

APPENDIX H

SERVICES OF HEIRS FOR *FINLAYS MATRI* AND *MCNEILLS MATRI*¹

The Service of Heirs is a Scottish law that confirms the legitimacy of the children of a deceased parent, thus making them eligible to be that parent's heir.²

NOTES

1. Service of Heirs, C22/121, pp. 226–227, SRO; English translation by Laura Moncion, Centre for Medieval Studies, University of Toronto.
2. “By the law of Scotland, before an heir can regularly acquire a right to the estate of the ancestor, he ought to be served heir: which is one of the old forms of the law of Scotland proceeding upon a writ, and including in it the decision of a jury fixing the right and character of the heir to the estate of the ancestor” (Sir Thomas Edlyne Tomlins, *The Law-Dictionary, Explaining the Rise, Progress, and Present State of the British Law*, 2 vols. [Edinburgh: John Anderson; London: Saunders and Benning, 1835], vol. 2, s.v. “service of an heir”). See also William Bell, *Dictionary and Digest of the Law of Scotland* (Edinburgh: John Anderson; London: Saunders and Benning, 1838), pp. 903–907.

19.10/

Hæc Inquisitio facta fuit in Curia
 Balleworum Burghi de Edinburgh Septi-
 die mensis Julij Anno MDCCLXIII v-
 -cingentesimo vigesimo quarto, coram
 honorabili viro Gulielmo Blackwood
 Armigero uno Balleworum dicti Bur-
 gii per hos probos et fideles homines patrum
 subscriptos Viz: Robertum Brown Jam-
 -nem Kenton et Josephum Grant domini
 Signetis Regis, Johannem Gibson, Jacobum
 Laurie, Henricum Horne Greiv, Joan-
 -nem Huttcheson, Jacobum Malcolm,
 Eberhardum Wallace, Georgium Ritchie,
 Thomam Torlop et Adamum Eden son-
 -tas in Edinburgh, Gulielmum Brunton
 Mercatorem ibid et Majorem Jacobum
 Laing et Gulielmum Bell Armigerum
 ambo residentes ibid. Illi jurati dicunt
 Magno Sacramento interveniente quod
 quondam Rebecca Elence viduæ Finlay
 quædam

Finlay
 Matri

LATIN TRANSCRIPTION

	Hæc Inquisitio facta fuit in Curia
No. 16	Ballivorum Burgi de Edinburgh sexto die mensis Julij anno millesimo oc- -tingentesimo vigesimo quarto, coram honorabili viro Gulielmo Blackwood Armigero uno Ballivorum dicti Burgi per nos probos et fideles homines patriæ subscriptos viz ¹ Robertum Brown, Joan -nem Renton et Josephum Grant scribas Signeto Regio, Joannem Gibson, Jacobum Laurie, Henricum Horne Greive, Joan nem Hutchin son , ² Jacobum Malcolm, Ebenezerum Wallace, Georgium Ritchie, Thomam Fortye et Adamum Paton scri- -bas in Edinburgh, Gulielmum Brunton Mercatorem ibid ³ et Majorem Jacobum Laing et Gulielmum Bell armigerum ambos residen ⁴ ibid ⁵ . Qui jurati dicunt Finlays magno sacramento interveniente quod Matri quondam Rebecca Clunie alias Finlay quæ

¹ Abbreviation for: *videlicet*

² Written as “Hutchinson” with the “n” then crossed out.

³ Abbreviation for: *ibid[em]*

⁴ Abbreviation for: *residen[tes]*

⁵ Abbreviation for : *ibid[em]*

ENGLISH TRANSLATION

No. 16 – Finlay Mother

This inquiry was made in the court
of the bailiffs of the burgh⁶ of Edinburgh, on the sixth
day of the month of July eighteen-
twenty-four, before
the honourable man William Blackwood
esquire,⁷ one of the bailiffs of the said burgh,
by us, the undersigned honest men, faithful to the nation,
namely, the clerks⁸ Robert Brown, John
Renton, and Joseph Grant;
by the royal seal the clerks John Gibson, Jacob
Laurie, Henry Horne Greive, John
Hutchison, Jacob Malcolm,
Ebenezer Wallace, George Ritchie,
Thomas Fortye, and Adam Patron
in Edinburgh; William Brunton
a merchant in the same place; and Major Jacob
Laing and William Bell esquire,
both residing in the same place,
who, called to witness, declare
under oath⁹ that
the late Rebecca Clunie, also known as Finlay,

⁶ *burgh*: this word literally means “castle”, “fort”; it can also mean “city” or “borough.”

⁷ *armiger*: this word can also mean “soldier” or “squire” (literally “arms-bearer”).

⁸ *scribas*: this word can also mean “scribe.”

⁹ Literally, “with a great oath taking place”. The word for “oath” used here is *sacramentum*: this word can also mean “sacrament”, “civil suit or process”, “secret or something to be kept secret.”

226

qua facta fuit nuperi Reverendi Joannis
 Eltonie nonnunquam Evangelij Mi-
 nistri apud Whitehirk. Mater Sancta
 Rebecca Finlay et Gulielmone Finlay
^{procreata} ex nuptiis inter demortuum
 Georgium Finlay nonnunquam Com-
 mander of the Prince Augustus Frede-
 rick Custom House Butler et dicta Rebe-
 cam Eltonie alias Finlay Brit ad fi-
 dem et pacem S. D. N. Regis. Et quod
 dicta Sancta Rebecca Finlay et Guli-
 elmina Finlay sunt legitima et pro-
 pinquiores heredes portionaria in gene-
 rali dicta quondam Rebecca Eltonie alias
 Finlay earum Matris. Et quod sunt
 legitima aetatis. IN CUIUS rei testi-
 monium sigilla quorundam eorum
 qui dicta Inquisitioni intererant, cum
 brevi Regio debite, excusis inclusis, ac sigil-
 lum dicti Ballivi, presentibus scriptis
 appensa loco, die, mense et Anno praes-
 criptis. Extrac^t de Libris Actonum Cy-
 riae dicti Burgi per me (sic subscribitur)
 Carlyle Bell Conj^g Scl^h. 9th Julij 1824

Hec Inquisitio facta fuit iisdem
 loco et tempore, coram eodem iudice, et
 per easdem Inquisitionis personas ut
 in Praetorali immediate praecedente,
 Illi jurati dicunt magno Sacramen-
 to interveniente quod quondam Magis-
 tra Alicia Eltonie alias McNeill qua
 facta fuit nuperi Reverendi Joannes
 Eltonie nonnunquam Evangelij Ministri
 apud Whitehirk. Mater Magistra Eliza-
 betha McNeill alias Melwood vidua de-
 -cessit

McNeill
 Multri

LATIN TRANSCRIPTION

quæ filia fuit nuperi Reverendi Joan- 225
 nis Clunie nonnunquam Evangelij Mi-
 nistri apud Whitekirk Mater Janetæ
 Rebeccæ Finlay et Gulielminæ Finlay
 filiarum procreat¹⁰ ex nuptiis inter demortuum
 Georgium Finlay nonnunquam lie¹¹ Com-
 mander of the Prince Augustus Frede-
 rick Custom House Cutter et dict¹² Rebec-
 -cam Clunie alias Finlay obiit ad fi-
 -dem et pacem S. D. N. ¹³ Regis. Et quod
 dictæ Janetta Rebecca Finlay et Guli-
 elmina Finlay sunt legitimæ et pro-
 pinquiores hæredes portionariæ in gene-
 rali dictæ quond¹⁴ Rebeccæ Clunie alias
 Finlay earum matris. Et quod sunt
 legitimæ ætatis. In cuius rei testi-
 monium sigilla quorundam eorum
 qui dict¹⁵ Inquisitioni intererant, cum
 brevi Regio debite executo incluso, ac sigil-
 -lum dicti Ballivi, præsentibus sunt
 appensa loco, die, mense et anno præ-

¹⁰ *procreat* written in the line above and inserted into the text in this place.

¹¹ I can't make this out completely from the handwriting, but I'm guessing it is some kind of abbreviation relating to this person's rank as Commander of what seems to be a ship (?), perhaps an abbreviation for "lieutenant" (if this fits with your knowledge of other comparable documents, e.g. it is also customary for "lieutenant" to be shortened and written beginning with a lower-case letter, as this is, in English-language documents of this kind and period).

¹² Abbreviation for: *dict[am]*

¹³ Abbreviation for: *S[ancti] D[ominum] N[ostri]*

¹⁴ Abbreviation for: *quond[am]*

¹⁵ Abbreviation for: *dict[ae]*

scriptis. Extract¹⁶ de Libris actorum Curia dicti Burgi per me (sic subscribitur)

Carlyle Bell Conjt¹⁷ Clk(?).¹⁸

9^{no} Julij 1824

Haec Inquisitio facta fuit iisdem
loco et tempore, coram eodem iudice, et
per easdem Inquisitionis personas ut
in Retornatu immediate praecedente,
qui jurati dicunt magno sacramen-
-to interveniente, quod quondam Magis-
-tra Alicia Clunie alias McNiell quæ
filia fuit nuperi Reverendi Joannis
Clunie nonnunquam Evangelij Ministri
apud Whitekirk (mater Magistræ Elizæ
Isabellæ McNiell alias Welwood, viduæ de
-cessi

No. 17

McNiells

Matri

¹⁶ Abbreviation for: *Extractum*

¹⁷ *conjt*: this might be an abbreviation of *conicit* (i.e. “Carlyle Bell concludes/assigns/classifies”) but since I suspect it is part of this formula (which I am not familiar with) I can’t say with any certainty.

¹⁸ I can’t make this out either, but I would guess that it has something to do either with this person’s rank or position, or is part of the formula of this kind of nineteenth-century record. This might be short for “clerk.”

ENGLISH TRANSLATION

who was the daughter of the late¹⁹ Reverend John Clunie, sometime minister of the Gospel at Whitekirk, and the mother of Janet Rebecca Finlay and Wilhelmina Finlay, daughters whom she begot from the marriage between the late George Finlay, sometime lieutenant Commander of the Prince Augustus Frederick Custom House Cutter, and the said Rebecca Clunie a.k.a. Finlay, died in the faith and peace of the Holy Lord Our King. And that the said Janet Rebecca Finlay and Wilhelmina Finlay are the legitimate and closest heirs, beneficiaries in general of the said late Rebecca Clunie a.k.a. Finlay, their mother, and that they are legitimate forever. In testimony of which matter the seals of those who were present for the said inquiry, with the king's letter, duly executed, included, and the seal of the said bailiff, by those present are attached at the place and on the day, month, and year as written above. Extracted from the Books of the acts of the Court of the said burgh by me (thus signed) Carlyle Bell Conj't Clk(?).

¹⁹ *nyper*: this word can also mean "recent".

No. 17 – McNeill Mother

This inquiry was made in the same
place and at the same time, before the same judge, and
by the same people of the inquiry
as above,²⁰
who, called to witness, declare under
oath that the late Mis-
tress²¹ Alice Clunie also known as McNiell, who
was the daughter of the late Reverend John
Clunie, sometime minister of the Gospel
at Whitekirk (the mother of Mistress Eliza
Isabella McNiell also known as Wellwood, the widow of the

²⁰ literally something like “in returning to the directly preceding”, i.e. the same witnesses as the previous document.

²¹ *magistra*: this word can also mean a female “instructor”, “teacher”, “master”.

227
 -cesu Roberti Willwood Armigeri de Gar-
 -voch. et Alicie Margaretae Caroline M-
 -Niell filiarum procreat e nuptiis inter
 Doctorem Danielem McNiell Nonnu-
 -quam Medicum apud Wilmington in
 Carolina Boreali nunc residentem in New
 -York et quondam Magistram Aliciam (Elu-
 -mie alias McNiell ejus sponsam) obit
 ad fidem et pacem S. D. N. Regis: Et quod
 dicta Magistra Eliza Isabella McNiell et
 Alicia Margareta Caroline McNiell sunt
 legitime et propinquiores heredes forti-
 -onarie in generali dictae quondam Ma-
 -gistrae Alicie Elmie alias McNiell ea-
 -rum Matris: Et quod sunt legitime
 etatis: Incipit recte testimonium
 et ut in Protocollo praedecedi (sic sub-
 9^{no} Julij 1821, -scribitur) Carlyle Bell Longt Clk.

LATIN TRANSCRIPTION

	-cessi Roberti Wellwood armigeri de Gar-
	-vock et Aliciæ Margaretæ Carolinæ Mc-
	-Niell filiarum procreat e ²² nuptiis inter
	Doctorem Danielelem McNiell nonnun-
	-quam Medicum apud Wilmington in
	Carolina Boreæli nunc residen ²³ in New-
	-York et quond ²⁴ Magistram Aliciam Clu-
	-nie alias McNiell ejus sponsam) obiit
	ad fidem et pacem S. D. N. ²⁵ Regis. Et quod
	dictæ Magistra Eliza Isabella McNiell et
	Alicia Margaretæ Carolina McNiell sunt
	legitimæ et propinquiore hæredes porti-
	-onariæ in generali dictæ quond ²⁶ Ma-
	-gistræ Aliciæ Clunie alias McNiell ea-
	-rum matris; Et quod sunt legitimæ
	ætatis. In cujus rei testimonium
	7 ²⁷ ut in Retornatu præceden ²⁸ (sic sub-
9 ^{no} Julij 1824	-scribitur) Carlyle Bell Conjunct Clk [?].

²² Abbreviation for: *e[^x]*

²³ Abbreviation for: *residen[tem]*

²⁴ Abbreviation for: *quond[am]*

²⁵ Abbreviation for: *S[ancti] D[omini] N[ostri]*

²⁶ Abbreviation for: *quond[am]*

²⁷ What is written in the original text here looks like an abbreviation known as the “Tironian et” (I found this symbol online; feel free to change it to another one if that is more appropriate for your purposes). It is not technically a letter or a set of letters. It expands simply to et (“and”).

²⁸ Abbreviation for: *præceden[te]*

ENGLISH TRANSLATION

late Robert Wellwood esquire of Garvock; and of Alice Margaret Caroline McNiell, daughters whom she begot from the marriage between Doctor Daniel McNiell, sometime medic in Wilmington in North Carolina, now living in New York, and the late Mistress Alice Clunie aka McNiell his wife) died in the faith and peace of the Holy Lord Our King. And that the said Mistress Eliza Isabella McNiell and Alice Margaret Caroline McNiell are the legitimate and closest heirs, beneficiaries in general of the said late Mistress Alice Clunie aka McNiell their mother, and that they are legitimate forever. In testimony of which matter also as above (thus signed) Carlyle Bell Conjunct Clk[?].