

**PETITION**  
**of**  
**SIR WILLIAM St CLAIR INGLIS OF NETHER CRAMOND**  
**Baronet**  
**residing at 123 Thompson Road, Bluff Hill, Napier,**  
**Hawkes Bay 4110, New Zealand**  
**for**  
**Confirmation of Coat of Arms**  
**with the additaments appropriate to a Baronet of Nova Scotia**

**FINDINGS AND REASONS**

1. The Petition was lodged on 28 November 2017 with the various inventories of productions. The Petitioner seeks official recognition in the name, style and dignity of Sir William St Clair Inglis of Nether Cramond Baronet and the granting of a Warrant to the Lyon Clerk to prepare Letters Patent maintaining, ratifying and confirming unto the Petitioner and his heirs succeeding to the said Baronetcy of Inglis of Nether Cramond, bearing the name Inglis of Nether Cramond, whom failing his heirs, the Coat of Arms matriculated by the Petitioner in the Public Register of All Arms and Bearings in Scotland on 27 September 1982 with the additaments appropriate to him as a Baronet of Nova Scotia.
2. In accordance with the Interlocutor of 5 April 2018, service of the Petition was made upon the Registrar of the Baronetage, Crown Office, London, and ordaining all parties claiming interest to lodge Answers within twenty-one days after such Intimation and Service.
3. There were no Answers lodged at the end of the period. A hearing of the evidence was set down for 4 September 2018 in George House, Edinburgh.
4. The Petitioner's Senior Counsel, Sir Crispin Agnew of Lochnaw QC, Rothesay Herald, submitted that the Petitioner was not seeking the undifferenced arms recorded for the Baronets, because the principal landed succession passed to the Craigie-Halkett-Inglis of Cramond and so the Petitioner sought rematriculation of the arms recorded in 1982. Senior Counsel submitted that the Petitioner seeks a destination in the terms set out above because of the current ongoing discussions and private Bills introduced into the House of Lords as to whether or not the succession to peerages and baronetcies should be changed by statute

so that the eldest born child of either sex should succeed to the title in the same way as the Crown's succession has been changed by the Succession to the Crown Act 2013.

5. Senior Counsel also submitted that official recognition in the name of Inglis of Nether Cramond was sought because that was the name in which the Baronetcy was granted on 22 March 1687. The family owned the estate of Nether Cramond at that time, although thereafter they acquired the whole estate of Cramond. On the death of the 4<sup>th</sup> Baronet of Cramond the estate passed to Anne Inglis of Cramond and the designation "of Cramond" is held by her descendants, the Craigie-Halkett-Inglis of Cramond, hence it is appropriate that the Petitioner should adopt the name and territorial destination under which the Baronetcy was granted.
6. At the oral hearing I had the benefit of the evidence of Gordon MacGregor, genealogical researcher, and the Report contained in the inventories of productions "Inglis Baronets of Cramond Report on Research" by Gordon MacGregor dated 17 February 2018 (Revised) and the documents produced in support of the Report as set out in the Schedule of Documents in this Petition.
7. The principal source of evidence was provided by Gordon MacGregor, genealogical researcher. It was submitted that I should accept Gordon MacGregor as an expert witness on the basis of his expertise as a genealogical record searcher and his expertise in researching in the Scottish Records. His experience was set out in his Curriculum Vitae and can be summarised as follows:
  - (i) that he has worked in the field since 1991. His evidence has been accepted in Lyon Court matriculations including the Wood chiefship;
  - (ii) that his "Red Book of Scotland" project, which records his research into the genealogy of many Scottish families, including the various Inglis branches, has been provided to the Lyon Court, and I have examined the same; and
  - (iii) that he is quoted in some references with regard to this work.
8. Senior Counsel took Mr MacGregor through his Curriculum Vitae and expanded on it, and obtained in evidence an explanation of Mr MacGregor's methodology in terms of going to primary sources, in particular such records as the Edinburgh Roll of Burgesses. Mr MacGregor indicated that he had been engaged in various Inglis family genealogies for some 10 to 12 years including work for his own "Red Book". I will return to my

assessment of Mr MacGregor's evidence in the reasons for my findings in fact later in this decision.

9. The facts which have to be proved in order to establish a claim to the Baronetcy are as follows:-

- (i) The creation of the baronetcy and its destination;
- (ii) That the heirs with a prior claim to the Petitioner are extinguished;
- (iii) That the Petitioner is now the heir in terms of the destination;
- (iv) That there is a reasonable explanation for any delay in making the claim.

With regard to the law on this matter, the relevant law can be identified in *Viscountcy of Dudhope and Earldom of Dundee* 1986 SLT (Lyon Ct) 2 ("*Dundee*"), where Lord Normand at 5B states:-

*"In order to succeed the petitioner must show, first, that the viscountcy and the barony were created with the destination alleged; secondly, that the heirs male of the body of the patentee were extinguished, as he alleges, in 1668 on the death of the 3<sup>rd</sup> viscount, the grandson of the patentee; thirdly, that there is a reasonable explanation of the long delay since 1668 in asserting the claim; fourthly, that he is descended in the male line from an ancestor of the patentee, and fifthly, that all intermediate heirs male of the patentee have been extinguished."*

10. I now turn to each of these requirements in relation to the evidence before me.

#### **Proof of the creation of the baronetcy and its destination**

11. Mr MacGregor in oral evidence pointed to Document 1 in the productions contained in Schedule 1, namely the Diploma under the Great Seal, which is in Latin with a translation provided. He gave evidence that the baronetcy was created under the Great Seal and the succession was "*his heirs male in perpetuity, the title and dignity of knight baronet*". It was also led in evidence that Document 2 of Schedule 1, which is the 1982 Matriculation by the Petitioner in the Public Register of All Arms and Bearings in Scotland, recognised that this baronetcy was created "with remainder to heirs male whatsoever" and that the Petitioner as **heir male** is entitled to the baronetcy.

12. Mr MacGregor drew my attention to the 1982 Matriculation and also, in principal evidence, to his “Inglis Baronets of Cramond Report on Research” dated 17 February 2018 (Revised) and the documents produced in the Schedule of Documents in support of the Report. It was submitted that, when taken in its totality and bearing in mind the law in this area, the Petitioner had shown that he was the heir entitled to the baronetcy. He submitted that his evidence showed that the Petitioner is the descendant male of Cornelius Inglis, Merchant of Edinburgh, and that the said Cornelius Inglis was the second son of James Inglis, Merchant of Edinburgh, (died 1602), and his wife, Margaret Loch, and that Archibald Inglis, Merchant of Edinburgh, brother of the said Cornelius Inglis, was the eldest son of the said James Inglis. Evidence was given that the said Archibald Inglis was the great grandfather of Sir James Inglis of Nether Cramond 1<sup>st</sup> Baronet, who was created a baronet of Nova Scotia on 22 March 1687 with a destination to “*his heirs male in perpetuity, the title and dignity of knight baronet*”. Further evidence was given that, following the death of Sir Patrick Inglis of Cramond, the 5<sup>th</sup> Baronet, on 24 November 1817, the heirs male of the body of the said Archibald Inglis, eldest son of the said James Inglis, became extinct and that the succession to the Baronetcy of Inglis of Nether Cramond opened to the heirs male of the said Cornelius Inglis, immediate younger brother of the said Archibald Inglis.
13. Mr MacGregor submitted that the evidence demonstrated that the present Petitioner is now the heir male of the body of the said Cornelius Inglis and, accordingly, is male heir in perpetuity of the said Sir James Inglis of Nether Cramond, 1<sup>st</sup> Baronet, and in terms of his genealogy succeeds to the Inglis of Nether Cramond Baronetcy created on 22 March 1687.
14. I was then directed by Mr MacGregor to the 1982 Matriculation which, if accepted, would only leave to be proved:-
- (i) that the heirs male of the body of Sir James Inglis of Nether Cramond 1<sup>st</sup> Baronet are extinguished;
  - (ii) that the heirs male of Archibald Inglis are extinguished – in part, they are extinguished by the extinction of the heirs male of the 1<sup>st</sup> Baronet;
  - (iii) that Cornelius Inglis (41) is the 8<sup>th</sup> child of Cornelius Inglis (23), brother of Archibald Inglis, but only child with surviving male issue; in other words, any male child of Cornelius Inglis (23) senior to Cornelius Inglis and their male issue who might have a potential prior claim to the baronetcy are extinguished.

The other parts of the genealogy were proved by the 1982 Matriculation if I accepted it.

15. Senior Counsel for the Petitioner thereafter made the following submissions, which included the lodging of written submissions for the Petitioner, paginated 1 to 17. He submitted that Mr MacGregor should be regarded as an expert witness based on his CV and his methodology, and that his evidence before the Court could be relied upon in terms of establishing the genealogy of the Inglis of Nether Cramond family. He indicated that the creation of the baronetcy and its destination was clear as established by Document 1 in Schedule 1 and that the Diploma under the Great Seal created a baronetcy where the succession was “his heirs male in perpetuity, the title and dignity of knight baronet”. He submitted that the 1982 Matriculation recognised that the baronetcy was created “with remainder to heirs male whatsoever” and that Lord Lyon of the day accepted that “heirs made in perpetuity” properly meant “heirs male whatsoever”. He referred to Scottish Law of Conveyancing by John Craigie, Edinburgh 1899, pages 530/531 in support of that submission. He submitted that the governing law and the standard of proof required to establish a claim to a Scottish baronetcy is Scots Law and the standard of proof is the civil standard of proof “on the balance of probabilities” – *In re the Baronetcy of Pringle of Stichill* [2016] UKPC 16; 2016 SC (PC) 1. He further submitted that, in terms of *1<sup>st</sup> Indian Cavalry Club Ltd v HM Commissioners for Customs and Excise* 1998 SC 126, the law recognises that “the weight and quality of evidence” required to prove facts on the balance of probabilities may depend on the context. He further elaborated on that case and its legal context. He submitted that Mr MacGregor’s evidence should be relied upon to show that all other heirs of the male line are extinguished. In particular he referred to the evidence of Mr McGregor that where there was evidence of a birth of son but there was no further evidence, in any of the records where further evidence would be found if the child had survived, that I should accept the extinction of that child. In support of this he referred to Lord Normand in *Dundee* at 6D where he referred to “a thorough search under skilled direction” being of great assistance in establishing extinctions. He further submitted, with regard to the question of delay as part of the tests in relation to the claim of the baronetcy, that there had been attempts by the family in earlier days to establish the claim to the baronetcy including the Memorial by Robert Inglis of Kirkmay in the 1830s setting out his claim which was not taken forward after his death, and that there was correspondence with Sir James Balfour Paul (Lord Lyon between 1890 and 1926) about the claim, which related to the time during which the Roll of Baronets was established in 1910 and the family

wished to have their name entered on the Roll. It was further submitted that it was difficult at that time due to communications, the claimant also being in New Zealand. He submitted that the passage of time does not bar a claim.

16. He submitted that the Petitioner therefore has established his claim, applying the civil standard of proof on the balance of probabilities, based on the evidence given by Mr MacGregor and his Report and the documents lodged. It was submitted that the Petition should be granted.

17. Having considered all the oral and written evidence before me, and taking into account the written submissions of Senior Counsel for the Petitioner dated 4 September 2018, I found the following facts to be established:—

- (i) that the Petitioner was born in New Zealand on 13 May 1942 and has issue a son and heir apparent Guy Edward St Clair Inglis younger, born 28 November 1973, and a daughter Anna Mary St Clair Inglis, born 8 October 1971;
- (ii) that the Petitioner matriculated his own coat of arms in the Public Register of All Arms and Bearings in Scotland on 27 September 1982;
- (iii) that the Petitioner lodged his Petition and supporting productions on 28 November 2017;
- (iv) that by Interlocutor dated 5 April 2018 intimation was made on the walls of court and to the Registrar of the Baronetage, Crown Office, London, ordaining all parties claiming interest in the Petition to lodge Answers. No Answers were lodged;
- (v) that the Petitioner is the male descendant from Cornelius Inglis [23]<sup>1</sup>, who was a Merchant in Edinburgh;
- (vi) that the said Cornelius Inglis [23] was the second son of James Inglis [22], Merchant of Edinburgh (died 1602), and his wife, Margaret Loch, and that Archibald Inglis [21], Merchant in Edinburgh, brother of the said Cornelius Inglis, was the eldest son of the said James Inglis [22];

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<sup>1</sup> numbers in [00] refer to the numbers of the productions in the Inventories of Productions and Schedules

- (vii) that the said Archibald Inglis was the great grandfather of Sir James Inglis of Nether Cramond Baronet [1], who was created a baronet of Nova Scotia on 22 March 1687 with a destination to "his heirs male in perpetuity, the title and dignity of knight baronet";
- (viii) that following the death of Sir Patrick Inglis of Cramond 5<sup>th</sup> Baronet [8] on 24 November 1817, the heirs male of the body of the said Archibald Inglis [21], eldest son of the said James Inglis [22], became extinct and the succession to the Baronetcy of Inglis of Nether Cramond opened to the heirs male of the said Cornelius Inglis [23], immediate younger brother of the said Archibald Inglis [21];
- (ix) that the Petitioner is now the heir male of the body of the said Cornelius Inglis [23] and accordingly is the heir male in perpetuity of the said Sir James Inglis of Nether Cramond 1<sup>st</sup> Baronet [1];
- (x) that the Petitioner therefore succeeds to Inglis of Nether Cramond Baronetcy created on 22 March 1687;
- (xi) that all other male lines with a potential claim to the baronetcy have been extinguished;
- (xii) that the Petitioner is now heir in terms of the destination of the baronetcy;
- (xiii) that in particular the male line of the body of the 1<sup>st</sup> Baronet is extinguished, that the heirs male of the body of Archibald Inglis [21] are extinguished, and that the older male children of Cornelius Inglis [23] are extinguished;
- (xiv) that the findings in the 1982 Matriculation in the Registers of the Lyon Court are further evidence of the extinction of the above male lines;
- (xv) that there exists a reasonable explanation for the delay in making the claim to the baronetcy and that the family had attempted to assert a claim previously, when Robert Inglis of Kirkmay (42) set about investigating a claim in about 1830, and in particular a claim around 1910 when the Roll of Baronets was established, and that this claim was made in a period when communication was difficult and much more difficult than in present times and that the claimant was in New Zealand. It is further accepted that records are now retained using improved archival methods and are more easily accessible.

18. I have reached these findings in fact for the following reasons:

- (i) I accept the evidence of Mr Gordon MacGregor to be reliable with regard to this Petition, and in particular his Report on the various Inglis family genealogies. I accept that Mr MacGregor has experience as a genealogical record researcher and has knowledge of researching in Scottish records.
- (ii) The productions contained in the Inventories of Productions satisfied me that all the senior lines of the family, other than those of the Petitioner, are extinct in law and in fact.
- (iii) The documentary evidence and the oral evidence of the witness, Mr Gordon MacGregor, on the balance of probabilities, substantially supported the claim of the Petitioner.
- (iv) I have found the Matriculation contained in the Lyon Court Register of 1982 to be supportive of the Petitioner's claim.
- (v) The evidence that the Petitioner is the surviving male heir of the Baronetcy of Inglis of Nether Cramond was convergent.
- (vi) I have had regard to the relevant case law and found the cases to be in favour of the case for the Petitioner. The case of *Viscountcy of Dudhope and Earldom of Dundee* 1986 SLT (Lyon Ct) 2 states that, in order to establish a right to a baronetcy, the petitioner must prove:-
  - the creation of the baronetcy and its destination;
  - that the heirs with a prior claim to the Petitioner are extinguished;
  - that the Petitioner is now the heir in terms of the destination;
  - that there is a reasonable explanation for any delay in making the claim.

I have found all of these to have been established by the Petitioner based on the facts found to be supported by the evidence in this case.

- (vii) The governing law and the standard of proof required to establish a claim to a Scottish baronetcy is Scots Law and the standard of proof is the civil standard of proof "on the balance of probabilities" – see *In re the Baronetcy of Pringle of Stichill* [2016] UKPC 16; 2016 SC (PC) 1.



- (viii) In terms of *1<sup>st</sup> Indian Cavalry Club Ltd v HM Commissioners for Customs and Excise* 1998 SC 126, “the weight and quality of evidence” required to prove a fact on a balance of probabilities may depend on the context. In the words of Lord Johnson at 133E:-

*“In so far as there are references to probabilities, I consider them to be dealing with the weight and quality of evidence which might be required in a certain context rather than defining the relevant standard of proof to be applied.”*

I have taken from this caselaw that the law does not require conclusive proof, but proof that there is no reasonable probability which supposes that the event did not occur. This is supported by Lord Normand in *Dundee* at 6D where he says “The law does not require conclusive proof that an event such as a birth of a son ... did not take place. But the law does require positive evidence that there is no reasonable probability that the supposed event did occur” and then went on to refer to “thorough research under skilled direction”. This was particularly relevant in relation to some of the descendants of Cornelius Inglis (23) where a birth is recorded, but there is no other evidence that the child survived or married in any of the records which are likely to have included evidence of such a survival or marriage. I accept that the absence of such evidence proves that they did not survive or have surviving issue. However, in light of the authorities I have accepted that “the nature of the matter” being a baronetcy claim, a more rigorous standard of assessing the evidence is required to establish such a claim which might for example be applied in the case of a chiefship for a clan where Lord Lyon is open to determine such a case “for aught yet seen”. That said, the standard of proof remains the balance of probabilities and I have concluded that on the balance of probabilities there is sufficient evidence to make the above findings in fact in law.

19. Accordingly, I allow the prayer of the Petition and find (i) the Petitioner to be recognised in the name, style and title of Sir William St Clair Inglis of Nether Cramond Baronet; (ii) that the Petitioner is entitled to Letters Patent maintaining, ratifying and confirming unto the Petitioner and his heirs succeeding to the said Baronetcy of Inglis of Nether Cramond, bearing the name Inglis of Nether Cramond, whom failing to his heirs, the coat of arms matriculated by him on 27 September 1982 with a helmet befitting his degree as a baronet and with the badge of a Baronet of Nova Scotia pendant below the shield; and (iii) that the Petition should be put out by order to discuss the blazon of the standard for which the Petitioner seeks a grant.

A handwritten signature in dark ink, reading "Joseph John Morrow". The signature is written in a cursive, flowing style. Below the signature is a horizontal dotted line.

Dated: 4<sup>th</sup> December 2018

**Joseph John Morrow CBE QC LLD**  
**Lord Lyon King of Arms**

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**SIR WILLIAM St CLAIR INGLIS OF NETHER CRAMOND**  
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**FINDINGS AND REASONS**

1. The Petition was lodged on 28 November 2017 with the various inventories of productions. The Petitioner seeks official recognition in the name, style and dignity of Sir William St Clair Inglis of Nether Cramond Baronet and the granting of a Warrant to the Lyon Clerk to prepare Letters Patent maintaining, ratifying and confirming unto the Petitioner and his heirs succeeding to the said Baronetcy of Inglis of Nether Cramond, bearing the name Inglis of Nether Cramond, whom failing his heirs, the Coat of Arms matriculated by the Petitioner in the Public Register of All Arms and Bearings in Scotland on 27 September 1982 with the additaments appropriate to him as a Baronet of Nova Scotia.
2. In accordance with the Interlocutor of 5 April 2018, service of the Petition was made upon the Registrar of the Baronetage, Crown Office, London, and ordaining all parties claiming interest to lodge Answers within twenty-one days after such Intimation and Service.
3. There were no Answers lodged at the end of the period. A hearing of the evidence was set down for 4 September 2018 in George House, Edinburgh.
4. The Petitioner's Senior Counsel, Sir Crispin Agnew of Lochnaw QC, Rothesay Herald, submitted that the Petitioner was not seeking the undifferenced arms recorded for the Baronets, because the principal landed succession passed to the Craigie-Halkett-Inglis of Cramond and so the Petitioner sought rematriculation of the arms recorded in 1982. Senior Counsel submitted that the Petitioner seeks a destination in the terms set out above because of the current ongoing discussions and private Bills introduced into the House of Lords as to whether or not the succession to peerages and baronetcies should be changed by statute

so that the eldest born child of either sex should succeed to the title in the same way as the Crown's succession has been changed by the Succession to the Crown Act 2013.

5. Senior Counsel also submitted that official recognition in the name of Inglis of Nether Cramond was sought because that was the name in which the Baronetcy was granted on 22 March 1687. The family owned the estate of Nether Cramond at that time, although thereafter they acquired the whole estate of Cramond. On the death of the 4<sup>th</sup> Baronet of Cramond the estate passed to Anne Inglis of Cramond and the designation "of Cramond" is held by her descendants, the Craigie-Halkett-Inglis of Cramond, hence it is appropriate that the Petitioner should adopt the name and territorial destination under which the Baronetcy was granted.
6. At the oral hearing I had the benefit of the evidence of Gordon MacGregor, genealogical researcher, and the Report contained in the inventories of productions "Inglis Baronets of Cramond Report on Research" by Gordon MacGregor dated 17 February 2018 (Revised) and the documents produced in support of the Report as set out in the Schedule of Documents in this Petition.
7. The principal source of evidence was provided by Gordon MacGregor, genealogical researcher. It was submitted that I should accept Gordon MacGregor as an expert witness on the basis of his expertise as a genealogical record searcher and his expertise in researching in the Scottish Records. His experience was set out in his Curriculum Vitae and can be summarised as follows:
  - (i) that he has worked in the field since 1991. His evidence has been accepted in Lyon Court matriculations including the Wood chiefship;
  - (ii) that his "Red Book of Scotland" project, which records his research into the genealogy of many Scottish families, including the various Inglis branches, has been provided to the Lyon Court, and I have examined the same; and
  - (iii) that he is quoted in some references with regard to this work.
8. Senior Counsel took Mr MacGregor through his Curriculum Vitae and expanded on it, and obtained in evidence an explanation of Mr MacGregor's methodology in terms of going to primary sources, in particular such records as the Edinburgh Roll of Burgesses. Mr MacGregor indicated that he had been engaged in various Inglis family genealogies for some 10 to 12 years including work for his own "Red Book". I will return to my

assessment of Mr MacGregor's evidence in the reasons for my findings in fact later in this decision.

9. The facts which have to be proved in order to establish a claim to the Baronetcy are as follows:-

- (i) The creation of the baronetcy and its destination;
- (ii) That the heirs with a prior claim to the Petitioner are extinguished;
- (iii) That the Petitioner is now the heir in terms of the destination;
- (iv) That there is a reasonable explanation for any delay in making the claim.

With regard to the law on this matter, the relevant law can be identified in *Viscountcy of Dudhope and Earldom of Dundee* 1986 SLT (Lyon Ct) 2 ("*Dundee*"), where Lord Normand at 5B states:-

*"In order to succeed the petitioner must show, first, that the viscountcy and the barony were created with the destination alleged; secondly, that the heirs male of the body of the patentee were extinguished, as he alleges, in 1668 on the death of the 3<sup>rd</sup> viscount, the grandson of the patentee; thirdly, that there is a reasonable explanation of the long delay since 1668 in asserting the claim; fourthly, that he is descended in the male line from an ancestor of the patentee, and fifthly, that all intermediate heirs male of the patentee have been extinguished."*

10. I now turn to each of these requirements in relation to the evidence before me.

#### **Proof of the creation of the baronetcy and its destination**

11. Mr MacGregor in oral evidence pointed to Document 1 in the productions contained in Schedule 1, namely the Diploma under the Great Seal, which is in Latin with a translation provided. He gave evidence that the baronetcy was created under the Great Seal and the succession was "*his heirs male in perpetuity, the title and dignity of knight baronet*". It was also led in evidence that Document 2 of Schedule 1, which is the 1982 Matriculation by the Petitioner in the Public Register of All Arms and Bearings in Scotland, recognised that this baronetcy was created "with remainder to heirs male whatsoever" and that the Petitioner as **heir male** is entitled to the baronetcy.

12. Mr MacGregor drew my attention to the 1982 Matriculation and also, in principal evidence, to his “Inglis Baronets of Cramond Report on Research” dated 17 February 2018 (Revised) and the documents produced in the Schedule of Documents in support of the Report. It was submitted that, when taken in its totality and bearing in mind the law in this area, the Petitioner had shown that he was the heir entitled to the baronetcy. He submitted that his evidence showed that the Petitioner is the descendant male of Cornelius Inglis, Merchant of Edinburgh, and that the said Cornelius Inglis was the second son of James Inglis, Merchant of Edinburgh, (died 1602), and his wife, Margaret Loch, and that Archibald Inglis, Merchant of Edinburgh, brother of the said Cornelius Inglis, was the eldest son of the said James Inglis. Evidence was given that the said Archibald Inglis was the great grandfather of Sir James Inglis of Nether Cramond 1<sup>st</sup> Baronet, who was created a baronet of Nova Scotia on 22 March 1687 with a destination to “*his heirs male in perpetuity, the title and dignity of knight baronet*”. Further evidence was given that, following the death of Sir Patrick Inglis of Cramond, the 5<sup>th</sup> Baronet, on 24 November 1817, the heirs male of the body of the said Archibald Inglis, eldest son of the said James Inglis, became extinct and that the succession to the Baronetcy of Inglis of Nether Cramond opened to the heirs male of the said Cornelius Inglis, immediate younger brother of the said Archibald Inglis.
13. Mr MacGregor submitted that the evidence demonstrated that the present Petitioner is now the heir male of the body of the said Cornelius Inglis and, accordingly, is male heir in perpetuity of the said Sir James Inglis of Nether Cramond, 1<sup>st</sup> Baronet, and in terms of his genealogy succeeds to the Inglis of Nether Cramond Baronetcy created on 22 March 1687.
14. I was then directed by Mr MacGregor to the 1982 Matriculation which, if accepted, would only leave to be proved:-
- (i) that the heirs male of the body of Sir James Inglis of Nether Cramond 1<sup>st</sup> Baronet are extinguished;
  - (ii) that the heirs male of Archibald Inglis are extinguished – in part, they are extinguished by the extinction of the heirs male of the 1<sup>st</sup> Baronet;
  - (iii) that Cornelius Inglis (41) is the 8<sup>th</sup> child of Cornelius Inglis (23), brother of Archibald Inglis, but only child with surviving male issue; in other words, any male child of Cornelius Inglis (23) senior to Cornelius Inglis and their male issue who might have a potential prior claim to the baronetcy are extinguished.

The other parts of the genealogy were proved by the 1982 Matriculation if I accepted it.

15. Senior Counsel for the Petitioner thereafter made the following submissions, which included the lodging of written submissions for the Petitioner, paginated 1 to 17. He submitted that Mr MacGregor should be regarded as an expert witness based on his CV and his methodology, and that his evidence before the Court could be relied upon in terms of establishing the genealogy of the Inglis of Nether Cramond family. He indicated that the creation of the baronetcy and its destination was clear as established by Document 1 in Schedule 1 and that the Diploma under the Great Seal created a baronetcy where the succession was “his heirs male in perpetuity, the title and dignity of knight baronet”. He submitted that the 1982 Matriculation recognised that the baronetcy was created “with remainder to heirs male whatsoever” and that Lord Lyon of the day accepted that “heirs made in perpetuity” properly meant “heirs male whatsoever”. He referred to Scottish Law of Conveyancing by John Craigie, Edinburgh 1899, pages 530/531 in support of that submission. He submitted that the governing law and the standard of proof required to establish a claim to a Scottish baronetcy is Scots Law and the standard of proof is the civil standard of proof “on the balance of probabilities” – *In re the Baronetcy of Pringle of Stichill* [2016] UKPC 16; 2016 SC (PC) 1. He further submitted that, in terms of *1<sup>st</sup> Indian Cavalry Club Ltd v HM Commissioners for Customs and Excise* 1998 SC 126, the law recognises that “the weight and quality of evidence” required to prove facts on the balance of probabilities may depend on the context. He further elaborated on that case and its legal context. He submitted that Mr MacGregor’s evidence should be relied upon to show that all other heirs of the male line are extinguished. In particular he referred to the evidence of Mr MacGregor that where there was evidence of a birth of son but there was no further evidence, in any of the records where further evidence would be found if the child had survived, that I should accept the extinction of that child. In support of this he referred to Lord Normand in *Dundee* at 6D where he referred to “a thorough search under skilled direction” being of great assistance in establishing extinctions. He further submitted, with regard to the question of delay as part of the tests in relation to the claim of the baronetcy, that there had been attempts by the family in earlier days to establish the claim to the baronetcy including the Memorial by Robert Inglis of Kirkmay in the 1830s setting out his claim which was not taken forward after his death, and that there was correspondence with Sir James Balfour Paul (Lord Lyon between 1890 and 1926) about the claim, which related to the time during which the Roll of Baronets was established in 1910 and the family

wished to have their name entered on the Roll. It was further submitted that it was difficult at that time due to communications, the claimant also being in New Zealand. He submitted that the passage of time does not bar a claim.

16. He submitted that the Petitioner therefore has established his claim, applying the civil standard of proof on the balance of probabilities, based on the evidence given by Mr MacGregor and his Report and the documents lodged. It was submitted that the Petition should be granted.
17. Having considered all the oral and written evidence before me, and taking into account the written submissions of Senior Counsel for the Petitioner dated 4 September 2018, I found the following facts to be established:–
  - (i) that the Petitioner was born in New Zealand on 13 May 1942 and has issue a son and heir apparent Guy Edward St Clair Inglis younger, born 28 November 1973, and a daughter Anna Mary St Clair Inglis, born 8 October 1971;
  - (ii) that the Petitioner matriculated his own coat of arms in the Public Register of All Arms and Bearings in Scotland on 27 September 1982;
  - (iii) that the Petitioner lodged his Petition and supporting productions on 28 November 2017;
  - (iv) that by Interlocutor dated 5 April 2018 intimation was made on the walls of court and to the Registrar of the Baronetage, Crown Office, London, ordaining all parties claiming interest in the Petition to lodge Answers. No Answers were lodged;
  - (v) that the Petitioner is the male descendant from Cornelius Inglis [23]<sup>1</sup>, who was a Merchant in Edinburgh;
  - (vi) that the said Cornelius Inglis [23] was the second son of James Inglis [22], Merchant of Edinburgh (died 1602), and his wife, Margaret Loch, and that Archibald Inglis [21], Merchant in Edinburgh, brother of the said Cornelius Inglis, was the eldest son of the said James Inglis [22];

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<sup>1</sup> numbers in [00] refer to the numbers of the productions in the Inventories of Productions and Schedules



- (vii) that the said Archibald Inglis was the great grandfather of Sir James Inglis of Nether Cramond Baronet [1], who was created a baronet of Nova Scotia on 22 March 1687 with a destination to "his heirs male in perpetuity, the title and dignity of knight baronet";
- (viii) that following the death of Sir Patrick Inglis of Cramond 5<sup>th</sup> Baronet [8] on 24 November 1817, the heirs male of the body of the said Archibald Inglis [21], eldest son of the said James Inglis [22], became extinct and the succession to the Baronetcy of Inglis of Nether Cramond opened to the heirs male of the said Cornelius Inglis [23], immediate younger brother of the said Archibald Inglis [21];
- (ix) that the Petitioner is now the heir male of the body of the said Cornelius Inglis [23] and accordingly is the heir male in perpetuity of the said Sir James Inglis of Nether Cramond 1<sup>st</sup> Baronet [1];
- (x) that the Petitioner therefore succeeds to Inglis of Nether Cramond Baronetcy created on 22 March 1687;
- (xi) that all other male lines with a potential claim to the baronetcy have been extinguished;
- (xii) that the Petitioner is now heir in terms of the destination of the baronetcy;
- (xiii) that in particular the male line of the body of the 1<sup>st</sup> Baronet is extinguished, that the heirs male of the body of Archibald Inglis [21] are extinguished, and that the older male children of Cornelius Inglis [23] are extinguished;
- (xiv) that the findings in the 1982 Matriculation in the Registers of the Lyon Court are further evidence of the extinction of the above male lines;
- (xv) that there exists a reasonable explanation for the delay in making the claim to the baronetcy and that the family had attempted to assert a claim previously, when Robert Inglis of Kirkmay (42) set about investigating a claim in about 1830, and in particular a claim around 1910 when the Roll of Baronets was established, and that this claim was made in a period when communication was difficult and much more difficult than in present times and that the claimant was in New Zealand. It is further accepted that records are now retained using improved archival methods and are more easily accessible.

18. I have reached these findings in fact for the following reasons:

- (i) I accept the evidence of Mr Gordon MacGregor to be reliable with regard to this Petition, and in particular his Report on the various Inglis family genealogies. I accept that Mr MacGregor has experience as a genealogical record researcher and has knowledge of researching in Scottish records.
- (ii) The productions contained in the Inventories of Productions satisfied me that all the senior lines of the family, other than those of the Petitioner, are extinct in law and in fact.
- (iii) The documentary evidence and the oral evidence of the witness, Mr Gordon MacGregor, on the balance of probabilities, substantially supported the claim of the Petitioner.
- (iv) I have found the Matriculation contained in the Lyon Court Register of 1982 to be supportive of the Petitioner's claim.
- (v) The evidence that the Petitioner is the surviving male heir of the Baronetcy of Inglis of Nether Cramond was convergent.
- (vi) I have had regard to the relevant case law and found the cases to be in favour of the case for the Petitioner. The case of *Viscounty of Dudhope and Earldom of Dundee* 1986 SLT (Lyon Ct) 2 states that, in order to establish a right to a baronetcy, the petitioner must prove:-
  - the creation of the baronetcy and its destination;
  - that the heirs with a prior claim to the Petitioner are extinguished;
  - that the Petitioner is now the heir in terms of the destination;
  - that there is a reasonable explanation for any delay in making the claim.

I have found all of these to have been established by the Petitioner based on the facts found to be supported by the evidence in this case.

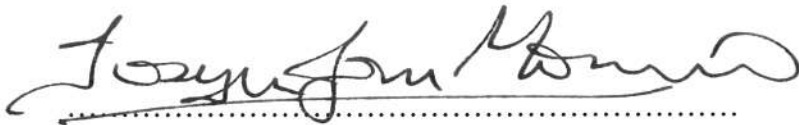
- (vii) The governing law and the standard of proof required to establish a claim to a Scottish baronetcy is Scots Law and the standard of proof is the civil standard of proof "on the balance of probabilities" – see *In re the Baronetcy of Pringle of Stichill* [2016] UKPC 16; 2016 SC (PC) 1.

- (viii) In terms of *1<sup>st</sup> Indian Cavalry Club Ltd v HM Commissioners for Customs and Excise* 1998 SC 126, “the weight and quality of evidence” required to prove a fact on a balance of probabilities may depend on the context. In the words of Lord Johnson at 133E:-

*“In so far as there are references to probabilities, I consider them to be dealing with the weight and quality of evidence which might be required in a certain context rather than defining the relevant standard of proof to be applied.”*

I have taken from this caselaw that the law does not require conclusive proof, but proof that there is no reasonable probability which supposes that the event did not occur. This is supported by Lord Normand in *Dundee* at 6D where he says “The law does not require conclusive proof that an event such as a birth of a son ... did not take place. But the law does require positive evidence that there is no reasonable probability that the supposed event did occur” and then went on to refer to “thorough research under skilled direction”. This was particularly relevant in relation to some of the descendants of Cornelius Inglis (23) where a birth is recorded, but there is no other evidence that the child survived or married in any of the records which are likely to have included evidence of such a survival or marriage. I accept that the absence of such evidence proves that they did not survive or have surviving issue. However, in light of the authorities I have accepted that “the nature of the matter” being a baronetcy claim, a more rigorous standard of assessing the evidence is required to establish such a claim which might for example be applied in the case of a chiefship for a clan where Lord Lyon is open to determine such a case “for aught yet seen”. That said, the standard of proof remains the balance of probabilities and I have concluded that on the balance of probabilities there is sufficient evidence to make the above findings in fact in law.

19. Accordingly, I allow the prayer of the Petition and find (i) the Petitioner to be recognised in the name, style and title of Sir William St Clair Inglis of Nether Cramond Baronet; (ii) that the Petitioner is entitled to Letters Patent maintaining, ratifying and confirming unto the Petitioner and his heirs succeeding to the said Baronetcy of Inglis of Nether Cramond, bearing the name Inglis of Nether Cramond, whom failing to his heirs, the coat of arms matriculated by him on 27 September 1982 with a helmet befitting his degree as a baronet and with the badge of a Baronet of Nova Scotia pendant below the shield; and (iii) that the Petition should be put out by order to discuss the blazon of the standard for which the Petitioner seeks a grant.

A handwritten signature in dark ink, appearing to read 'Joseph John Morrow', written over a horizontal dotted line.

Dated: 4<sup>th</sup> December 2018

**Joseph John Morrow CBE QC LLD**  
**Lord Lyon King of Arms**