

Barons Courts of Prestoungrange & Dolphinstoun

Trinity Session [re: Elizabeth II. 53. 2004] July 13th /November 27th

Declarator *Curiis et earum exitibus*

For the Avoidance of all Doubts in these Respects Let it Be Known to All whom it May Concern:

- I. **Our Rights to convene these Our Courts** acknowledged by Court of Session in *Tulloch v Willoughby de Eresby* (1834) 12 S 754, and again in the *4th Report of The Commissioners Appointed to Inquire into the Courts in Scotland, 1870*, **have once again**, notwithstanding any opinion re provisions of *The Statute Law Revision Act 1948*, **been acknowledged** [168 SCOT LAW COM: 2.31] and in the *Abolition of Feudal Tenure [Scotland] Act 2000* [63.1], in which Her Majesty on and with the Advice and Consent of Her Scottish Parliament has given Her Consent that the “jurisdiction of barony shall on the Appointed Day [November 28th 2004] cease to exist”.
- II. The extent of Our Jurisdiction under the *Heritable Jurisdictions [Scotland] Act 1746* encompasses both criminal and civil cases of a minor nature [168 SCOT LAW COM: 2.42]. Specifically –
 - **Criminal Jurisdiction** is recognised in cases of assault, batteries and small crimes, and Our Powers of punishment include fines up to twenty shillings [£1] and up to three daylight hours in the stocks ... and in default by imprisonment for any time not exceeding the space of one month;
 - **Civil Jurisdiction** is recognised in cases with value up to forty shillings [£2] and cases for the recovery of rents and other dues of a like nature in any amounts.
- III. The Report on the Abolition of the Feudal System [168 SCOT LAW COM: 2.31 (40)] opines that: “In practice Baronial Courts are held now only for ceremonial purposes”; and again [2.42] “the jurisdictional Rights of Barons have no value and compensation for their abolition would be inappropriate and unnecessary”.

[These Our Courts find no substantive justification whatsoever for the assertion in the Report that these our Jurisdictional Rights have “no value” although we accept that: (i) it is demonstrably the case that until this our Trinity ‘Judicial’ Session [Elizabeth II. 53. 2004] Our Courts have in practice throughout living memory only been used for occasional ceremonial purposes until 1998 when we moved to establish them firstly as a not-for-profit corporation and subsequently in 2002 as a registered and incorporated Scottish Charity; and (ii) that as Barons we shall *not* seek our properly entitled compensation for the loss of these our valued Jurisdictional Rights *provided only that*: (a) we are in no manner impeded in the continuation of the activities of these Our Courts in every other respect as already demonstrated to be of most welcome value to all who now live upon the lands held in *liberam baroniam* from the Crown by feudal Grant under The Great Seal by fourteen generations of Barons from the Kerrs, the Morrisons, [including two Lords of Session], the Grants [including Lord Prestoungrange who held office both as Lord Advocate & as Lord of Session] and the Grant Sutties together with Our Own Access to these Lands held of the Crown in *liberam baroniam* from 1998; and (b) in the exercise of these Our Continuing Rights after the Appointed Day that We Shall

Grant as is Our Right a Crown Baronial Charter for the further encouragement of our Charitable Purposes under our Great Seal.]

- IV.** It shall be Our deliberate purpose in this our forthcoming Trinity Session [Elizabeth II. 53. 2004] to exemplify such Present and Future Value by addressing issues of substance and direct concern in Our Baronial Lands. And since Our capacity to Grant legal relief is, and has been since 1746, much *limited*, the value and benefit of Our Declarators, Judgements and Orders will be primarily *moral*, and as such not to be lightly set aside. A just cause always greatly benefits as much if not more from its judicial and publick espousal as it can from the application of more severe sanctions, punishments or other legal relief to Petitioners or Complainers
- V.** And So We Shall Proceed to Receive and Consider such Petitions and Complaintes on such matters as concerned persons from Our Baronial Lands shall seek to bring before Us at this Trinity Session [Elizabeth II. 53. 2004] of These Our Courts convened at The Caput of Our Baronies being The Prestoungrange Gothenburg at 227/ 229 High Street, Prestonpans in The Court Room or such greater accommodation thereat as the Baron Sergeand shall see fit to fence around at 12 noon on the thirteenth day of July.
- VI.** All Such who are desirous to bring their Petitions or Complaintes to these Our Courts shall deliver them to the Clerk of Our Courts at our Caput Baroniae no later than 12 noon on the twelfth day of July 2004 so that they may be Presented to Us in Proper Order the day following when We shall Hear the several causes with our greatest attention; And solely Under the express condition accepted by all Parties to these Proceedings that all are willing Litigants, Petitioners, Complainers and Respondents in the Causes to be thus considered and that their attendance shall constitute their joint and several prorogation in All the Matters arising constituting thereby their absolute acceptance of the Jurisdictional authority of these Our Courts [subject only to the provisions in respect of such prorogation in the *Heritable Jurisdictions (Scotland) Act 1746 (17)* which makes judgement in cases of higher value than forty shillings unlawful; nor may there be any consideration howsoever of treasonable acts or of the four reserved pleas of the Crown namely robbery, murder, rape and fire raising – except the latter as modified.]
- VII.** Having received and Heard all that is to be submitted in these Matters at Our Sessional Meeting on the thirteenth day of July We shall give all that we have heard our greatest and most careful consideration and timeously Make and Publish Our Declarators, Orders and Judgements together with such relief and punishment as seems necessary and proper in any case arising within our continuing Powers under the *Heritable Jurisdictions (Scotland) Act 1746*.

Officers of Our Courts: Trinity Session [Elizabeth II. 53. 2004]

- VIII.** Our Courts will take advice of such **Suitors** as shall be appointed on and after the twelfth day of July.
- IX.** Together, we The Much Honoured Barons of Prestoungrange & of Dolphinstoun shall preside at the Trinity Session seated with our Common Baron Bailie, Mathew Wills Yr. of Prestoungrange, as **Judges** in Our Courts as authorised under the *Heritable Jurisdictions (Scotland) Act 1746 (17)*.
- X.** We Appoint Hereby as **Clerk of Our Courts** [*taking the Opinion of MacKenzie that the Clerk of the Baron Court need not be a Notar*], our Common **Baron Sergeand** Sylvia Burgess BPS, MSc.
- XI.** We Appoint Hereby as our **Doomster** to Declare the Law and its Reliefs and Punishments, Anne Taylor.

XII. We Appoint Hereby as **Keeper of the Fortalice** and the Whole Caput of Our Baronies, Dawn Robertson

XIII. We Appoint Hereby as **ByrLawmen** *with the Consent of Neichtbors Sought Received and Taken*, who Shall Take the Oath *de fidei administratione* not later than the thirteenth day of July to seek at all times to ensure the best relationships betuixt neichtbor and neichtbor throughout the Whole this Our Trinity Session and Beyond as these Our Courts its Continuing Heirs Successors and Assigns Shall Determine:

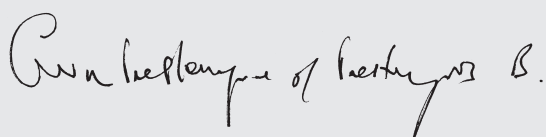
Jim Forster in Matters Horticultural; Steven Cross, Chantel Graham and Steve Wilson in Matters of Hospitality and Re-creation; Andrew Laurie to Ensure the Provision of Victuals at All Times most especially derived from these Our Lands and Our Seashore; Andrew Crummy, Katherine Hunter and Thomas Ewing in Matters of Mural Decoration, Portraiture and the Visual Arts; Annemarie Allan in Matters of Literature, Theatre and Poetry; Lindsay Davidson in the Pipes and all Other Manner of Musick; Adele Conn, Kristine Cunningham and Gillian Hart as Montjoyes in all Matters to be Told Out within and beyond Our Baronial Lands including the Soliciting of Seemly Patronage at The Prestoungrange Gothenburg and the Carving of the Totem Pole to Honour Chemainus; Bill Robertson in all Matters of the Fabric of Our Caput; Iain Turnbull to Ensure Proper Provision at All times of Ales and Porter, Salt and Oysters in Our Caput; Anthony Gillingham and Lynn Drummond in all Matters Financial for Our Procurator Fiscal; John Unwin as Printer Honor'd; Hans Maurer, James Kable, John Wicks, Karl Schutz, Eric Sandelands and Joan Refoy Wills as Montjoyes plenipotaries; Linda Sneddon in the creation of photographic records; and sundry others to be notified on July 13th 2004.

The Proceedings in These Our Courts

XIV. These Courts shall be Conducted in "*The Mannar of Halding Baron Courtis*" reported by Sir Crispin Agnew Bt. of Lochnaw [Rob. III *ex lib.* Sconen] in *The Baron Courts*, published by The Convention of The Baronage of Scotland, 1994, ISBN 0 9545 2 8, vis.

- After the Clerk has announced the Courts to be in Session, the Baron Sergeand shall ensure it is fenced;
- When the Courts are fenced around the Petitioners and Complainers shall be called by the Clerk and they shall be Heard one by one;
- Once all the cases have been thus heard, unless an immediate Declarator or Order or Judgement is available, the Judges shall take away for their deliberation all that is written and the Clerk's records of what has been heard, and return again by a date and time to be announced to provide formal Determinations.
- Whilst Baron Courts are not a Court of Record, extracts of Declarators, Orders and Judgements will be issued but it should be noted that on any Appeal to Court of Session the principal decree and minute of proceedings must be produced.

Published this eighth day of May 2004 at This Our Caput



Much Honoured Baron of Prestoungrange : Much Honoured Baron of Dolphinstoun

Barons Courts of Prestoungrange & Dolphinstoun

Under Provisions of the Heritable Jurisdictions [Scotland] Act 1747

Trinity Session: Elizabeth II. 53. 2004. July – November

To All & Sundry Whom These Presents Do or May Concern

These Baronial Courts shall hold Joint Trinity Sessions, the Barons presiding together, in The Court Room, 227 High Street, Prestonpans commencing July 13th and July 27th 2004 and continuing as May Be until November 27th with the following Order of Petitions Complaints and Other Business to Consider and Determine

[E II. 53. 2004 P&D. 01] To Consider the Petition of Professor Stephen Kerr, grandson of the Very Reverend Dr. Charles Kerr, Member of the tribe Kerr, co-founder of the University of Tulsa, Oklahoma who was the 144th Moderator of the General Assembly of the Presbyterian ‘Church of Scotland’ in the United States of America, seeking ***Authorisation to Re-enact as a Bagpipe Opera*** [to be known as *Tulsa*] evidence sworn by the Very Reverend Dr. Charles Kerr describing alleged miscarriages of justice concerning the Greenwood Blacks in Tulsa in 1921, which opera Professor Stephen Kerr has commissioned from Lindsay Davidson, Court Composer and Master of the Musick for the Barons Courts.

[E II. 53. 2004 P&D. 02] To Consider a Class Petition presented by the Procurator Fiscal of our Baron Courts on behalf of all those found guilty of the capital offence of witchcraft being legally defined as ‘conjunction or sorcery’ in and from the baronial lands prior to the passage of *The Witchcraft Act 1735* and punished therefor, seeking an ***Absolute Pardon***, and that their treatment before the law be remembered in murals painted in the baronies depicting their plight and by an historical record being published that both recounts their alleged crimes and punishments and records such Pardon, and that the events be re-enacted from time to time as a living reminder of the earlier process of justice in Scotland.

[E II. 53. 2004 P&D. 03] To Affirm the boundaries and extent of the ancient lands and baronies of Prestoungrange and Dolphinstoun after the Countess of Hyndford.

[E II. 53. 2004 P&D. 04] To Consider a Petition from the Board of Directors of East of Scotland Public House Limited to make ***Declarator*** of the ByrLaws Governing the Proper Conduct of All who May Visit and Make Use of the Hospitality Services provided at The Caput Baroniae known as The Prestoungrange Gothenburg, and the Requirement that its affairs be conducted in accordance with ‘Gothenburg Principles’ as attested to by Jorgen Linder, Lord Mayor of Goteborg in Sweden on his visit to the baronial lands on July 23rd 2003; make provision for such the ByrLawmen as shall be appointed from time to time to ensure the ByrLaws are observed; and to declare July 23rd henceforth to be Gothenburg Day and celebrated as such.

[E II. 53. 2004 P&D. 05]. To Consider a Class Petition presented by our Procurator Fiscal on

behalf of those owing feu duties in these our Baronial Lands that the directors of John Fowler & Company [since liquidated in 1969] by closing Fowler's Brewery in 1962 acted in a manner contrary to their best interests and those of many other residents of Prestonpans and that the Courts now make **Declarator** that Fowler's Ales [Prestoungrange] Limited as heirs to the duty to provide ales brewed within the baronial lands shall make proper restitution by providing annual Gift Aid to The Prestoungrange Arts Festival of 2d Scotch [1p] per pint of its ale sold thereby honouring the Impost enacted by Statute in that sum in 1753.

[E II. 53. 2004 P&D. 06]. To Consider the Petition from our Common Baron Bailie (i) to select for Our Ancient Baronial Lands a territorial duthus 'plant badge' and Slughorn for future use within the Crown Baronies of Prestoungrange and Dolphinstoun under the law the same to be announced in **Declarators of Entitlement**; and (ii) to determine the acquired property-rights of the Baronage of Scotland in the various 'qualities', 'precedences' and 'any heraldic privilege' associated with or incidental to the 'dignity of baron' statutorily transformed by Section 63(4) of *The Abolition of Feudal Tenure Act [Scotland] 2000* into concrete individual acquired legal rights of intangible property and statutorily incorporated as an integral component 'bundle' of such acquired rights of property by the use of the verb 'includes' in Section 63(4) of the Act into the essence or the very fabric, fibre and substance of the 'dignity of baron' as "incorporeal heritable property" under Section 63(2) of the Act and to issue a **Declarator of Entitlement** setting forth in detail with specificity the various and sundry acquired legal rights of intangible property to which the Baronage of Scotland is entitled all of which to be acknowledged and granted by the Lord Lyon King of Arms in his judicial capacity as a mater of legal right.

[E II. 53. 2004 P&D. 07] To Consider the Petition of our Baron Sergeand **To Create an official Register of the Dignity of Barons in Scotland and of Dispositions of these Our Baronies & Lands** from 1185 to this present and for the future and of all Our Entitlements including our Rights to Arms and in all other respects for the absolute avoidance of all doubts now and in the future as to their Proper Ownership, and to make a **Common Judicial Direction** that we both as presiding Barons together with Our Common Bailie in this our Joint Courts be bound to do all that shall be necessary to seek to ensure that our present baronial lands continue and remain in ownership 'together with these our titles' from which they were properly derived under Royal Charter being our incorporeal heritable property notwithstanding their separation under the *Abolition of Feudal Tenure (Scotland) Act 2000* after the Appointed day being November 28th 2004; and Further to take all such steps in common with any and all others as may be helpful in this respect to All the Whole the Baronage of Scotland so that a new and Proper Register of Title may be established.

[E II. 53. 2004 P&D. 08] To Consider the Implications for the future role and responsibilities of the Barons Courts in the service of those living on the ancient baronial lands after the Appointed Date of November 28th 2004 when the provisions of the *Abolition of Feudal Tenure [Scotland] Act 2000* of the Scottish Assembly which was granted the Royal Assent on June 9th in that same year come effective and remove the judicial powers of these our Courts, and to **Make Such Orders** to honour the best traditions of feudalism that shall be binding both now and after that Appointed Date save that they may subsequently and properly be excluded on Appeal by the Court of Session viz. (i) *An Order Recognising Our Barons Courts henceforth as a Scottish Charity*; (ii) *An Order Establishing Rights of Passage Across Our Baronial Foreshore*; (iii) *An Order Establishing Protocols for The Proper Protection of the Dignity of Baron whether or not of Feudal Origin*; and (iv) *An Order Establishing a Biennial Scholarship for the Evaluation & Further Advancement of Traditional Feudal Values in these Our Ancient Baronial Lands*.

[E II. 53. 2004 P&D. 09] To Consider the Petition of The Prestoungrange Arts Festival that the Appointed Date for *The Abolition of Feudal Tenure [Scotland] Act 2000* being November 28th should by **Declarator** become henceforth throughout Our Ancient Lands be a celebratory anniversary to be known as *Barons' Day*, and that each year all Scotland's Barons as recognised by The Lord Lyon or as may be accepted as properly so entitled by *Burke's Peerage and Baronetage* or otherwise properly recorded in the *Registers of Scotland* howsoever be invited to 'celebrate together and share evidences of their continuing commitment to the best traditions of their heritable feudal responsibilities' which alone before these Courts can constitute a proper justification for continued recognition of such their titles after the Appointed Date.

[E II. 53. 2004 P&D. 10] To Consider Such Complaints as May be Presented to The Clerk to These Courts no later than 12 noon on the twelfth or twenty sixth day of July at The Caput Baroniae.

[E II. 53. 2004 P&D. 11] To Publish (i) ***Our Proclamation of Compleat Discharge*** for all who until the Appointed Date owe feu duty to ourselves and to Her Majesty within our baronial lands; together with (ii) ***Our Motion of Final Closure of These Criminal and Civil Divisions of These Our Courts Upon the Eve of The Appointed Day*** as has been required of Us by Section 63.1 of the *Abolition of Feudal Tenure [Scotland] Act 2000* provided only that the Records of these our Proceedings shall be held safe for the future by such Scottish Charity as be established whose purposes may embrace this provision; and Provided that All Others Aspects of the role of These Our Courts Shall be Continued for the benefit of all who dwell now and in the future on our ancient baronial lands.

GOD SAVE HER MAJESTY THE QUEEN

By Order

Sylvia Burgess, *Baron Sergeand*
This eighth day of May 2004



Barons Courts of Prestoungrange & Dolphinstoun

Under Provisions of the Heritable Jurisdictions [Scotland] Act 1746

Trinity Session: Elizabeth II. 53. 2004. July – November

Suitors to Trinity Session

As Suitors to Our Trinity Session the two following Officers of the Courts have been appointed this twelfth day of July 2004 except where they are party to any matter under consideration:

Stephen Kerr of Ardgowan, Baron of Ardgowan

Stephen Kerr of Ardgowan, Baron of Ardgowan, is Professor of Public International Law & Human Rights, Antioch School of Law, Antioch University, Washington, D. C.. From 1980–1999 Stephen Kerr of Ardgowan, The Much Honoured Baron of Ardgowan, served as pro bono international legal counsel to the House of Habsburg-Lorraine re the 1919 banishment of the Habsburgs from Austria and the confiscation of all of their personal, private property by the Republic of Austria under a Law of Attainder which although mitigated in the 1930s by the Dollfuss-Suschnigg Government was re-imposed after the Anschluss by the Nazis.

In 1996 he was successful in having the banishment lifted and he continues working on the property issue and was rewarded by the Hapsburg family with the gift of the Barony of Ardgowan.

Kaiser Karl had died young in 1923, and the Empress Zita raised their eight children on her own, with Archduke Otto going to work at age 12 to help support his younger brothers and sisters. Today the Habsburgs have a strong Scots connection in their House: Archduke Otto's eldest son, Archduke Carl, married Baroness Francesca von Thyssen whose mother is Scottish being a Campbell. The Duke of Argyle and his pipers were guests of honour at their 1993 wedding in Austria. [Archduchess Francesca's flaming red hair instantly identifies her as Scottish.]

Stephen Kerr of Ardgowan is a Life Member of Royal Stuart Society, and matriculated nobiliary arms on 26 May 1982, Lyon Register Vol. 66, Page 47. On his mother's side he is a Coe, where Arms were recorded for the Coe Family of Boxford and Gestingthorpe, Essex, England in the 1612/14 heraldic Visitation of Essex by the Heralds from the English College of Arms: Harleian Manuscript No. 6065 (Library of the British Museum), page 66. The family has been traced directly generation-by-generation back to John Coo of Gestingthorpe, born in 1340, who founded the Hawkwood chantries in 1412. Claim to these Arms upon ancient family usage was proven to the English Heralds by two ancient deeds, one dated June 1403, the other dated 20th May 1423, on which the names of John Coo and John Coo of Gestingthorpe respectively appear with their seals bearing similar Arms: Three pales wavy charged with twelve martlets.

Ardgowan has received Chivalric Recognition for international legal services as follows:

Marianer Knight of the Teutonic Order on 28 October 1977 by H. H. Pope Paul IV, Sovereign of the Teutonic Order, through Dr. Idelfons Pauler, Grand Master of the Teutonic Order.

Officer of the Order of St. John of Jerusalem on 22 November 1978 by H. M. Queen Elizabeth II of Great Britain and Northern Ireland; religiously invested into the Order on 4 November 1979 at St. John the Divine Cathedral, New York City, by Lord Caccia in the name of Queen Elizabeth II.

Knight of Merit moto proprio with Star of the Sacred Military Order of Constantine of St. George of Naples on 22 April 1973 by H.R.H. Prince Ferdinand (IV) of Bourbon-Two Sicilies, Duke of Castro, Grand Master of the S. M. O. Constantine of St. George of Naples

Ardgowan as Suitor brings to these Our Courts legal specialization as follows:

- Survival of acquired private-law rights after State Succession
- Jurisdiction “ratione temporis” of Treaties over institutionalized “continuing legal situations”
- Conflict between incompatible constitutional “Legal Orders”
- Post-war nullification of Occupation “Measures” exceeding Articles of the Hague Regulations
- Retaliatory “Illegal Nationalizations.”

Dr Joanna Kozubska-Kozubska

Dr Joanna Kozubska-Kozubska is Professor of Managerial Communications at the International Management Centres and Revans University. She served with Voluntary Service Overseas [VSO] in Tabora Tanzania from 1967–1970 after receiving her Certificate in Education from the University of Birmingham. Returning to the United Kingdom in 1971 she undertook a Mountain Leadership Course before entering Her Majesty’s Prison Service.

She held office successively from 1971–1980 as Assistant Governor at Holloway Prison and at HM’s Borstal, Hindley, Wigan; then becoming Deputy Governor of HM’s Borstal at Bulwood Hall and Head of the Special Unit at Aycliffe, Co. Durham.

After such experience she gained her MBA degree from Cranfield University in 1981 receiving the Institute of Directors Prize for Entrepreneurship that led to her role as Head of Youth Employment at the Industrial Society and Career Counseling.

She entered teaching with the International Management Centres in 1984 successively as Senior Tutor and as Executive Vice President and Associate Dean in Doctoral Studies.

She brings to Our Courts professional advice on the punishment and rehabilitation of criminal offenders.