

## Two Heaps of Black Ashes: The Battle for the Lion's Face

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Graced with the presence of Queen Victoria the Braemar Gathering of 1891 was a grand affair. The ageing queen *swept* into the grounds at Invercauld, acknowledged the cheers with a *gracious bow* and sat herself down on what the Aberdeen Journal described as a *luxurious chair* of brocaded silk and silk plush. This throne appropriate for a queen was set in a domed pavilion, lined in purple cloth and floored with Persian rugs.

The event epitomised that sense of reverence and respect for royalty and aristocracy associated with Deeside and the Braemar Gathering. But at the very same moment, behind the glamour and respect for Victoria, a struggle over a right of way was raging which for a brief time highlighted a very different sense of loyal Deeside.

Like the Gathering this also centred on the lands of Invercauld: Lion's Face Drive which ran from Castleton of Braemar round the southern flank of Creag Choinnich, east to Dubh Chlais to meet with the Ballater road. This was one of Victoria's favourite paths. But what was fit for a queen was also deemed by locals and visitors to be suitable for free-born commoners. Not that it was Victoria who contested the right to walk by the Lion's Face. No, opposition came from Alexander Haldane Farquharson landowner of Invercauld.

On the death of his father, Lieut. Colonel James Ross Farquharson, the estate passed in 1888 to the twenty one year old A.H.F. Graduating from Christ Church Oxford in the same year, by no stretch of the imagination could the young laird be said to have experience in handling the niceties of running such a vast estate (reportedly 100,000 acres including lands in Forfarshire) let alone the politics and economics of village life. But things started well, at least as far as his bank balance went. Within three months of his father's death he had managed to let Invercauld estate to Sir Algernon Borthwick M.P. for the not inconsiderable rent of £4,500. For this the Conservative press baron not only had the social cachet of a pile in the Highlands, the Queen for a neighbour, but also access to extensive fishing and shooting rights. According to the local newspaper this renting was fortuitous otherwise Invercauld *would*

have been an overshadowing white elephant for Alexander Farquharson.

It's an uncertain point as to whether the new tenant pressed the laird for exclusive access to deer forest and grouse moor. What we know for certain is that within two years of becoming proprietor of Invercauld, Farquharson was erecting barriers at either end of the Lion's Face, an action which the Dundee Courier reported as creating much indignation and making clear where it stood on the matter stated,

*Mr Farquharson seems to have been very successful in every way since commencement of his reign in making himself unpopular with his tenants and dependents who . . . are powerless to resist his usurpations for fear of eviction or some other equally unpleasant form of retaliation.*

In challenging the right of access to land Alexander Farquharson set himself literally and metaphorically on one side of a fence which separated contending political ideologies. Almost fifty years previously, the great Glen Tilt struggle had been resolved in favour of access, although it should be said that this was the right to follow a designated path rather than to roam freely across the hills. Nonetheless, it was a significant victory. In 1886 the struggle centred on Glen Doll when proprietor Duncan Macpherson decided to obstruct what had once been a commonly used drove road. Macpherson was challenged by Thomas Duncan of Kirkton of Clova, shepherd James Farquharson from Auchallater and the Scottish Rights of Way Society. Of particular interest in this dispute is that in July 1886 it was reported that Colonel Farquharson, the elderly and dying laird of Invercauld over whose land the drove road passed, expressed no opposition to access, indeed, he agreed that it was a right of way and said that he had never sought to restrict use. This, however, was later contradicted by his factor R. G. Foggo who, in January the following year, claimed that Colonel Farquharson did not recognise a right of way through Glen Callater. All travellers who

crossed Farquharson's property were allowed, he said, on *sufferance* only. In March 1887 Lord Kinnear ruled in favour of those who claimed right of way. Duncan Macpherson appealed the judgement in the Court of Session and lost. Dissatisfied, and clearly unafraid of possible expense, he fought to establish his right over the public's and took the case to the House of Lords which also found against him.

From the Glens Tilt and Doll cases it might be thought that questions of rights of way were matters only of rural concern. Not so. Around the same time that Macpherson's claim was being rejected by Lord Kinnear, Aberdeen Town Council fought its own battle. In April 1887, the trustees of Ruthrieston estate, adjacent to the Bridge of Dee, had taken it upon themselves to build a wall across what had been the medieval road leading out of Aberdeen. Unlike a more recent City Council which looked to divesting the town of an "ancient" asset, the Victorian City Fathers fought to defend their heritage. Let the reporter for the Aberdeen Journal take up the story:

*The committee gave orders for the demolition of the barrier... [and] the surveyor's staff to proceed with the necessary tools to the place. The wall erected was eight feet high, and semi-circular in form. In the course of Monday afternoon, a breach four yards across was made in the wall and a paling was demolished, leaving a clear space for vehicles and foot passengers.*

Differing from many rural rights of way struggles, this dispute was quickly resolved in favour of the public. A combination of swift militant action and legal interdict meant that by May the affair was over.

Back in Braemar Alexander Farquharson, having let his *white elephant*, settled into his lairdship and, in August 1890, approved the erection of a barrier across the Lion's Face drive. Invercauld factor R. G. Foggo, who had worked on the estate for twenty years,

oversaw this new policy. Discontent simmered until June 1891 when local indignation erupted into direct confrontation with the laird.

Despite the fact that Victoria had put a stop to the Deeside Railway pushing beyond Ballater, by the late 19<sup>th</sup> century Braemar was an important tourist centre, attracting not only walkers keen to penetrate deep into the Cairngorms but also those who preferred, or could only manage, the more gentle pretty walks and drives such as that round Creag Choinnich. These professional and literate visitors became the public voice of opposition.

At the first confrontation something approaching four hundred demonstrators gathered to vent their anger, made up, it was said, of *the elite of the village of both sexes . . . mostly composed of visitors, although a considerable sparkling of villagers was present.* And they were angry, so angry that they set about tearing down the fence and then, with *deafening cheers* and in an *enthusiastic fashion*, began burning the timber. All this to the music of a “German” band engaged for the event; especially popular was the tune *The Bogie Man* and unpopular the factor *Foggo*. A newspaper report notes that it was as well that none of Farquharson’s men were present as harm might have been done to them.

Not to be outdone the laird had his factor re-erect what was described as the *obnoxious palisade*; and turned to the law to protect his property, seeking an interdict against James Head Staples portrayed as *one of the most enthusiastic and resolute protesters of the daily smashing up of the fence.* Staples was interdicted but as the legal restriction only applied to the individual, the mass protests continued: locks on gates were smashed, paling was cut, paraffin was brought and as the *Aberdeen Weekly Journal* put it *a splendid bonfire was the result . . . The scene is very picturesque, the bonfire lighting up the excited faces of the crowd.* When visitors were unavailable for such good-works *village boys* gathered to make their own mischief. By mid September the fence had been destroyed and repaired no less than sixteen times and from reports it is clear that it was treated by locals and visitors alike as an occasion for carnival, where an assertion of rights was seen as not only a political imperative but as an opportunity for fun and games at the laird’s expense. Despite the efforts of the estate workers all *Foggo* and

Farquharson had to show for their determination were *two heaps of black ashes, a large coil of wire . . . [and] a piece of paling.*

The young laird, unimpressed by picturesque fence burning, turned again to the law, seeking to interdict identified trespassers. His statements to Lord Kinneir at the Court of Session show why Farquharson was so adamant in looking to prevent the right of way. The land, he said, was for sporting purposes and any disturbance of the deer *seriously* depreciated the worth of his property and this, he said, was why he erected barriers in 1890. With a request for further interdicts the Procurator Fiscal hastened to Braemar. The Fiscal ensconced himself in the Fife Arms Hotel to interview witnesses. In the course of these unprecedented events the local reporter sought village opinion.

Alex. Geddes told the man from the Press that the Lion's Face was as far back *as he could remember* part of a *public market stance* but there had been,

*gradual encroachments made upon it, and several buildings erected . . . the only commonty about the village . . . I believe it has been a public road ever since Adam was a boy.*

A Donald Macdonald – *a hale man of 67* - told a similar tale of the drive being a route for bringing cattle to market and a place where villagers played games and enjoyed themselves. N. Fabyan Dawe, a visitor and a member of the local Rights of Way Committee, stated the case for public access and raised the matter of yet another restriction imposed by Farquharson, saying he wanted to,

*vindicate the public right to public paths in the district . . . [he] believed that the public were fully entitled to use certain roads on the opposite side of the river from which they were at present excluded.*

Echoing the cries of many rights of ways enthusiasts he called on County Councils to take up the challenge and side with the public against malicious landowners.

However, this combination of local knowledge and political attitude was not enough to prevent interdicts being granted against five individuals including the above N. F. Dawe. Amongst the five it is worth noting that one was Alexander Hendry, son of the Braemar Postmaster and another was B. J. Ottewell, landscape painter and one of Queen Victoria's favourite artists. Local Liberal M.P's. James Bryce (First Honorary President of the Cairngorm Club) and Robert Farquharson made donations to the fund set up to fight the men's cause.

From slightly further afield the editor of the Dundee Courier opined that, while not defending *rioting and malicious mischief* he believed it was,

*Satisfactory to find that throughout Scotland there has been manifested a patriotic determination to maintain the people's claim to Nature's scenic treasures.*

Further south the London Standard gave its opinion taking what some might call a more "balanced" view. No doubt with an eye to the recent "Crofting War" in Skye when there was a successful challenge to landlordism, the Standard warned against the *professional agitator, who sees his political account in the discontent of the rural crofter*. However, the writer also cautions against owners and tenants of deer forests expecting to have sole access. To so claim was,

*filching of another's share in the property. Ordinary honesty forbids a Highland laird to close a mountain path, quite as much as it debars a Southern squire from fencing a common for which he has never paid.*

The writer concluded that landlords like Farquharson would be well advised to assert their legal rights as *in a manner accommodating as possible*.

With intimidation failing, Alexander Farquharson gained an insignificant victory. He realised that it was beyond him to name all and restrain all who might choose to walk the drive. Awaiting a ruling on his rights Farquharson accepted the best he could achieve was to monitor those "trespassing", perhaps take their names but let them pass unhindered.

The evidence brought forward in favour of public access established that the Castleton end of the Lion's Face was the site of a market stance where cattle and other livestock had been gathered and sold. With the coming of railways this traffic had all but ceased, nonetheless the drive was still used as public access for those attending church or school in Braemar. And even when the late laird, Colonel Farquharson, had erected gates sometime about 1880 to protect saplings, pedestrians continued to have free access. On the other side of the argument Farquharson stood by his ownership of the land arguing simply for the right to protect a capital asset and that public disturbance would deprive him of value gained from the shootings of his estate. But as with the Glen Doll case the weight of evidence favoured the right of way cause.

Agreement was reached in early 1893. The interdicts were lifted and Alexander Haldane Farquharson conceded the right of access from Castleton to Dubh Chlais and beyond to join with the Ballater Road but with the restriction that there was no right of entry from the 20<sup>th</sup> of September until 30<sup>th</sup> November, thus protecting some shooting rights of Invercauld. In addition to this the agreement also dealt with the contentious matter of a path on the north bank of the Dee which Farquharson had also attempted to close to the public. This path led westward from Keiloch, crossed the Sluigan burn, continuing past Braemar eventually on to the Linn O' Dee. Invercauld pledged the estate to put forward up to £75 for the construction of a suitable path which thereafter was to be maintained by the County Council.

With this agreement both parties were able walk away with a degree of comfort. Rights of way activists had won access if not the right to roam at will; Farquharson was able to legally prevent entry

during the height of the game season and thus protected an important economic asset but he had been forced to concede that ownership of land did not give him absolute and final say in who and who should not walk on his estate.

The combination of forces which faced the laird demonstrates shifting relationships of power in late Victorian society. When 67 year old Donald Macdonald from Braemar was interviewed by the Aberdeen Journal he was clear that shutting of the drive posed a threat to local businesses; in his words the area would be ruined by closure. Whilst it was certainly the case that renting property to men such as Sir Algernon Borthwick could help fill the coffers of Invercauld it was less obvious that this could sustain the burgeoning tourist trade of Deeside. What was required was the flow of middle class professionals intent on walking or driving the area. With this economic imperative it is hardly surprising to find villagers supporting liberal demands of visitors. And we might speculate that the obvious pleasure displayed by locals at Invercauld's discomfiture was perhaps a sign that the ways in which past Deeside lairds had handled estates and their tenants were not always approved of. Through the eighteenth and into the nineteenth centuries there had been a gradual erosion of rights such as taking timber, the limitation of shielings, associated grazing and a resultant decline of fermtouns; followed by more systematic sheep farming which in turn gave way, at least in part, to the extension of deer forests. As we know these policies had a profound effect upon local populations, not to say the physical geography of Deeside, and perhaps the "folk" memory might have retained a smouldering sense of injustice which was ignited by the spark provided by "professional agitators" like the Queen's favourite watercolourist Benjamin John Ottewell. If this was the case then the folk memory happily corresponded with the questioning of the landed aristocracy's absolute right to the land. Liberalism and emerging labourism combined to propose new principles looking to displace what we might call older hegemonic aristocratic system; the new way was founded on mass democratic ideas underpinned by the politics of an enfranchised and wealthy middle class and rising working class movement which at times went so far as to question the right to property.

In a sense Alexander Haldane Farquharson was victim of this growing democratic swell. But we need not feel too much sympathy with his predicament. His right to Invercauld remained unchallenged and when in January 1893 he married Zoe Caroline Musgrave the couple's list of wedding gifts hints at the wealth within their circle: a diamond pin from the Prince of Wales; diamond and sapphire rings; an "old" painted fan which had belonged to the Queen of Bohemia; gold mounted bottles; sofas mounted in gold and brocade and so the glittering list continues. The event was said to have *caused great rejoicing among the tenants of his estate*. However, when one reads the report of the banquet at the Invercauld Arms in Ballater, held to coincide with the London wedding, there is a sense that the rejoicing was for a man somewhat distant from his employees and tenants. In toasting the couple Chief Magistrate Burnett said many kind words but noted that the laird was *not so very well known to them as they could have wished, that during the last few years Mr Farquharson's visits to Invercauld had not been very frequent*. Nonetheless, he, Burnett, was confident enough to state that *during the last twelve months Mr Farquharson, had by his actions, displayed his interest in the community*. Undoubtedly the heat of the bonfires at the Lion's Face played a part in attracting his interest.