was recognised that the plan would not work: at the next council meeting it was noted that a bond by the magistrates, as representatives of the burgh, effectively to themselves, would not carry legal weight. Two local merchants, Robert Gourlay (a deacon of the weaver's trade, who received a salary from the town as the collector of cess (i.e. land tax)) and John Gunn (who was elected councillor and bailie just over a year later) had offered to give their own security for the sums due, and the council therefore agreed to give them, instead of the magistrates, a bond against the land. These two individuals now had the power to bring the town's common land to public sale, paying any surplus over the value of the municipal debts back to the town, or the town making good any deficit.¹⁷ Gourlay and Gunn could not lose.

As well as providing the narrative of events, the council minutes also reveal other aspects of the way in which business was transacted. One of those attending the meeting in January 1797, for example, was Charles Dempster, a St Andrews merchant. Over the previous year or two Dempster and his son Cathcart had been wielding increasing influence; there are indications that they were working to achieve a majority interest on the council,¹⁸ and for some years one or both Dempsters held senior offices.¹⁹ Dempster & Son were the recipients of several lucrative trading contracts from the town – including the provision of corn for the poor.²⁰ As well as being successful local businessmen, they obviously commanded a controlling faction on the council. Provost Duncan died by January 1799,²¹ and it was Charles Dempster who nominated as his successor Thomas Erskine of Cambo, a prominent local landowner, who became Earl of Kellie later in the same year, and who was to remain provost for a decade.

¹⁷ Minute of the town council meeting of 25 February 1797, *ibid.*, 30–4.

¹⁸ See, for example, minute of the town council meeting of 13 September 1796 (*ibid.*, 3–9), at which Cathcart Dempster controversially pushed for the removal and replacement of two councillors.

¹⁹ Both father and son sat on the council consistently from at least 1796 (when the volume studied in detail begins) until 1803; from 1796 until 1804 one of them always held the powerful position of Dean of Guild, and hence chaired the meetings in the (frequent) absence of the provost. In 1797 and 1798 they held both the position of Dean of Guild and one of the elected bailies of the town, and for several years they both sat on the annual committee to which day-to-day council business was delegated. For two years Cathcart Dempster also acted as commissioner to the Convention of Royal Burghs, and as a parliamentary commissioner. Cathcart left the council in 1804, and his father was removed at the annual election in 1806, ending their decade-long influence over council business.

²⁰ See above, n. 14. Cathcart Dempster was similarly involved in procuring corn for the burgh in 1800 (minute of the town council meeting of 26 May 1800, *ibid.*, 130–3); he was also involved in a new commercial fishing venture, bringing in fishermen from Shetland (*ibid.*, 319–22).

²¹ *Ibid.*, 78.

So perhaps it should be no great surprise when the name Dempster appears centre-stage in the growing drama of the common land. Gourlay and Gunn had apparently, as permitted by the terms of their bond, put the Links up for sale in October 1797. The successful bidder, at a price of £805 (less than half of the sum of the debts owed by the town council) had been Thomas Erskine of Cambo. Less than two years later, however, by August 1799, just seven months after his election as provost, he had sold the lands – to Charles Dempster.²² From a modern standpoint, the apparently self-serving conduct of the council, and the evident conflicts of interest in this and many other aspects of its business, while not atypical of local government of the period, seem distasteful.

Local tensions came to the fore when, on 8 October 1801, the captain of the St Andrews Society of Golfers, George Cheape, wrote to the town council complaining about the damage being done to the golf course by the rabbits which Dempster had placed on the Links to stock his commercial warren.

Gentlemen,

The Golfing Society are extremely concerned to find the Golfing ground so much cut up and destroyed by the Rabbits in the Links and which if not speedily prevented must land in the total destruction of the Golf ground ... The Society are informed that the Good city were extremely guarded in the Sale of the Links by providing that nothing should be done to the prejudice of the Golf ground but that the same should be preserved entire as in times past for the Comfort and amusement of the Inhabitants and others resorting thereto ...²³

Cheape was not only the captain of the Society of Golfers: he was also the owner of the Strathtyrum Estate, which borders the Links. The complicating influence of personal relationships on local politics in this period is highlighted by the fact that Cheape's immediate predecessor as captain of the Society had been Thomas Erskine, the Earl of Kellie, who by this time was the provost and clearly a close associate of the Dempsters. Council considered Cheape's letter but, very unusually (and one suspects not coincidentally), neither Charles nor Cathcart Dempster, the owners of the Links, were present at the meeting; deliberation of the matter was therefore delayed until the next meeting, when Charles Dempster was due to give his response. He did not, however, respond at the next meeting, and indeed five years was to elapse before the council would discuss the issue again.

But long before that the Society's patience ran out. In 1803, frustrated by the lack of any progress in getting Dempster to desist both from destroying the Links and from inhibiting access to them, the Society resolved to take the matter to court. A group of citizens (mostly members of the Society), led by

²² See the minute of the town council meeting of 29 August 1799 (*ibid.*, 93–5), at which Erskine petitioned the council to offer Dempster a disposition of the land in his stead.

²³ From George Cheape's letter to St Andrews Town Council, 8 October 1801: minute of the town council meeting of 19 November 1801, *ibid.*, 191–5.

another prominent local landowner, Hugh Cleghorn of Stravithie, raised a case before the Court of Session.²⁴ When the council eventually came back to the subject in 1806, it was because it had apparently been criticised for not supporting the court action, the common assumption consequently being that it was on the side of the Dempsters. It decided, therefore, to instruct legal representation in the case on the side of the pursuers, because of the grave concern it professed to hold about the loss of civic rights over the Links.

it never was the intention of the Magistrates and Town Council to feu the lands of Pilmor for a warren and if it had been so they would have expressed it not only in the public advertisements relative to the sale but also in the articles of roup and by doing so the lands would have fetched a much higher price to the Town; besides the Council did not consider themselves at liberty to sell the lands for a rabbit warren on account of the long and uninterrupted servitude of golfing by the citizens, Society of Golfers and others over these links. And the Council are convinced that if a rabbit warren is allowed the rabbits will completely destroy the golfing ground and prove very destructive to Mr Cheape's lands, the Town's lands of North Haugh and others.²⁵

The council further agreed that the inhabitants of the town should be encouraged to kill or remove the rabbits. It must have been an uncomfortable meeting for Charles Dempster, who was indeed present.

Locally, things became unpleasant: Dempster tried to ban dogs from the Links, and put down poison and traps for them; there were cases of physical assault by (and against) Dempster's gamekeepers. There was a war of words by printed notice,²⁶ mainly concerning attempts to stop locals from killing the rabbits. Not without reason has this episode become known locally as 'the rabbit wars'.

It is worth noting that one of the leaders in the case against the Dempsters, even before the council decided to join the court action, was the town's provost the Earl of Kellie: previously both owner of the Links and close associate of the Dempsters. However, he too, even while he held the position of captain of the Society of Golfers, had attempted to establish a rabbit warren on the Links. He had leased them out to a tenant with power to stock them with rabbits for a warren, even offering to assist by providing some rabbits from his family

²⁴ Considerable detail of the progress of this lengthy case is conveniently drawn together in Hay Fleming, *Links*, 25–47. The Court of Session's prejudgment, 'State of the Process, Hugh Cleghorn Esq., [and 15 others] against Charles Dempster, Merchant in St Andrews, Cathcart Dempster his Son, and James Begbie their Tenant', dated 17 December 1805 (StAUL, msdep76/11/7a/3) and running to some 70 printed pages, offers a wealth of detail about the case, including the core arguments of the protagonists, as well as the evidence submitted by many witnesses.

²⁵ Minute of the town council meeting of 17 February 1806, StAUL, B65/11/9, 340–2.

²⁶ Examples of these printed notices, produced by both sides in the dispute, which were doubtless pinned up in public places throughout the town, have been preserved within the Cheape of Strathtyrum papers at StAUL, msdep76/12/1/1–2.

estate at Cambro.²⁷ It did not become an issue at that time because the tenant did not actually take possession, and, as we have seen, Kellie quickly divested himself of the land. But it does demonstrate that the case is not as simple as it is sometimes portrayed: there is a complex set of personal relationships and commercial interests at play, which tend to become submerged beneath the simplistic notion that this was merely a conflict between golf and the commercial interest that threatened it.

In 1806 the Court of Session decided in favour of the golfers and the town council, accepting the premise that there was an age-old servitude of public access on the Links, which the proprietors should be prohibited from doing anything to disrupt or spoil. But the Dempsters were not prepared to let the matter rest, and took the case all the way to the House of Lords. In 1807 the town council raised another action against Dempster regarding his ploughing up of the traditional bleaching ground on the Links. Eventually, in 1813, the Lords expressed themselves dissatisfied with the earlier judgment, and, Charles Dempster having died in 1809, gave Cathcart Dempster the right to have the issue re-examined by the Court of Session.²⁸ Dempster, however, did not take up that option, for reasons which remain unknown. Perhaps it was too controversial a topic locally, or he had other more pressing business interests.

It is hardly surprisingly that from 1806 the Dempsters largely lost their influence on the town council. The dispute, and the killing of the rabbits, rumbled on, but in 1821 Cathcart Dempster sold the Links. In the early 1820s he was supplying a new type of sailcloth, which he had patented, to the Royal Navy, but the business eventually failed due to manufacturing deficiencies.²⁹ His decision to sell the Links may have been motivated by a need for cash either to invest in or to support his sail-making business, but there is no record either to confirm or refute this conjecture. The curious fact, however, is that he sold the links to none other than George Cheape of Strathtyrum, the very captain of the Society of Golfers who had initiated the legal action against him. Cheape's claim (largely accepted by historians of golf)³⁰ was that he bought the Links as an act of altruism, in an attempt to save them for the people of the town, and to ensure that the rights of the golfers could not again be challenged. On 26 September 1821, he made a speech to the Society's annual dinner, in which he recited the history of the legal dispute over the Links, and then stated that although he could, if he wished, take his right to establish a rabbit warren

²⁷ Hay Fleming, *Links*, 27.

²⁸ For detail of the House of Lords process, see Hay Fleming, *Links*, 42–7.

²⁹ G. Bruce, *Wrecks and Reminiscences of St Andrews Bay* (Dundee, 1884), 53.

³⁰ See, for example, L. Slovick, 'The St Andrews "Rabbit Wars" of 1801–1821', *Through the Green* (the magazine of the British Golf Collectors Society), September 2012, 24–8; R. McStravick, 'The Real Dempster Family', *Through the Green*, September 2014, 22–4. Both offer excellent summaries of the 'Dempster phase' of the rabbit warren controversies; both state that Dempster's sale of the land put an end to the dispute, but neither mentions Cheape's subsequent actions against the rabbit persecutors.

back to the Court of Session, in the interests of the club he would refrain from doing so:

... the Society have been in the habit of destroying the rabbits to prevent that injury to the golfing ground, which these animals occasion. I have lately made a purchase of the Feu of the Links, and although the former Proprietors have not availed themselves of the judgement of the House of peers in their favour, which entitled them to carry on their Suit before the Court of Session, yet there seems ... to be nothing to prevent me or my successors from doing it; but strongly desiring to put a stop to all future litigation, I shall relinquish every right that I may have on this score, and confirm to the Society, so far as depends on me, the entire privilege of the golfing ground, as they at present possess it, and in doing this I am confident that ... I am rendering a service to my successors as well as to the Society.³¹

Cheape's papers³² show quite clearly that as late as 1809 he had been working in the background to support those whom Dempster was trying to prosecute for killing rabbits. Among other material there is a copy of his note instructing his lawyer to prepare separate cases against Dempster on behalf of several different individuals in 1806.³³ Revealingly, he says 'the greater the expense the better', presumably because he assumed that Dempster would lose the case, and would thus be held liable for the costs. Quite apart from the legal matter in question, there seems to be an atmosphere of rivalry, although it is not possible to detect whether it stems from purely commercial or more personal interests.

The fortunate survival of both the burgh records and several very fine collections of family and estate papers from the locality (including the Cheape of Strathtyrum papers noted above) enable us to look at the conduct and attitudes of the various parties to these long-lasting disputes in a way which would be impossible if only the official record was available. For example, the papers of the Cleghorns of Stravithie offer further insights into the relationships between the leading lights of St Andrews society in this period. Hugh Cleghorn corresponded regularly with family abroad, providing them with much gossip about local events and people, and among his papers a great deal of more local correspondence with others in his social circle has also survived. Although there appear to be no references in this material to the specific issue of the

³¹ George Cheape, from a speech to St Andrews Society of Golfers, 26 September 1821 (quoted from J. B. Salmond, *The Story of the R&A* (London and New York, 1956), 72–3). The original of this speech is not within the Cheape of Strathtyrum papers (see n. 32, below); Salmond does not reveal its whereabouts, but it presumably survives within the archives of the R&A, which have not been examined for this paper.

³² The papers of the family of Cheape of Strathtyrum (who bought the St Andrews estate in 1782), which are held by the University of St Andrews Library (StAUL msdep76), comprise 33 boxes, primarily of estate accounts and vouchers, correspondence (both personal and business) and legal papers, as well as some personal diaries and commonplace books. Search access to them is available through the online manuscripts catalogue, <http://www.st-andrews.ac.uk/library/specialcollections/collections/archives/>.

³³ StAUL, msdep76/11/7b/29.

Links (bearing in mind that he was a protagonist of the initial legal case against the Dempsters), other matters indicate that relationships were not always easy, even among people who regularly socialised with each other.³⁴ For example, correspondence within the Cleghorn papers documents a serious dispute which took place in 1804 between Hugh Cleghorn and Cathcart Dempster about the running of the Fife Militia; it also involved George Cheape, and an attempt to arbitrate was made by the Earl of Kellie.³⁵ It demonstrates that the story of the St Andrews Links is not an isolated issue: it has to be viewed against a background of social immobility, and of personal and commercial friendships and rivalries.

Notwithstanding either his earlier action against the Dempsters or his altruistic approach to the Society of Golfers in September 1821, before the end of that year Cheape himself was involved in legal proceedings to try to prevent the killing of 'his' rabbits on the Links. Cheape's papers offer us drafts of notices and speeches in his own (execrable) hand, as well as instructions to his lawyer James Stark in Cupar. Replete with score-outs, interlineations and marginal insertions, they demonstrate very vividly that he was deeply personally involved with the whole affair and spent a great deal of his time on it.

One particular individual whose case against Dempster had been sponsored by Cheape in 1809 was William Carmichael, a man at the opposite end of St Andrews' social scale and apparently a well-known devotee of the rabbit-hunt. But by December 1822 Cheape was himself making a great effort to have Carmichael and other 'notorious poachers' prosecuted for taking the rabbits. A heavily worked draft of a lengthy speech to the St Andrews justices of the peace exhorting them to prosecute Carmichael³⁶ demonstrates just how comprehensive a turnaround Cheape had effected in his attitude to the affair.

Nonetheless, he did agree to uphold a remnant of the old common right: a look at the wording of tacks of Balgove Farm and the Links given by both George Cheape and his successor reveals statements of limitations on use of

³⁴ The papers of Hugh Cleghorn of Stravithie and the Cleghorn family (1718–1896), which are held by the University of St Andrews Library (StAUL msdep53), contain a vast amount of material associated with the Cleghorn family's business activities (in particular a wealth of information relating to India and Ceylon in the late eighteenth century), and a great deal of personal and family correspondence. See <http://www.st-andrews.ac.uk/library/specialcollections/collections/archives/themanuscriptcollections/personal/cleghorn/ofstavithiehugh1752-1837/>. Search access to the collection is available through the online manuscripts catalogue, <http://www.st-andrews.ac.uk/library/specialcollections/collections/archives/>. A study of Fife high society in this period using the excellent record material available through such family collections would be invaluable, but is well beyond the scope of this paper. (Brief descriptions of other relevant Fife collections held by the University Library can be found by going to <http://www.st-andrews.ac.uk/library/specialcollections/collections/archives/themanuscriptcollections/>, and following the links to both 'Family and estate papers' and 'Personal papers'.)

³⁵ StAUL, msdep53/1/6/3–14.

³⁶ StAUL, msdep76/12/1/6.

the Links which had been included, in one way or another, in such documents for centuries.

[The tenant] shall not be at liberty to plough up any portion of the links ground hitherto untilled or uncultivated further than at present is under the plough and that the inhabitants of St Andrews shall not be interrupted or molested in bleaching clothes where they have right to do so ... and also that the Burgesses of St Andrews, and Tenants of the Milns of the Town of St Andrews, shall be entitled to cast feal and divot on the said links during the currency of the Lease, in so far as they have right to do so, without the Tenant or his foresaids having any claim against the Proprietor for loss or damage, and also declaring that the Tenant, or his foresaids, shall not do any damage to the Golfing Course by his cattle or bestial nor give any molestation to the Golfers or the public practising the game of Golf or taking recreation thereon ...³⁷

By the late nineteenth century St Andrews was a very different place from the almost bankrupt, decaying village that it had been in the 1790s. By then the Victorian tourist trade was bringing many visitors annually to the town and it was becoming a rural haven for wealthy industrialists from Dundee. It was expanding with new streets of lavish town houses, further ‘civic improvements’ had greatly enhanced the area, and the University was growing rapidly. The town’s economy was now booming, and a keystone of this new prosperity was undoubtedly golf, which was rapidly becoming a major tourist draw. Although the fact was not yet fully recognised, what had previously been merely an element of the community use of the common ground had now itself become the predominant economic interest; and in a new, increasingly technological age, the agricultural use of the poor links land was of very limited economic value. St Andrews, however, developed differently from other major centres of population, such as Edinburgh or Leith, where golf generally moved to more remote locations in the interests of public safety. Despite the expansion, St Andrews remained small, and the position of the golfing area on the outskirts of the town also helped to make it possible for both the golfing and the non-golfing populations to continue to make mutual use of the common ground.

There are descriptions and photographs of the Links in the 1870s which make it clear that there was still public recreation and games going on there, as well as bleaching, carpet-beating and other domestic and civic activities. Even then, however, such uses were contentious; the encroachment of the golf courses and other controversial developments, and the changing social habits of a modern age, meant that these other activities were gradually disappearing. Over time the preservation of the land for golfing had gradually supplanted more general public interests to become almost the sole issue by the end of the nineteenth century.

By the 1890s, it was clear that the single golf course was being stretched beyond capacity. Committees were formed, and negotiations took place

³⁷ Tack of Balgove Farm & St Andrews Links, 1880, StAUL, ms38424.

towards the acquisition of more land, in order to build a second course. It was, of course, Cheape of Strathtyrum – James Cheape, two generations on from the George Cheape who had prosecuted the poachers – who owned the land which the golf club, by now transformed into the ‘Royal and Ancient’, agreed to purchase. However, concerned about possible further limitation of public access to the Links as a result, the town council pressed for a new approach, and in 1894 achieved an act of parliament which allowed it to purchase the land and lease it back to the Royal and Ancient, who would build and maintain the new course. The agreement with the council included that both courses would be free to play for local residents, with visitors paying for the privilege only on the new course.

Although the 1894 act initiated a partnership between the Royal and Ancient and the town council, there were still problems. The town council were naturally pleased by the economic boost brought by ever-increasing numbers of golfers; but the golf club remained concerned about the overplaying of the courses, and the consequent expense of maintenance. The erosion of public rights, inevitably, continued. New Links acts in 1913, 1932 and 1946 tried to satisfy the inexorable pressure towards further expansion of the playing ground, permitted admission charges to be levied for major competitions, and effectively removed the right of locals to free golf on the Links. Thus the centuries-old right of free public access to the common land of St Andrews was further eroded by the very golfing interest that had for so long battled to uphold it. Further agreements followed, establishing new arrangements for the joint management of the golf courses, and in 1974 and 1996, with local government reforms, local management (eventually covering six links courses and a seventh, on rising ground inland) was placed in the hands of a Links Trust.³⁸

The issue, of course, was that with the centrality of St Andrews to the game of golf throughout the world, the town had become a powerful magnet for international golfers, and was now the centre point of Scotland’s growing golf tourism market. The use of the Links was therefore no longer a purely local concern. Of course, there is no doubt that the town as a community benefits enormously from the economic fruits of its tourist industry, which is largely founded upon its golfing pre-eminence; and many thousands of people still use the Links every year. Local people do still walk there, especially on a Sunday, when there is no play on the Old Course; local golfers can play on any

³⁸ This very abbreviated summary of twentieth-century events is drawn entirely from secondary sources: Salmond, *The Story of the R&A*; T. Jarrett and P. Masson, *St Andrews Links: Six Centuries of Golf* (Edinburgh and London, 2009). There is a significant amount of secondary literature relevant to the history of golf in St Andrews, the question of the use of the Links, and the rabbit controversy in particular. Among those not quoted in the notes above are A. B. Adamson, *Millions of Mischief: Rabbits, Golf and St Andrews* (Malvern, 1990); J. Behrend and P. Lewis, *Challenges and Champions: The Royal and Ancient Golf Club, 1754–1883* (St Andrews, 1998); J. Behrend, P. Lewis and K. Mackie, *Champions and Guardians: The Royal and Ancient Golf Club, 1884–1939* (St Andrews, 2001).

of the Links Trust courses for a modest annual fee, and have some preferential tee-times on the Old Course; and there is continuing free public recreational use of a narrow strip along the shore (which is partly given over to car parking for those using the beach itself). Nonetheless, as a point of historical interest, it is a curious fact that local people now have very limited use of most of their common land.

In conclusion, the rich records held for public use in the Special Collections Division of the University of St Andrews Library, demonstrate decisively that holes of one sort or another in the common lands of St Andrews have been a cause of conflict for almost five centuries. The fruitful mixture of official and personal record also reveals that the conflict has not truly centred around the right of the people of St Andrews to use their common ground. Rather, the enduring controversy has been driven by the commercial potential of the land, however poor in agricultural terms, and has been fuelled by the complex web of commercial and social relationships which pervaded the upper strata of St Andrews and county society. In 1553 Archbishop Hamilton desired commercial gain from the Links, but was prepared to acknowledge the ancient rights of popular access. When private individuals gained ownership on the back of the financial crisis of the 1790s, however, it gradually became clear that personal and commercial rivalries were far more important than the somewhat vaguely specified public rights. Although cited often enough, the rights of the townspeople have rarely been at the heart of the developing story of the St Andrews Links. In the modern town the situation is really no different from that of the eighteenth century: whether for agriculture, rabbits or golf, the economic benefit of restricting popular use of the town's common lands has always ultimately dictated their future.