

CLAN MACRAE SOCIETY OF CANADA
ONLINE

CLAN WITHOUT A CHIEF

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A dissertation concerning the Chiefship Issue in The Clan MacRae

The MacRaes are conspicuously 'A Clan without Chief', none having ever been determined. In 1909 Sir Colin MacRae of The Inverinate Branch petitioned Lyon Court for recognition of his position as "Chief of The Clan MacRae." Major John MacRae-Gilstrap representing the rival Conchra family vigorously opposed the petition and the outcome was that Sir Colin's Petition was dismissed and no Chief of the Name MacRae was recognised. This situation has persisted to the present day and although there have been rumours of moves to establish a Chief since, no proceedings have as yet commenced at Lyon Court. As of 9th March 1998 The Lyon Clerk has confirmed that there is to her knowledge research ongoing on the matter but no petition has been lodged for Chiefship in recent years.

The current position is believed to be that a representative of The Conchra family, Baroness Miranda van Lynden, wishes to be established as Chief of the Name 'MacRae' and she claims widespread support in the USA and elsewhere towards achieving this aim. The campaign to establish Baroness Van Lynden as Chief of The Name MacRae is primarily led by Mr Hugh Macrae II, the former president of Clan MacRae Society in the USA. Mr. Macrae, who is a cadet of the Inverinate family, avers widespread support for the Baroness and claims to have the support of the Inverinate Branch for the Conchra claim. In recent years, Mr. Macrae has been active in attempting to dissuade other possible candidates to the Chiefship and in engaging legal assistance in Scotland towards firmly establishing The Baroness's claim. It is believed that Sir Crispin Agnew of Lochnaw Bt and Rothesay Herald at The Court of Lord Lyon is instructed to progress The Conchra Claim and has been retained for several years in this connection.

It is helpful to delve a little bit into the history of the Macrae Chiefship Claim in order to promote a fuller understanding of the issues. Let us commence with Sir Colin MacRae's Petition of 1907 and consider what he was actually seeking. The Petition reads as follows:

Unto Sir James Balfour Paul, Lord Lyon King of Arms. The Petition of Sir Colin George Macrae, Knight Bachelor, Writer to the Signet residing at 45 Moray Place, Edinburgh. Humbly Sheweth:
That the Petitioner is the second but eldest surviving son of the late John Anthony Macrae of Wellbank in the County of Forfar, Doctor of Laws, Writer to the Signet, and his wife Joanna Isabella youngest daughter of John Maclean, Dunfries (?) Estate, Carriacou, Grenada, West Indies.
That the said John Anthony Macrae was the eldest son of Colin Macrae of Inverinate in the County of Ross and his wife Charlotte Gertrude daughter of John Cornelius Vandeneuvel Governor of Demerara under the Dutch.
That the Petitioner and his ancestors as Chiefs of the Clan Macrae have used certain armorial ensigns from a period long anterior to the passing of the Act of Parliament 1672 Cap. 47 but that the same has never been recorded in the Public Register of All Arms and Bearings in Scotland in terms of the said Statute.
That the Petitioner is desirous that his position as Chief of The Clan Macrae might be officially recognised by your Lordship in terms of the Statement of facts set forth in the memorial for the Petitioner produced herewith and that the said Armorial Ensigns might now be matriculated in the Public Register of All Arms and Bearings in Scotland in his own name as Chief of The Clan Macrae all in terms of the said Statute.
May it therefore please your Lordship to Grant Warrant to The Lyon Clerk to matriculate in the Public Register of All Arms and Bearings in Scotland in name of the Petitioner as Chief of The Clan Macrae, The Ensigns Armorial above indicated all in

terms of the said Act of Parliament.
And Your Petitioner will ever Pray.
(signed) Colin George Macrae
Edinburgh 27 December 1907.

However, the Conchra representative saw it coming and there is a note appended to the Petition by The Lyon of the day which reads:

The Lord Lyon King of Arms in respect of the Caveat for Major John MacRae-Gilstrap of Ballimore dated 17th instant Appoints this petition to be served on him and Ordains him to lodge answers thereto if so advised within twenty one days after service:
(signed) James Balfour Paul, Lyon.

Major John Macrae-Gilstrap's Caveat reads as follows:

Caveat for Major John MacRae-Gilstrap of Ballimore in the County of Argyll,
Gentleman-at-arms residing at Ballimore, Otter Ferry, Argyll -
Should any application be presented in the Court of The Lord Lyon for matriculation of
arms as Chief of The Clan MacRae it is respectfully requested that intimation may be
given either to the Caveator or the subscriber that they may be heard before any
interlocutor is pronounced in the said application.
(signed) HLL Adam WS (of J & AF Adam WS)
9 South Charlotte Street
Edinburgh
17th December 1907.

Thereafter the Proofs to the Petition comprising a substantial binding in hardback covers run to approximately 675 pages foolscap.

The Proofs commence:

"Nothing is so difficult to prove as a universally recognised fact, and such until recent times was the Chieftainship of The Clan MacRae." No doubt Sir Colin uses the word Chieftainship to mean Chiefship, although in latter years the word chieftain has been used to mean a lesser chief amongst other things which have nothing to do with the clan hierarchy. This was picked up by Lord Lyon Balfour- Paul who observed "In Gaelic there is a word for 'Chief' and for 'Head of a House' but not a word for 'Chieftain'. Lyon considered 'chieftain' doubtful terminology.

The Petition and accompanying proofs contain a wealth of material never before or since published in a single volume and much of this material will be of interest to those studying the history of Clan MacRae. Some of this material is listed on the accompanying schedule.

In setting out his Claim Sir Colin has on page 18 of the Proof listed the names of twenty previous Chiefs in the direct line descending from (Maurice) Macrae of Clunes. The numbering does not follow that contained in the History of Clan Macrae because Sir Colin has numbered Finlay Dubh McGillechriosd as "4", having identified three generations between Finlay and Maurice of Clunes, the first being Alastair, then Finlay Mor nan Gad, then Gilchrist. Of course these early chiefs must remain very much a source of doubt because of the apparent time discrepancy when Macraes are not thought to have left Clunes until late in the 14th century. However these anomalies must be discussed elsewhere.

On pages 23 to 26 of the Proof there is a discussion upon the subject of 'Dependent Clans', that is clans finding themselves in a similar predicament to Macraes, namely being subordinate, historically, to a larger more powerful clan. Here Sir Colin argues that nonetheless these dependants have now aspired to full Clan status with Chiefs of their own. He gives a list including:

Mackinnons, MacNeills, MacMillans, MacQuarries, MacPhies, MacDougalls, MacLachlans, Lamonds, MacNachtans, MacGregors, MacQueens, MacGillivrays and MacLaurins. Sir Colin argues The MacRaes were no more a dependent sept than any of those clans who at that time all had recognised Chiefships.

Sir Colin Macrae's brother, Horatio Ross Macrae gave evidence to show the influence of the Inverinate family was far and wide. He told of how 'an old man came all the way from Glen Affric to see his Chief before he died.' (p4) It is well known the Inverinate Macraes possessed vast areas of Strathglass as security for loans granted to an impecunious Chisholm Chief. Alexander Chisholm XIX of Chisholm was in fact a third cousin of Donachaidh nam Pios (IX in Clan History and 13th Chief in Sir Colin's list). Historical evidence was included in the Inventory of Productions by the Petitioner. No 49 of the list comprised:

"Copy Sasine and Charter of Apprising under The Great Seal in favour of Duncan Macrae of Inverinate of the lands of Comer, Glen Affric and Invercannich in the Parish of Kilmorack and County of Inverness dated 10th July 1674 and sasine of 12th September 1674." All this of course is corroborated in The Chisholm Charter chest and quite clear evidence of the vast holdings of the Inverinate family in Strathglass and apparent parity with the Chief of the Chisholms.

However, it was observed that a Charter of Apprising was an inferior form of tenure providing for the return of lands held as security upon payment of the debt.

Consequently, Macrae of Inverinate could never be styled 'Macrae of Comer' or 'Strathglass' even although he held so much of it as security. When pressed, Horatio Macrae conceded 'no Macrae ever held lands of The Crown by a Crown Charter. There were tacksmen, wadsetters, and small tenants only.' (p23) The argument in Court became quite 'bloody' when Major MacRae-Gilstrap took the stand. It was he who lodged the caveat in the first place; he was keen to defend his corner and he did so vigorously and without mincing words.

Sir Colin Macrae's Counsel asked why Major MacRae-Gilstrap was even appearing since he was not even the senior most member of his own family. To this the Major replied:

"I am here to protect myself and to say that I will not acknowledge the Inverinate branch in any shape or form as the Chief of the Clan MacRae and as my Chief." (p197).

Asked why his personal interests could possibly be invaded by a declaration of anyone else as Chief the Major replied:

"Because if it were allowed that the Chief of Clan MacRae were the Inverinate family it would upset the idea I have always held that all the MacRae families are more or less on an equality and therefore I should suffer if it were allowed that the Inverinate family had been the Chiefs of the Clan MacRae at any time". (p198)

Asked if he regarded it all as a question of status Major MacRae-Gilstrap had this to say:

"Supposing that the Inverinate family were acknowledged as chiefs of the Clan Macrae then that family would take precedence of my family... supposing we happened to be dining at the same house, a member of the Inverinate family might go into dinner before me, if he were a son of the Chief of the Macraes." (Pp198/199)

It was then put to the Major that if the Inverinates could be proved to be the senior branch then would he not agree they would be entitled to go down to dinner first?

The Major replied;

"If it could be shown that Inverinate had ever been Chief he certainly could go down to dinner before any other member of the Clan MacRae".

Major MacRae-Gilstrap was then shown a Precedence List for Scotland (presumably the 1905 list) in which Judicial Note was taken that Chiefs of Clans had no Official Precedence conferred upon them by virtue of the status of Chiefship alone. (pp199/200)

Continuing with Major MacRae-Gilstrap's evidence, it was pointed out that he was on record as having admitted the seniority of The Clan Ian Charrich Macraes. It was further suggested that the Major had approved previously the entry in Burke's Peerage where his family featured and where seniority had been conceded to the Inverinate line. When faced with this the Major said that he had now reconsidered the position and felt that the entry in Burke's was now incorrect and he believed his own family to be the senior line. Asked upon what basis this belief arose, Major MacRae-Gilstrap said it was his own 'family tradition' and there was no proof of where the notion came from. (pp 201-204)

The absurdity of Major MacRae-Gilstrap's argument was exposed in relation to Horatio Macrae who earlier referred (p5) to the Burke's entry being based on an old MacRae tree in the possession of a MacRae in South Carolina who happened to be a member of the Conchra family. It was in effect a Conchra document ceding seniority to the Inverinate family. At this point Counsel for Sir Colin Macrae suggested that Major Macrae-Gilstrap had clearly picked and chosen with his version of the history and traditions of the Clan MacRae (p205).

In reply the Major stated that he was aware that all three principal branches of Clan Macrae claimed right of primogeniture. He then corrected himself and said all four families, adding that clan Ian Charrich were the eldest, then Conchra, then Inverinate and finally Torlysich. (p219)

Another witness in the case, the Rev Father MacDonnell opined in relation to the supposed seniority of the various branches of Macraes it was known that Torlysich was senior to Inverinate. He asked if it was widely known that the head of the Torlysich family had signed a declaration in favour of Inverinate and that he (Torlysich) asserts that Inverinate is head of the Clan. (P81) How much weight this carried is unknown since the sides usually chose witnesses more on the ability to support their case than on any other virtue. It is also possible some confusion was arising between Clan Ian Charrich and Torlysich, the former having resided there and the latter having descent from the Black MacRaes.

It is now appropriate to turn to the Judgment in the Case and this is given in The Lyon Court report of 22nd April 1909, which gave verdict after many hours of legal wrangling.

JUDGMENT OF LORD LYON Sir JAMES BALFOUR-PAUL IN THE CASE OF THE PETITION OF SIR COLIN MACRAE.

over/

Petition. MACRAE, 22nd April, 1909. Lyon Court, unreported.

The Petitioner in this case, Sir Colin G. Macrae, stated that he was the eldest male representative of the deceased Colin Macrae of Inverinate, that he ‘and his ancestors as Chiefs of the Clan Macrae have used certain armorial ensigns from a period long anterior to the passing of the Act of Parliament, 1672, cap. 47, but that the same have never been recorded in the Public Register of All Arms and Bearings in Scotland in terms of the said statute.’ He therefore prayed that the Lyon would grant warrant to the Lyon Clerk to matriculate ‘the ensigns armorial above indicated in name of the Petitioner as Chief of the Clan Macrae.’

John MacRae-Gilstrap, major of the 3rd battalion of the Black Watch, who had previously lodge a caveat, appeared and lodged answers, stating that he was the second son of the late Duncan MacRae, who was head of the family of MacRae of Conchra. He denied that the Petitioner, or any of his ancestors whom represented, was chief of the Clan MacRae, or used arms as such; and he denied that the competent in so far as it asked Lyon to recognise the Petitioner as Chief of the clan Macrae.

The Petitioner objected that the Respondent had no locus standii; that he represented no one but himself; that his elder brother, who was head of his family, was aware of the Petition, and was making no objection; that the Respondent claimed and could claim nothing that the Petitioner was claiming (Macdonell v Macdonald, 20th January, 1826, 4 Shaw, 371). The Respondent argued that he had an interest to object to any person being put over him as his Chief. The Petitioner explained that the Court was not asked to come to any judgement that the Petitioner was Chief of the Clan.

The Court sustained the Respondent’s locus ‘in so far as his right to be heard on the question of the existence of the clan Macrae and its Chiefship.’

On the merits the Petitioner (Inverinate) produced a declaration of his Chiefship signed by a number of persons of the surname Macrae, which he stated represented the vast majority of the Clan. He also produced other evidence of his accepted position, and to prove that in the past Macrae of Inverinate was the chief of head (Ceann) of the clan (Fine or Cinnidh), being called in Gaelic Ceann Fine and Ceann Cinnidh, both titles meaning that he was chief of a clan; and, separatim, that he was head of the chief family of the name Macrae.

To prove the nature of the arms of Macrae, and their use before 1672, he pointed to the Porteous manuscript in Lyon Office, in which they occur, and argued that the arms of Macrae, without any qualification, were necessarily the arms of the Chief of the name. The Respondent (Conchra representative) led evidence to show that the opinion of the Petitioner’s Chiefship was not unanimous; and that Clan Macrae in the past was notoriously a clan which had no chief other than Seaforth; and argued that Clan Macrae was a clan only in a popular sense.

Lyon pronounced judgement as follows: ‘The Lord Lyon King of arms having taken the proof and heard Counsel for the parties thereon, Finds that the Petitioner has failed to prove user of arms or supporters previous to the passing of the Act, ’concerning the privileges of the Office of Lyon King-at-Arms,’ 1672, cap.217, Refuses the prayer of the Petition, and Decerns.’

Written by: Peter MacRae, London 1999

The author has submitted *Clan Without A Chief* to *Clan MacRae Online* (e-mail submission, January 10, 1999), and the complete contents are published with the kind permission of the author.
