

*Court of the Lord Lyon*

---

*Interlocutor of the  
Lord Lyon King of Arms  
in  
the Petition of*

**DOUGLAS IAIN BABINGTON SMITH of CRAIGEND**

*of date 12 May 2011*

*Edinburgh*, 5 February 2014. The Lord Lyon King of Arms, having considered the foregoing Petition, (*Primo*) RECOGNISES the Petitioner as Douglas Iain Babington Smith of Craigend, and for aught yet seen Representor of the House of Smith of Craigend; and (*Secundo*) GRANTS WARRANT to the Lyon Clerk to matriculate in the Public Register of All Arms and Bearings in Scotland in the name of the Petitioner the following Ensigns Armorial, *videlicet*:- Gules, a chevron Ermine between two crescents in chief and a garb on base Or. Above the Shield is placed an Helm befitting his degree with a Mantling Gules doubled Argent, and on a Wreath of the Liveries is set for Crest an eagle's head erased Proper gorged with a ducal coronet Or, and in an Escrol over the same this Motto "MACTE".

(Signed) David Sellar

Lyon

## **Note on the Practice of Nomination**

This Interlocutor recognises the Petitioner as Smith of Craigend and, for aught yet seen, Representer of the House of Smith of Craigend. The Petitioner had been nominated as Representer of the House of Smith of Craigend by “his kinsman of the blood” Michael Babington Smith by a Deed of Nomination subscribed on 2<sup>nd</sup> September 2009 and recorded in the Writs Section of the Books of the Court of the Lord Lyon. Michael and the Petitioner are third cousins, descending in the male line from their common great great grandfather Archibald Smith of Jordanhill, Barrister-at-law, who died in 1872. Michael was recognised by Interlocutor of Lyon Blair dated 25<sup>th</sup> June 2007 (as amended 19<sup>th</sup> August 2008) as Representer of the House of Smith of Jordanhill, and, for aught yet seen, Representer of the Houses of Smith of Craigend and Smith of Craighead. These three Smith families descended from three brothers of whom the senior was Smith of Craigend who, accordingly, bore the undifferenced Arms. Michael, therefore, by nominating the Petitioner as the Representer of the House of Smith of Craigend was recognising him as head of the entire family and, as such, entitled to the principal Arms. There are, however, several other male line descendants of Archibald Smith of Jordanhill senior to the Petitioner. The recording of a Deed in the Writs Section of the Books of the Court of the Lord Lyon relates only to the recording and does not necessarily signify approval of the content. A question, therefore, arises as to the validity of the Deed of Nomination.

Lyon Sir Thomas Innes of Learney refers to the practice of nomination in his *Scots Heraldry* (2<sup>nd</sup> edition, 1956) at page 125 where he writes, “It has been held that the chief of a clan is entitled to nominate his successor from amongst the members of the chiefly family .... There is nothing unusual in this, for many Scots peers formerly had the power of nominating the successors to their peerages [subject to the approval of the Crown] ... if made by a nomination within the ‘posterity’ of the grantee’s

family, i.e. within the limitation of the arms, it seems the view was that such a settlement was made ‘by right’ as chief, whereas a settlement on a stranger can only be carried through with Lyon’s approval.” (see also *Scots Heraldry*, revised by Malcolm Innes of Edingight, later Lord Lyon, (1978) at p.67).

There have been many examples of such nominations of Name and Arms and, indeed, of chiefships by agreement within the immediate family of the chief which have been recognised by Lyon. However, in my view this should not be seen as the exercise of an arbitrary power which Lyon is bound to recognise: for example, it does not seem right that an elder son should be disinherited against his will in favour of a younger son on a whim of his father – who might, indeed, change his mind a few years later. A further question which needs clarification is what is meant by “a member of the family”, or “a member of the chiefly family”, as opposed to “a stranger”. Should “member of the family” be interpreted as meaning a close relative, or might it include, say, a fourth or fifth cousin of the same surname?

It was with such questions in mind that I asked in this case for evidence of disclaimers from male line descendants of Archibald Smith of Jordanhill senior to the Petitioner. I am satisfied that the Petitioner has done everything he reasonably could to satisfy this request and, accordingly recognise him, for aught yet seen, as the Representor of the House of Smith of Craigend, and entitled, therefore to the principal Arms of the family.

(Signed) David Sellar  
Lyon