

Barons Courts of Prestoungrange & Dolphinstoun

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

JUDGEMENT AND DECLARATOR

[E II.53.2004 P&D.07] **Acquired legal right of property of the Baronage of Scotland to the establishment of an Official Register upon which sasine to the ‘dignity of baron’ may be taken after the ‘appointed day’ in order to establish ‘real rights’ of ownership in the RES of such intangible “incorporeal heritable property” specified in §63(4) of the Abolition of Feudal Tenure (Scotland) ACT 2000 constituting the actual ‘dignity of baron’:**

Upon the Petition of our Common Baron Bailies for the Barons Courts of Prestoungrange and Dolphinstoun for findings of fact, declarations of law, the issuance of a **Declarator of Entitlement** setting forth in detail and with specificity the specific acquired legal right of property of the Baronage of Scotland to the establishment of an Official Register upon which sasine to the ‘dignity of baron’ may be taken after the ‘appointed day’ (28th November 2004) in order for the Baronage of Scotland to establish ‘real rights’ of ownership in the RES of such intangible “incorporeal heritable property” specified in §63(4) of the Abolition of Feudal Tenure (Scotland) ACT 2000 constituting the actual ‘dignity of baron’, as well as for the issuance of appropriate Court Orders establishing an emergency provisional Official Register in the Barons Courts of Prestoungrange and Dolphinstoun until such times as the Court of Session or the new Scots Parliament might take judicial or legislative action for the establishment of a permanent Official Register:

1. THAT pursuant to Section 63(2) of the Abolition of Feudal Tenure (Scotland) 2000 ACT [hereinafter, the “ACT”], following the ‘appointed day’ (28th November 2004) ‘the dignity of baron, though retained, shall not attach to the land’ and in its new legal capacity as “transferable ... incorporeal heritable property” ... ‘shall not be an interest in land for the purposes of the Land Registration (Scotland) Act 1979 (c. 33) or a right as respects which a deed can be recorded in the Register of Sasines’.
- 1.A. The legal effect of §63(2) of the ACT is to separate the ‘noble title’ of a barony from the title to land.¹
- 1.B. Pursuant to 63(1) of the ACT, ‘any conveyancing privilege incidental to, barony shall on the appointed day cease to exist’.²
- 1.C. The *legislative history* of Sec. 63 of the Act demonstrates the parliamentary intent that the savings *clause* in §63(1) explicitly providing that ‘nothing in this act affects the dignity of baron or any other dignity or office (whether or not of feudal origin)’ operates to save completely the “noble element” consisting of “the social, ceremonial and armorial aspects of baronies” as “non-territorial dignities” separated from land ownership.³
- 1.D. Both the savings *clause* in §63(1) of the Act – that ‘nothing in this act affects the dignity of baron or any other dignity or office (whether or not of feudal origin)’ – as well as the *legislative history* of Sec. 63 of the ACT evidences an explicit *parliamentary intent* that the ACT be explicitly construed by the Courts **to avoid any “taking”** of the particular ‘noble element’ consisting of the ‘social, ceremonial and armorial aspects of baronies’ and ‘the right to the title and dignity of baron’ which endow baronies with ‘considerable commercial value’ the abolition of which ‘would give rise to substantial claims for compensation’ ... which as ¶12.32 of the Scottish

Office's "Report on Abolition of the Feudal System" [hereinafter the "Report"] (SCOT LAW COM 168) indicates is £60,000 for each of the approximate one thousand baronies in Scotland as of June 1997, noting that 'the market value of baronies has not decreased since then'.⁴

- 1.E. Although the new Scottish Parliament has the clear competence to abolish feudal baronies as part of the reform of the feudal system of land tenure, the *legislative history* of Sec. 63 of the ACT is explicit that the **stated intent** of the Scottish Parliament is to allow the dignity of baron to continue as a 'floating dignity' severed from the system of land tenure and land registration.⁵
- 1.F. The official 'Recommendation' in the *legislative history* to Sec. 63 of the ACT mandates the complete legal survival past the 'appointed date' of 'the dignity of baron', who retain the title and style of baron as well as any precedence and ceremonial or heraldic privilege derived from such baronies ... and provides that shorn from attachment to land and not an interest in land for the purpose of the Land Register or recording in the Register of Sasines that the dignity of baron should only be transferable as "incorporeal heritable property".⁶
- 1.G. Explicitly denominated as "transferable ... incorporeal heritable property" in §63(2) of the ACT, the **stated intent** of Parliament as established in the *legislative history* of Sec. 63 of the ACT is to the following effect concerning 'the dignity of baron' after the 'appointed day' (28th November 2004):
 - 1) Baronies are transferable as 'incorporeal heritable property'
 - 2) Conveyancers are left to their discretion 'to devise a suitable form of document for transferring baronies as incorporeal heritable property from one living person to another'
 - 3) In cases of intestacy to avoid altering the normal rules of succession to baronies on the death of the baron succession to baronies upon death will be governed by §37(1)(a) of the Succession (Scotland) Act 1964 applicable to "any title, coat of arms, honour or dignity transmissible on the death of the holder".
 - 4) The establishment of an 'alternative registration system' for baronies is neither necessary or appropriate.⁷
2. THAT in its transformed capacity as "transferable ... incorporeal heritable property" separated from any attachment to or interest in land after the 'appointed day' (28th November 2004), 'the dignity of baron' consists solely of "any quality or precedence associated with, and any heraldic privilege incidental to" this dignity **statutorily transformed** by §63(4) of the ACT into fundamental 'legal entities' identifiable (by Innes of Learney and like authoritative Scottish publicists on heraldry) as obvious particular individual acquired legal rights of intangible property 'vesting' personally in the owner or holder of the 'dignity of baron' ... and that use of the *verb* "**includes**" in §63(4) of the ACT **statutorily incorporates** all such particular individual acquired legal rights of property 'vesting' in the owner or holder of the 'dignity of baron' as an integral 'bundle' of such component acquired legal rights of property **into** the essence or the very fabric, fibre and substance of the 'dignity of baron' as "incorporeal heritable property" under §63(2) of the ACT as such existed upon the day of Royal Assent to the ACT: 9th June 2000.
- 2.A. Pursuant to §63(4) of the ACT, particular acquired legal rights of intangible property 'vesting' personally in the Holder of 'the dignity of baron' consisting of "**any qualities** ... associated with" the 'dignity of baron' – as specifically discussed in the accompanying Barons Courts Judgement [E II.53.2004 P&D.06] concerning statutory entitlement to Plant Badge *Duthus* and baronial heraldic additaments.⁸
- 2.B. Pursuant to §63(4) of the ACT, particular acquired legal rights of intangible property 'vesting' personally in the Holder of 'the dignity of baron' consisting of "any ... **precedence** associated with" the 'dignity of baron' – as specifically discussed in the accompanying Barons Courts Judgement concerning statutory entitlement to Plant Badge *Duthus* and baronial heraldic additaments.⁹

- 2.C.** Pursuant to §63(4) of the ACT, particular acquired legal rights of intangible property ‘vesting’ personally in the Holder of ‘the dignity of baron’ consisting of “**any heraldic privilege** incidental to” the ‘dignity of baron’ – as specifically discussed in the accompanying Barons Courts Judgement concerning statutory entitlement to Plant Badge *Duthus* and baronial heraldic additaments.¹⁰
- 3.** THAT the above referenced particular individual concrete acquired legal rights of intangible property statutorily incorporated as an integral ‘bundle’ into the essence or the very fabric, fibre, and substance of the ‘dignity of baron’ as “incorporeal heritable property” under §63(2) of the ACT as such existed upon the date of Royal Assent (9th June 2000) to the ACT encompassed within the language of §63(4) of the ACT ... are all matters of ensigns armorial, nobility, honour, name, ceremonial, genealogical status ... the **subject-matter** of which falls almost totally within the **exclusive judicial jurisdiction of the Lord Lyon King of Arms** as particular acquired legal rights of intangible property in matters of honour, nobiliary subjects, fifes annoblissant, and noble feudal tenures analogous to armorial bearings within the exclusive competence of a court of chivalry under the Law of Arms as applied in Scotland ... and are outwith the first instance jurisdiction of any civil court and bounds of the ordinary civil law.
- 3.A.** The Lord Lyon has exclusive first instance jurisdiction in all armorial matters.¹¹
- 3.B.** The Lord Lyon has exclusive first instance jurisdiction in all matters of noble Names of Dignity, the addition of nomen dignitatis, ‘fife name’ or ‘territorial designation’ to the surname of the Holder of ‘the dignity of baron’.¹²
- 3.C.** The Lord Lyon has exclusive first instance jurisdiction in matters of noble genealogy, such as concerns the ‘**baronial status**’ of the Holder of ‘the dignity of baron’, set forth in official Lyon Court documents, such as Birthbriefs and Lineal Pedigrees, issued as Letters Patent.¹³
- 3.D.** As the Queen’s Supreme Officer of Honour, the Lord Lyon is responsible for the preparation and conduct of public ceremonies including defining the order of precedence in which the participants will walk or ride.¹⁴
- 3.E.** Sec. 63(4) of the ACT **statutorily transforms** “any **quality** and **precedence** associated with” the ‘dignity of baron’ into fundamental **legal entities** identifiable (by Innes of Learney and like authoritative Scottish publicists on heraldry) as obvious particular acquired legal rights of intangible property upon which can be properly made a matter of judgement which can be enforced by a Court of Law ... although this may not have previously been the case ... which falls naturally as a matter of honour within the subject-matter jurisdiction of the Lyon Court as a Court of Chivalry.¹⁵
- 4.** THAT under general Scottish law, generic “incorporeal property” is transferred upon the appropriate official register of the Kingdom of Scotland – indicated by the subject-matter of the “incorporeal property” concerned – in order to create ‘**real rights**’ of ownership in the *RES* (thing) constituting the particular “incorporeal property”-in-question.
- 4.A.** Under general Scottish law, ‘real rights’ are created upon being recorded in an appropriate public register – indicated by the subject-matter of the right-in-question – or by some other ‘public act’ to give public notice of its existence.
- 4.B.** Analogously and by way of illustration, in land a ‘real right’ comes into being when that land is infeft.¹⁷
- 4.C.** Analogously and by way of example, the act of recording or registering the transfer of land in a **public register** of the Kingdom of Scotland converts the **personal right** created by the contract to sell such land into a ‘**real right**’ of ownership of that land.¹⁸

4.D. Analogously for the purpose of illustration, the registration of land in the proper **public register** of the Kingdom of Scotland converts the *personal right* in such land arising from the contract for the sale of that land into the *‘real right’ of ownership* of such land.¹⁹

4.E. In legal nature ‘the dignity of baron’ as “incorporeal heritable property” re §63(2) of the ACT is a ‘real right’ capable of transfer inter-vivos between living parties or by intestate succession to one’s lawful heir-of-line or to one’s designated heir.²⁰

4.F. The legal requisites under general Scottish law for transferring ‘real rights’ of ownership in the *RES* (thing) constituting “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT consist of (1) contract of sale, (2) assignation of property rights in such, and (3) registration of the transfer upon an official register of the Kingdom of Scotland, ... the last of which makes the transfer legally operative.²¹

i) Applied to ‘the dignity of baron’ after the ‘appointed day’, in its new statutory capacity as “incorporeal heritable property” under §63(2) of the Act as a ‘real right’ ... the critical step in transferring (or inheriting by intestate succession) a barony ... will be the registration of such transfer on some type of an official register of the Kingdom of Scotland in order to establish ‘real rights’ of ownership in the *RES* (thing) constituting ‘the dignity of baron’ as “incorporeal property”

ii) Because §63(2) of the Act declares that “after the appointed day any such dignity ... (and shall not be an interest in land for the purpose of the Land Registration (Scotland) Act 1979 (c.33) or a right as respects which a deed can be recorded in the Register of Sasines); the Register of Sasines is clearly not the proper official register of the Kingdom of Scotland upon which the transfer of ‘the dignity of baron’ as “incorporeal heritable property” must be recorded or registered in order to establish ‘real rights’ of ownership in the *RES* (thing) of ‘the dignity of baron’ as “incorporeal property”.

iii) Because the legislative history to §63(2) of the ACT in ¶12.41 of the “Report” explicitly declares that “We have considered whether some alternative registration system should be established for baronies in their new form but have concluded that this would be neither **necessary nor appropriate**”; ... the courts must construe Parliament’s intent in the ACT to the effect that an (unnamed) suitable registration system *already existed* upon which the recording of the transfer of or intestate succession to ‘the dignity of baron’ as “incorporeal property” might be taken after the ‘appointed day’ in order to establish ‘real rights’ of ownership in the *RES* (thing) constituting ‘the dignity of baron’ ... against the world.

iv) The task of this and other Scottish courts in interpreting Parliament’s intent of the present existence of a suitable but unnamed ‘registration system’ upon which the transfer of “incorporeal heritable property” consisting of ‘the dignity of baron’ might be taken after the ‘appointed day’ is to ascertain logically the location of the proper official register of the Kingdom of Scotland based upon the *RES* (thing) or **subject-matter** of ‘the dignity of baron’ to indicate the correct official register implied by the *legislative history* set forth in ¶12.41 of the “Report”.

v) As matters concerning Ensigns Armorial, Ennoblement, Name or *nomen dignitatis*, ‘fife name’, addition of ‘territorial designations’ to the surname of the Holder of ‘the dignity of baron’, genealogical declarations of ‘baronial status’, ceremonial, and defining order of precedence; the **subject-matter** or *RES* (thing) of ‘the dignity of baron’ manifestly falls within the exclusive jurisdiction of the Lord Lyon King of Arms ... for the following reasons:

(1) Because §63(4) of the ACT statutorily defines the *RES* (thing) of “incorporeal heritable property” constituting the ‘dignity of baron’ as “any quality or precedence associated with, and any heraldic privilege incidental to” the ‘dignity of baron’ – matters within the exclusive jurisdiction of the Lord Lyon

(2) Because the *savings clause* in §63(1), 2nd clause, of the ACT that “**nothing** in this Act *affects* the dignity of baron or *any other* dignity or office (whether or not of feudal

origin)” **statutorily bars** the *change in legal status* of baronies worked by the abolition of feudal tenure in the ACT from ‘**affecting**’ the matters referenced in §63(4) of the ACT constituting the **RES** (thing) comprising ‘the dignity of baron’ as “incorporeal heritable property” re §63(2) of the ACT; and

(3) Because the *legislative history* of Sec. 63 of the ACT set forth in ¶2.40 of the “Report” evidences the explicit parliamentary intent for the legal survival past the ‘appointed day’ of the particular ‘noble element’ consisting of the ‘social, ceremonial and armorial aspects of baronies’ and ‘the right to the title and dignity of baron’ which endow baronies with ‘considerable commercial value’ the abolition of which ‘would give rise to substantial claims for compensation’ in the amount of £60,000 for every barony in Scotland – evidencing that the **RES** (thing) constituting ‘the dignity of baron’ as “incorporeal property” are particular matters under the Law of Arms as applied in Scotland within the exclusive jurisdiction of the Lord Lyon.

vi) Based upon the particular subject-matter of ‘the dignity of baron’ statutorily defined in §63(4) of the ACT as matters within the exclusive or first instance jurisdiction of the Lord Lyon over the Law of Arms as applied in Scotland, the implicit **intent** of Parliament must be judicially construed that the appropriate official register of the Kingdom of Scotland upon which the transfer of “incorporeal heritable property” consisting of ‘the dignity of baron’ ought to be taken after the ‘appointed day’ in order to establish ‘real rights’ of ownership in the **RES** (thing) constituting ‘the dignity of baron’ is the Public Register of All Arms and Bearings in Scotland: The Lyon Register.

4.G. Because the **RES** (thing) in “incorporeal heritable property” consisting of ‘the dignity of baron’ are those matters referenced in §63(4) of the ACT *statutorily transformed* by reference therein into fundamental ‘legal entities’ identifiable (by Innes of Learney and like authoritative Scottish publicists on heraldry) as obvious particular acquired legal rights of intangible property and *statutorily incorporated* by use of the verb “includes” therein into a ‘bundle’ of such intangible properties forming the *essence* of ‘the dignity of baron’, ... ‘**real rights**’ of ownership in ‘the dignity of baron’ as “incorporeal property” may only be established under general Scots Law by the public act of recording or registering the transfer or intestate inheritance of ‘the dignity of baron’ upon an appropriate public register of the Kingdom of Scotland – as indicated by the subject-matter of ‘the dignity of baron’ statutorily defined in §63(4) of the ACT as being matters concerning the Law of Arms as applied in Scotland within the first instance or exclusive jurisdiction of the Lord Lyon – in order to provide members of the general public official notice as to the transfer or inheritance and ownership of ‘real rights’ in ‘the dignity of baron’ as “incorporeal property” under Scottish law.²²

i) After the ‘appointed day’ the **RES** (thing) of ‘the dignity of baron’ as “incorporeal property” will consist *solely* of the particular “qualities”, “precedences” and “any heraldic privileges” referenced in §63(4) of the ACT: “Incorporeal property” forming ‘the dignity of baron’ will consist of **nothing else** ... other than those ‘qualities’, ‘precedences’, and ‘any heraldic privilege’ referenced in §63(4) of the ACT.

ii) The statutorily-defined subject-matter of “incorporeal heritable property” constituting the **RES** (thing) of ‘the dignity of baron’ ... set forth in §63(4) of the ACT ... *statutorily transformed* therein into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired legal rights of intangible property ‘vesting’ in the Holder of ‘the dignity of baron’ ... and *statutorily incorporated* by use of the verb “includes” therein into an integral ‘bundle’ of such intangible properties forming the *essence* of ‘the dignity of baron’ – consisting of (1) heraldic privileges incidental to and (2) qualities associated with, and (3) precedences associated with ... the dignity of baron – are property matters of honour under the Law of Arms as applied in Scotland falling within the exclusive first instance judicial jurisdiction of the Lord Lyon King of Arms.

iii) No **other** court, tribunal, officer, or office in the Kingdom of Scotland is seized with legal

competence or judicial jurisdiction concerning the particular intangible acquired rights of “incorporeal heritable property” referenced in §63(4) of the ACT constituting the **RES** (thing) of ‘the dignity of baron’ as “incorporeal heritable property” under §63(2) of the ACT.

iv) Because the particular subject-matter of the **RES** (thing) constituting “incorporeal heritable property” consisting of ‘the dignity of baron’ as statutorily defined in §63(4) of the ACT ... consists entirely of specialised specific intangible property rights concerning honour, nobiliary subjects, fifes annoblissant, and noble feudal tenures analogous to armorial bearings under the Law of Arms as applied in Scotland falling within the exclusive first instance judicial jurisdiction of the Lyon Court; ... the appropriate official register of the Kingdom of Scotland upon which to take sasine of the transfer or inheritance of “incorporeal heritable property” consisting of ‘the dignity of baron’ ... must **of necessity** be *The Public Register of All Arms and Bearings in Scotland* also known as *The Lyon Register*.

v) §63(2) of the ACT **specifically excludes** the Register of Sasines and the Land Register from recording or registering after the ‘appointed day’ “incorporeal heritable property” consisting of ‘the dignity of baron’, ... and **no other** official register of the Kingdom of Scotland possesses **subject-matter jurisdiction or competence** over the unique matters of honour under the Law of Arms as applied in Scotland referenced in §63(4) of the ACT constituting the **RES** (thing) of ‘the dignity of baron’ as such existed upon the date of Royal Assent to the ACT ... which were *statutorily transformed* by reference in §63(4) of the ACT into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired legal rights of intangible property ‘vesting’ personally in the Holder of ‘the dignity of baron’ ... and were *statutorily incorporated* by use of the verb “includes” in §63(4) of the ACT into an integral ‘bundle’ of such acquired rights of intangible property which together constitute ‘the dignity of baron’ as “incorporeal heritable property” under §63(4) of the ACT.

vi) Because the *legislative history* of Sec. 63 of the ACT as set forth in ¶12.41 of the Scottish Office’s “Report” explicitly declares that the Scottish Parliament specifically ‘considered whether some alternative registration system should be established for baronies in their new form’ but rejected the creation of a new register as being ‘neither necessary nor appropriate’; ... in interpreting and applying Sec. 63 of the ACT the courts must judicially construe the implied intent of Parliament that an appropriate official register of the Kingdom of Scotland **already exists** upon which “incorporeal heritable property” consisting of ‘the dignity of baron’ might be recorded or registered after the ‘appointed day’ in order to acquire ‘real rights’ of ownership in the **RES** (thing) of “incorporeal property” comprising ‘the dignity of baron’ ... and that the establishment of a new register for baronies was **optional** and unneeded due to the present existence of an official register already possessing functional subject-matter jurisdiction over the **RES** (thing) of ‘the dignity of baron’ as “incorporeal heritable property” statutorily defined in §63(4) of the ACT.

vii) Because the **RES** (thing) of “Incorporeal heritable property” consisting of ‘the dignity of baron’ is statutorily defined in §63(4) of the ACT as (1) heraldic privileges incidental to and (2) qualities associated with, and (3) precedences associated with the dignity of baron – all of which were *statutorily transformed* by §63(4) of the ACT into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired legal rights of intangible property ‘vesting’ in the Holder of ‘the dignity of baron’ ... and *statutorily incorporated* by use of the verb “includes” in §63(4) of the ACT into an integral ‘bundle’ of such intangible properties forming the *essence* of ‘the dignity of baron’ – constitute peculiar matters of honour over which the Lord Lyon King of Arms possesses exclusive first instance judicial subject-matter jurisdiction under the Law of Arms as applied in Scotland; ... by logical process of rational elimination the **only possible** applicable official register of the Kingdom of Scotland possessing germane subject-matter jurisdiction over the statutorily defined **RES** (thing) of ‘the dignity of baron’ upon which ‘real rights’ of ownership of the **RES** (thing) therein may be established by recording or registering legal title thereto is *The Public Register of All Arms and Bearings in Scotland* or *The Lyon Register*.

5. THAT equivalent legally to a Confirmation of pre-existing Arms upon the Lyon Register, ... because “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT is a nobiliary subject, a fife annoblissant, or a **noble feudal tenure** analogous to armorial bearings and similar honours; ... ‘real rights’ of ownership in the **RES** (thing) constituting ‘the dignity of baron’ (statutorily defined, statutorily transformed into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired rights of intangible property ‘vesting’ in the Holder, and statutorily incorporated [by use of the *verb* “includes”] as integral components constituting the *essence* of this ‘dignity’ – all by §63(4) of the ACT) ... may be established by taking sasine to and receiving official investiture in baronial heraldic additaments inextricably annexed to ‘the dignity of baron’, the *nomen dignitatis* of the barony as both part of the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’, and the title and dignity of baron, itself, upon the Lyon Register as an official register of the Kingdom of Scotland, ... as a **causa armorum** justiciable in the Court of the Lord Lyon.
- 5.A. Historically, the Estate of the Baronage of Scotland consists of two ‘types’ of minor Barons: **(1)** Barons holding land directly from the Crown erected *in liberam baroniam* via a Crown Charter under the Great Seal of Scotland, who exercised *territorial jurisdiction* over his barony administering the King’s Justice in accordance with statute; and **(2)** the Chiefs of clans or name exercising *personal jurisdictional rights ut baro* over his Clan or name derived from ‘the dignity of baron’ as a patriarch or captain of his following.²³
- i) Derived *ut baro* primarily from ‘the dignity of baron’ itself, the essence of all baronial jurisdiction – whether territorial derived from lands erected *in liberam baroniam* or personal derived from a familial Chiefship – is patriarchal over his local tribe formed ‘horizontally’ around that barony.²⁴
- ii) Providing the machinery for the organisation of local followings and communities, the patriarchal jurisdiction derived *ut baro* from ‘the dignity of baron’ is the same *captaincy of communities* enjoyed by the Chiefs of Scots Clans and Names.²⁵
- iii) Erection of lands *in liberam baroniam* conveys separately (1) jurisdiction consisting of incorporeal ‘the dignity of baron’ from which patriarchal or ‘chiefly’ jurisdiction is derived; and (2) Civil and Criminal territorial Jurisdiction re exercise of the King’s Justice. This latter type of jurisdiction was based upon statutory authorisation in which part of the King’s Justice was conferred upon Baron Courts – most of which was repealed in 1746 following the ‘45.²⁶
- iv) Derived from the exercise of *personal jurisdictional rights ut baro* over his following derived from ‘the dignity of baron’ in his capacity as the patriarch of that group, the Chief of a Clan or Name is also a **baron** ... without holding land erected *in liberam baroniam*.²⁷
- v) Patriarchal baronial jurisdiction is possessed by the chief of a Scots Clan or Name who for this reason is a **baron ut baro** (i.e., holding patriarchal ‘the dignity of baron’) without possessing land erected *in liberam baroniam*.²⁸
- vi) The ‘essence’ of the jurisdiction of a Baron is patriarchal and familial as an **incorporeal heritable fief** and is identical to the ‘baronial jurisdiction’ possessed by the Chief of a Scots Clan who lacks land erected *in liberam baroniam*. Such baronial patriarchal familial jurisdiction is derived **ut baro** from ‘the incorporeal dignity of baron’ rather than from land per se.²⁹
- 5.B. Upon the ‘appointed day’ (28th November 2004) Barons holding land directly from the Crown erected *in liberam baroniam* via a Crown Charter under the Great Seal of Scotland, who exercised *territorial jurisdiction* over their baronies administering the Queen’s Justice in accordance with statute, ... are **statutorily transformed** pursuant to §63(1) of the ACT ... into **Barons** holding **ut baro** the incorporeal “dignity of baron” of patriarchal jurisdictional *personal rights* over the following of their baronies derived from their original patrimonial *captaincy of communities* – identical with the personal ‘baronial jurisdiction’ possessed *ut baro* by the chiefs of Scots Clans over their Clan who lacked land erected *in liberam baroniam* – shorn of their former civil

and criminal *territorial jurisdiction* of exercising the Queen's Justice derived from Statute.

i) §63(1) of the ACT removes the remainder of civil and criminal territorial jurisdiction of Barons holding land directly from the Crown erected *in liberam baroniam* via a Crown Charter with out in any way '**affecting**' the incorporeal personal 'dignity of baron'.³⁰

ii) Encompassed within the *surviving* 'dignity of baron' as "Incorporeal heritable property" re §63(2) of the ACT after the 'appointed day' is the "noble element" in baronies becomes a noble feudal tenure consisting of (1) "the right to the title and dignity of baron" as well as (2) "the social, ceremonial, and armorial aspects of baronies" as "non-territorial dignities" as particular acquired legal rights of intangible property vesting personally in the Holder of 'the dignity of baron'.³¹

iii) Denominated as "incorporeal **heritable** property" in §63(2) of the ACT to avoid altering the pre-1964 rules of succession to baronies upon the death of the Holder of 'the dignity of baron', statutory intestate succession to 'the dignity of baron' passes in accordance with §37(1)(a) of the Succession (Scotland) Act 1964 preserving the pre-1964 rules for "any title, coat of arms, honour or dignity transmissible on the death of the holder".³²

iv) Derived from their former legal status as a feudal estate *in commercio* of land held directly from the Crown and erected *in liberam baroniam* by a Crown Charter under the Great Seal of Scotland, after the 'appointed day' 'the dignity of baron' is denominated as "**transferable** ... incorporeal heritable property" in §63(2) of the ACT as a 'dignity' freely transferable in accordance with the doctrine of *Tainistry* under the Law of Arms as practiced in Scotland.³³

v) Similar to the *legal effect* of the Heritable Jurisdiction (Scotland) Act of 1746 upon Clans under the personal jurisdiction *ut baro* of the Chiefs of Clans and Families; ... logically the first clause §63(1) of the ACT does not affect the original patriarchal jurisdiction or 'moral authority' of the minor Baronage of Scotland derived *ut baro* from 'the dignity of baron' from which patriarchal or 'chiefly' jurisdiction originated, per se, rather than from lands erected *in liberam Baroniam* ... as evidenced by the clear survival of the patriarchal "noble element" of baronies in §63(4) of the ACT.³⁴

5.C. "**Transferable** ... incorporeal heritable property" consisting of 'the dignity of baron' re §63(2) of the ACT is **directly analogous** to Heritable Offices *in commercio* created originally by Crown Charters under the Great Seal of Scotland and for which heraldic insignia of office may be matriculated upon the Lyon Register.

i) Similar to the erection of lands *in liberam baroniam* by Crown Charter, Heritable Offices *in commercio* are created by a direct grant from the Crown under the Great Seal of Scotland.³⁵

ii) Examples of a wide variety of Scots Heritable Office *in commercio* are listed in the "**Index Officiorum**" at the end of each volume of the Register of the Great Seal of Scotland.³⁶

iii) **Any** Heritable Office *in commercio* granted under the Great Seal of Scotland is an **Office of the Kingdom of Scotland**. These are all **public offices** of the Crown – not private offices. Such *Heritable Offices in commercio* possessing official insignia of office and of honour (i.e., Keys, Batons, Crosiers, Swords, Rods, Flags, etc.) as "exterior ornaments" usually crossed in saltire behind the shield which may be matriculated upon the Lyon Register. One would also be entitled to the "title" of that Office such as "Hereditary Keeper of the Castle of Stirling".³⁷

iv) Heritable Offices *in commercio* are freely transferable by sale and subject to being seized by court order for debt ... as would be any other right of incorporeal property.³⁸

v) Good title or 'real rights' of ownership in hereditary offices linked with landed estates are established by recording such upon an official register of the Kingdom of Scotland.³⁹

6. THAT equivalent legally to a Confirmation of pre-existing Arms upon the Lyon Register, ... because "incorporeal heritable property" consisting of 'the dignity of baron' re §63(2) of the ACT is a **noble feudal tenure** analogous to armorial bearings and similar honours, ... 'real

rights' of ownership in the **RES** (thing) constituting 'the dignity of baron' (statutorily defined, statutorily transformed into fundamental "legal entities" construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired rights of intangible property 'vesting' in the Holder, and statutorily incorporated [by use of the *verb* "includes"] as integral components constituting the *essence* of this 'dignity' – all by §63(4) of the ACT) ... may be established by recording 'the dignity of baron' upon the Lyon Register as an Official Register of the Kingdom of Scotland ... upon matriculating inextricably connected baronial heraldic additaments as a **causa armarum** justiciable in the Court of the Lord Lyon.

- 6.A.** Historically, the Estate of the Baronage of Scotland consists of two 'types' of minor Barons: **(1)** Barons holding land directly from the Crown erected *in liberam baroniam* via a Crown Charter under the Great Seal of Scotland, who exercised *territorial jurisdiction* over his barony administering the King's Justice in accordance with statute; and **(2)** the Chiefs of clans or name exercising *personal jurisdictional rights ut baro* over his Clan or name derived from 'the dignity of baron' as a patriarch or captain of his following.
- 6.B.** Upon the 'appointed day' (28th November 2004) Barons holding land directly from the Crown erected *in liberam baroniam* via a Crown Charter under the Great Seal of Scotland, who exercised *territorial jurisdiction* over their baronies administering the Queen's Justice in accordance with statute, ... are **statutorily transformed** pursuant to §63(1) of the ACT ... into **Barons** holding **ut baro** the incorporeal "dignity of baron" of patriarchal jurisdictional *personal rights* over the following of their baronies derived from their original patrimonial *captaincy of communities* – identical with the personal 'baronial jurisdiction' possessed *ut baro* by the chiefs of Scots Clans over their Clan who lacked land erected *in liberam baroniam* – shorn of their former civil and criminal *territorial jurisdiction* of exercising the Queen's Justice derived from Statute.
- 6.C.** "Transferable ... incorporeal heritable property" consisting of 'the dignity of baron' re §63(2) of the ACT is **directly analogous** to Heritable Offices *in commercio* created originally by Crown Charters under the Great Seal of Scotland and for which heraldic insignia of office may be matriculated upon the Lyon Register.
- 6.D.** Identical with the statutory definition of 'the dignity of baron' in §63(2) of the ACT as "incorporeal heritable property"; ... the legal definition in Scottish law of armorial bearings or a coat-of-arms is *also* "incorporeal heritable property" as a "fife annoblissant" in which 'real rights' of ownership are established by recording upon the Lyon Register.⁴⁰
- i) Possession of armorial bearings indicate nobility.⁴¹
 - ii) Armorial bearings are recognised as "incorporeal heritable property", the infringement of which involves a question of property and for which Scottish Courts must grant redress of such infringement.⁴²
 - iii) 'Real rights' of ownership in the *RES* (thing) of armorial bearings as "incorporeal heritable property" is established by recording such upon the Lyon Register.⁴³
 - iv) Analogous to establishing 'real rights' of ownership by recording a transfer of land on the Register of Sasines, sasine of "incorporeal heritable property" of Arms as a fife annoblissant is accomplished by recording such feudal heritage upon the Lyon Register.⁴⁴
 - v) Upon succeeding to "incorporeal heritable property" of Arms as a fife annoblissant, the matriculation or recording of such upon the Lyon Register constitutes infeftment or record of sasine to such property.⁴⁵
- 6.E.** As a 'fife annoblissant' "incorporeal heritable property" consisting of 'the dignity of baron' re §63(2) of the ACT constitutes a **noble feudal tenure** analogous to armorial bearings which is justiciable as a **causa armarum** in the Court of the Lord Lyon.
- i) Minor baronies created by the Crown are "noble fifes".⁴⁶

ii) Analogous to feudal baronies, arms are ‘feudal heritage’.⁴⁷

iii) Analogous to arms, titles including minor baronies are feudal heritage and as incorporeal fiefs descend at common law like arms.⁴⁸

iii) Analogous to Heritable Offices and Armorial Bearings, “incorporeal heritable property” consisting of ‘the dignity of baron’ as a fife annoblissant is a **noble feudal tenure** justiciable as a **causa armarum** in the Court of the Lord Lyon.⁴⁹

6.F. After the ‘appointed day’ (28th November 2004), ‘real rights’ of ownership in the **RES** (thing) [defined in §63(4) of the ACT] of “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT as a nobiliary subject, a noble feudal tenure analogous to armorial bearings or a “fife annoblissant” within the purview of the Law of Arms as applied in Scotland may be established legally under Scots law by taking sasine to and receiving official investiture in baronial heraldic additaments inextricably annexed to ‘the dignity of baron’, the *nomen dignitatis* of the barony as both part of the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’, and the title and dignity of baron, itself, upon the Lyon Register as a designated official register of the Kingdom of Scotland.

i) Originally created by the historic erection of lands *in liberam baroniam* by a Crown Charter under the Great Seal of Scotland, the act of establishing ‘real rights’ of ownership in the RES (thing) of the pre-existing ‘dignity of baron’ as “incorporeal heritable property” by recording such upon an official register of the Kingdom of Scotland is **directly analogous** to obtaining a **Confirmation of Arms** in pre-existing armorial bearings by recording such upon the Lyon Register.⁵⁰

ii) Equivalent to a Crown charter of *novodamus* in respect of dignities or heritage, a Confirmation of Arms operates as an original grant.⁵¹

iii) Matriculation of insignia of higher dignities and the recording of such dignities upon the Lyon Register is *legally equivalent* to recording progress to title to land on the Register of Sasines.⁵²

iv) Analogous to a special retour as regards title, matriculation by progress upon the Lyon Register is sufficient proof of entitlement to peerages and baronetcies.⁵³

v) Analogously, adjudication of peerages on the Lyon Register as reinvestiture in feudal heritage by confirmation or matriculation of arms evidences succession to peerages and baronetcies and are equivalent to special service in heritage re succession to peerages as legal proof of succession.⁵⁴

vi) Matriculation of peerage additaments on the Lyon Register constitutes sufficient proof of entitlement to a Scots Peerage: Analogously the same considerations ought to apply to ‘the dignity of baron’.⁵⁵

vii) Recording a genealogy upon the Public Register of Genealogies constitutes sufficient legal proof of entitlement to a Scots peerage.⁵⁶

ix) Judicial determination by Lyon of entitlement to baronetcy additaments for matriculation upon the Lyon Register establishes the right of enrolment upon the Roll of Baronets: *Analogously, grant of baronial heraldic additaments would legally establish that one is Holder of ‘the dignity of baron’ and the recording of the same on the Lyon Register operates to create ‘real rights’ in the RES (thing) of “incorporeal heritable property” consisting of ‘the dignity of baron’.*⁵⁷

x) ‘Real rights’ of ownership in the **RES** (thing) of peerages, baronetcies, heritable great offices are established by matriculating on the Lyon Register the particular armorial additaments inextricably linked to such dignities demonstrative of entitlement of succession thereto: *i.e., matriculation of a duke’s coronet and supporters establishes that one is a duke; matriculation of the official heraldic insignia of a heritable great office, such as Lord High Constable of Scotland, establishes that one is Lord High Constable.*⁵⁸

xi) ‘Real rights’ of ownership in the **RES** (thing) of the hereditary heritable office of the Keeper of the Great Staff of Blessed St. Moluag was established by Livingston of Bachuil by matriculating the heraldic insignia applicable to this hereditary keepership and recording the heritable office of this Keepership upon the Lyon Register in the Case of *William Jervis Alastair Livingsgton of Bachuil*, 21 December 1950, **1951 Scots Law Times (Lyon Ct.) p. 5**.⁵⁹

xii) Investiture in ‘real rights’ of ownership in the **RES** (thing) of the heritable office of Hereditary Banner-Bearer of Scotland was established by matriculating the heraldic additaments appropriate to the office of Hereditary Bearer for the Sovereign of the National Flag of Scotland and recording the noble feudal tenure – analogous to armorial bearings – of this heritable office as nobiliary feudal heritage upon the Lyon Register in the Case of *Earl of Lauderdale, Petitioner*, 26 November 1952, **1958 Scots Law Times (Lyon Ct) 13**.⁶⁰

xiii) “Nobiliary subjects” ... such as the heritable office of bearing the Sovereign’s national flag of Scotland as ‘a **noble feudal tenure** analogous to armorial bearings’ ... are not justiciable or capable of recognition or appraisal before any ordinary first instance court of law: Nobiliary subjects and noble feudal tenures analogous to armorial bearings are justiciable, capable of recognition and appraisal only before a “court of honour”.⁶¹

xiv) Honourable public investiture in the right to and title of a nobiliary subject or a noble feudal tenure analogous to armorial bearings ... such as the office of heritable Banner-bearer otherwise termed Standard-bearer ... is accomplished by decree of the Lyon Court, matriculation of the heraldic insignia demonstrative of this heritable office, and the recording of both the office and heraldic insignia upon the Lyon Register.⁶²

xv) As a noble feudal tenure analogous to armorial bearings, the heritable office of flag-bearer to the Sovereign of the Sovereign’s national flag of St. Andrew’s Cross was as a ‘nobiliary right and honourable office of ensign bearing’ was ‘entitled to investiture’ and “was accordingly rightly invested, 29 July 1790” ... by recording of this heritable office and the particular heraldic additaments applicable there to upon the Lyon Register.⁶³

xvi) Honourable investiture of the Owner of a prior grant of a heritable office in ‘real rights’ of ownership in the **RES** (thing) constituting this dignity dates only from the matriculation of such office and the accompanying heraldic insignia demonstrative of this office upon the Lyon Register by decree of the Lyon Court ... rather than from the date of the original grant of this office by Crown Charter of Novodamus: *Recording of a dignity and accompanying heraldic additaments upon the Lyon Register constitutes the precise legal act which juridically constitutes constructive ‘real rights’ of ownership in the RES of a dignity as a nobiliary subject or noble feudal tenure analogous to armorial bearings*.⁶⁴

xvii) ‘Real rights’ of ownership in the **RES** (thing) of ‘a noble feudal tenure analogous to armorial bearings’ – heritable office – established by Lyon Court interlocutor granting Warrant to matriculate in the name of the petitioner the specific title of the heritable office-in question together with the particular heraldic additaments upon the Lyon Register ... thereby accomplishing ‘honourable investiture’ (sasine) of both the heritable office and the applicable heraldic additaments as nobiliary feudal heritage: *By analogy, honourable investiture (sasine) in the similar ‘noble feudal tenure analogous to armorial bearings’ of “incorporeal heritable property” consisting of ‘the dignity of baron’ may be accomplished by recording upon the Lyon Register this ‘dignity of baron’ along with the appropriate baronial heraldic additaments as ‘nobiliary feudal heritage’*.⁶⁵

xviii) Valid nobiliary feudal investiture (sasine) of the earlier grant of a heritable office may be obtained by recording that office upon the Lyon Register.⁶⁶

xix) Although not justiciable before ‘ordinary’ civil courts of the first instance as a nobiliary subject or fife annoblissant not cognisable in ordinary courts of law; noble feudal tenures analogous to armorial bearings in matters of dignities and their relative heraldic feudo-heritable additaments – such as heritable offices – as ‘heritable rights’ of property are justiciable *qua causa*

armarum in the Court of the Lord Lyon as the particular court of the first instance having statutory competence in such matters.⁶⁷

xx) Although not cognisable as first instance matters in the Court of Session or ordinary courts of law, matters concerning noble feudal tenure analogous to armorial bearings re heritable offices & dignities and the particular heraldic additaments related thereto ... are heritable rights which ‘must be justiciable and determinable in a court of law’: *‘Determination’ of such ‘heritable rights’ is infestment of that ‘right’ by recording both the applicable heraldic additaments and the office upon the Lyon Register.*⁶⁸

xxi) In Scotland the Court of the Lord Lyon as a Court of Arms and Chivalry is seized with particular first instance competence in all matters concerning noble subjects, fifes annoblissant, noble feudal tenures analogous to arms, dignities of nobilitas, and heritable offices and the heraldic additaments annexed to and demonstrative of such offices and the matriculation of the same upon the Lyon Register.⁶⁹

xxii) Because the ordinary civil courts have little conception of the technical intricacies involved in matters concerning noble feudal tenure analogous to arms, dignities of nobilitas, and heritable offices and the heraldic additaments annexed to and demonstrative of such offices, the ordinary civil courts lack first instance jurisdiction over such technical matters which is delegated to the Lyon Court as a Court of Chivalry and Arms.⁷⁰

xxiii) The ‘ordinary judge’ of the first instance in all matters concerning nobiliary subjects, fifes annoblissant, noble feudal tenures analogous to arms, dignities of nobilitas, and heritable offices and the heraldic additaments annexed to and demonstrative of such offices is the Court of the Lord Lyon.⁷¹

xxiv) After dignities of nobilitas, and heritable offices and the heraldic additaments annexed to and demonstrative of such offices – noble feudal tenures analogous to arms – **lost their essential inter-relationship with the tenure of corporeal fife (i.e., land)** so that sasine of the fife no longer supplied an investiture of the dignity or heritable office, reinvestiture in arms and the particular heraldic additaments inextricably connected with that office or dignity **upon the Lyon Register continues to supply the same judicial procedure and effect in relation to investiture in that dignity or office** as did the former re-investiture in the corporeal fife (land): *Investiture in baronial heraldic additaments inextricably connected with ‘the dignity of baron’ by recording such upon the Lyon Register supplies investiture in ‘the dignity of baron’ by creating ‘real rights’ of ownership in the RES (thing) of such “incorporeal heritable property”.*⁷²

xxv) Because ‘incorporeal feudal heritage’ ... such as dignities of nobilitas, and heritable offices constituting noble feudal tenures analogous to arms ... are “a question of property”, re-investiture in particular heraldic additaments inextricably connected with, annexed to, and demonstrative of such offices and dignities constitutes a necessary index of that dignity and the particular judicial procedure constituting the legal right or entitlement to that dignity or office.⁷³

xxvi) Because arms – and dignities of nobilitas, and heritable offices constituting noble feudal tenure analogous to arms – have the legal character as “feudal heritage”, ... initial investiture to create ‘real rights’ of ownership in the **RES** (thing) constituting such arms – and the particular heraldic additaments inextricably linked to dignities and heritable offices – as well as making up progress of title to arms (including dignities and heritable offices) by recording upon the Lyon Register is legally a “peaceable sasine of arms” ... which is to all intents and purposes analogous to recording transfers of land and recording decrees of service upon the subsequent succession to land upon the Register of Sasines: *‘Real rights’ of ownership in the RES (thing) of arms, dignities, and heritable offices are created by recording such and the particular heraldic insignia related thereto upon the Lyon Register constituting investiture in the same; and once initially recorded good title upon succession to the same may be established by a Matriculation-by-Progress-to-make-up-title to the arms, dignities, or heritable offices upon the Lyon Register.*⁷⁴

xxvii) Valid investiture upon an earlier grant of a heritable office – constituting noble feudal

tenure analogous to arms as ‘heritage’ – was accomplished by making a matriculation of that office and the particular heraldic additaments indicative of that office upon the Lyon Register.⁷⁵

xxviii) ‘Real rights’ of ownership in the **RES** (thing) of a heritable office constituting noble feudal tenure analogous to arms as ‘heritage’ constituted by an earlier good grant of the same was properly ratified by recording this Office and the particular heraldic additaments annexed to this office the Lyon Register which constituted “a good investiture in the proper Register of Investiture: *The Lyon Register is the **proper register of investiture** upon which good investiture may be taken in dignities, heritable offices and all manner of noble subjects, fifes annoblissant, and feudal tenures analogous to armorial bearings ... “and that sort of thing” ... and recording thereupon properly ratifies an earlier grant of such dignity or office.*⁷⁶

xxix) Once ‘real rights’ of ownership in the **RES** (thing) of a dignity or heritable office – constituting a nobiliary subject, a fife annoblissant, or a noble feudal tenure analogous to arms – have been infeft by recording the office, dignity, or other honour and the particular heraldic additaments annexed to such office, dignity, or honour upon the Lyon Register, such investiture in this office or dignity and the heraldic additaments annexed thereto cannot be divested except by the judicial reduction (legal annulment) of such investiture in the Lyon Court: *Once infeft by recording upon the Lyon Register, the recorded holder or owner of that office or dignity cannot be divested of such office or dignity except by judicial action to reduce that infeftment in the Lyon Court.*⁷⁷

xxx) The present holder of a heritable office or dignity – constituting noble feudal tenure analogous to arms – flowing from a new grant creating valid title upon which his predecessor obtained investiture by recording such office or dignity and the particular heraldic additaments annexed to such upon the Lyon Register is entitled to re-investiture of both the office and the heraldic additaments.⁷⁸

xxxi) Upon making a Matriculation-by-Progress-to- make-up-title to a heritable office, dignity, or honour – constituting a nobiliary subject, a fife annoblissant, or a noble feudal tenure analogous to arms – under well-settled law the heir to such office has established heritable right to this distinct office, dignity, or honour and is entitled to re-investiture by progress in his arms with the external heraldic additaments indicative of this office, dignity, or honour and is entitled to matriculate the same upon the Lyon Register.⁷⁹

6.G. Analogous to both the testate and inter-vivos transfer of Arms to persons within-the-blood and sharing the same name by recording sasine to and taking feudal investiture of such transfers of ordinary Arms upon the Lyon Register as the applicable official register of the Kingdom of Scotland; ... following the ‘appointed day’ (28th November 2004), The Public Register of All Arms and Bearings in Scotland (Lyon Register) is the **designated** official register of the Kingdom of Scotland upon which sasine may be taken to create ‘real rights’ of ownership in the **RES** (thing) of “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT ... as a noble feudal tenure or “fife annoblissant” as a noble feudal tenure analogous to armorial bearings, heritable offices, and similar dignities and honours ... constituting an official court recording evidencing the existence and ownership of such baronies upon (1) the inter-vivos transfer of such between living persons, (2) the intestate succession thereto under §37(1)(a) of The Succession (Scotland) Act 1964 for “any title, coat of arms, honour or dignity transmissible on the death of the holder”, or (3) the testamentary designation of such; ... whilst the recording upon the Lyon Register of the grant of inextricably linked baronial heraldic additaments (i.e., Red Baronial Chapeau and Feudo-Baronial Mantle) annexed to ‘the dignity of baron’ constitutes the feudal investiture of both the heraldic insignia and ‘the dignity of baron’ upon the successive holders thereto.

i) As a noble feudal tenure or fife annoblissant analogous to armorial bearings, after the ‘appointed day’ the ‘dignity of baron’ devolves on the same principles as do armorial bearings.⁸⁰

ii) Originally created via the erection of land *in liberam baroniam* by Crown Charter under the Great Seal of Scotland and recorded upon The Register of the Great Seal of Scotland, ... similar

to creating ‘real rights’ in earlier grants of heritable offices and taking proper investiture in both the office and the particular heraldic insignia annexed there to by recording the same upon the Lyon Register (See *Earl of Lauderdale, Petitioner*, **1985 Scots Law Times (Lyon Ct.) 13 at 15**), ... following the ‘appointed day’ initial ‘real rights’ of ownership in the **RES** (thing) of “incorporeal heritable property” constituting ‘the dignity of baron’ re §63(2) of the ACT may be established by making an **Initial Matriculation** of this dignity – as a nobiliary subject, a fife annoblissant, a noble feudal tenure analogous to armorial bearings – upon the Lyon Register and the recording of baronial heraldic additaments upon the same constitutes the proper investiture of both the dignity of baron as well as of the particular heraldic insignia.⁸¹

iii) Where a ‘dignity’, a fife annoblissant, a nobiliary subject, or a noble feudal tenure analogous to arms as “incorporeal heritable property” has become detached from the corporeal heritage of land to which such ‘dignity’ was formerly annexed; ... the Court of the Lord Lyon possesses exclusive jurisdiction over the remaining nobiliary subject of the dignity-in-question as ‘property’ consisting of ‘feudal heritage’ for the purpose of establishing ‘real rights’ of ownership in the **RES** (thing) of that dignity – the prefix, the style and title, and the particular heraldic additaments inextricably annexed to that dignity as well as the **‘public law character’** of that dignity – by recording this dignity and being invested in both the heraldic insignia the title of the dignity upon the Lyon Register.⁸²

iv) The initial act of recording ‘the dignity of baron’ upon the Lyon Register constitutes the ‘infertment’ or record of sasine of ‘the dignity of baron’ as “incorporeal heritable property” ... as a noble feudal tenure or fife annoblissant analogous to armorial bearings.⁸³

v) In its capacity as a ‘dignity’ – a nobiliary subject, a noble feudal tenure or fife annoblissant analogous to armorial bearings – following the ‘appointed day’ when “incorporeal heritable property” consisting of ‘the dignity of baron’ as a ‘nobiliary subject’ is severed from any relationship with land re §63(2) of the ACT the statutory means for establishing title to ‘the dignity of baron’ is to take sasine to such by recording this dignity upon the Lyon Register as the only official register of the Kingdom of Scotland applicable to all such ‘dignities’ and heritable offices.⁸⁴

vi) After the ‘appointed day’ the Lyon Register is the only applicable official register of the Kingdom of Scotland upon which sasine may be taken to the ‘nobiliary subject’, the noble feudal tenure, or the fife annoblissant analogous to armorial bearings – and heritable offices – of ‘the dignity of baron’ ... to evidence the existence and ownership of bona fide baronies as well as to provide a court record upon which to record the transfer and inheritance of this dignity.⁸⁵

vii) Following the ‘appointed day’, baronies which had been created through the historical erection of land *in liberam baroniam* via Crown Charters under the Great Seal of Scotland ... could be freshly placed upon the Lyon Register in their statutory capacity as “incorporeal heritable property” constituting ‘nobiliary subjects’, noble feudal tenures, and fifes annoblissant analogous to armorial bearings ... by making an **Initial Matriculation** upon the Lyon Register – as did the Earl of Lauderdale in 1790 re the heritable office of Banner-bearer created in 1676 – to establish the existence of a particular ‘dignity of baron’ separated from the traditional tenure in land as well as to establish the present ownership of this barony.⁸⁶

viii) Investiture in “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT as a ‘nobiliary subject’ severed from any relationship with land after the ‘appointed day’ – a noble feudal tenure or fife annoblissant analogous to armorial bearings – is accomplished by recording the baronial heraldic additaments annexed to ‘the dignity of baron’ upon the Lyon Register.⁸⁷

ix) Already possessing judicial machinery for the investiture, reinvestiture, progress of title, and sasine of arms for ‘incorporeal heritable property’ consisting of all manner of nobiliary subjects, fifes annoblissant, and noble feudal tenures analogous to arms; ... the Lord Lyon and the Lyon Court possess a ‘continuant public register’ functioning like the register of land sasine upon which such noble heritable property as ‘the dignity of baron’ as “incorporeal heritable

property” must be recorded, the annexed baronial heraldic insignia (*statutorily transformed* by §63(4) of the ACT into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired legal rights of intangible property ‘vesting’ in the Holder and *statutorily incorporated* by use of the verb “includes” therein into an integral component ‘bundle’ of such rights of property forming the *essence* of the ‘dignity of baron’) granted, and investiture given in the insignia, *nomen dignitatis* of the barony in both the surname and in the ‘title of baron’ and in ‘the dignity of baron’ before the same may be used by the Holder.⁸⁸

x) Feudal heritage consisting of particular heraldic additaments annexed to a dignity are inseparable from the dignity itself so that when one has proven his right to such heritage and been reinvested in such, he is entitled to bear and to use the prefix derived from that dignity and to be given the proper ‘title’ of that dignity: *One proving his right to ‘the dignity of baron’ by recording such and obtaining investiture of the insignia of a baron* – statutorily transformed into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired private law rights of intangible property ‘vesting’ in the Holder of ‘the dignity of baron’ in §63(4) of the ACT and statutorily incorporated by use of the verb “includes” therein into an integral ‘bundle’ of component rights of property forming the essence of ‘the dignity of baron’ – *is legally entitled to the prefix of “The Much Honoured” and the title of “The Baron of X” upon the Lyon Register, in Lyon Office grants and matriculations and in all other official instruments and documents issued by the Government.*⁸⁹

xi) After the ‘appointed day’ in its legal capacity as a ‘nobiliary subject’, a ‘noble feudal tenure’, a ‘fife annoblissant’ analogous to armorial bearings – similar to a heritable offices – subject to the exclusive jurisdiction of the Lyon Court; ... ‘the dignity of baron’ as “incorporeal heritable property” re §63(2) of the ACT **cannot be transferred, alienated, sold, re-settled, except upon the Book and Registers of the Lyon Court** possessing unique first instance jurisdiction over all such nobiliary subjects, honours, dignities, arms, and armorial bearings: *Because the Lyon Court possesses exclusive subject-matter jurisdiction over all ‘nobiliary subjects’, any attempted transfer, sale, or alienation of ‘the dignity of baron’ outside the Lyon Court would be void ab initio.*⁹⁰

xii) Upon the death of the present Holder of ‘the dignity of baron’, after the ‘appointed day’ in its capacity as a ‘noble subject’, a ‘fife annoblissant’, a ‘noble feudal tenure analogous to armorial bearings’ ... ‘the dignity of baron’ would devolve upon intestate succession under §37(1)(a) of The Succession (Scotland) Act 1964 applicable to “any title, coat of arms, honour or dignity transmissible on the death of the holder” in the same manner as would any ordinary coat of arms; the successor must make-up good title to this dignity by a rematriculation by progress upon the Lyon Register before he is entitled to use baronial heraldic additaments.⁹¹

xiii) After the ‘appointed day’ sound legal title to ‘the dignity of baron’ already recorded upon the Lyon Register ... as a fife annoblissant or a noble feudal tenure analogous to armorial bearings as well as to baronial heraldic additaments already granted ... is easily established simply by making a Matriculation by Progress to make up title to the barony-in-question – setting forth the **chain-of-title** between the last registered owner of that barony and the present holder of that barony.⁹²

xiv) As a nobiliary subject, a noble feudal tenure, or a fife annoblissant analogous to armorial bearings, once initial sasine to the original grant (i.e., Crown Charter erection *in liberam baroniam*) of ‘the dignity of baron’ and the particular baronial heraldic additaments inextricably annexed thereto has been taken by recording upon the Lyon Register which feudally invests the Holder in both the heraldic insignia as well as this dignity; ... following the ‘appointed day’ such “incorporeal heritable property” – as property now legally comparable with ordinary arms which are also “incorporeal heritable property” – can only pass through intestate succession or transfer by a deed of resignation **in favorem** recorded upon the Lyon Register followed by a rematriculation in the name of the new holder upon the Lyon Register as the applicable official register of the Kingdom of Scotland.⁹³

xv) Under the maxim “*non dat quod non habet*”, following the ‘appointed day’ once ‘the dignity of baron’ has been initially recorded upon the Lyon Register the Holder could not resign the Barony *in favorem* of a New Owner – unless he has first established “legal title” to the ‘dignity of baron’ upon the Lyon Register as the applicable register of sasine.⁹⁴

xvi) As a noble feudal tenure or fife annoblissant analogous to armorial bearings, following the ‘appointed day’, the **Settlor** of ‘the dignity of baron’ will need to establish “a **legal right** in his **own person**” to that ‘dignity of baron’ before having ‘standing or legal capacity to transfer the same.’⁹⁵

xvii) As a nobiliary subject, a fife annoblissant or a noble feudal tenure analogous to armorial bearings falling under the exclusive first instance jurisdiction of the Lyon Court, once sasine to the original grant (i.e., Crown Charter of erection *in liberam baroniam*) to ‘the dignity of baron’ has been taken and investiture in both the baronial heraldic additaments and the dignity itself has been accomplished by recording upon the Lyon Register; ... following the ‘appointed day’ baronies may only be transferred or inherited by intestate succession by subsequent recording upon the Lyon Register as the applicable official register of the Kingdom of Scotland.⁹⁶

xviii) Following taking sasine to the original grant (i.e., historical Crown Charter erection *in liberam baroniam*) of ‘the dignity of baron’ and obtaining investiture to both the baronial heraldic additaments inextricably annexed to this dignity as well as to ‘the dignity of baron’ itself upon the Lyon Register; ... after the ‘appointed day’, the nobiliary subject, the noble feudal tenure, the fife annoblissant consisting of ‘the dignity of baron’ as “incorporeal heritable property” detached from any interest in land re §63(2) of the ACT can only be transferred between living persons by means of a **Deed of Resignation in favorem for Re-Grant** recorded in the Lyon Court books completed by the new Holder taking of sasine to ‘the dignity of baron’ and obtaining investiture in both the applicable baronial heraldic additaments and the dignity, itself, by recording such upon the Lyon Register.⁹⁷

xix) Where “incorporeal heritable property” comprising ‘nobiliary subjects’, ‘fifes annoblissant’, or ‘noble feudal tenures analogous to arms’ have been created by statutory act ... such as ‘the dignity of baron’ as “incorporeal heritable property” by §63(2) of the ACT *statutorily defined* in §63(4) thereof, *statutorily transformed* by §63(4) of the ACT into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired legal rights of intangible property ‘vesting’ in the Holder of this ‘dignity’, and *statutorily incorporated* by use of the verb “includes” therein into an integral component ‘bundle’ of all such rights of property forming the *essence* of the ‘dignity of baron’; ... it is **unconstitutional** for any **non-legislative measure** to over-ride what was done by parliament to interfere with, to limit, to infringe upon, to supersede rights created under, or to abrogate a statutorily created heritable right of property: *Lyon’s Rules of 17 December 2002 are void ab initio for unconstitutional conflict with, interference with, infringement upon, superseding rights created under; and for de facto abrogation of the statutorily created ‘dignity of baron’ by §63(2) of the ACT and “any quality or precedence associated with, and any heraldic privilege incidental to” the dignity of baron statutorily defined in §63(4) thereof, statutorily transformed by §63(4) of the ACT into concrete ‘legal entities’ as particular acquired legal rights of intangible property ‘vesting’ in the Holder of this ‘dignity’, and statutorily incorporated by use of the verb “includes” therein into an integral component ‘bundle’ of all such rights of property forming the essence of the ‘dignity of baron’.*⁹⁸

7. THAT pursuant to the original 1592 and 1672 Acts authorising the Lord Lyon with competence to establish official ‘Bookes and Registers’ upon which to visit the ‘Signes armoriall’ and the ‘whole arms of Noblemen [peers], Barrons, and Gentlemen, and to matriculate the same in their Registers’ as well as ‘to distinguish and discedrn thame with congruent differences, and thairefter to matriculate tham in thair buiks and Registeris’; ... the Lord Lyon *already possesses statutory authority* to re-establish the original section of the Lyon Register for “Barons” to serve as the specific identifiable official register of the Kingdom of Scotland upon which ‘real rights’ of ownership in the **RES** (thing) of ‘the dignity of baron’ might be recorded by

matriculation of baronial heraldic additaments inextricably annexed to ‘the dignity of baron’, the *nomen dignitatis* of that barony as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as the ‘dignity’ itself.

- 7.A.** The Statutes of 1592 and 1672 legally distinguish the Estate of the Baronage of Scotland explicitly as ‘Barons’ as a distinct and separate group from ‘Noblemen’ (peers) and ‘Gentlemen’ (armigers) empowering Lyon specifically ‘to distinguish and discern them’ with their particular Arms and Ensigns Armorial by ‘to the effect that the Lyon King-of-Armes may distinguish same in his Bookes and Registers’ (1672).⁹⁹
- 7.B.** To execute the specific requirements of the 1592 and 1672 Statutes explicitly referencing (1) ‘Noblemen’ meaning Scots Peers – Dukes, Marquises, Earls, Viscounts, and Lords of Parliament, (2) ‘Barons’ meaning the minor Baronage of Scotland – not Lords of Parliament, and (3) ‘Gentlemen’ meaning armigers; Lord Lyon Sir Charles Erskine established three separate sections of the original Lyon Register in order ‘to distinguische and discedrn’ legally and armorially the rank, title, and estate of the ‘Barons’ from the Peerage as well as from the Armigers.¹⁰⁰
- 7.C.** Following the creation of the specific section for ‘Barons’ in the original Lyon Register, recording and matriculation of a person in the particular section of the Lyon Register for ‘Barons’ automatically provided conclusive public law proof that the person so enrolled in or matriculated upon the ‘Barons’ Section was *ipso facto* a minor Baron of Scotland without further qualification or identification.¹⁰¹
- 7.D.** Following the 1764 consolidation of the original three sections of the Lyon Register for (1) ‘Noblemen’, (2) ‘Barons’, and (3) ‘Gentlemen’ into the present unified, consecutive and chronological Lyon Register upon the recommendation of Lord Coulston by the judicial action of the then Lord Lyon upon his own judicial authority under the original 1592 and 1672 Statutes; ... it became legally necessary for baronial Petitioners to specifically allege their particular status as minor barons in Lyon Court Petitions in order to have such baronial status officially recognised by Lyon in a matriculation or grant of arms.¹⁰²
- 7.E.** The present Lord Lyon King of Arms possesses competent authority under the original 1592 and 1672 Statutes to re-establish the *original* section of the Lyon Register for ‘Barons’ ... to serve as a particularly identifiable official register of the Kingdom of Scotland upon which ‘real rights’ of ownership in the *RES* (thing) of ‘the dignity of baron’ might be established by recording the same in order to take sasine to this dignity and to be invested in both the baronial heraldic additaments inextricably annexed to this dignity as well as the dignity itself by the matriculation of such upon a re-established section for ‘Barons’ in the Lyon Register.¹⁰³
- i)** The laws of 1592 and 1672 legally distinguish ‘barons’ as a separate estate or legal group from ‘noblemen’ (peers) and ‘gentlemen’ (armigers). Both laws convey ‘full power and commission, to lyoun king-of-armes’ ... ‘to matriculate tham in thair buiks and Registeris’ (1592) ... ‘to the effect that the Lyon King-of-Armes may distinguish same in his Bookes and Registers’ (1672). This legislation declares ‘the Register shall be respected as the true and unrepeallable rule of all Armes and Bearing in Scotland’ and more to the point constitutes ‘a public Register of the Kingdome’ (1672).¹⁰⁴
- ii)** The 1764 judicial consolidation of the *original* Lyon Register containing three sections for (1) ‘Noblemen’, (2) ‘Barons’, and (3) ‘Gentlemen’ ... into the present unified Lyon Register ... was undertaken by the Lord Lyon of that day upon his *own judicial authority* under the Statutes of 1592 and 1672. No statute was enacted to abolish the original three sections of the Lyon Register and to order the consolidation of them into one unified Register.¹⁰⁵
- iii)** Logically, if the *original* Lyon Register was divided into three sections under the *existing* original Scots legislation (The Act 1592, cap. 29; and the Act 1672, cap. 47) authorising its creation but in 1764 was consolidated into the *present* consolidated and chronological form upon

the judicial direction of the then Lord Lyon; ... then legally the present Lord Lyon could issue a judicial order under the same *existing* statutes re-establishing the original section of the Lyon Register for 'Barons' to serve as a particularly designated official register of the Kingdom of Scotland upon which sasine might be taken to 'the dignity of baron' after the 'appointed day' to create 'real rights' of ownership in the **RES** (thing) of this dignity and upon which both the particular baronial armorial insignia and the dignity, itself, might be matriculated.¹⁰⁶

Clearly, what one Lord Lyon can do on his own authority ... a later Lord Lyon may also UN-DO on his own authority ... without needing recourse to any act of Parliament....

iv) No further authorising legislation is needed from *any* parliament to empower Lyon with the judicial authority which he *already possesses* under the existing 1592 and 1672 Statutes to re-establish the *previously existing* section of the Lyon Register for 'Barons' *originally established* by Lord Lyon Sir Charles Erskine in 1672 upon *initially* establishing the Lyon Register.¹⁰⁷

v) Re-establishment of the original section of the Lyon Register for 'Barons' by the Lord Lyon in his judicial capacity under the original Scottish legislation – The Act 1592, cap. 29; and the Act 1672, cap. 47 – would meet the legal need for a specifically designated official public register upon which sasine to 'the dignity of baron' as "transferable ... incorporeal heritable property" could be taken after the 'appointed day' in order to establish "real rights" in the RES (thing) constituting 'the dignity of baron'.¹⁰⁸

vi) Because following the 'appointed day', the **RES** (thing) of 'the dignity of baron' as 'transferable ... incorporeal heritable property' **will consist entirely** of those unique 'qualities', 'precedences', and 'any heraldic privilege' referenced in §63(4) of the ACT which as 'Ensigns Armorial', nobiliary, and related matters fall particularly within the purview of the Lord Lyon King of Arms under the 1592 and 1672 Statutes and the pre-statutory common law jurisdiction of the Lyon Court; ... the Lyon Register is the only official register of the Kingdom of Scotland *appropriate* for the matters referenced in §63(4) of the ACT which constitute the RES (thing) of 'the dignity of baron' as "incorporeal heritable property".¹⁰⁹

vii) The 1592 and 1672 statutes providing clear **statutory authority** for the Lord Lyon to establish "buikis and Registeris" upon which he is "to visite the whole Armes of Noblemen [Peers], Barons, and Gentlemen, and to matriculate the same in their Registers ... [and] in thair buikis"; ... explicitly empowers Lyon to establish a particular official register for 'any quality or precedent associated with, and any heraldic privilege incidental to' constituting the **RES** (thing) of 'the dignity of baron' under §63(4) of the ACT because such matters fall particularly within the special first instance jurisdiction of the Lord Lyon over 'nobiliary subjects', 'fifes annoblissant', and 'noble feudal tenures analogous to arms' under both statutes as well as under the pre-statutory common law jurisdiction of Lyon.¹¹⁰

viii) In accordance with (A) the original Scottish Statutes of 1592 and 1672 and (B) the precedent of the actual existence of a special section of the Lyon Register for 'Barons' between 1672 and 1764; ... the Lord Lyon King of Arms possesses the clear statutory competence under existing legislation and precedent to issue a judicial order (1) re-establishing the original section of the Lyon Register for 'Barons' and (2) issuing new Rules specifying the legal procedure and standards of proof for (a) the initial registration of existent baronies, (b) the formal inter-vivos transfer of 'the dignity of baron' between living persons, and (c) establishing the intestate succession to 'the dignity of baron' under the pre-1964 laws of succession applicable to titles, dignities, and coats of arms: Such will meet the requirements of Scots law for an official public register upon which sasine to 'the dignity of baron' may be taken after the 'appointed day' in order to establish "real rights" in the RES (thing) of this dignity to establish the prima facie existence of such dignities and to effect the legal inter-vivos transfer of such between living persons or the intestate succession to this dignity in accordance with a designated line of succession.¹¹¹

ix) Given the need for a particular designated official register upon which sasine to 'the dignity of baron' might be taken after the 'appointed day' together with the fact that a separate section of the Lyon Register for "Barons" under the 1672 Statute actually existed between 1672

and 1764; ... Lyon has the statutory competence to exercise his existing statutory authority to re-establish the original section of the Lyon Register for “Barons”.

8. THAT deprivation after the ‘appointed day’ of taking sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT upon an official registry of the Kingdom of Scotland in order to establish ‘real rights’ of ownership of the **RES** (thing) constituting ‘the dignity of baron’ under Scottish law as well as being officially invested in both the applicable baronial heraldic additaments annexed inextricably to this dignity and ‘the dignity of baron’, itself, by matriculating the same upon the Lyon Register ... resulting from application of the (presently suspended) Lyon Court Rules of 17th December 2002 – or future new Rules similar thereto – violate the following the legal rights established by the European Convention of Human Rights and Fundamental Freedoms and Protocol I there to of the Holders of ‘the dignity of baron’:

- Article 6(1) to “the determination of his civil rights ... by an independent and impartial tribunal established by law”;
- Article 1 of Protocol I of the Convention to “peaceful enjoyment of possessions” and against “deprivation of possessions except in the public interest and subject to the conditions provided for by law”;
- Article 13 to “an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity” when read in conjunction with Article 6(1) and Article I of Protocol I;
- Article 14 against discrimination on the grounds of “sex”, “national or social origin” (or the *lack* thereof), “property”, and “birth or other status” when read in conjunction with Article 6(1), Article I of Protocol I, and Article 13;
- Article 18 against imposition of restrictions permitted by the convention as a manifest abuse of State Power “for any purpose other than those for which they have been prescribed” when read in conjunction with Article 6(1), Article I of Protocol I, Article 13, and Article 14.

8.A. VIOLATION OF CONVENTION ARTICLE 6(1) [“civil rights”] requiring a “**determination**” of all private law “civil rights” of a contractual nature “by an independent and impartial tribunal established by law” ... arising from any deprivation after the ‘appointed day’ of the ability of Holders of ‘the dignity of baron’ to take sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT upon the Lyon Register, as an official registry of the Kingdom of Scotland, in order to establish ‘real rights’ of ownership of the **RES** (thing) constituting ‘the dignity of baron’ under Scottish law as well as being officially invested in the applicable baronial heraldic additaments annexed inextricably to this dignity, the *nomen dignitatis* of that barony as part of both the surname and in the ‘title of baron’, the prefix of ‘The Much Honoured’, and in ‘the dignity of baron’, itself, by matriculating the same upon the Lyon Register ... caused by the adamantly declared lack of **impartiality** of the public official/judge concerned published in the 8th February 2004 *Scotland on Sunday* article “Wannabe nobles make blue blood pressure rise” at <http://scotlandonsunday.scotsman.com/index.cfm?id=154542004>

... and as further evidenced by the (presently suspended) Lyon Court Rules of 17th December 2002 denying Holders of ‘the dignity of baron’ investiture into both baronial heraldic insignia and the title & ‘dignity of baron’ after the ‘appointed day’.¹¹²

i) The term “civil rights” or “droits ... de caractère civil” as means in Article 6(1) of the Convention is a broad term which refers to **private law “civil rights” of a contractual nature**: civil legal relationships ... including “incorporeal heritable property” consisting of ‘the dignity of baron’ ... in **proceedings** to establish ‘real rights’ of ownership in the **RES** (thing) of this dignity by recording such upon the Lyon Register, as an official register of the Kingdom of Scotland, and to be invested in both baronial heraldic insignia inextricably annexed to this dignity and the title & ‘dignity of baron’, itself, by recording the same upon the Lyon Register ... which constitute a “**determination**” of such private law “civil right” of a contractual nature.¹¹³

ii) Originating as a mode of feudal tenure in land held directly from the Crown and statutorily defined in §63(2) of the ACT as “Incorporeal heritable property”, ‘the dignity of baron’ as an intangible form of property under Scottish law capable of being transferred, inherited, and owned by private individuals is clearly a **private law “civil right”** or “droits .. de caractère civil” **of a contractual nature** within the meaning of Article 6(1) of the European Convention ... and taking sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the **RES** (thing) of the same specified in §63(4) of the ACT as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register ... constitutes a **“determination”** of this private law “civil right” of a contractual nature.¹¹⁴

iii) Taking sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the **RES** (thing) of the same specified in §63(4) of the ACT ... as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register ... constitutes a **“determination”** of “civil rights” or “*droits et obligations de caractère civil*” consisting of “incorporeal heritable property” under Scottish law capable of being transferred, inherited, and owned by private individuals constituting ‘the dignity of baron’ ... within the meaning of Article 6(1) of the European Convention.¹¹⁵

iv) A violation of Article 6(1) of the Convention occurs when there is a legitimate reason to fear, to question, to doubt the absolute **“impartiality”** of the judge or other public official who is charged with making a “determination” upon private law “civil rights” of a contractual nature: *Similar to Caesar’s wife, the impartiality of a judge must be **absolutely** beyond reproach.*¹¹⁶

v) A series of statements in the popular press, the latest of which is the 8th February 2004 *Scotland on Sunday* article ... **evidences the complete lack** of the requisite **“impartiality”** required by Article 6(1) of the Convention of the particular public official/judge having first instance judicial jurisdiction who made a “determination” of the private law “civil rights” of a contractual nature in the (presently suspended) Lyon Court Rules of 17 December 2002 – or in any future Rules similar thereto – concerning the ability of Holders of ‘the dignity of baron’ ... after the ‘appointed day’ to take sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the **RES** (thing) of the same specified in §63(4) of the ACT ... as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register.¹¹⁷

vi) Compared with the **clear Parliamentary Intent** declared in Sec, 63 of the ACT, expressed in detail and with specificity in the *legislative history* of Sec, 63 in ¶¶2.30-2.45 of the Scottish Office’s “Report on Abolition of the Feudal System” (SCOT LAW COM 168), ; ... and when read in conjunction with the *doctrine* established by the Case of *See Earl of Lauderdale, Petitioner, 1985 Scots Law Times (Lyon Ct.) 13* and the Case of *Lord Strathspey, 1950 Scots Law Times (Lyon Ct) 17* ... the (presently suspended) Lyon Court Rules of 17th December 2002 re baronies **concretely evidences** the **complete lack** of the requisite **“impartiality”** required by Article 6(1) of the Convention of the public official/judge called upon to make judicial “determinations” concerning the taking of sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the **RES** (thing) of the same specified in §63(4) of the ACT ... as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of

‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register.¹¹⁸

vii) After the ‘appointed day’ of 28th November 2004, **failure** of the public official/judge concerned to provide for the fair and equitable “determination” of private law “civil rights” of a contractual nature consisting of “incorporeal heritable property” forming ‘the dignity of baron’ ... similar to that accorded to like ‘dignities’ such as Hereditary Offices as fifes annoblissant, nobiliary subjects, or noble feudal tenures analogous to arms ... through the taking sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the **RES** (thing) of the same specified in §63(4) of the ACT as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register ... will concretely evidence a violation of Article 6(1) of the Convention arising from **the established lack of the requisite judicial “impartiality”** of the public official/judge-in-question – as indicated above and as explicitly evidenced in his 8th February 2004 interview in *Scotland on Sunday* at <http://scotlandonsunday.scotsman.com/index.cfm?id=154542004> which obviously motivated the content of his Rules of 17 December 2002.¹¹⁹

8.B. VIOLATION OF ARTICLE 1 OF PROTOCOL I to the European Convention guaranteeing “peaceful enjoyment of possessions” and forbidding “deprivation of possessions except in the public interest” resulting from the (presently suspended) Lyon Court Rules of 17th December 2002 – or any *future* Rules similar thereto – re baronies on the obvious ‘grounds’ stated by this public official/judge in his 8th February 2004 interview in *Scotland on Sunday*, “Wannabe nobles make blue blood pressure rise”, which ‘reasons’ **prima facie** are **not** “in the public interest” for any proper purposes of public utility which

(1) arise from any failure after the ‘appointed day’ to permit Holders of “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT to enjoy “peaceful possession” by taking sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the **RES** (thing) of the same specified in §63(4) of the ACT ... as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register;
(2) or arise from any “deprivation of possession” of “incorporeal heritable property” consisting of ‘the dignity of baron’ resulting from any official inaction, official ignoring, official refusal to recognise, or official refusal to grant sasine and to matriculate upon the Lyon Register the applicable baronial heraldic additaments annexed inextricably to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, resulting from implementation of the Lyon Court Rules of 17th December 2002 – or any *future* Rules similar thereto – as a discriminatory and retaliatory expropriation of “possessions” for the grounds given in the 8th February 2004 interview.¹²⁰

i) Because the “possessions”-in-question consists of statutory “**incorporeal** heritable property” constituting the **intangible** ‘dignity of baron’ re §63(2) of the ACT, “the peaceful enjoyment of possessions” guaranteed under Article 1 of Protocol I of the European Convention applies concretely to protect the **statutory definition** of the **RES** (thing) of such “possession” as set forth in §63(4) of the ACT that ‘the dignity of baron’ consists solely of “any quality or precedence associated with, and any heraldic privilege incidental to” ... all of which were **statutorily transformed** by §63(4) of the ACT into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular individual acquired legal rights of intangible property ‘vesting’ personally in the owner or holder of the ‘dignity of baron’ ... and that use of the *verb* “**includes**” in §63(4) of the ACT **statutorily**

incorporates all such particular individual concrete acquired legal rights of property into an integral ‘bundle’ of such component acquired legal rights of intangible property which constitutes the *essence* or the *very fabric, fibre and substance* of the ‘dignity of baron’ as incorporeal heritable property” under §63(2) of the ACT as such existed upon the day of Royal Assent to the ACT: 9th June 2000.

*In sum, baronial heraldic additaments inextricably annexed to ‘the dignity of baron’, the ‘title’ of baron, the nomen dignitatis of that barony as part of both the surname and the ‘title’ of baron ... together with all other ‘qualities’ and ‘precedences’ associated with ‘the dignity of baron’ as referenced in §63(4) of the ACT ... constitute bona fide “possessions” within the meaning of Article 1 of Protocol I ... and to which the Holder of this dignity is entitled to “peaceful possession” and protection against arbitrary “deprivation of possessions” not “in the public interest”.*¹²¹

ii) “The peaceful enjoyment of possessions” and protection against arbitrary “deprivation of possessions” not “in the public interest” guaranteed under Article 1 of Protocol I of the European Convention *protects* particular acquired legal rights of intangible property ‘vesting’ personally in the Holder of ‘the dignity of baron’ consisting of “any qualities ... associated with” the ‘dignity of baron’ pursuant to §63(4) of the ACT.¹²²

iii) “The peaceful enjoyment of possessions” and protection against arbitrary “deprivation of possessions” not “in the public interest” guaranteed under Article 1 of Protocol I of the European Convention *protects* particular acquired legal rights of intangible property ‘vesting’ personally in the Holder of ‘the dignity of baron’ consisting of “any ... precedence associated with” the ‘dignity of baron’ pursuant to §63(4) of the ACT.¹²³

iv) “The peaceful enjoyment of possessions” and protection against arbitrary “deprivation of possessions” not “in the public interest” guaranteed under Article 1 of Protocol I of the European Convention *protects* particular acquired legal rights of intangible property ‘vesting’ personally in the Holder of ‘the dignity of baron’ consisting of “any heraldic privilege incidental to” the ‘dignity of baron’ pursuant to §63(4) of the ACT.¹²⁴

v) Because Scottish law provides that ownership in the *RES* (thing) of ‘incorporeal property’ is acquired only by recording the same upon an official register of the Kingdom of Scotland; ... following the ‘appointed day’ implementation of the (presently ‘suspended’) Lyon Court Rules of 17 December 2002 – or any new ‘Rules’ similar thereto – ... will deprive the Holder of “incorporeal heritable property” consisting of ‘the dignity of baron’ of “peaceful enjoyment of possessions” consisting of ‘the dignity of baron’ by refusal, denial, or deprivation of the Holder of the ability to take sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the *RES* (thing) of the same specified in §63(4) of the ACT as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the *Lyon Register* ... in violation of the guarantee of Article 1 of Protocol I to the European Convention that “No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”¹²⁵

vi) After the ‘appointed day’ any denial, or refusal to record, to grant initially, to grant investiture, or to re-matriculate upon the *Lyon Register* any of the particular concrete acquired legal rights of intangible property referenced in §63(4) of the ACT – in particular the full range of the baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, ... to the Holder of “incorporeal heritable property” consisting of ‘the dignity of baron’ or to re-matriculate the same for his designated heir ... pursuant to the (suspended) *Lyon Court Rules of 17 December 2002 or any new ‘Rules’ similar thereto* ... will constitute a deprivation of “the peaceable enjoy-

ment of possessions” guaranteed by Article 1 of Protocol I of the European Convention ... by denying the Holder of this dignity the “necessary permit” to use his possessions.¹²⁶

vii) Any refusal, denial, declination after the ‘appointed day’ by the particular public official/judge charged with first instance jurisdiction over such matters – such as under the (suspended) Lyon Court Rules of 17 December 2002 or any future Rules similar thereto ... to recognise the *bona fide* transferral of or **claims** by the heirs of barons to the inheritance of “incorporeal heritable property” consisting of ‘the dignity of baron’ or to recognise the Holder, transferee, or inheritor of this dignity in the title, style, prefix, *nomen dignitatis* or ‘territorial designation’ of baron, or to recognise in official documents the ‘baronial status’ of such Holders as equivalent to Hoch Adel and the Chiefs of Continental baronial houses, and to grant to an armigerous Holder baronial heraldic additaments inextricably annexed to this dignity or to re-matriculate upon the Lyon Register all of the same to the heirs of barons, or to refuse to recognise ‘vested’ or acquired private law rights of property in the same passing by intestate or testate succession to the same ... will violate the guarantee of “the peaceful enjoyment of possessions” under Article 1 of Protocol I to the European Convention.¹²⁷

viii) Directly conflicting with the *public policy* or *ordre publique* statutorily established by the Scottish Parliament in Sec. 63 of the ACT mandating the legal survival past the ‘appointed day’ of “incorporeal heritable property” consisting of ‘the dignity of baron’ which statutorily “includes any quality or precedent associated with, or any heraldic privilege incidental to” this dignity re §63(4) of the ACT; ... any “deprivation of possessions” which may be worked by application the Lord Lyon’s (presently suspended) Rules of 17 December 2004 – or any future ‘Rules’ in any way similar thereto – upon ‘the dignity of baron’ following the ‘appointed day’ re the declared refusal **(1)** to “officially recognise a person as a feudal baron”, **(2)** “nor to make any grant of baronial additaments as part of Armorial Bearings” or **(3)** deprivation of “use of additaments by his heir after the death of the baron” and **(4)** expropriation of all present ‘vested’ or acquired rights of property re “all existing grants will be subject to this Rule” ... for the ‘motive’ set forth by the particular public official/judge concerned in the 8th February 2005 *Scotland on Sunday* interview entitled “Wannabe nobles make blue blood pressure rise” ... will constitute a ***prima facie* violation** the guarantee in Article 1 of Protocol I of the European Convention that “No one shall be deprived of his possessions ***except in the public interest*** and subject to the conditions provided for by law”.¹²⁸

8.C. VIOLATION OF CONVENTION ARTICLE 13 when read in conjunction with the above violations of Article 6(1) [“civil rights”] and Article 1 of Protocol I [“peaceful enjoyment of possessions”] ... guaranteeing “everyone whose rights and freedoms set forth in this Convention are violated shall have an ***effective remedy*** before a national authority, notwithstanding that the violation has been committed by persons acting in an official capacity”.¹²⁹

i) No **affordable** “effective remedy before a national authority” guaranteed by Article 13 of the Convention when read in conjunction with Article 6(1) and Article 1 of Protocol I exists for effectively challenging the judicial Rules of 17 December 2002 – or new ‘Rules’ similar thereto – promulgated by the Lord Lyon which constitutes a **“determination”** by the public official/judge having particular first instance competence concerning nobiliary subjects, fifes annoblissant, and noble feudal tenures analogous to armorial bearings of private law **“civil rights”** of a contractual nature re statutory “incorporeal heritable property” constituting ‘the dignity of baron’ re §63(2) of the ACT ... and in special regard to those particular concrete acquired legal rights of intangible property ‘vesting’ personally in the Holder of ‘the dignity of baron’ referenced in §63(4) of the ACT ... *other than through* expensive appeals to the Court of Session for a declarator of entitlement *every time* such matters are brought before the court concerned.¹³⁰

ii) The internal procedures of the Lyon Court provide no expedient, easily accessible “effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity” guaranteed by Article 13 of the Convention ... to obtain

the recusation, excusal, removal, or withdrawal from proceedings, matters, and cases involving “incorporeal heritable property” consisting of ‘the dignity of baron’ of a judge/public official on the grounds of *personal prejudice* such as those expressed in his interview published in the 8th February 2004 issue of *Scotland on Sunday* entitled “Wannabe nobles make blue blood pressure rise”, which may be located at <http://scotlandonsunday.scotsman.com/index.cfm?id=154542004> ... for violation of the right to an “**impartial tribunal**” in matters concerning the “determination” of private law “civil rights” of a contractual nature guaranteed by Article 6(1) of the Convention ... or to secure “peaceful enjoyment of possessions” guaranteed by Article 1 of Protocol I ... *other than through* the means of expensive appeals to the Court of Session for a declarator of entitlement *each and every time* matters concerning ‘the dignity of baron’ are brought before the Lyon Court.¹³¹

iii) The *prima facie* defectiveness of internal Lyon Court procedure re the adoption of the Rules of 17 December 2002 ... which make no provision for public hearings, submission of legal briefs, or public consultation of affected parties before the adoption of such Rules by the Lord Lyon in his capacity as the first instance judge having exclusive subject-matter competence ... nor contain any provision for the internal first instance re-consideration of such Rules to seek effective redress against the *prima facie* arbitrariness of such Rules or to challenge the prejudiced ‘motives’ expressed by the public official/judge concerned in his extraordinary interview published in the 8th February 2004 issue of *Scotland on Sunday* implicitly responsible for the adoption of such Rules; ... *violates the requirement for an “effective remedy before a national authority” guaranteed by Article 13 of the Convention* when read in conjunction with Article 6(1) re a constitute “determination” of private law “civil rights” of a contractual nature and with and Article 1 of Protocol I of the Convention re “peaceful enjoyment of possessions” and against “deprivation of possessions except in the public interest and subject to conditions provided for by law”.¹³²

8.D. VIOLATION OF CONVENTION ARTICLE 14 when read in conjunction with the above violations of Article 6(1) [“civil rights”], Article 1 of Protocol I re “peaceful enjoyment of possessions” and against “deprivation of possessions except in the public interest and subject to the conditions provided for by law”, and Article 13 of the Convention ... guaranteeing “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, ... national or social origin, ... property, birth or other status”.¹³³

i) The interview given by the public official/judge-concerned in the 8th February 2004 issue of *Scotland on Sunday* entitled “Wannabe nobles make blue blood pressure rise” ... constituting the **apparent reason** for promulgation of the Lyon Court Rules of 17th December 2004 and the **probable reason** for any official refusal after the ‘appointed day’ to grant sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the *RES* (thing) of the same specified in §63(4) of the ACT ... as well as to grant official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the *Lyon Register* ... evidences **discrimination** by this official/judge against the entire ‘class’ of Holders of ‘the dignity of baron’ in violation of Article 14 of the Convention ... when read in conjunction with Article 6(1) re “determination of civil rights ... by an ... impartial tribunal established by law” and with Article 1 of Protocol I re “peaceful enjoyment of possessions” and protection against “deprivation of possessions except in the public interest and subject to the conditions provided for by law”, and Article 13 of the Convention upon the following grounds:

- “**sex**” re ‘pushy women’
- “**national or social origin**” as ‘Americans’ and as ‘shameless social climbers’,
- “**property**” re acquisition of ‘incorporeal heritable property’ constituting ‘the dignity of baron’ as a means “to elevate themselves socially”, and

- **“birth or other status”** re ‘status-seeking’ ‘shameless social climbers’ who are ‘interested in dropping their posh names into conversations at the right dinner party’ and *for evident lack of artistic sensitivity* by “a request for a computer” in armorial bearings.¹³⁴

ii) The interview given by the public official/judge-concerned in the 8th February 2004 issue of *Scotland on Sunday* entitled “Wannabe nobles make blue blood pressure rise” fails the legal ‘test’ for legitimate differential treatment established by the European Court of Human Rights in the *Belgian Linguistic Case* and formulated schematically in the Commission Report of 6 July 1976 In the Case of Geillustreerde Pers N.V. v. The Netherlands, D. & R., 8 (1977), p. 5 (14-15) because this official/judge,

- Singles out Holders of ‘the dignity of baron’ from the entire class of petitioners and litigants at the Lyon Court under the Lyon Court Rules of 17 December 2002 for the **differential treatment** of effectively extinguishing such “incorporeal heritable property” upon the death of the last baron ... which is not imposed upon the Holders of ordinary armorial bearings or the Holders of peerages, chiefships of clans, hereditary offices ... all of which are *like* noble subjects, fives annoblissant, and noble feudal tenures analogous to armorial bearings not dissimilar in essential legal nature from baronies as ‘incorporeal heritable property’.

- Failure to disclose any **legitimate aim** in the terms of an objective and reasonable justification regarding the **aim** of combating “shameless social climbing” particularly by “pushy women” and the **effect** of depriving the entire class of Holders of ‘the dignity of baron’ of “incorporeal heritable property” worth £60,000

- Failure to demonstrate a **reasonable proportionality** between the **means employed** under the Rules of 17 December 2002 re the declared refusal after the ‘appointed day’ (1) to “officially recognise a person as a feudal baron”, (2) “nor to make any grant of baronial additaments as part of Armorial Bearings” or (3) deprivation of “use of additaments by his heir after the death of the baron” and (4) expropriation of all present ‘vested’ or acquired rights of property re “all existing grants will be subject to this Rule” ... and the **aim sought to be realised** by the public official/judge-concerned of suppressing “shameless social climbers”, particularly “pushy women” needing “to climb up the social ladder” who are “interested in dropping their posh names into conversation at the right dinner party” in order “to elevate themselves socially”.¹³⁵

8.E. VIOLATION OF CONVENTION ARTICLE 18 when read in conjunction with Article 6(1), Article 1 of Protocol I, Article 13, and Article 14 of the Convention prohibiting the misuse of State Power in restricting Convention-guaranteed rights and freedoms ... **for the specific vindictive purpose of legally persecuting** the entire class of Holders of ‘the dignity of baron’ on account of their alleged **“shameless social climbing”** under the (presently suspended) Lyon Court Rules of 17 December 2002 by depriving them of their legal ability after the ‘appointed day’ of taking sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the **RES** (thing) of the same specified in §63(4) of the ACT ... as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register as an official register of the Kingdom of Scotland:

Convention Article 18 is violated because the obvious ‘motive’ for promulgating these Rules declared by the public official/judge-concerned in his expressly reveals **the private personal motive** of ‘social’ prejudice, ‘social’ snobbery, or ‘social’ disdain against the entire class of Holders of ‘the dignity of baron’:

Such personally prejudiced motives are not in conformity with the intended aims of the restrictions provided for the specific restrictions permitted under Article 1 of Protocol I, 2nd Paragraph, and Convention Articles 8(2), 9(2), 19(2), 11(2) or the general restrictions ensuing from Convention Articles 14, 15, and 17 to the rights and freedoms protected under Article 1

of Protocol I, 1st paragraph, and Convention Articles *91), 9(1), 10(1), 11(1) and the general protections against the **misuse of State Power** in Convention Articles 14, 15, and 17.¹³⁶

9. THAT the “effective remedy” re Article 13 of the European Convention of Human Rights to secure the need for an official register after the ‘appointed day’ upon which sasine may be taken and official investiture received in baronial heraldic additaments inextricably annexed to ‘the dignity of baron’, the *nomen dignitatis* as part of both the surname and in the ‘title of baron’, the applicable prefix, and in ‘the dignity of baron’, itself, and in relief from the obviously prejudiced Lyon Court Rules of 17 December 2002 (or future ‘Rules’ similar thereto) ... will consist of a **Permanent Court Order** from the **Court of Session** to the Lord Lyon in his judicial capacity as the inferior judge of a subordinate court charged with first instance jurisdiction over legal rights of armorial property, nobiliary subjects, fifes annoblissant, and feudal tenures analogous to armorial bearings for the following:

(1) ordering the establishment of an official register pursuant to the 1592 and 1672 Statutes upon which sasine may be taken and official investiture may be received in the foregoing;

(2) Declarator of Entitlement stating in specificity and with detail all of the particular concrete acquired legal rights of intangible property ‘vesting’ personally in Holders of ‘the dignity of baron’ referenced, statutorily transformed into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired rights of property, and statutorily incorporated into the integral *essence* of ‘the dignity of baron’ by §63(4) of the ACT; and

(3) establishing precise Rules creating permanent legal procedure to be followed by the Lord Lyon after the ‘appointed day’ for taking sasine to and granting official investiture in ‘the dignity of baron’, the full range of baronial heraldic additaments, ‘title of baron, *nomen dignitatis*, prefix and in matters of “any other quality or precedence associated with” this dignity referenced in §63(4) of the ACT upon the Lyon Register.

9.A. Lyon is the inferior judge of a subordinate court having first instance judicial jurisdiction derived from statute over property rights in armorial matters

i) The Lord Lyon King of Arms acts in a dual capacity: (1) A minister of the Crown whose ‘discretionary acts’ cannot be challenged in any court. (2) An inferior judge of a subordinate court whose **‘judicial acts’** in matters concerning **legal rights of property** may be appealed to and over-ruled by the Court of Session.¹³⁷

ii) In his *judicial capacity*, Lyon is an inferior judge in the Scottish judicial system.¹³⁸

iii) Lyon lacks “privative and independent” jurisdiction over all matters involving arms.¹³⁹

iv) Lyon’s jurisdictions and powers are derived from Statute.¹⁴⁰

v) Lyon has first instance jurisdiction in matters of heraldry and the right to bear arms.¹⁴¹

vi) A legal “antecedent right” to arms which “excludes all challenge” by Lyon on grounds of illegal use of arms.¹⁴²

vii) One using arms on the basis of an ‘antecedent right’ is entitled to matriculate the same with Lyon.¹⁴³

viii) Use of arms on the basis of prior ‘antecedent right’ does not constitute *mala fide* use of arms subject to penal sanction.¹⁴⁴

ix) The legal right to arms do not derive from Lyon but may ‘presume a grant even from the Sovereign himself’.¹⁴⁵

x) Because prescription bars the reduction (annulment) of arms, re-matriculation of arms by Lyon is ‘protected by prescription’ and was within Lyon’s ministerial discretion and there is no exclusive right in the design of supporters.¹⁴⁶

9.B. Lyon’s interlocutors, judicial judgements, and rules concerning property rights in armorial

matters may be appealed to the Court of Session, the House of Lords, and the European Commission & Court on Human Rights

i) In his judicial capacity, the Lord Lyon is a subordinate judge of an inferior first instance court from whom appeal lies to the Court of Session.¹⁴⁷

ii) Armorial matters are a ‘civil cause’ over which the Court of Session possesses appellate jurisdiction.¹⁴⁸

iii) Lyon’s interlocutors and judicial judgements may be appealed to the Court of Session and to the House of Lords.¹⁴⁹

iv) The Court of Session as an appellate court is seized with jurisdiction over all questions of the legal right to arms.¹⁵⁰

v) The Court of Sessions has jurisdiction to review judicially the actions of Lyon which invade the legal rights to ensigns armorial derived from an Act of Parliament as well as to ensure Lyon’s compliance with the Statute.¹⁵¹

vi) Judicial jurisdiction exists in instances where heraldic rights vested in one person have been seized or invaded by another.¹⁵²

vii) Because Arms are a ‘question of property’, the appellate courts have jurisdiction in instances where Lyon invades heraldic rights vested in a person or refuses to grant the arms to which one is entitled.¹⁵³

viii) One possessing *acquired* legal rights to arms empowers has ‘standing’ or legal capacity to appeal Lyon’s invasion of such ‘vested’ rights in arms to the ordinary civil courts for a declarator of entitlement to such arms and the reduction (annulment) of such arms wrongfully granted by Lyon to another.¹⁵⁴

ix) Competence of the Court of Session to decide questions involving heraldic rights ‘is fixed by decision’ and that the Court is obliged to construe Acts of Parliament.¹⁵⁵

x) House of Lords is seized with jurisdiction over armorial matters because Lyon is an inferior court from whence appeals lie to superior courts, including Lords.¹⁵⁶

9.C. Plaintiffs in cases and controversies involving property rights in armorial matters must allege *facts* demonstrating a *direct interest* and the invasion of *legal rights* thereto

i) If Lyon has invaded acquired legal rights concerning arms or heraldic privilege established by statute, the Court of Session must give justice to an aggrieved party so as to ensure the he receives his rights in arms established by Statute.¹⁵⁷

ii) One must allege ‘legal title’ in particular arms in order to have ‘standing’ or legal capacity to bring a case to enforce that legal right of property.¹⁵⁸

iii) Petitioners to the Court of Session must to allege **facts** demonstrating a **direct interest** adversely affected by denial of baronial heraldic additaments, etc. after the ‘appointed day’, in order to have the requisite ‘standing’ or legal capacity to contest any deprivation of such.¹⁵⁹

iv) Both Barons and the Heirs of Barons possess ‘vested’ or *acquired* legal rights of “incorporeal heritable property” re §63(2) of the Act to “any quality or precedence associated with, and any heraldic privilege incidental to a dignity” re §63(4) of the ACT ‘vesting’ indefeasibly as ‘transferable ... incorporeal heritable property’ in the Holder of “the dignity of baron” re §63(1) and §63(2) of the ACT.¹⁶⁰

v) Allegations in a Petition directed to the Court of Session to challenge any deprivation or refusal to grant baronial heraldic additaments after the ‘appointed day’ must allege that Lyon has invaded the heraldic rights of ‘property’ of a person in whom such rights of property are ‘vested’ or constitute a refusal to grant baronial heraldic additaments to a person having a ‘vested’ legal right to be granted such baronial heraldic additaments, etc.¹⁶¹

vi) Any refusal by Lyon after the ‘appointed day’ to deprive the Holder of ‘the dignity of baron’ to take sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the *RES* (thing) of the same specified in §63(4) of the ACT as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register ... **directly violate** acquired legal rights of intangible property which “includes any quality or precedence associated with, and any heraldic privilege incidental to” the dignity of baron re §63(4) of the ACT ‘vesting’ indefeasibly as such existed upon the date (9th June 2000) of Royal Assent to the ACT and incorporated statutorily by use of the *verb* “includes” in §63(4) of the ACT into the very substance, fibre, and fabric of “transferable ... incorporeal heritable property” constituting ‘the dignity of baron’ under §63(2) of the ACT

vii) Under Sec. 63 of the ACT, the Holders of the dignity of baron ... and ‘the heirs of barons’ re §63(2) of the ACT statutorily transforming ‘the dignity of baron’ into “incorporeal **heritable** property” passing under “the old pre-1964 law of succession to heritable property, with its preference for males and its rule of primogeniture” – to the Heirs of Barons – applicable to “any title, coat of arms, honour or dignity transmissible on the death of the holder” under §37(1)(a) of the Succession (Scotland) Act 1964¹⁶² ... possess the requisite ‘**standing or legal capacity**’ to appeal the legality of any deprivation, refusal, denial of the effective re-matriculation of the ‘title of baron’, the *nomen dignitatis* of that barony as part of the ‘title of baron’, and all previously granted baronial heraldic additaments to the heir of a baron upon the death of that baron for invasion of such acquired legal rights of property in “any heraldic privilege” re §63(4) of the ACT.¹⁶³

9.D. Acts of Parliament conclusively resolve all issues re property rights in armorial matters:

i) Acts of Parliament conclusively resolve all issues concerning the legal right to arms.¹⁶⁴

ii) Acts of Parliament operate to conclusively ‘vest’ the legal right to arms in the designated beneficiary.¹⁶⁵

iii) The legal right to arms conclusively ‘vested’ by an Act of Parliament are binding upon all Courts, including the Lyon Court.¹⁶⁶

iv) All issues re the rules and uses of heraldry and all abstract heraldic controversies are resolved conclusively by an Act of Parliament so that the courts need “not go a step beyond the statute”.¹⁶⁷

v) An Act of Parliament regarding arms or heraldic privilege resolves conclusively any abstract heraldic controversies which might otherwise arise over the issue – if the Act of Parliament did not exist.¹⁶⁸

vi) Once an Act of Parliament has declared entitlement to certain heraldic honours, it is the duty of the Court of Session to ensure that Lyon has ‘sufficiently complied with the terms of the statute’.¹⁶⁹

vii) In any conflict between the ordinary or ‘common laws’ of heraldry or the Law of Arms as applied in Scotland concerning the rules and uses of heraldry ... and statutorily created legal rights in arms or heraldic privileges, precedences, or qualities related thereto by an Act of Parliament, the Court of Session must apply the statutorily-created rights as ‘a statute of the realm’ to resolve any conflict in favour of any rights in arms flowing from the Statute.¹⁷⁰

viii) The acquired legal right of property in “any heraldic privilege, incidental to” ‘the dignity of baron’ re §63(4) of the ACT ‘vests’ indefeasibly as by Act of Parliament as ‘transferable ... incorporeal heritable property’ in the Holder of “the dignity of baron” re §§63(1) and 63(2) of the ACT as such existed upon the date (9th June 2000) of Royal Assent to the ACT – the *savings clause* in §63(1) of the ACT prevents any change to such “heraldic privileges” worked by abolition of the feudal system of land tenure in the ACT.¹⁷¹

ix) §63(4) of the ACT which by use of the *verb* “includes” **statutorily incorporated** particular *acquired legal rights* constituting of “any quality or precedence associated with, and any heraldic privilege incidental to” the dignity of baron “into the very substance, fabric, and fibre of “transferable ... incorporeal heritable property” constituting ‘the dignity of baron’ under §63(2) of the ACT ‘*vesting*’ *indefeasibly* as such existed upon the date (9th June 2000) of Royal Assent to the ACT ... when reading in conjunction with the **savings clause** in §63(1), 2nd clause, of the ACT that “**nothing** in this Act **affects** the dignity of baron or any other dignity or office (whether or not of feudal origin)” thereby barring any change in the *legal status* of baronies caused by the ACT from ‘*affecting*’ the particular baronial heraldic additaments and other *acquired legal rights* referenced in §63(4) of the ACT constituting the actual ‘dignity of baron’... and the *legislative history* of Sec. 63 of the ACT set forth in ¶¶2.30 to 2.45 of the Scottish Office’s “Report on the Abolition of the Feudal System” (Scot Law Com 168) ... **resolves conclusively** ... any abstract heraldic controversy over whether the changes in the *legal status* of baronies wrought by Sec. 63 of the ACT by the abolition of the feudal system of land tenure would affect the conventional heraldic additaments of Barons.¹⁷²

9.E. §63(4) of the Abolition of Feudal Tenure (Scotland) ACT 2000 *statutorily transformed* all matters concerning “any quality or precedence associated with and any heraldic privilege incidental to” the dignity of baron into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired legal rights of intangible property ‘vesting’ personally in the Holder of the dignity of baron as “incorporeal heritable property”.

i) §63(4) of the Abolition of Feudal Tenure (Scotland) ACT 2000 *statutorily transforms* all matters concerning “**any quality or precedence associated with**” the dignity of baron into ‘*legal entities*’ upon which judgement might be rendered by a court of law ... and *statutorily empowers* both Lyon and the Court of Session with jurisdiction over such matters concerning “any quality or precedence associated with” the dignity of baron.¹⁷³

ii) §63(4) of the ACT *statutorily empowers* the courts to take cognisance of “**any heraldic privilege incidental to**” the ‘dignity of baron’. This includes the *full range* of baronial heraldic additaments as such existed upon the 9th June 2000 date of Royal Assent to the ACT – as exemplified in our companion Judgement concerning *Duthus* Plant-Badge and Baronial Heraldic additaments. All such baronial heraldic additaments are concrete particular acquired legal rights of intangible property to which an armigerous baron or a “well deserving person” possesses a *legal entitlement* to be granted under §63(4) of the ACT as a matter of law from Lyon in his judicial capacity.¹⁷⁴

iii) §63(4) of the ACT *statutorily empowers* the courts to take cognisance of “**any quality or precedence associated with**” the dignity of baron. This would include the ‘chiefship’ of the clan formed around the barony. Because the succession to “any quality or precedence associated with” the dignity of baron – re ‘chiefship’ of a baronial clan – is united in ‘real union’ with the dignity of baron, there exists a ‘defined law of succession of which a court can take cognisance’: Namely, the pre-1964 law of succession to heritable property applicable to “any title, coat of arms, honour or dignity transmissible on the death of the holder” under §37(1)(a) of the *Succession (Scotland) Act 1964*.¹⁷⁵

iv) Superseding the juridical situation existing in 1911, Sec. 63(4) of *The Abolition of Feudal Tenure ACT (Scotland) 2000* **freshly** empowers both Lyon and the Court of Session with statutory jurisdiction and judicial competence over specifically “**any quality or precedence associated with, and any heraldic privilege incidental to**” the dignity of baron ... creating judicial competence in both Lyon and the Court of Session concerning “**any**” matter of ‘precedence’, ‘social dignity’, ‘social status’, and ‘heraldic privilege’ which is “**associated with**” and/or “**incidental to**” the dignity of baron re the explicit language of §63(4) of the ACT.¹⁷⁶

9.F. ‘Matters of precedence’ may be legally transformed by statute into ‘legal entities’ or ‘rights’ upon which a judgement can be rendered by a court of law

- i) No statute *previously existed* giving Lyon jurisdiction in matters of precedence.¹⁷⁷
- ii) No statutory foundation *previously existed* in an Act of Parliament or continuous and accepted practice to create the jurisdiction of Lyon in matters of precedence.¹⁷⁸
- iii) In 1911 there was no statutory foundation in an Act of Parliament empowering either Lyon or the Court of Session with jurisdiction in matters of precedence.¹⁷⁹
- iv) In 1911 there was no statute transforming a ‘right of precedence’ into ‘a legal entity’ upon which a judgement can be rendered by a court of law.¹⁸⁰
- v) Sec. 63(4) of The Abolition of Feudal Tenure ACT (Scotland) 2000 is a statute that **legislatively transforms** “any quality or precedence associated with, and any heraldic privilege incidental to” the dignity of baron ACT ... **into ‘a legal entity’** ... concerning “**any**” matter of ‘precedence’, ‘social dignity’, ‘social status’, and ‘**any** heraldic privilege’ which is “**associated with**” and/or “**incidental to**” the dignity of baron re the explicit language of §63(4) of the ACT ... upon which a **judgement can be rendered** by the Court of Session.¹⁸¹
- vi) §63(4) of the ACT concerning “any quality or precedence associated with” the dignity of baron ‘vesting’ as “transferable ... incorporeal heritable property” in the Holder of the dignity of baron under §63(2) of the ACT ... constitutes a **statute empowering** Lyon and the Court of Session **with jurisdiction** to decide a controversy concerning matters of ‘precedence’, ‘social dignity’, and ‘social status’ – such as entitlement to official recognition of a Baron as ‘Chief’ of the clan formed about his barony upon presentation of a legal *Derbhfine* composed of nine Scots Armigers – encompassed within the *language* of §63(4) of the ACT as “**any quality or precedence associated with**” the dignity of baron.¹⁸²

9.G. ‘Issues’ concerning ‘Chiefships’ may be legally transformed by statute into ‘legal entities’ upon which a judgement can be rendered by a court of law

- i) Chiefship of a Clan is ‘social dignity’ unknown to statutory law which has no patrimonial or armorial significance.¹⁸³
- ii) ‘Chiefship’ survives in ‘the Law of Honours’.¹⁸⁴
- iii) No statutory basis exists time of the Maclean of Ardgour v. Maclean litigation to give Lyon judicial competence to resolve judicially disputed claims and controversies concerning chiefships of clans.¹⁸⁵
- iv) In the protracted Maclean of Ardgour v. Maclean armorial litigation of the late 1940’s to early 1940’s no statutory basis was found to exist *at that time* (see §63(4) of the ACT for the modern creation of such statutory basis) for empowering Lyon with jurisdiction to decide an issue relating to ‘chieftainship’ having no armorial significance, no heraldic insignia, and no patrimonial consequences.¹⁸⁶
- v) Lyon lacks judicial competence to resolve claims to chiefships because no statutory basis existed time of the Maclean of Ardgour v. Maclean litigation to create such jurisdiction.¹⁸⁷
- vi) Questions of ‘social status’ or ‘**precedence**’ *did not depend* at the time of the Maclean of Ardgour v. Maclean litigation upon any principle of law of succession which can be applied by a court of law – see §63(4) of the ACT for the modern creation of such.¹⁸⁸
- vii) Because Lyon has no jurisdiction other than then conferred by Statute, Lyon **had** no jurisdiction at the time of the protracted Maclean of Ardgour v. Maclean armorial litigation to entertain a ‘Declarator of Chiefship’ as such is an **issue of ‘precedence’** or ‘social dignity’ not involving an issue which the law can recognise (see §63(4) of the ACT for the modern creation of such statutory basis).¹⁸⁹
- viii) Although having the character of a ‘social dignity’ the issue of chiefship was not a **legal status** determinable in a court of law at the time of the Maclean of Ardgour v. Maclean litigation (see §63(4) of the ACT for the creation of such *legal status* encompassed within the terms “**any quality or precedence associated with**” the dignity of baron when read in conjunction

with Lord Lyon Sir Thomas Innes of Learney's findings that a the Baron is *Chef de Famillee* and Hereditary Representer of the 'horizontal' Clan formed territorially around that "Barony" in "The Robes of the Feudal Baronage of Scotland," (27th Oct 1945) Proceedings of the Society of Antiquaries of Scotland, Vol. 79, pp. 111 et seq and at 113, 114, 116, 118, fn. 3, 121-122, 131, fn. 3,); ... however the succession to arms does involves a **legal right of property** which is judiciable in a court of law.¹⁹⁰

ix) The 'determinative factor' in the recognition of 'Chiefship' (which survives in the law of Honours) belongs to 'the principal landed gentlemen of the clan (i.e., *Derbhfine*), who may take note of Lyon's limited functions in ascertaining the proper heir to certain arms.¹⁹¹

x) Lord Wark's juridical problems in Maclean of Ardgour v. Maclean are entirely resolved by §63(4) of the Abolition of Feudal Tenure (Scotland) ACT 2000 which **statutorily confers jurisdiction** upon both Lyon and the Court of Session to entertain issues of 'social status', '**precedence**' and 'social dignity' re "any quality or precedence associated with" the 'dignity of baron' – such as a Petition for a 'Declarator of Chiefship' by a baron upon presentation of a legal *Derbhfine* consisting of nine matriculated Scots Armigers constituting the core 'true community' of that baronial clan.

Because the succession to the 'chiefship' of a baronial clan is by its nature united in 'real union' with succession to the barony, itself, the *same law of succession* applicable to baronies is applicable to the 'chiefship' of a baronial clan ... and can, thus, be applied by a court of law ... meeting Lord Wark's concerns in Ardgour.

xii) The 'Chiefship' of a clan formed about a barony *differs* from a conventional genealogical clan in that such 'Chiefship' of a baronial clan is always united with Holder of 'the dignity of baron'. Rather, the "issue" re official recognition of such Chiefship lies in demonstrating the existence of a core 'true community' consisting of a legal *Derbhfine* consisting of nine matriculated Scots Armigers: Upon presentation to Lyon of such a *Derbhfine*, a Baron is entitled to be officially recognised by Lyon in Letters Patent *issued as a matter of legal right* as the *Chef de Famillee* and Hereditary Representer of the 'noble community' or 'Honourable Clan' formed about his barony.

xiii) §63(4) of the ACT statutorily transforming "any quality or precedence associated with" the dignity of baron into fundamental '**legal entities**' as obvious particular legal rights of intangible property 'vesting' personally in the Holder of 'the dignity of baron' as "incorporeal heritable property" ... provides Lyon and the Court of Session with **statutory jurisdiction** to recognise officially a baron as the *Chef de Famillee* and Hereditary Representer of the clan formed about his barony as a matter concerning 'precedence', 'social dignity' or 'social status' which are "**associated with**" the dignity of baron re §63(4) of the ACT and depend upon the law of succession applicable to baronies – §37(1)(a) of the Succession (Scotland) Act 1964 – as being issues which the law can recognise.¹⁹²

xiv) As a implicit component of "any quality or precedence associated with" the dignity of baron re §63(4) of the ACT statutorily transformed therein into fundamental '**legal entities**' as obvious particular legal rights of intangible property 'vesting' personally in the Holder of 'the dignity of baron', ... the presentation of a legal **Derbhfine** consisting of nine Scots Armigers forming the core 'true community' of the baronial clan formed about a particular barony constitutes the '**determinative factor**' for legal 'entitlement' of an armigerious Baron to official recognition by Lyon in Letters Patent *issued as a matter of legal right* as the *Chef de Famillee* and Hereditary Representer of the 'noble community' or 'Honourable Clan' formed about that Barony.¹⁹³

9.H. Obligation of the Court of Session to enforce judicially concrete particular acquired private law rights of intangible property referenced in §63(4) of the ACT 'vesting' personally in Holders of the dignity of baron

i) The Court of Session possesses both the competence and the duty to enforce judicially the

statutorily created heraldic rights as well as the *statutorily created* (re use of the *verb* “includes” in §63(4) of the ACT) ‘precedence’ and ‘social dignity’ consisting of “any quality or precedence associated with, and any heraldic privilege incidental to” the dignity of baron under §63(4) of the ACT as fundamental ‘legal entities’ which indefeasibly ‘vested’ as *acquired legal rights* of “transferable ... incorporeal heritable property” in the Holders of the dignity of baron under §63(2) of the ACT as such existed upon the date of Royal Assent to the ACT.¹⁹⁴

ii) The Court of Sessions has the specific duty to ensure that the Lord Lyon as the subordinate judge of the special inferior court having ‘first instance’ jurisdiction over legal matters of property in armorial matters and nobiliary subjects... **complies fully** with the express terms of Sec. 63 of the ACT as such explicitly relates to the particular intangible incorporeal *acquired legal rights* consisting of “any quality or precedence associated with, and any heraldic privilege incidental to” the dignity of baron under §63(4) of the ACT incorporated statutorily by use of the *verb* “includes” in §63(4) of the ACT into the very substance, fabric, and fibre of ‘transferable ... incorporeal heritable property’ constituting the actual ‘dignity of baron’ re §63(2) of the ACT and ‘vesting’ indefeasibly as such *acquired legal rights* referenced in §63(4) of the ACT existed upon the date (9th June 2000) of Royal Assent.¹⁹⁵

iii) The Court of Session must apply as a ‘statute of the realm’ the full range of statutorily created *acquired legal rights* encompassing “any quality or precedence associated with, and any heraldic privilege incidental to” the dignity of baron re §63(4) of the ACT, incorporated statutorily by use of the *verb* “includes” in §63(4) of the ACT into the very substance of “transferable ... incorporeal heritable property” constituting ‘the dignity of baron’ re §63(2) of the ACT and vesting indefeasibly as such existed upon the date of Royal Assent to the ACT ... when reading in conjunction with the *savings clause* in §63(1), 2nd clause, of the ACT that “nothing in this Act affects the dignity of baron or any other dignity or office (whether or not of feudal origin)” statutorily barring any changed worked in the *legal status* of baronies by the ACT from ‘affecting’ the particular *acquired legal rights* referenced in §63(4) of the ACT constituting the actual ‘dignity of baron’ ... to resolve any conflict between the ordinary or ‘common laws’ of heraldry or the Law of Arms as applied in Scotland concerning the rules and uses of heraldry ... and the **statutorily-created legal rights in arms, heraldic privilege, precedence, and social dignity in Sec. 63(4) of the ACT** constituting ‘the dignity of baron’ as ‘incorporeal heritable property’ under §63(2) of the ACT ... in favour of any rights in arms, precedence, and social dignity **statutorily established** by Sec. 63(4) of the ACT.¹⁹⁶

9.I. REDUCTION (annulment) of Lyon Court ‘Rules’ purporting to deprive after the ‘appointed day’ the Holders of “incorporeal heritable property” consisting of the dignity of baron *any of the matters* referenced in §63(4) of the ACT *statutorily incorporated* by use of the *verb* “includes” into integral components forming the *essence* of the dignity of baron ... for obvious prejudiced personal ‘motives’ declared in 8th February 2004 *Scotland on Sunday* interview

i) Lyon lacks statutory authority of *any type* for issuing his Rules of 17th December 2002 re Baronies – or any *future* “Rules’ similar thereto – directly contravening the **express Parliamentary Will** in Sec. 63 of The Abolition of Feudal Tenure ACT (Scotland) 2000.¹⁹⁷

ii) The obvious personal prejudiced ‘motives’ behind the Lyon Court Rules of 17 December 2002 are those exposed in the extraordinary 8th February 2004 *Scotland on Sunday* interview found at <http://scotlandonsunday.scotsman.com/index.cfm?id=154542004> ... which ought to interest Baroness Amos of Brondesbury as Lord President of the Council ... particularly public declarations by a sitting judge concerning ‘pushy women’ seeking ‘to climb up the social ladder’ with a title as ‘shameless social climbers’ in order ‘to elevate themselves socially’ who are ‘more interested in dropping their posh names into conversations at the right dinner party’...¹⁹⁸

iii) Motivated by such obvious personal non-judicial and non-judicious ‘social’ prejudices, Lyon’s Rules of 17th December 2002 re baronies – and any future ‘Rules’ similar thereto – may be **reduced** (annulled) by the Court of Session because they invade the **acquired legal right of “incorporeal heritable property”** to be granted the full range of conventional baronial

heraldic additaments, to be accorded the 'title' of baron, to receive the *nomen dignitatis* of that barony as part of both the surname and the 'title of baron', and to receive recognition of baronial status as 'equal to the Hoch Adel and Chiefs of Baronial Houses on the Continent' by Lyon in Letters Patent *issued as a matter of legal right*.¹⁹⁹

iv) The Court of Session possesses clear jurisdiction to review judicially Lyon's personally prejudiced Rules of 17th December 2002 re Baronies – or any *future* 'Rules' similar thereto – for invasion, destruction, and expropriation or 'taking' of **intangible 'property'** consisting of the statutorily incorporated (by use of the *verb* 'includes' in §63(4) of the ACT) acquired legal rights which "includes any quality or precedence associated with, and any heraldic privilege incidental to" the dignity of baron under §63(4) of the ACT 'vesting' indefeasibly as such existed upon the date (9th June 2000) of Royal Assent to the ACT as "incorporeal heritable property" in the Holder of the dignity of baron under §63(2) of the ACT.²⁰⁰

v) As the special court having 'first instance' jurisdiction over legal rights of property in armorial matters and nobiliary subjects, fiefs annoblissant, and feudal tenures analogous to armorial bearings, Lyon's obviously prejudiced Rules of 17th December 2002 re Baronies – or any *future* 'Rules' similar thereto – have **invaded** and have judicially worked the **effective expropriation** of the particular intangible incorporeal acquired legal rights of property referenced in §63(4) of the ACT ... statutorily incorporated by use of the *verb* "includes" therein into the *very substance, fabric, and fibre* of 'incorporeal heritable property' constituting the 'dignity of baron' re §63(2) of the ACT as such existed upon the date (9th June 2000) of Royal Assent to the ACT:

Accordingly, the Court of Session has the obligation to give justice to the aggrieved class of Barons, owners of baronies, heirs of barons, and other affected persons ... in order to insure that they received their full range of acquired legal rights of **property** concerning heraldic privilege, precedence, and social dignity established by §63(4) of the ACT as the *intangible essence* of "incorporeal heritable property" vesting in such persons under §63(2) of the ACT.²⁰¹

9.J. Permanent Order of the Court of Session directed to Lyon declaring entitlement to full range of concrete particular acquired private law rights of intangible property referenced in §63(4) of the ACT and establishing permanent legal procedure for taking sasine to the dignity of baron and receiving official investiture in full range of baronial heraldic additaments, *nomen dignitatis* as part of both the surname and the 'title of baron', the prefix of "The Much Honoured", recognition of 'baronial status' as equivalent to *HOCH ADEL* and Chiefs of Baronial Houses on the Continent, and in the 'dignity of baron', itself, upon the Lyon Register

i) The Barons or the holders of 'the dignity of baron' after the 'appointed day' possess a legal right of property in such "incorporeal heritable property" to create "real rights" of ownership in the **RES** (thing) constituting such in §63(4) of the ACT by recording it on an appropriate public official register of the Kingdom of Scotland under the general Scottish law pertaining to 'incorporeal property'.

ii) The action of registering "incorporeal heritable property" upon an official public register is inherently an issue of **judicial direction** to which the owner of such property is entitled as a matter of legal right – similar to a matriculation off an existing grant of arms or the grant of a coronet and supporters to a Peer of the Realm *as a matter of legal right* – rather than a discretionary "ministerial act" of grace as is a grant of arms:

iii) The actual solution to any alleged lack of an official register upon which sasine to baronies might be taken after the 'appointed day' **lies entirely within Lyon's own control**.²⁰² The 'problem' preventing a solution is evidenced in the personally prejudiced 'attitude' displayed in the remarkable 8th February 2004 *Scotland on Sunday* interview...

iv) The Court of Session possesses judicial competence to issue a 'Declarator of Entitlement' directed to Lyon in his judicial capacity as an inferior judge of a subordinate court charged with first instance jurisdiction over legal rights in armorial property ... to register 'the dignity of baron' as "incorporeal heritable property" upon the Lyon Register as an administrative judicial

act ... in order to create “real rights” in such incorporeal property to establish the ‘ownership’ of such under general Scottish law.

v) Holders of the dignity of baron ... and ‘the heirs of barons’ re §63(2) of the ACT statutorily transforming ‘the dignity of baron’ into “incorporeal **heritable** property” are entitled to a **Declarator of Entitlement** from the Court of Session declaring in detail and with specificity their precise *acquired legal right* of property ‘vesting’ indefeasibly in them under §63(4) of the ACT to be granted in Letters Patent *issued as a matter of legal right* by Lyon *in his judicial capacity* the entire range of conventional baronial heraldic additaments and to be officially recognised by Lyon under the *nomen dignitatis* of their respective baronies as their ‘titles’ and ‘territorial designation’ as well as to receive from Lyon (and the Government) any other ‘quality or precedence associated with’ the dignity of baron under §63(4) of the ACT.²⁰³

vi) Given the actual need for an official register upon which sasine to ‘the dignity of baron’ might be taken after the ‘appointed day’ together with the fact that a separate section of the Lyon Register for “Barons” under the 1672 Statute actually existed between 1672 and 1764; it would be within the judicial competence of the Court of Session to issue a **Permanent Rule** directing Lyon in his judicial capacity as the judge of an inferior court having first instance jurisdiction over legal rights of armorial property **to establish a particular section of the Lyon Register for “Barons” upon which sasine to ‘the dignity of baron’ might be taken after the ‘appointed day’.**

vii) Scottish 1592 and 1672 Statutes already provides clear **statutory authority** to establish “buikis and Registeris” upon which Lyon is “to visite the whole Armes of Noblemen [Peers] , Barons, and Gentlemen, and to matriculate the same in their Registers ... [and] in thair buikis”. No further authorising legislation is needed: On the basis of the existing legislation, the Court of Sessions may issue a Permanent Rule or a ‘Declarator of Entitlement’ directing Lyon in his judicial capacity as the judge of an inferior court to exercise his statutory authority to establish “buikis and Registeris” to re-establish the separate section of the Lyon Register for “Barons” upon which sasine is to be taken to ‘the dignity of baron’ as ‘transferable ... incorporeal heritable property’ after the ‘appointed day’.

viii) It is axiomatic that *if* the particular section for ‘Barons’ in the original Lyon Register could be consolidated as an administrative action in 1764 into the existing consecutive and chronological Register without recourse to any Act of Parliament authorising this consolidation; ... *then* this original section of the Lyon Register for ‘Barons’ could likewise be re-established in 2004 by a **like judicial direction** from the Court of Session to Lyon in his judicial capacity as the subordinate judge having first instance jurisdiction over legal rights in armorial property ... without resort to further Parliamentary authorisation ... in order to provide conclusive public law proof in an official public register that a person so enrolled in the re-established “Barons” Section of the Lyon Register is automatically Ipso facto the holder of ‘the dignity of baron’ after the ‘appointed day’ without further qualification or identification.

ix) The Barons will need to apply to the Court of Session for a ‘declarator’ directed to Lyon in his judicial capacity as an inferior judge ordering directly (1) the re-establishment of a Lyon Register for ‘Barons’ to serve as the needed official public register upon which sasine might be taken to ‘the dignity of baron’ after the ‘appointed day’ in order to establish “real rights” in the RES (thing) constituting this dignity specified with particularity in §63(4) of the ACT and (2) directly promulgating applicable Rules setting forth the legal procedure and standard of proof for the initial registration of such ‘dignities of baron’ and for the inter-vivos transfer or intestate succession to such ... in accordance with Sec. 63 of the ACT and the legislative intent evidenced in ¶¶ 2.30 to 2.45 of the “Report on the Abolition of the Feudal System”.

x) In the same manner that Lyon has in recent years established detailed rules for the summoning of ad hoc Derbhfinns for chiefless clans to select a candidate for presentation to Lyon for recognition as ‘Chief’; the Court of Session as a superior court clearly possesses judicial competence to judicially order Lyon in his judicial capacity as first instance judge in a matter

concerning rights of armorial property under the 1592 and 1672 Laws to issue Rules setting forth in detail and with specificity requirements for registration of existing baronies upon this re-established special section of the Lyon Register for Barons and requirements to authenticate the inter-vivos transfer of such and the intestate succession to such.

xi) Entry upon this section of the Lyon Register for ‘Barons’ established in accordance with the Laws of 1592 and 1672 will automatically establish as a matter of public record (1) the existence of a barony as ‘transferable ... incorporeal heritable property’ in its new form as ‘the dignity of baron’ re §63(2) of the ACT; (2) that the person and his designated line of succession so enrolled is the owner or holder of ‘the dignity of baron’, and (3) official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register

xii) The permanent order issued by the Court of Session to Lyon in his judicial capacity needs to set forth with specificity and in detail the precise administrative procedure to be used by the Lyon Office for the initial registration of such on the Lyon Register as well as for the subsequent inter-vivos transfer and the intestate succession of such.²⁰⁴

FINDINGS OF THE BARONS COURTS

On 27th July 2004 the Barons Courts of Prestoungrange and of Dolphinstoun pronounce the following interlocutor:

Finds in fact:

- 1) THAT the official ‘Recommendation’ in the *legislative history* to Sec. 63 of the ACT mandates the complete legal survival past the ‘appointed date’ of ‘the dignity of baron’, who retain the title and style of baron as well as any precedence and ceremonial or heraldic privilege derived from such baronies ... and provides that shorn from attachment to land and not an interest in land for the purpose of the Land Register or recording in the Register of Sasines that the dignity of baron should only be transferable as “incorporeal heritable property”.
- 2) THAT the *legislative history* of Sec. 63 of the Act demonstrates the parliamentary intent that the savings clause in §63(1) explicitly providing that ‘nothing in this act affects the dignity of baron or any other dignity or office (whether or not of feudal origin)’ operates to save completely the “noble element” consisting of “the social, ceremonial and armorial aspects of baronies” as “non-territorial dignities” separated from land ownership **to avoid any “taking”** of this particular ‘noble element’ which endow baronies with ‘considerable commercial value’ the abolition of which ‘would give rise to substantial claims for compensation’ for every barony in Scotland.
- 3) THAT the official ‘Recommendation’ in the *legislative history* to Sec. 63 of the ACT mandates the complete legal survival past the ‘appointed date’ of ‘the dignity of baron’, who retain the title and style of baron as well as any precedence and ceremonial or heraldic privilege derived from such baronies.
- 4) THAT after the ‘appointed day’ “transferable ... incorporeal heritable property” of the ‘dignity of baron’ will consist solely of “any quality or precedence associated with, and any heraldic privilege incidental to” this dignity **statutorily transformed** by §63(4) of the ACT into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular individual concrete acquired legal rights of intangible property ‘vesting’ personally in the owner or holder of the ‘dignity of baron’ ...

and that use of the verb “includes” in §63(4) of the ACT *statutorily incorporates* all such particular individual concrete acquired legal rights of property ‘vesting’ in the owner or holder of the ‘dignity of baron’ as an integral ‘bundle’ of such component acquired legal rights of property **into** the *essence* or the *very fabric, fibre and substance* of the ‘dignity of baron’ as incorporeal heritable property” under §63(2) of the ACT as such existed upon the day of Royal Assent to the ACT: 9th June 2000.

- 5) THAT the **subject-matter** of the particular individual concrete acquired legal rights of intangible property statutorily transformed into specific ‘legal entities’ and statutorily incorporated as an integral ‘bundle’ into the essence or the very fabric, fibre, and substance of the ‘dignity of baron’ as “incorporeal heritable property” under §63(2) of the ACT as such existed upon the date of Royal Assent (9th June 2000) to the ACT encompassed within the language of §63(4) of the ACT ... falls within the **exclusive judicial jurisdiction of the Lord Lyon King of Arms** as particular acquired legal rights of intangible property in matters of honour, nobiliary subjects, fifes annoblissant, and noble feudal tenures analogous to armorial bearings within the exclusive competence of a court of chivalry under the Law of Arms as applied in Scotland ... and are out-with the first instance jurisdiction of any civil court and bounds of the ordinary civil law.
- 6) THAT because the legislative history to §63(2) of the ACT in ¶2.41 of the “Report” explicitly declares that “We have considered whether some alternative registration system should be established for baronies in their new form but have concluded that this would be neither **necessary nor appropriate**”; Parliament’s intent is that an appropriate registration system already exists upon which sasine may be taken and official investiture received in and to ‘the dignity of baron’ and the full range of baronial heraldic additaments and “any other quality or precedence associated with” this dignity re §63(4) of the ACT.
- 7) THAT because the particular subject-matter of the **RES** (thing) constituting “incorporeal heritable property” consisting of ‘the dignity of baron’ as statutorily defined in §63(4) of the ACT ... consists entirely of specialised specific intangible property rights concerning honour, nobiliary subjects, fifes annoblissant, and noble feudal tenures analogous to armorial bearings under the Law of Arms as applied in Scotland falling within the exclusive first instance judicial jurisdiction of the Lyon Court; ... the appropriate official register of the Kingdom of Scotland upon which to take sasine of the transfer or inheritance of “incorporeal heritable property” consisting of ‘the dignity of baron’ ... must **of necessity** be *The Public Register of All Arms and Bearings in Scotland* also known as *The Lyon Register*.
- 8) THAT upon the ‘appointed day’ Barons holding land directly from the Crown erected *in liberam baroniam* via a Crown Charter under the Great Seal of Scotland, who exercised *territorial jurisdiction* over their baronies administering the King’s Justice in accordance with statute, ... are **statutorily transformed** pursuant to §63(1) of the ACT ... into **Barons** holding **ut baro** the incorporeal “dignity of baron” of patriarchal jurisdictional *personal rights* over the following of their baronies derived from their original patrimonial *captaincy of communities* – identical with the personal ‘baronial jurisdiction’ possessed *ut baro* by the chiefs of Scots Clans over their Clan who lacked land erected *in liberam baroniam* – shorn of their former civil and criminal *territorial jurisdiction* of exercising the Queen’s Justice derived from Statute.
- 9) THAT “transferable ... incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT is **directly analogous** to Heritable Offices *in commercio* created originally by Crown Charters under the Great Seal of Scotland and for which heraldic insignia of office may be matriculated upon the Lyon Register.
- 10) THAT originally created by the historic erection of lands *in liberam baroniam* by a Crown Charter under the Great Seal of Scotland, the act of establishing ‘real rights’ of ownership in the RES (thing) of the pre-existing ‘dignity of baron’ as “incorporeal heritable property” by recording such upon an official register of the Kingdom of Scotland is **directly analogous** to obtaining a

Confirmation of Arms (equivalent to a Crown charter of *novodamus* in respect of dignities or heritage in pre-existing armorial bearings) by recording such upon the Lyon Register.

- 11) THAT honourable investiture of the Owner of a prior grant of a heritable office in ‘real rights’ of ownership in the **RES** (thing) constituting this dignity dates only from the matriculation of such office and the accompanying heraldic insignia demonstrative of this office upon the Lyon Register by decree of the Lyon Court ... rather than from the date of the original grant of this office by Crown Charter of Novodamus.
- 12) THAT although not cognisable as first instant matters in the Court of Session or ordinary courts of law, matters concerning noble feudal tenure analogous to armorial bearings re heritable offices & dignities and the particular heraldic additaments related thereto ... are heritable rights which ‘must be justiciable and determinable in a court of law’.
- 13) THAT in Scotland the Court of the Lord Lyon as a Court of Arms and Chivalry is seized with particular first instance competence in all matters concerning noble subjects, fifes annoblissant, noble feudal tenures analogous to arms, dignities of nobilitas, and heritable offices and the heraldic additaments annexed to and demonstrative of such offices and the matriculation of the same upon the Lyon Register.
- 14) THAT after dignities of nobilitas, and heritable offices and the heraldic additaments annexed to and demonstrative of such offices – noble feudal tenures analogous to arms – **lost their essential inter-relationship with the tenure of corporeal fife (i.e., land)** so that sasine of the fife no longer supplied an investiture of the dignity or heritable office, reinvestiture in arms and the particular heraldic additaments inextricably connected with that office or dignity upon the Lyon Register continues to supply the same judicial procedure and effect in relation to investiture in that dignity or office as did the former revestiture in the corporeal fife (land).
- 15) THAT already possessing judicial machinery for the investiture, reinvestiture, progress of title, and sasine of arms for ‘incorporeal heritable property’ consisting of all manner of nobiliary subjects, fifes annoblissant, and noble feudal tenures analogous to arms; ... the Lord Lyon and the Lyon Court possess a ‘continuant public register’ functioning like the register of land sasine upon which such noble heritable property as ‘the dignity of baron’ as “incorporeal heritable property” must be recorded, the annexed baronial heraldic insignia (*statutorily transformed* by §63(4) of the ACT into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired legal rights of intangible property ‘vesting’ in the Holder and *statutorily incorporated* by use of the verb “includes” therein into an integral component ‘bundle’ of such rights of property forming the *essence* if the ‘dignity of baron’) granted, and investiture given in the insignia, *nomen dignitatis* of the barony in both the surname and in the ‘title of baron’ and in ‘the dignity of baron’ before the same may be used by the Holder.
- 16) THAT under the original 1592 and 1672 Acts authorising the Lord Lyon with competence to establish official ‘Bookes and Registers’ upon which to visit the ‘Signes armoriall’ and the ‘whole arms of Noblemen [peers], Barrons, and Gentlemen, and to matriculate the same in their Registers’ as well as ‘to distinguish and discedrn thame with congruent differences, and thairefter to matriculate tham in thair buiks and Registeris’; ... the Lord Lyon *already possesses statutory authority* to re-establish the original section of the Lyon Register for “Barons” to serve as the specific identifiable official register of the Kingdom in and of Scotland upon which ‘real rights’ of ownership in the **RES** (thing) of ‘the dignity of baron’ might be recorded by matriculation of baronial heraldic additaments inextricably annexed to ‘the dignity of baron’, the *nomen dignitatis* of that barony as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as the ‘dignity’ itself.
- 17) THAT the Statutes of 1592 and 1672 legally distinguish the Estate of the Baronage of Scotland

explicitly as ‘Barons’ as a distinct and separate group from ‘Noblemen’ (peers) and ‘Gentlemen’ (armigers) empowering Lyon specifically ‘to distinguish and discern them’ with their particular Arms and Ensigns Armorial by ‘to the effect that the Lyon King-of-Armes may distinguish same in his Bookes and Registers’ (1672).

- 18) THAT to execute the specific requirements of the 1592 and 1672 Statutes explicitly referencing (1) ‘Noblemen’ meaning Scots Peers – Dukes, Marquises, Earls, Viscounts, and Lords of Parliament, (2) ‘Barons’ meaning the minor Baronage of Scotland – not Lords of Parliament, and (3) ‘Gentlemen’ meaning armigers; Lord Lyon Sir Charles Erskine established three separate sections of the original Lyon Register in order ‘to distinguische and discedrn’ legally and armorially the rank, title, and estate of the ‘Barons’ from the Peerage as well as from the Armigers.
- 19) THAT following the creation of the specific section for ‘Barons’ in the original Lyon Register, recording and matriculation of a person in the particular section of the Lyon Register for ‘Barons’ automatically provided conclusive public law proof that the person so enrolled in or matriculated upon the ‘Barons’ Section was *ipso facto* a minor Baron of Scotland without further qualification or identification.
- 20) THAT following the 1764 consolidation of the original three sections of the Lyon Register into the present unified, consecutive and chronological Lyon Register upon the recommendation of Lord Coulston by the judicial action of the then Lord Lyon upon his own judicial authority under the original 1592 and 1672 Statutes; ... it became legally necessary for baronial Petitioners to specifically allege their particular status as minor barons in Lyon Court Petitions in order to have such baronial status officially recognised by Lyon in a matriculation or grant.
- 21) THAT re-establishment of the original section of the Lyon Register for ‘Barons’ by the Lord Lyon in his judicial capacity under the original Scottish legislation – The Act 1592, cap. 29; and the Act 1672, cap. 47 – would meet the legal need for a specifically designated official public register upon which sasine to ‘the dignity of baron’ as “transferable ... incorporeal heritable property” could be taken after the ‘appointed day’ in order to establish “real rights” in the RES (thing) constituting ‘the dignity of baron’.
- 22) THAT entry upon this section of the Lyon Register for ‘Barons’ established in accordance with the Laws of 1592 and 1672 will automatically establish as a matter of public record (1) the existence of a barony as ‘transferable ... incorporeal heritable property’ in its new form as ‘the dignity of baron’ re §63(2) of the ACT; (2) that the person and his designated line of succession so enrolled is the owner or holder of ‘the dignity of baron’, and (3) official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register.
- 23) THAT the extraordinary interview of the public official/judge concerned published in the 8th February 2004 issue of *Scotland on Sunday* entitled “Wannabe nobles make blue blood pressure rise” at <http://scotlandonsunday.scotsman.com/index.cfm?id=154542004> condemned the entire class of Holders of ‘the dignity of baron’ – many of who are petitioners or parties litigant on such matters before the Lyon Court – on the grounds of being ... “shameless social climbers” as “pushy women” with a “need to climb up the social ladder who are “interested in dropping their posh names into conversation at the right dinner party”. Further, “This sort of status-seeking is driven by the ladies” as “Women seem to be pushing the idea forward more than their partners and often the reason will be to elevate themselves socially”. Condemned also are “Americans of Scottish descent keen to spend for the privilege of owning an ancient title”. Apparently because “applications from Americans ... for a Grant of Arms” request “the bizarre design” such as “a request for a computer” in Arms.

24) THAT implementation of the Lyon Court Rules of 17 December 2002 after the ‘appointed day’ 2002 by refusing to ‘officially recognise a person as feudal baron, nor make any grant of baronial additaments as part of Armorial Bearings’ or to allow ‘use of the additaments by his heir after the death of the baron’ after the ‘appointed day’ will cause the extinction of the entire historic Baronage of Scotland upon the death of the last present baron.

Finds in Law:

- 1) THAT the legal effect of §63(2) of the ACT is to separate the ‘noble title’ of a barony from the title to land.
- 2) THAT the Lord Lyon has exclusive first instance jurisdiction in all armorial matters.
- 3) THAT Lyon is the inferior judge of a subordinate court having first instance judicial jurisdiction derived from statute over property rights in armorial matters.
- 4) THAT Lyon’s jurisdictions and powers are derived from Statute.
- 5) THAT Lyon’s interlocutors, judicial judgements, and rules concerning property rights in armorial matters may be appealed to the Court of Session, the House of Lords, and the European Commission & Court on Human Rights.
- 6) THAT armorial matters are a ‘civil cause’ over which the Court of Session possesses appellate jurisdiction.
- 7) THAT the Court of Sessions has jurisdiction to review judicially the actions of Lyon which invade the legal rights to ensigns armorial derived from an Act of Parliament as well as to ensure Lyon’s compliance with the Statute.
- 8) THAT because Arms are a ‘question of property’, the appellate courts have jurisdiction in instances where Lyon invades heraldic rights vested in a person or refuses to grant the arms to which one is entitled
- 9) THAT the Lord Lyon has exclusive first instance jurisdiction in all matters of noble Names of Dignity, the addition of nomen dignitatis, ‘fife name’ or ‘territorial designation’ to the surname of the Holder of ‘the dignity of baron’.
- 10) THAT the Lord Lyon has exclusive first instance jurisdiction in matters of noble genealogy, such as concerns the **‘baronial status’** of the Holder of ‘the dignity of baron’, set forth in official Lyon Court documents, such as Birthbriefs and Lineal Pedigrees, issued as Letters Patent.
- 11) THAT Sec. 63(4) of the ACT *statutorily transforms* “any **quality** and **precedence** associated with” the ‘dignity of baron’ into fundamental **legal entities** identifiable (by Innes of Learney and like authoritative Scottish publicists on heraldry) as obvious particular acquired legal rights of intangible property upon which can be properly made a matter of judgement which can be enforced by a Court of Law ... although this may not have previously been the case ... which falls naturally as a matter of honour within the subject-matter jurisdiction of the Lyon Court as a Court of Chivalry.
- 13) THAT under general Scottish law, generic “incorporeal property” is transferred upon the appropriate official register of the Kingdom in and of Scotland – indicated by the subject-matter of the “incorporeal property” concerned – in order to create **‘real rights’** of ownership in the *RES* (thing) constituting the particular “incorporeal property”-in-question.
- 14) THAT under general Scottish law, ‘real rights’ are created upon being recorded in an appropriate public register – indicated by the subject-matter of the right-in-question – or by some other ‘public act’ to give public notice of its existence.

- 15) THAT the legal requisites under general Scottish law for transferring ‘real rights’ of ownership in the *RES* (thing) constituting “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT consist of (1) contract of sale, (2) assignation of property rights in such, and (3) registration of the transfer upon an official register of the Kingdom in and of Scotland, ... the last of which makes the transfer legally operative.
- 16) THAT applied to ‘the dignity of baron’ after the ‘appointed day’, in its new statutory capacity as “incorporeal heritable property” under §63(2) of the Act as a ‘real right’ ... the critical step in transferring (or inheriting by intestate succession) a barony ... will be the registration of such transfer on some type of an official register of the Kingdom in and of Scotland in order to establish ‘real rights’ of ownership in the *RES* (thing) constituting ‘the dignity of baron’ as “incorporeal property”.
- 17) THAT because “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT is a nobiliary subject, a fife annoblissant, or a **noble feudal tenure** analogous to armorial bearings and similar honours; ... ‘real rights’ of ownership in the *RES* (thing) constituting ‘the dignity of baron’ (statutorily defined, statutorily transformed into particular acquired rights of intangible property ‘vesting’ in the Holder, and statutorily incorporated [by use of the *verb* “includes’] as integral components constituting the *essence* of this ‘dignity’ – all by §63(4) of the ACT) ... may be established by taking sasine to and receiving official investiture in baronial heraldic additaments inextricably annexed to ‘the dignity of baron’, the *nomen dignitatis* of the barony as both part of the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’, and the title and dignity of baron, itself, upon the Lyon Register as an official register of the Kingdom of Scotland, ... as a **causa armorum** justiciable in the Court of the Lord Lyon.
- 18) THAT ‘real rights’ of ownership in the *RES* (thing) of peerages, baronetcies, heritable great offices are established by matriculating on the Lyon Register the particular armorial additaments inextricably linked to such dignities demonstrative of entitlement of succession thereto.
- 19) THAT “**nobiliary subjects**” ... such as Hereditary Offices as ‘a **noble feudal tenure** analogous to armorial bearings’ ... are not justiciable or capable of recognition or appraisal before any ordinary first instance court of law: Nobiliary subjects and noble feudal tenures analogous to armorial bearings are justiciable, capable of recognition and appraisal only before a “court of honour”.
- 20) THAT recording of a dignity and accompanying heraldic additaments upon the Lyon Register constitutes the precise **legal act** which juridically constitutes constructive ‘**real rights’ of ownership in the RES** of a dignity as a nobiliary subject or noble feudal tenure analogous to armorial bearings.
- 21) THAT valid nobiliary feudal investiture (sasine) of the earlier grant of a heritable office may be obtained by recording that office upon the Lyon Register.
- 22) THAT the ‘ordinary judge’ of the first instance in all matters concerning nobiliary subjects, fives annoblissant, noble feudal tenures analogous to arms, dignities of nobilitas, and heritable offices and the heraldic additaments annexed to and demonstrative of such offices is the Court of the Lord Lyon.
- 23) THAT ‘real rights’ of ownership in the *RES* (thing) of arms, dignities, and heritable offices are created by recording such and the particular heraldic insignia related thereto upon the Lyon Register constituting investiture in the same; and once initially recorded good title upon succession to the same may be established by a Matriculation-by-Progress-to-make-up-title to the arms, dignities, or heritable offices upon the Lyon Register.
- 24) THAT the Lyon Register is the **proper Register of investiture** upon which good investiture may be taken in dignities, heritable offices and all manner of noble subjects, fives annoblissant, and feu-

dal tenures analogous to armorial bearings ... “and that sort of thing” ... and recording there-upon properly ratifies an earlier grant of such dignity or office.

- 25) THAT once ‘real rights’ of ownership in the **RES** (thing) of a dignity or heritable office – constituting a nobiliary subject, a fife annoblissant, or a noble feudal tenure analogous to arms – have been infeft by recording the office, dignity, or other honour and the particular heraldic additaments annexed to such office, dignity, or honour upon the Lyon Register, such investiture in this office or dignity and the heraldic additaments annexed thereto cannot be divested except by the judicial reduction (legal annulment) of such investiture in the Lyon Court.
- 26) THAT upon making a Matriculation-by-Progress-to- make-up-title to a heritable office, dignity, or honour – constituting a nobiliary subject, a fife annoblissant, or a noble feudal tenure analogous to arms – under well-settled law the heir to such office has established heritable right to this distinct office, dignity, or honour and is entitled to re-investiture by progress in his arms with the external heraldic additaments indicative of this office, dignity, or honour and is entitled to matriculate the same upon the Lyon Register.
- 27) THAT the Public Register of All Arms and Bearings in Scotland (Lyon Register) is the *designated* official register of the Kingdom of Scotland upon which sasine may be taken to create ‘real rights’ of ownership in the **RES** (thing) of “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT ... as a noble feudal tenure or “fife annoblissant” as a noble feudal tenure analogous to armorial bearings, heritable offices, and similar dignities and honours ... constituting an official court recording evidencing the existence and ownership of such baronies upon (1) the *inter-vivos* transfer of such between living persons, (2) the intestate succession thereto under §37(1)(a) of The Succession (Scotland) Act 1964 for “any title, coat of arms, honour or dignity transmissible on the death of the holder”, or (3) the testamentary designation of such; ... whilst the recording upon the Lyon Register of the grant of inextricably linked baronial heraldic additaments (i.e., Red Baronial Chapeau and Feudo-Baronial Mantle) annexed to ‘the dignity of baron’ constitutes the feudal investiture of both the heraldic insignia and ‘the dignity of baron’ upon the successive holders thereto.
- 28) THAT originally created via the erection of land *in liberam baroniam* by Crown Charter under the Great Seal of Scotland and recorded upon The Register of the Great Seal of Scotland, ... following the ‘appointed day’ initial ‘real rights’ of ownership in the **RES** (thing) of “incorporeal heritable property” constituting ‘the dignity of baron’ re §63(2) of the ACT may be established by making an **Initial Matriculation** of this dignity – as a nobiliary subject, a fife annoblissant, a noble feudal tenure analogous to armorial bearings – upon the Lyon Register and the recording of baronial heraldic additaments upon the same constitutes the proper investiture of both the dignity of baron as well as of the particular heraldic insignia.
- 29) THAT where a ‘dignity’, a fife annoblissant, a nobiliary subject, or a noble feudal tenure analogous to arms as “incorporeal heritable property” has become detached from the corporeal heritage of land to which such ‘dignity’ was formerly annexed; ... the Court of the Lord Lyon possesses exclusive jurisdiction over the remaining nobiliary subject of the dignity-in-question as ‘property’ consisting of ‘feudal heritage’ for the purpose of establishing ‘real rights’ of ownership in the **RES** (thing) of that dignity – the prefix, the style and title, and the particular heraldic additaments inextricably annexed to that dignity as well as the ‘**public law character**’ of that dignity – by recording this dignity and being invested in both the heraldic insignia the title of the dignity upon the Lyon Register.
- 30) THAT after the ‘appointed day’ the Lyon Register is the only applicable official register of the Kingdom of Scotland upon which sasine may be taken to the ‘nobiliary subject’, the noble feudal tenure, or the fife annoblissant analogous to armorial bearings – and heritable offices – of ‘the dignity of baron’ ... to evidence the existence and ownership of bona fide baronies as well as to provide a court record upon which to record the transfer and inheritance of this dignity.

- 31) THAT investiture in “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT as a ‘nobiliary subject’ severed from any relationship with land after the ‘appointed day’ – a noble feudal tenure or fife annoblissant analogous to armorial bearings – is accomplished by recording the baronial heraldic additaments annexed to ‘the dignity of baron’ upon the Lyon Register.
- 32) THAT after the ‘appointed day’ in its legal capacity as a ‘nobiliary subject’, a ‘noble feudal tenure’, a ‘fife annoblissant’ analogous to armorial bearings – similar to a heritable offices - subject to the exclusive jurisdiction of the Lyon Court; ... ‘the dignity of baron’ as “incorporeal heritable property” re §63(2) of the ACT **cannot be transferred, alienated, sold, re-settled, except upon the Book and Registers of the Lyon Court** possessing unique first instance jurisdiction over all such nobiliary subjects, honours, dignities, arms, and armorial bearings: *Because the Lyon Court possesses exclusive subject-matter jurisdiction over all ‘nobiliary subjects’, any attempted transfer, sale, or alienation of ‘the dignity of baron’ outside the Lyon Court would be void ab initio.*
- 33) THAT upon the death of the present Holder of ‘the dignity of baron’, after the ‘appointed day’ in its capacity as a ‘noble subject’, a ‘fife annoblissant’, a ‘noble feudal tenure analogous to armorial bearings’ ... ‘the dignity of baron’ would devolve upon intestate succession under §37(1)(a) of *The Succession (Scotland) Act 1964* applicable to “any title, coat of arms, honour or dignity transmissible on the death of the holder” in the same manner as would any ordinary coat of arms; the successor must make-up good title to this dignity by a rematriculation by progress upon the Lyon Register before he is entitled to use baronial heraldic additaments.
- 34) THAT after the ‘appointed day’ sound legal title to ‘the dignity of baron’ already recorded upon the Lyon Register ... as a fife annoblissant or a noble feudal tenure analogous to armorial bearings as well as to baronial heraldic additaments already granted ... is easily established simply by making a Matriculation by Progress to make up title to the barony-in-question – setting forth the **chain-of-title** between the last registered owner of that barony and the present holder of that barony.
- 35) THAT as a nobiliary subject, a noble feudal tenure, or a fife annoblissant analogous to armorial bearings, once initial sasine to the original grant (i.e., Crown Charter erection *in liberam baroniam*) of ‘the dignity of baron’ and the particular baronial heraldic additaments inextricably annexed thereto has been taken by recording upon the Lyon Register which feudally invests the Holder in both the heraldic insignia as well as this dignity; ... following the ‘appointed day’ such “incorporeal heritable property” – as property now legally comparable with ordinary arms which are also “incorporeal heritable property” – can only pass through intestate succession or transfer by a deed of resignation **in favorem** recorded upon the Lyon Register followed by a rematriculation in the name of the new holder upon the Lyon Register as the applicable official register of the Kingdom of Scotland.
- 36) THAT under the maxim “**non dat quod non habet**”, following the ‘appointed day’ once ‘the dignity of baron’ has been initially recorded upon the Lyon Register the Holder could not resign the Barony *in favorem* of a New Owner – unless he has first established “legal title” to the ‘dignity of baron’ upon the Lyon Register as the applicable register of sasine.
- 37) THAT as a nobiliary subject, a fife annoblissant or a noble feudal tenure analogous to armorial bearings falling under the exclusive first instance jurisdiction of the Lyon Court, once sasine to the original grant (i.e. Crown Charter of erection *in liberam baroniam*) to ‘the dignity of baron’ has been taken and investiture in both the baronial heraldic additaments and the dignity itself has been accomplished by recording upon the Lyon Register; ... following the ‘appointed day’ baronies may only be transferred or inherited by intestate succession by subsequent recording upon the Lyon Register as the applicable official register of the Kingdom in and of Scotland.

- 38) THAT Lyon’s Rules of 17 December 2002 – or any *future* ‘Rules’ similar thereto – are ***void ab initio*** for **unconstitutional** conflict with, interference with, infringement upon, superseding rights created under, and for *de facto* abrogation of the statutorily created ‘dignity of baron’ by §63(2) of the ACT and “any quality or precedence associated with, and any heraldic privilege incidental to” the dignity of baron statutorily defined in §63(4) thereof, statutorily transformed by §63(4) of the ACT into fundamental ‘legal entities’ identifiable (by Innes of Learney and like authoritative Scottish publicists on heraldry) as obvious particular acquired legal rights of intangible property ‘vesting’ in the Holder of this ‘dignity’, and statutorily incorporated by use of the verb “includes” therein into an integral component ‘bundle’ of all such rights of property forming the essence of the ‘dignity of baron’.
- 39) THAT the present Lord Lyon King of Arms possesses competent authority under the original 1592 and 1672 Statutes to re-establish the *original* section of the Lyon Register for ‘Barons’ ... to serve as a particularly identifiable official register of the Kingdom of Scotland upon which ‘real rights’ of ownership in the **RES** (thing) of ‘the dignity of baron’ might be established by recording the same in order to take sasine to this dignity and to be invested in both the baronial heraldic additaments inextricably annexed to this dignity as well as the dignity itself by the matriculation of such upon a re-established section for ‘Barons’ in the Lyon Register.
- 40) THAT the adamantly declared lack of ***impartiality*** of the public official/judge concerned published in the 8th February 2004 *Scotland on Sunday* article “Wannabe nobles make blue blood pressure rise” at <http://scotlandonsunday.scotsman.com/index.cfm?id=154542004> ... and as the obvious ‘motive’ for the (presently suspended) Lyon Court Rules of 17th December 2002 – or any *future* ‘Rules’ similar thereto – depriving after the ‘appointed day’ Holders of the ‘dignity of baron’ the ability to take sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT upon the Lyon Register, as an official registry of the Kingdom of Scotland, in order to establish ‘real rights’ of ownership of the **RES** (thing) constituting ‘the dignity of baron’ under Scottish law as well as being officially invested in both the applicable baronial heraldic additaments annexed inextricably to this dignity, the *nomen dignitatis* of that barony as part of both the surname and in the ‘title of baron’, the prefix of ‘The Much Honoured’, and in ‘the dignity of baron’, itself, by matriculating the same upon the Lyon Register ... **violates** Article 6(1) [“civil rights’] of the European Convention of Human Rights and Fundamental Freedoms requiring a “determination” of all private “civil rights” of a contractual nature “by an independent and **impartial tribunal** established by law”.
- 41) THAT the term “civil rights” or “droits ... de caractère civil” as means in Article 6(1) of the Convention is a broad term which refers to **private law “civil rights” of a contractual nature**: civil legal relationships ... including “incorporeal heritable property” consisting of ‘the dignity of baron’ ... in **proceedings** to establish ‘real rights’ of ownership in the **RES** (thing) of this dignity by recording such upon the Lyon Register, as an official register of the Kingdom of Scotland, and to be invested in both baronial heraldic insignia inextricably annexed to this dignity and the title & ‘dignity of baron’, itself, by recording the same upon the Lyon Register ... which constitute a **“determination”** of such private law “civil right” of a contractual nature.
- 42) THAT taking sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the **RES** (thing) of the same specified in §63(4) of the ACT ... as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register ... constitutes a **“determination”** of “civil rights” or “*droits et obligations de caractère civil*” consisting of “incorporeal heritable property” under Scottish law capable of being transferred, inherited, and owned by private individuals constituting ‘the dignity of baron’ ... within the meaning of Article 6(1) of the European Convention.

- 43) THAT a violation of Article 6(1) of the Convention occurs when there is a legitimate reason to fear, to question, to doubt the absolute **“impartiality”** of the judge or other public official who is charged with making a “determination” upon private law “civil rights” of a contractual nature ... such as that given in the extraordinary interview of the public official/judge concerned published in the 8th February 2004 issue of *Scotland on Sunday*: “Wannabe nobles make blue blood pressure rise” at <http://scotlandonsunday.scotsman.com/index.cfm?id=154542004>
- 44) THAT failure after the ‘appointed day’ to permit Holders of “incorporeal heritable property” consisting of ‘the dignity of baron’ re §63(2) of the ACT to enjoy “peaceful possession” by taking sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the **RES** (thing) of the same specified in §63(4) of the ACT ... as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register ... caused by the Lyon Court Rules of 17 December 2002 – or any *future* Rules similar thereto – for the obviously prejudiced and discriminatory ‘motives’ stated by the public official/judge concerned in his extraordinary 8th February 2004 *Scotland on Sunday* interview “Wannabe nobles make blue blood pressure rise” at <http://scotlandonsunday.scotsman.com/index.cfm?id=154542004> ... violates the right to **“peaceful enjoyment of possessions”** guaranteed under Article 1 of Protocol I to the European Convention on Human Rights and Fundamental Freedoms.
- 45) THAT any **“deprivation of possession”** after the ‘appointed day’ of “incorporeal heritable property” consisting of ‘the dignity of baron’ resulting from any official inaction, official ignoring, official refusal to recognise, or official refusal to grant sasine and to matriculate upon the Lyon Register the applicable baronial heraldic additaments annexed inextricably to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, resulting from implementation of the Lyon Court Rules of 17th December 2002 – or any *future* Rules similar thereto – is *prima facie* a discriminatory and retaliatory expropriation of “possessions” when read in conjunction with the obvious ‘grounds’ stated by the public official/judge concerned in his extraordinary 8th February 2004 *Scotland on Sunday* interview “Wannabe nobles make blue blood pressure rise” at <http://scotlandonsunday.scotsman.com/index.cfm?id=154542004> ... violates the guarantee against **“deprivation of possessions except in the public interest”** for proper purposes of public utility under Article 1 of Protocol I to the European Convention on Human Rights and Fundamental Freedoms.
- 46) THAT baronial heraldic additaments inextricably annexed to ‘the dignity of baron’, the ‘title’ of baron, the *nomen dignitatis* of that barony as part of both the surname and the ‘title’ of baron ... together with all other ‘qualities’ and ‘precedences’ associated with ‘the dignity of baron’ as referenced in §63(4) of the ACT ... constitute *bona fide* **“possessions”** within the meaning of Article 1 of Protocol I of the European Convention on Human Rights ... and to which the Holder of this dignity is entitled to “peaceful possession” and protection against arbitrary “deprivation of possessions” **not** “in the public interest”.
- 47) THAT “the peaceful enjoyment of possessions” and protection against arbitrary “deprivation of possessions” not “in the public interest” guaranteed under Article 1 of Protocol I of the European Convention **protects** particular acquired legal rights of intangible property ‘vesting’ personally in the Holder of ‘the dignity of baron’ consisting of **“any qualities or precedence ... associated with and any heraldic privilege incidental to”** the ‘dignity of baron’ pursuant to §63(4) of the ACT.
- 48) THAT the ***prima facie* defectiveness** of internal Lyon Court procedure violating the requirement for an **“effective remedy before a national authority”** guaranteed by Article 13 of the European Convention on Human Rights when read in conjunction with Article 6(1) and Article

1 of Protocol I of the Convention arising from the following procedural internal procedural defects:

(1) Lack of expedient, easily accessible means for obtaining the recusation, excusal, removal, or withdrawal from proceedings, matters, and cases involving “incorporeal heritable property” consisting of ‘the dignity of baron’ by the judge/public official concerned on the grounds of **personal prejudice** against the class of petitioners litigating such matters expressed in his extraordinary interview of 8th February 2004 in *Scotland on Sunday*;

(2) Lack of any internal procedures for effectively challenging or seeking the revision of the Lyon Court Rules of 17 December 2002 – or any new ‘Rules’ similar thereto – promulgated on the obvious prejudiced ‘grounds’ stated in the 8th February 2004 Interview; and

(3) Internal procedure employed for the adoption of the Rules of 17 December 2002 drastically affecting private rights of property which make no provision for public hearings, submission of legal briefs, or public consultation of affected parties *before* the adoption of such Rules by the Lord Lyon in his capacity as the first instance judge having exclusive subject-matter competence ... nor contain any provision for the internal first instance re-consideration of such Rules to seek effective redress against the *prima facie* arbitrariness of such Rules or to challenge the prejudiced ‘motives’ expressed by the public official/judge concerned in his extraordinary interview published in the 8th February 2004 issue of *Scotland on Sunday* implicitly responsible for the adoption of such Rules.

49) THAT invidious “**discrimination**” by the public official/judge-concerned **against the entire ‘class’ of Holders of ‘the dignity of baron’** declared in his extraordinary 8th February 2004 *Scotland on Sunday* interview “Wannabe nobles make blue blood pressure rise” at <http://scotlandonsunday.scotsman.com/index.cfm?id=154542004> ... constituting the *obvious ‘grounds’* for promulgation of the Lyon Court Rules of 17th December 2004 and the *probable ‘grounds’* for any refusal after the ‘appointed day’ to grant sasine to “incorporeal heritable property” consisting of ‘the dignity of ... as well as to grant official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register ... in **violation of Article 14 of the Convention** ... when read in conjunction with Article 6(1) re “determination of civil rights ... by an ... impartial tribunal established by law” and with Article 1 of Protocol I re “peaceful enjoyment of possessions” and protection against “deprivation of possessions except in the public interest and subject to the conditions provided for by law”, and Article 13 of the Convention on the following “grounds”:

- “**sex**” re ‘pushy women’,
- “**national or social origin**” (or the *lack* thereof) re ‘Americans’ and as ‘shameless social climbers’,
- “**property**” re acquisition of ‘incorporeal heritable property’ constituting ‘the dignity of baron’ as a means “to elevate themselves socially”, and
- “**birth or other status**” as ‘status-seeking’ ‘shameless social climbers’ who are ‘interested in dropping their posh names into conversations at the right dinner party’ and *for evident lack of artistic sensitivity* by ‘a request for a computer’ in armorial bearings.

50) THAT **Manifest abuse of State Power** by the public official/judge concerned of his position as Lord Lyon in violation of Article 18 of the European Convention of Human Rights when read in conjunction with Article 6(1), Article 1 of Protocol I, Article 13, and Article 14 of the Convention prohibiting the **misuse of State Power** in restricting Convention-guaranteed rights and freedoms demonstrated by this public official/judge in his extraordinary 8th February 2004 *Scotland on Sunday* interview entitled “Wannabe nobles make blue blood pressure rise” as the obvious ‘grounds’ for the promulgation of the Lyon Court Rules of 17 December 2002 ...

depriving the entire class of Holders of ‘the dignity of baron’ of their legal ability after the ‘appointed day’ of taking sasine to “incorporeal heritable property” consisting of ‘the dignity of baron’ in order to create ‘real rights’ of ownership in the *RES* (thing) of the same specified in §63(4) of the ACT ... as well as the ability to receive official investiture in baronial heraldic additaments inextricably annexed to this dignity, the ‘title’ of baron, the *nomen dignitatis* or territorial designation as part of both the surname and the ‘title of baron’, the prefix of ‘The Much Honoured’ as well as in the ‘dignity of baron’, itself, by matriculating all of the same upon the Lyon Register as an official register of the Kingdom of Scotland ... **for the specific vindictive purpose of legally persecuting** this entire class of Holders of ‘the dignity of baron’ as “**pushy women**” and as “**Americans**” for “**status-seeking**” by acquiring a barony on account of their alleged “**shameless social climbing**” who are “**interested in dropping their posh names into conversations at the right dinner party**”.

- 51) THAT Acts of Parliament conclusively resolve all issues re property rights in armorial matters.
- 52) THAT the legal right to arms conclusively ‘vested’ by an Act of Parliament are binding upon all Courts, including the Lyon Court.
- 53) THAT all issues re the rules and uses of heraldry and all abstract heraldic controversies are resolved conclusively by an Act of Parliament so that the courts need “not go a step beyond the statute”.
- 54) THAT once an Act of Parliament has declared entitlement to certain heraldic honours, it is the duty of the Court of Session to ensure that Lyon has ‘sufficiently complied with the terms of the statute’.
- 55) THAT in any conflict between the ordinary or ‘common laws’ of heraldry or the Law of Arms as applied in Scotland concerning the rules and uses of heraldry ... and statutorily created legal rights in arms or heraldic privileges, precedences, or qualities related thereto by an Act of Parliament, the Court of Session must apply the statutorily-created rights as ‘a statute of the realm’ to resolve any conflict in favour of any rights in arms flowing from the Statute.
- 56) THAT §63(4) of the ACT which by use of the *verb* “includes” **statutorily incorporated** particular *acquired legal rights* constituting of “any quality or precedence associated with, and any heraldic privilege incidental to” the dignity of baron “into the very substance, fabric, and fibre of “transferable ... incorporeal heritable property” constituting ‘the dignity of baron’ under §63(2) of the ACT ‘*vesting*’ *indefeasibly* as such existed upon the date (9th June 2000) of Royal Assent to the ACT ... when reading in conjunction with the **savings clause** in §63(1), 2nd clause, of the ACT that “**nothing** in this Act **affects** the dignity of baron or any other dignity or office (whether or not of feudal origin)” thereby barring any change in the *legal status* of baronies caused by the ACT from ‘*affecting*’ the particular baronial heraldic additaments and other *acquired legal rights* referenced in §63(4) of the ACT constituting the actual ‘dignity of baron’... and the *legislative history* of Sec. 63 of the ACT set forth in ¶¶2.30 to 2.45 of the Scottish Office’s “Report on the Abolition of the Feudal System” (Scot Law Com 168) ... **resolves conclusively** ... any abstract heraldic controversy over whether the changes in the *legal status* of baronies wrought by Sec. 63 of the ACT by the abolition of the feudal system of land tenure would affect the conventional heraldic additaments of Barons.
- 57) THAT §63(4) of the Abolition of Feudal Tenure (Scotland) ACT 2000 *statutorily transformed* all matters concerning “any quality or precedence associated with and any heraldic privilege incidental to” the dignity of baron into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired legal rights of intangible property ‘vesting’ personally in the Holder of the dignity of baron as “incorporeal heritable property”.
- 58) THAT §63(4) of the Abolition of Feudal Tenure (Scotland) ACT 2000 statutorily transforms all mat-

ters concerning “**any quality or precedence associated with**” the dignity of baron into ‘*legal entities*’ upon which judgement might be rendered by a court of law ... and statutorily empowers both Lyon and the Court of Session with jurisdiction over such matters concerning “any quality or precedence associated with” the dignity of baron.

- 59) THAT Sec. 63(4) of The Abolition of Feudal Tenure ACT (Scotland) 2000 *freshly* empowers both Lyon and the Court of Session with statutory jurisdiction and judicial competence over specifically “**any quality or precedence** associated with, and any heraldic privilege incidental to” the dignity of baron ... creating judicial competence in both Lyon and the Court of Session concerning “**any**” matter of ‘precedence’, ‘social dignity’, ‘social status’, and ‘heraldic privilege’ which is “**associated with**” and / or “**incidental to**” the dignity of baron re the explicit language of §63(4) of the ACT.
- 60) THAT ‘matters of precedence’ may be legally transformed by statute into ‘legal entities’ or ‘rights’ upon which a judgement can be rendered by a court of law.
- 61) THAT Sec. 63(4) of The Abolition of Feudal Tenure ACT (Scotland) 2000 is a statute *legislatively transforms* “any quality or precedence associated with, and any heraldic privilege incidental to” the dignity of baron ACT ... *into ‘a legal entity’* ... concerning “**any**” matter of ‘precedence’, ‘social dignity’, ‘social status’, and ‘*any* heraldic privilege’ which is “**associated with**” and/or “**incidental to**” the dignity of baron re the explicit language of §63(4) of the ACT ... upon which a *judgement can be rendered* by the Court of Session.
- 62) THAT §63(4) of the ACT concerning “any quality or precedence associated with” the dignity of baron ‘vesting’ as “transferable ... incorporeal heritable property” in the Holder of the dignity of baron under §63(2) of the ACT ... constitutes a **statute empowering** Lyon and the Court of Session **with jurisdiction** to decide a controversy concerning matters of ‘precedence’, ‘social dignity’, and ‘social status’ – such as entitlement to official recognition of a Baron as ‘Chief’ of the clan formed about his barony upon presentation of a legal *Derbhfine* composed of nine Scots Armigers – encompassed within the *language* of §63(4) of the ACT as “**any quality or precedence associated with**” the dignity of baron.
- 63) THAT ‘issues’ concerning ‘Chiefships’ may be legally transformed by statute into ‘legal entities’ upon which a judgement can be rendered by a court of law.
- 64) THAT Lord Wark’s juridical problems in Maclean of Ardgour v. Maclean are entirely resolved by §63(4) of the Abolition of Feudal Tenure (Scotland) ACT 2000 which *statutorily confers jurisdiction* upon both Lyon and the Court of Session to entertain issues of ‘social status’, ‘**precedence**’ and ‘social dignity’ re “any quality or precedence associated with” the ‘dignity of baron’ – such as a Petition for a ‘Declarator of Chiefship’ by a baron upon presentation of a legal *Derbhfine* consisting of nine matriculated Scots Armigers constituting the core ‘true community’ of that baronial clan.
- 65) THAT the ‘Chiefship’ of a clan formed about a barony *differs* from a conventional genealogical clan in that such ‘Chiefship’ of a baronial clan is always united with Holder of ‘the dignity of baron’. Rather, the “issue” re official recognition of such Chiefship lies in demonstrating the existence of a core ‘true community’ consisting of a legal *Derbhfine* consisting of nine matriculated Scots Armigers: Upon presentation to Lyon of such a *Derbhfine*, a Baron is entitled to be officially recognised by Lyon in Letters Patent *issued as a matter of legal right* as the *Chef de Famille* and Hereditary Representer of the ‘noble community’ or ‘Honourable Clan’ formed about his barony.
- 66) THAT §63(4) of the ACT statutorily transforming “any quality or precedence associated with” the dignity of baron into fundamental ‘**legal entities**’ as obvious particular legal rights of intangible property ‘vesting’ personally in the Holder of ‘the dignity of baron’ as “incorporeal heritable property” ... provides Lyon and the Court of Session with *statutory jurisdiction* to

recognise officially a baron as the *Chef de Famille* and Hereditary Representer of the clan formed about his barony as a matter concerning ‘precedence’, ‘social dignity’ or ‘social status’ which are **“associated with”** the dignity of baron re §63(4) of the ACT and depend upon the law of succession applicable to baronies – §37(1)(a) of the *Succession (Scotland) Act 1964* – as being issues which the law can recognise.

- 67) THAT as a implicit component of “any quality or precedence associated with” the dignity of baron re §63(4) of the ACT statutorily transformed therein into fundamental **‘legal entities’** as obvious particular legal rights of intangible property ‘vesting’ personally in the Holder of ‘the dignity of baron’, ... the presentation of a legal **Derbhfine** consisting of nine Scots Armigers forming the core ‘true community’ of the baronial clan formed about a particular barony constitutes the **‘determinative factor’** for legal ‘entitlement’ of an armigerous Baron to official recognition by Lyon in Letters Patent *issued as a matter of legal right* as the *Chef de Famille* and Hereditary Representer of the ‘noble community’ or ‘Honourable Clan’ formed about that Barony.
- 68) THAT the Court of Session possesses both the competence and the duty to enforce judicially the **statutorily created** heraldic rights as well as the **statutorily created** (re use of the *verb* “includes” in §63(4) of the ACT) ‘precedence’ and ‘social dignity’ consisting of “any quality or precedence associated with, and any heraldic privilege incidental to” the dignity of baron under §63(4) of the ACT as fundamental ‘legal entities’ which indefeasibly ‘vested’ as **acquired legal rights** of “transferable ... incorporeal heritable property” in the Holders of the dignity of baron under §63(2) of the ACT as such existed upon the date of Royal Assent to the ACT.
- 69) THAT Lyon lacks statutory authority of *any type* for issuing his Rules of 17th December 2002 re Baronies – or any *future* ‘Rules’ similar thereto – directly contravening the **express Parliamentary Will** in Sec. 63 of *The Abolition of Feudal Tenure ACT (Scotland) 2000*.
- 70) THAT motivated by obvious personal non-judicial and non-judicious ‘social’ prejudices revealed in the extraordinary 8th February 2004 *Scotland on Sunday* interview, Lyon’s Rules of 17th December 2002 re baronies – and any future ‘Rules’ similar thereto – may be **reduced** (annulled) by the Court of Session because they invade the **acquired legal right of “incorporeal heritable property”** to be granted the full range of conventional baronial heraldic additaments, to be accorded the ‘title’ of baron, to receive the *nomen dignitatis* of that barony as part of both the surname and the ‘title of baron’, and to receive recognition of baronial status as ‘equal to the Hoch Adel and Chiefs of Baronial Houses on the Continent’ by Lyon in Letters Patent *issued as a matter of legal right*.
- 71) THAT as the special court having ‘first instance’ jurisdiction over legal rights of property in armorial matters and nobiliary subjects, fives annoblissant, and feudal tenures analogous to armorial bearings, Lyon’s obviously prejudiced Rules of 17th December 2002 re Baronies – or any *future* ‘Rules’ similar thereto – have **invaded** and have judicially worked the **effective discriminatory and retaliatory expropriation** of the particular intangible incorporeal **acquired legal rights** of property referenced in §63(4) of the ACT ... statutorily incorporated by use of the *verb* “includes” therein into the *very substance, fabric, and fibre* of ‘incorporeal heritable property’ constituting the ‘dignity of baron’ re §63(2) of the ACT as such existed upon the date (9th June 2000) of Royal Assent to the ACT.
- 73) THAT the “effective remedy” re Article 13 of the European Convention of Human Rights to secure the need for an official register after the ‘appointed day’ upon which sasine may be taken and official investiture received in baronial heraldic additaments inextricably annexed to ‘the dignity of baron’, the *nomen dignitatis* as part of both the surname and in the ‘title of baron’, the applicable prefix, and in ‘the dignity of baron’, itself, and in relief from the obviously prejudiced Lyon Court Rules of 17 December 2002 (or future ‘Rules’ similar thereto) ... will consist of a **Permanent Court Order** from the **Court of Session** to the Lord Lyon in his judicial capacity

as the inferior judge of a subordinate court charged with first instance jurisdiction over legal rights of armorial property, nobiliary subjects, fives annoblissant, and feudal tenures analogous to armorial bearings for the following:

(1) Ordering the establishment of an Official Register pursuant to the 1592 and 1672 Statutes upon which sasine may be taken and official investiture may be received in the foregoing;

(2) Declarator of Entitlement stating in specificity and with detail all of the particular concrete acquired legal rights of intangible property ‘vesting’ personally in Holders of ‘the dignity of baron’ referenced, statutorily transformed into fundamental “legal entities” construed (by Innes of Learney and like authoritative Scottish publicists on heraldry) as consisting of ascertained particular acquired rights of property, and statutorily incorporated into the integral *essence* of ‘the dignity of baron’ by §63(4) of the ACT; and

(3) Establishing precise Rules creating permanent legal procedure to be followed by the Lord Lyon after the ‘appointed day’ for taking sasine to and granting official investiture in ‘the dignity of baron’, the full range of baronial heraldic additaments, ‘title of baron, *nomen dignitatis*, prefix and in matters of “any other quality or precedence associated with” this dignity referenced in §63(4) of the ACT upon the Lyon Register.

HELD:

The Barons Courts of Prestoungrange and Dolphinstoun move upon the weightily and sufficient grounds of both fact and law exist, as set forth above, to issue the following Orders:

- 1) An Order constituting the official Courts Registry of our Barons Courts of Prestoungrange and of Dolphinstoun to serve after the ‘Appointed Day’ of 28th November 2004 as an ‘emergency’ Official Registry of the Kingdom in and of Scotland upon which sasine may be taken to “incorporeal heritable property” consisting of ‘the dignity of baron’ until such time as either the Lord Lyon King of Arms may establish the original section of the Lyon Register for “Barons” or may otherwise provide under the Statutes of 1592 and 1672 or may be judicially ordered to so provide by a Permanent Court Order emanating from the Court of Session.
- 2) An Order designating the Baron Clerk/ Baron Sergeand of the Barons Courts of Prestoungrange and of Dolphinstoun as the officials of our Barons Courts authorised to establish the needed Courts Registry upon which to record the transfer and or inheritance of intestate succession of “incorporeal heritable property” consisting of ‘the dignity of baron’ upon the Courts Books of the Barons Courts of Prestoungrange and Dolphinstoun as Official Registers of the Kingdom in and of Scotland as an emergency *pro tempore* measure to permit sasine to be taken to the same until a permanent official register can be established.
- 3) Following the ‘Appointed Day’ of 28th November 2004, all and sundry persons possessing “incorporeal heritable property” consisting of ‘the dignity of baron’ are invited to take sasine to this dignity upon our *pro tempore* Court Registry of the Barons Courts of Prestoungrange and Dolphinstoun as an Official Registry of the Kingdom in and of Scotland as an emergency measure until such time as a permanent Official Registry shall be established and at that time to collaborate wholly with its Officers to ensure any records that might otherwise be lost are properly transferred thereto.

NOTES

¹ See the Scottish Office’s “Report on Abolition of the Feudal System” (SCOTS LAW COM 168) at ¶2.37, as follows:

¶2.37 Most other consultees supported the provisional proposal in the discussion paper. However, some favoured the complete abolition of barony titles, including the noble aspects. The Keeper of the Registers of Scotland referred to the practical inconveniences of having separate conveyancing rules for barony titles and suggested that, if baronies were not abolished altogether, **the noble title should be separated from the title to land.** (Emphasis supplied.)

² See the Scottish Office’s “Report on Abolition of the Feudal System” (SCOTS LAW COM 168) at ¶2.39, as follows:

¶ 2.39 The main conveyancing specialities of land held on a barony title are that (1) **a barony can be conveyed by its general name** and (2) the barony title suffices for the acquisition of salmon fishings by prescription, even if they have not been expressly