

LAW REPORTS FROM TRINITY SESSION OF THE BARONS COURTS OF PRESTOUNGRANGE & DOLPHINSTOUN

Published on July 27th 2004

It was not until Parliament in Edinburgh legislated in 2000 that Baron's Courts should cease to have jurisdiction in criminal and civil matters from November 28th 2004 that much attention focused on this historic and long neglected community role exercised by Barons. But attention having thus been drawn to these ancient powers, surely it was never going to be the case that such Courts would go quietly? Surely myriad rightful Barons across the land would have something to say, some final contribution to make as their thousand year history came to an end? Well, the answer seems to have been: "Actually, no! At least nowhere else except in the Pans."

By now Panners are well accustomed to the recent revival of feudalism and feudal values on the ancient Lands and Baronies of Prestoungrange & of Dolphinstoun [today often dubbed social enterprise by the new democratic tendency]. It has been afoot since 1998 under the new Barons at their Caput, The Prestoungrange Gothenburg, and in particular working through the Prestoungrange Arts Festival.

After a prodigious amount of legal research by countless experts [known feudally as Suitors] the Barons Courts of Prestoungrange and of Dolphinstoun were indeed "fenced" by their Baron Sergeand for one final 'farewell' Trinity Session commencing June 18th 2004 and running until midnight November 27th 2004. Any and all Complaints were and still are invited for Judgement, and punishments of up to 3 Daylight hours in the stocks or amerementis or fines of up to 40/- Scots can and will be meted out.

Perhaps more significantly, the Barons Courts have taken the opportunity to make a series of landmark Judgements and Declarators in respect of the future of the dignity of Baron in

Scotland after November 28th 2004. The Parliament quite specifically provided that it should continue as a dignity, as incorporeal heritable property, and accordingly the Barons Courts have in their Judgements published on July 27th 2004 set out a proper legal doctrine to guide Barons in the coming years.

These Judgements are particularly timely since several critical baronial issues per se have been raised and they have remained problematic until now, e.g.:

1) **The Duthus Plant Badge/ Slughorn and Other Additaments Judgement [EII. 53. 2004 P&D. 06]** identifies and saves the full range of heraldic additaments as rights of property which Barons are entitled to be granted by the Lord Lyon in his judicial capacity. Refusal to grant the full range of heraldic additaments can properly be appealed to the Court of Session.

2) **The Baron Court Survival Judgement [EII. 53. 2004 P&D. 08]** preserves the right of Barons to maintain full Baron Courts after the November 28th 2004 together with the legal right of the Officers of such Baron Courts to be granted heraldic insignia of office by Lyon.

3) **The Official Registries Judgement [EII. 53. 2004 P&D. 07]** sets forth with specificity and in detail the legal right of Barons after the November 28th 2004 **(1) to take sasine** to "incorporeal heritable property" consisting of 'the dignity of baron' as a 'nobiliary subject', 'fife annobisillant', or a 'noble tenure analogous to armorial bearings' upon the books of the Lyon Register; and **(2) to receive Official Investiture** in the full range of heraldic additaments, the nomen dignitatis (territorial designation) as both part of the surname and the 'title of baron', official recognition of baronial status as equivalent to Hoch Adel and chiefs of baronial houses on the Continental of Europe, the 'title of baron', and in the dignity of baron, itself, upon the Lyon Register.

Taken together, these three judgements seek to focus on the proper manner for the Baronage of Scotland to be continued for mutual benefit in the community.

Barons' Courts as a 'Proper' Scottish Jurisdiction

Arguments were presented to the Courts that its consideration of such baronial issues per se, and any subsequent Judgements,

were potentially ultra vires as being a trespass upon the competence of the Lyon Court. However, the Courts determined after advice from their Suitors that:

(1) The competence of the Lyon Court lies **only** over the proper blazoning of heraldic additaments and the capacity to grant the same - which the Barons Courts do not question.

(2) The legal issue upon which the Barons Courts ruled is the acquired legal right of intangible property under the Act 'vesting' personally in the Holder of the dignity of Baron **to be granted by Lyon** certain heraldic additaments **as a matter of legal right**: the legal question being the **property right** of Barons to be granted such additaments, rather than the **legal capacity of Lyon** to make such grants;

(3) In ¶ 1 of the Duthus Plant Badge et al Judgement the assertion is made that the nominal value of such heraldic additaments is forty shillings or less thus bring the issue within the jurisdictional monetary limits of the Barons Courts. As such the issue is within the statutory limitations of property not exceeding the value of forty shillings.

(4) The Judgement itself does not contest the jurisdiction or competence of Lyon to make such grants as provided by statute; rather the gavaman of the Judgement is that the Barons have a **legal right of property** to be granted all such additaments by Lyon **as a matter of legal right** - hence, there has been no trespass upon Lyon's statutory prerogatives to make such grants.

(5) The Judgements are in the nature of 'Declarators of Entitlement' to property upon the petition of the Baron Baillie rather than actively contested litigation between parties. Hence, there are no adverse parties. The Barons Courts have merely pronounced upon the abstract acquired legal right of the Barons to intangible property (i.e. heraldic additaments) vesting personally in the Holder of the Dignity of Baron.

(6) **The real value** of these Judgements is that they are a proper **legal vehicle** for presenting the Baron's revised legal position to the general public. The 'medium' is indeed the message.

These Judgements set forth a compleat legal framework for any future case to the Court of Session should such become necessary. In essence, the basic legal research for a future

case has already been done and the legal theories have already been devised. They constitute a fitting determination from a proper jurisdiction re Lyon's earlier proffered 'New' Rules of 17 December 2002 which would have effectively destroyed the Estate of the Baronage of Scotland that the Act had deliberately seen fit to continue. [Such a determination is indeed most properly and urgently required taking into account the less than impartial published personal opinions of Lyon about those seeking to join the Baronage of Scotland.]

The Judges issuing these Judgements in respect of the Barons Courts of Prestoungrange and of Dolphinstoun are confident they set forth the **legal doctrine** for the de jure continuation of the entire Baronage of Scotland past November 28th 2004.

(7) Each Judgement has been meticulously researched by the Suitors, and each point is supported by a citation from Innes of Learney or other authority quoted in full. The scholarship and legal reasoning is clearly impeccable as evidenced in the comprehensive notation.

(8) While it may be novel for a Baron's Court to issue a Declarator of Entitlement in such matters, clearly the Declarators concern legal rights of property particularly applicable to Baron's Courts and the Baronage of Scotland at large; and furthermore need to be made in the best interests of the Baronage of Scotland.

Authorisation of World's First Bagpipe Opera

The Courts heard from Stephen Kerr, Clan member of the Kerrs, first Barons of Prestoungrange, the details of the heroic actions of Dr. Charles Kerr in Tulsa Oklahoma in 1922 in the face of a white mob seeking to lynch an innocent black youth, and authorised [EII. 53. 2004 P&D. 01] its recounting as the libretto for the World's First Bagpipe Opera to be performed in Prestongrange Church in June 2005.

Pardon for All Witches put to Death in Prestonpans

The Courts heard from Roy Pugh, Suitor on The Deil's Ain, and determined that some 80 or more individuals had been wrongly put to death as witched before the passage of the Witchcraft Act in 1735, and granted an Absolute Pardon to all those not also accused of Treason where the Courts hold no jurisdiction [EII. 53. 2004 P&D. 02] nonetheless subsequently resolving on August 10th 2004

to ask Her Majesty that they also should be pardoned on the grounds that no proper evidence had ever been offered.

The Courts also ruled that henceforth throughout the Baronial Lands each Hallowe'en should be a Remembrance Day for those thus Pardoned and that both a mural and a memorial should be created that told all their names together.

Affirmation of Baronial Lands and Boundaries

The Courts determined and affirmed [EII. 53. 2004 P&D. 03] after the maps of the Countess of Hyndford, Baron of Prestoungrange, of Dolphinstoun and of Fallside, made in 1796 and 1812 the extent and boundaries of the Baronies such to be used as the basis for all future activities of the Barons Courts after November 28th 2004, this to include the territory where the Prestoungrange/ Dolphinstoun/ Wills tartan accredited by the Scottish Tartans Society may be worn as a district tartan.

ByrLaws for The Prestoungrange Gothenburg and Proclamation of Gothenburg Day

The Courts received ByrLaws from the directors of East of Scotland Public House trading as the Prestoungrange Gothenburg and after giving proper consideration, proclaimed them [EII. 53. 2004 P&D. 04] and appointed ByrLawmen for their enforcement. The ByrLaws included provision that each July 23rd shall be celebrated as Gothenburg Day in recognition of the contribution made to the life of the Baronies by the Gothenburg Principles, the date chosen being that on which the Lord Mayor of Gothenburg visited Prestonpans in 2003.

1753 Impost of 2d Scots per Pint of Ale

The Courts ruled [EII. 53. 2004 P&D. 05] with the agreement of the directors of Fowler's Ales [Prestoungrange] that the Impost of 2d Scots per pint of ale sold in Prestonpans by itself should be paid to the Prestoungrange Arts Festival as a Scottish Charity with effect from May 8th 2004; but that the heirs to the original John Fowler & Company, being InterBrew SA, should not be required so to pay their arrears from circa 1800 until 1962.

Right of Passage Across Baronial Foreshore

The Courts approved and proclaimed ByrLaws in respect of passage across the Baronial Foreshore during daylight hours [EII. 53. 2004

P&D. 08/02] and ordered that Notices be placed at each end of the beach.

Proclamation of Crown Baronial Charter, Appointment of Officers and Establishment of Scholarship

The Courts in the exercise of their leadership on the ancient Lands and Crown Baronies Proclaimed a Crown Baronial Charter for the continuation of all its non jurisdictional work after November 28th 2004 [EII. 53. 2004 P&D. 08/01]; appointed and honoured the proper Officers of the Courts [EII. 53. 2004 P&D. 08/03]; and established by Order a Biennial Scholarship for the Evaluation of the Continuing Progress and Purposes of Feudal Values through the Baronage of Scotland after November 28th 2004 [EII. 53. 2004 P&D. 08/04].

Proclamation of November 28th as 'Barons Day'

The Courts proclaimed November 28th henceforth from 2005 as Barons' Day and ordered that it be celebrated at the Caput of the Baronies and with a fireworks display on the foreshore [EII. 53. 2004 P&D. 09]. And that all Barons from across Scotland should be invited to attend for a celebratory dinner that evening.

Compleat Discharge of Feu Duties for all under *dominium directum* in the Baronies

The Courts formally Proclaimed the Compleat Discharge from baronial *dominium directum* of all living at 248 High Street and Bankfoot, Prestonpans [EII. 53. 2004 P&D. 11]; and invited them all to attend a celebration at the Caput of the Baronies.

The Courts also further resolved to humbly beseech Her Majesty to write confirming the Compleat Discharge of the Barons themselves from their Feu Duties to herself as their Sovereign Lord.

COMPLAINTS DETERMINED ON JULY 27th 2004

In addition to all the above mentioned matters presented to and determined by the Courts in its Trinity Session to July 27th 2004, there were some 5 Complaints on which Judgements were given and upon which the Doomster pronounce the Courts' sentence to be carried out on the Baronial Foreshore as follows:

[10.A] That the Head Brewer had confused three ale drinkers in Prestonpans as to the relationship of Fowler's

Ales [Prestoungrange] and the original John Fowler and Company –

HELD: That it was so, and that the Head Brewer should spend 9 daylight minutes in the stocks and settle amerciamendis of 2 x 40/- and 1 x 10/-.

[10.B] That William Robertson, Builder at the Caput, had caused unwarranted delays in the works by using 2 not 3 phase electricity, 22ml not 28ml gas supply and double not triple glazing in the Thomas Nelson Suite –

HELD: That it was the case in all respects and that he settle amerciamendis of 60d each = 10/- in respect of electricity and gas supplies and 30/- in respect of the glazing.

FURTHER HELD: Upon the non-appearance of the Defendant at the Courts, that he be apprehended forthwith by the ByrLawmen and Sergeand and additionally placed in the stocks under the supervision of the Bailie for 6 daylight minutes.

[10.C] That the Convenor of the Murals Action Group was habitually late for all Meetings and caused great inconvenience thereby to colleagues –

HELD: That this was the case and that he be placed in the stocks for five daylight minutes but if he re-offended he should be placed therein for a period of 30 daylight minutes.

[10.D] That Steven Wilson had wantonly damaged geranium flowers prepared for the visit to the Caput by Her Majesty's Representative, Her Lord Lieutenant in East Lothian –

HELD: That the offence was likely to have been accidental not wanton but nonetheless disadvantageous for that and that he be placed in the stocks for one minute for each geranium destroyed with a minimum of three minutes but that sentence be carried out only after he returned from his honeymoon.

[10.E] That Kenneth Hart failed to provide all the curtaining required in the Lord Mayor's Bar for the celebration of Lady Prestoungrange's birthday at the Caput on April 1st 2004 –

HELD: That it was the case and that amerciamendis be made of 40 pence Scots for each curtain not hanging on April 1st.

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ALL FURTHER COMPLAINTS

**Arising from matters across these ancient
Baronial Lands and Crown Baronies requiring
determination in the Barons Courts before
November 28th 2004 should be notified in
writing to the Clerk of the Courts at once**

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The Clerk to the Barons Courts
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