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STATEMENT ON THE CASE MAC CARTHY MÓR

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AN INTRODUCTION FOR THOSE WHO DO NOT KNOW ME

Personally I hold to being, within these subjects, a serious person not fond of compromise and who can separate the validity of scientific documents from a relationship of friendship. In addition I characteristically prefer, rather than to lose time in discussion without conclusions, to transform my dreams into reality by working through concrete objectives.

It should be understood that I consider valid SOLELY AND UNIQUELY those official recognitions of honors granted or certified under the Authority of the State (naturally when that existence is competent in the area of genealogy, heraldry and nobility).

I understand as COMPETENT State Authority, that to which belongs the Family or person who obtained certain types of recognition.

But this is not to say that I believe blindly or totally in the solid validity of an official recognition, because it could be granted by official Entities with various motives... not the least of which is opportunity.

Unfortunately, in all Nations, errors and incompetences are numerous (in some countries they are extremely numerous). The method of judging and evaluating documents TODAY has changed and has become a major science: the mythologies are fortunately disappearing... even so, they are dying hard.

I remember,(an Italian example) that the UFFICIO ARALDICO is successor of the never abolished CONSULTA ARALDICA and today grants only Coat of Arms for Public Entities. During the Monarchy the REGIA CONSULTA ARALDICA committed various errors, recognizing false genealogies and false titles with measures of justice.

In light of this vicissitude, a curious thing for me is this: I have seen in many Irish genealogies, which I have held in my hands, references to many families which are drawn from ancient historical traditions; the small scientific basis and scarcity of documentary proof, are such that, to make a comparison with those of Italy, such gaps in an Italian genealogy would have made them, during the Kingdom of Italy, impossible to obtain even minimal recognition of nobility!

For the precedent reasons I explained, I should want to specify that until now I have not examined personally the documents about the case, which are conserved in the Genealogical Office and, as before I had to give value to the official recognitions coming from the heraldic authority of the Republic of

Ireland, now I must give full value to the opposite affirmations coming from the same authority, although I had always my own opinions about the matter, as you may read afterwards!

As far as I can determine from the data I have read, from the correspondence in my possession and from my verifications, I can affirm - as often I also said to Terence Mac Carthy that for me his genealogy is not sufficiently proven according to the ITALIAN standard, but, in the face of an official pronouncement by a competent office of the Chief Herald (which did give solid merit to a genealogy dating from A.D. 490 and which granted a coat of arms indicating in the Patent Letters a Lordship granted by Terence Mac Carthy), I was not the person, as a simple private individual, who – at that time was unfamiliar in this area – could discuss and contest an official recognition of a Sovereign State with a proper competent office, the recognition of coat of arms, genealogy and title of chief of the name (naturally in private I was smiling about this as usually I do about similar recognitions...)

ICOC

It has been written that I was rewarded for obtaining the judgments (Italian Verdicts) with membership on the International Commission for Orders of Chivalry: this is **totally incorrect**, as I was made a member of the Commission on 1st October 1997 (which can be documented), well before the development of the arbitrations, and my membership came about through a friend and intermediary who had asked me, as a competent and objective person, if I was willing to become part of this organization.

I had agreed to take part in the International Commission for Orders of Chivalry and to become the Chairman solely with scientific spirit, and willing to make this ORGANIZATION, which I consider totally PRIVATE (as are the others, such as the Académie Internationale d'Héraldique, the *Académie Internationale de Généalogie* and the *Confédération Internationale de Généalogie et de Héraldique*), SOMETHING TRULY SCIENTIFIC AND SUPRA PARTES (without warfare or polemics, but in a continuous, reciprocal and educated exchange of ideas), in other words, a small and modest help to nonexperts, or to those who become interested in the subject of chivalry, so that they might not make errors in that area.

I wish to say this precisely: I will NEVER consider the Register (and I NEVER have considered) an official text, or a “bible” for scholars. For me, the merit of this organization is represented SOLELY by the scientific competence and by the seriousness of the persons which will comprise it. Besides, those who know me and have read what I have written in my publications will well understand, with respect to the 1998 Register, that I CANNOT BE IN AGREEMENT with all of the Organizations included (but I accepted these in a spirit of democracy, in that they had already been accepted before my membership and, nevertheless, only for the edition of 1998).

Subsequently I nominated for membership in the ICOC numerous competent individuals, and I intend to further expand the ICOC, enrolling many other experts, because to me it seemed to be greatly lacking, particularly with regard to the knowledge of the problems related to orders of Countries from which there were no representative members.

On the 1st of October 1999 Terence Mac Carthy officially wrote to me: “Being unwell, and unable to exercise the Office of President of The International Commission for Orders of Chivalry I now resign the said Office confirming you as my successor.”

At first I want to control again the effective scientific competence of every ICOC Commissioners, and (according to Statutes) I will confirm in their position only those persons who are really scientific experts in Chivalric matter!!! I will do many changes in ICOC!

But in conclusion, the ICOC is a Body which (even if it is contested and at times it has shown incompetence - as in my opinion showed numerous experts, including members of the official organizations of certain States...) has more than 40 years of history.

I should like to stress that on the 3rd of June 1999 the ICOC adopted Statutes which increase the number of members (75) and for next 2000 edition all of the Register will be revised according to a pure scientific spirit "supra partes". And to this purpose I ask all experts to aid me in this difficult work.

Then let us not forget that even concerning "organizations" many which are noted and considered valid and unquestioned - all of us have laughed more than once reading the publications of famous authors writing to seek popularity, where they reveal careless admissions of "unsteady" persons as proofs, or the blunders committed in the recognition or un-recognition alternatively of a certain ... It is a list truly long indeed!

NIADH NASK

Regarding my induction into the NN, I state that it was offered - I believe - as a token of thanks for my proposals to make the ICOC more credible and scientific, and well before the judgments (which can be documented).

I accepted the Niadh Nask in the same way that many Heads of formerly Sovereign Houses have made concrete recognitions (but these must be considered only as private recognitions) in the admission to their Dynastic Orders (which too are totally private) of the title of MacCarthy Mór and Prince of Desmond...; further, some friends of mine had been made members, such as Emilio Beladiez, Ambassador of Spain and Great Chancellor of the Sacred Military Constantinian Order of St George of Naples; Antonio Sousa Lara, Ambassador to the S.M.O.M.; practically all of the Irish Chiefs of the Name (Mac Dermot, O'Brien, O'Callaghan, O'Conor Don, O'Donoghue, O'Donovan, O'Morchoe, O'Neill Mór, O'Neill of Clanaboy, O'Ruairc...) the former Prime Ministers of Ireland (Charles Haughey, Albert Reynolds), scholars in Gaelic matter such as Peter Berresford Ellis and Gerard Crotty, the former Norroy & Ulster King of Arms and former Clarenceux King of Arms John P.B. Brooke Little, the member of the State Heraldic Council of the Republic of South Africa Laing of Collington, the Garioch Pursuivant of Arms Lumsden of Cushnie, baron of Cushnie; Irish representatives of the S.M.O.M. etc. At last Dr. Otto von Habsburg accepted the Aongus Cross It is a long and authoritative list!

The fact that the Niadh Nask claims a history of more than a millenium did not concern me all that much, finding such a thing somewhat normal within the milieu bound to all traditions: consider the example of a famous order, the Sacred Military Constantinian Order of St George of Naples, which bases itself unhesitatingly on a legendary tradition (which I expect nobody believes) that it dates back to the time of the Emperor Constantine. Naturally I do not believe either of the traditions...

It is proper for me to affirm that I hold the Equestrian Order of the Holy Sepulchre of Jerusalem, the Sovereign Military Order of Malta, and all Orders conferred under the authority of sovereign States, to

be different than “dynastic” orders (or whatever other designations one wishes to give them...) which are solely a private order, that is they are totally private entities which, in spite of decorations, mantels or other trappings have value only for a fondness of the history of the chivalric orders, or for the person who has been made a member (who yet attributes value, unfortunately for motives of opportunity), or for those who would like to become a member!.

Take a look around: in the last two centuries the world has changed, and thus the political scene has changed from the time of the origin of these orders... Also almost all the dynasties which award such “honors” have changed in respect as to their particular dynastic laws.

If a dynasty (no longer reigning) changes its own laws... it is no longer the same dynasty which makes pretension to that throne and grants that honor... this seems to me to remain logical and clear. Nor do I consider it to be a valid motive to continue an “order” on the pretext of charitable work. Besides, one must regard the social level of these “orders” as having changed... They have become another thing entirely. But if people draw satisfaction from putting on mantles, wearing decorations, believe in reaching for a certain social status, or prefer to believe that they have become noble by “having proved their nobility”, all of that is fine... They are doing harm to nobody!

But the time has come for discussion of the judgments, into which I have been dragged, not because I was fully involved in them, but rather from indirect causes (because I had known both litigants and therefore what had triggered the problem).

What clearly appears in this newsgroup is an unjust prejudice about Italian verdicts... one ought avoid to use only common places but, on the contrary it should be necessary to know the truth about this matter.

WHY THE COURT OF CASALE MONFERRATO?

Although Casale Monferrato today is a small Italian city, until 1708 it has been the capital of an important pre-unification Duchy. The city of Casale Monferrato has since 1474 been the seat of an important court of justice, the “Senate of Monferrato”.

Until 1926, it has been the seat of the Appellate Court (a most unusual thing for a city which is not a Regional Capital), and it is still the seat of a Tribunal (equally unusual for a provincial city, because in Italy Tribunals are only found in Provincial capitals). This situation remained until June 1999, when the Pretura disappeared and was substituted by the Tribunal. And actually the Arbitration Rulings (Lodi Arbitrali) may be executed by the Tribunal President.

In the era of the Kingdom of Italy it was therefore a city famous for numerous and competent judgments in matters of heraldry, genealogy and nobility.

WHY AN ITALIAN ARBITRATION RULING?

It is easy to understand! Because in Italy the coat of arms of a private person cannot be recognized officially by the *Ufficio Araldico dello Stato*. Many persons, both Italian and foreign, are willing to make it recognized and protected in some legal way both in Italy and in those countries where does exist the possibility to “delibare” it (that means make it executive), so giving the coat of arms a juridical value which comes from a legal authority.

Besides this is an indirect recognition with full juridical value ratified by the Magistrature, that is an act which has complete legal value, much more than a private admission into a dynastic order or nobiliary confraternity or nobiliary corporation which asks proofs of nobility and which in front of the State has no official value!!!

THE ITALIAN ARBITRATION RULINGS

MacCARTHY MOR vs. HORAK

The rulings in the case of MacCarthy Mór vs. Horak are judge's arbitrations, completely valid from a judicial and legal point of view, and which have value for the parties.

According to Italian Law they are based SOLELY on the right to the use of a coat of arms (the Italian Republic in this case does not recognize anything beyond the right of the name, which may be represented by a coat of arms because the coat of arms is ONLY, in the Italian Republic, the graphical expression of the name or, if we would look at the matter from a different point of view, a trade mark).

But take care, even though this seems an elementary concept, in reality it has an immense ethical significance. In Italy there really is no recognition, nor is there a recognizing authority, for noble titles, neither is there any recognition of the right of private citizens to grant noble or chivalric titles of any sort (a thing the mere thought of which is ridiculous in every respect).

Obviously an Italian ruling is not permitted in any way to judge the actions of another Sovereign State.

An arbitration ruling (*lodo arbitrale*) is based upon the judgment of a panel of experts (experts in the general subject matter, in this case in heraldry, in genealogy and in nobiliary rights).

There are an odd number of judges and they have the sole task - as experts in the subject matter (in general) - of evaluating and deciding SOLELY FROM THE DOCUMENTS WHICH ARE PRESENTED (for example: **in a manner generally analogous to the workings of Official Kings of Arms of all those countries where they issue certifications of arms to Entities or to private citizens**, and in the way that the great majority of those organizations which we call dynastic nobiliary orders do PRIVATELY!).

If the parties do not ask for further investigation, and the documents presented are many, the judges keep to that which comes before them as documentary evidence.

IT IS NOT THE TASK OF THE JUDGES – IF THEY ARE NOT REQUESTED TO DO SO - TO CONDUCT ARCHIVAL RESEARCH. After having examined that which had been presented by the contending parties, the judges made a judgment on the right to a coat of arms (in this case, that of MacCarthy Mór, and that of the Niadh Nask) AND NOTHING MORE.

Unfortunately, the concept of Italian judgments has often been considered as something of a discredited idea... but I must again stress that this is only a commonplace as many other common place that I could quote for English, Irish, German, French or Spanish cases!

So indeed the same somewhat negative consideration has been suggested for the Spanish certification of arms... particularly as applied to Italians (forgetting that a large part of Italy has been part of the Spanish Community); but it is truly amusing to me, because I know that there are English, Scots, Irish, and Americans which boast about these “discredited” recognitions and run to obtain them. I assure you, for example, that the list of English - American owners of a Spanish certification of arms would leave you stupefied.

I observe then that other Heralds, which affirm to be correct within their own territorial laws, have no respect to their territoriality and grant coats of arms to foreigners which are not historically part of the Country from which the requested arms come. In this also we have collected an extremely long list of people!

But let us return to the judgment of which we speak (whose texts I have often read in Italian, and I cannot be sure about the English translation), which refers to the examination of some 2500 documents (entrusted ONLY to the parties - as is obvious and just in a proceeding such as this). I recall as well that the judges were not bound to make other inquiries if not requested by the parties. The verdicts are founded on the immense pile of the many documents presented. Here I list a part of them:

PUBLIC RECOGNITIONS

- a genealogy registered on 28th of January 1992 by CHIEF HERALD OF IRELAND that recognizes Terence Francis MacCarthy as THE MacCARTHY MÓR, CHIEF OF THE NAME;

- a copy of “The Genealogy of the Royal and Most Serene House of MacCarthy, some times Manrchs of Ireland, oftener Kings of the Two Munsters, but more particularly Kings of Desmond and Cork, and since the dissolution of the Irish Monarchy by the English denominated by the English records, Princes, Dynasts and Dukes of Desmond, Clan Carrha, Muskerry and Carberry, created afterwards Earls of Clan Carre and Clancarthy, Barons of Valentia and Blarney and Viscounts Muskerry...” Genealogie de la Royal et Serenissime Maison de MacCathy, Vol. 1, Fol I.;

- a passport issued on 3rd of February 1995 by the Republic of Ireland which *TERENCE FRANCIS MAC CARTHY MÓR born on 21st of January 1957 in Antrim is known as THE Mac CARTHY MÓR PRINCE OF DESMOND;*

- Patent Letter dated the 20th of July 1990 with which Donald Begley Chief Herald of Ireland grants Coat of Arms to William Francis Marmion Harnvah “...who holds the feudal Lordship of Duhallow”. The Feudal Lordship of Duhallow was granted by Terence Mac Carthy as The Mac Carthy Mór;

I continue the list in Italian:

- Lettere Patenti datate 23 marzo 1983, numero 1319 che riconoscono il NIADH NASK come una Corporazione di Gentiluomini (Armigeri) sigillata e firmata dallo State Herald of the Republic of South Africa. Nel testo delle Lettere Patenti è scritto: “Vert, a cross pommé Argent, fimbriated Or, charged with a Greek cross Vert. Crest: An antique crown Or enclosing a cap Vert. Mantling: Or and Vert.” Motto: DIVINA FAVENTIA CLEMENTIA.”

- Un certificato di registrazione rilasciato dal Register of Trade Marks, Ministry of Consumer and Corporate Affairs del Canada datato 21 giugno 1985, numero di registrazione 303959, attestante che il nome e lo stemma del Niadh Nask sono stati legalmente registrati come marchio di fabbrica, numero 303959 secondo il Trade Marks Act del Canada.

- Lettere Patenti rilasciate dal Ministry of Consumer Affairs del Canada il 3 maggio 1984 da David D. Kirchmayer, Deputy Registrar General del Canada, registranti “THE NOBILIARY ORDER OF THE NIADH NASK” come un “BODY CORPORATE AND POLITIC IN ACCORDANCE WITH THE SAID ACT” (Ente morale in accordo con detta legge).

- Lettere Patenti datate 1 aprile 1986 rilasciate dal Commissioner of Patents and Trade Marks of the United States of America, numero 1388626 registranti il nome e lo stemma di “THE NOBILIARY ORDER OF THE NIADH NASK” come un “CORPORATE BODY POLITIC” che persegue scopi di carità e “FOR THE GRANTING OF HONOURS”.

PRIVATE RECOGNITIONS

- Conferma dello Standing Council of Irish Chiefs and Chieftains (che ammette solo gli Irish Chiefs and Chieftains che hanno avuto riconoscimento dal Capo Araldo d'Irlanda) a firma di Gerard Crotty Heraldic Advisor con la quale si afferma che The MacCarthy Mór, Prince of Desmond, Chief of his Name and Arms, Head of the Eoghanacht Royal House of Munster, e membro dello Standing Council of Irish Chieft and Chieftains dalla ricostituzione avvenuta nel 1991.

- Documentation that the title “Caballero de Justicia” of the Sacred Military Constantinian Order of Saint George of Naples (Great Master H.R.I The Infante Don Carlos de Borbon Duke of Calabria) was bestowed upon “Exc.mo Sr. Don Terence Francis Mac Carthy Mór Principe de Desmond” on 1st of June 1987.

- Evidence that The Mac Carthy Mór was accepted as a Commander of the Order of Saint Maurice and Saint Lazarus (Grand Master H.R.H. Vittorio Emanuele of Savoy).

- Certificato rilasciato il 19 aprile 1993 dal Cashel Urban District Council (antica capitale reale di Desmond) relativo alla concessione della Civic Reception a favore di The Mac Carthy Mór, Prince of Desmond, Chief of the Name and Head of the Eoghanacht Royal House of Munster, quale discendente diretto dal Re Cormac II Mac Carthy.

- Letter of Chief Herald of Ireland – Genealogical Office on 18th of June 1988: “ Dear MacCarthy Mór, This is by way of a reply to your letter of June 7th 1988. First allow me to congratulate you on your new publication 'One Thousand Royal and Noble Ancestors of the House of MacCarthy Mór'. Now to the matter of the Gaelic feudal lordships which, as you say, are cited in the St Leger Tract of 1588. Such incorporeal hereditaments, whatever their precise nature, would, I believe, come under the term 'property' for legal purposes. **Accordingly, under our Constitution you have the right to beneficial disposal of such property, irrespective of whatever I might say or think. Although no register of such property exists here we have nonetheless an interest in your proposed course of activities. Having considered the matter we do not propose to stand in the way of your disposal of the aforementioned hereditaments.** Yours sincerely, Donal F Begley, Chief Herald of Ireland ”.

- A copy of a letter dated November 3rd, 1988, and written by the Chief Herald of Ireland to H.B. Brooks-Baker, Esquire, Publishing Director, Burke's Peerage, which is herewith translated: "Dear Mr. Books-Baker, My attention has been drawn to your letter of August 24th, 1988, to The Mac Carthy Mór of Belfast, regarding his intention to dispose of certain hereditaments which may subsist in the Chiefship of the House of Mac Carthy Mór. I can confirm that I have written to him (June 16th, 1988) to say that the Office here would not stand in the way of the action he propose to take. For your further information MacCarthy Mór (applicant Terence Mac Carthy of Belfast) is one of a number of old Gaelic designations which are shortly due for official recognition here. Sinceraly, Donald F. Begley, Chief Herald of Ireland."

- Una lettera datata 10 ottobre 1984 indirizzata al corrente Mac Carthy Mor, Prince of Desmond da Mr. James Algrant y Canete, segretario generale dell'INTERNATIONAL COMMISSION FOR ORDERS OF CHIVALRY affermante che il Niadh Nask è stato riconosciuto come Corpo Nobiliare da tale organizzazione.

- an interesting letter from Guy Stair Saintry in which he firmly recognizes the titles and the Niadh Nask - which, now he tells me, deals with a document written to avoid legal action - but that at that moment I considered totally valid as written by a person with historical knowledge of the British countries .

VARIOUS PUBLICATIONS (considered by the judges only as a complement, having been written by the plaintiff or his friends)

- Quale ulteriore prova viene presentata la pubblicazione Who's Who in Ireland 1992 in cui si vede la fotografia che ritrae gli "Irish Chief of the Name" ricevuti dal Presidente della Repubblica d'Irlanda il 5 ottobre 1991 dove è pienamente visibile ed indicato The Mac Carthy Mór Prince of Desmond.

- Copia della pubblicazione People of Today edito dal Debrett's Peerage Limited dalla quale risulta Terence Francis MacCarthy, The Mac Carthy Mór, Prince of Desmond and Lord of Kerslawny, Chief of the Name and Head of the ancient Irish Royal House od Munster ecc.

- inoltre vengono presentate ad ulteriore prova le seguenti pubblicazioni: William F.T. Butler - M.R.I.A, GLEANINGS FROM IRISH HISTORY, Londra 1925, (355 pagine);

- Samuel Trant MacCarthy Mór, THE MacCARTHYS OF MUNSTER, Dundalk, 1922 (con note e commento di The MacCarthy Mór, Prince of Desmond, Little Rock, ristampa 1997 (563 pagine);

- The MacCarthy Mór, Prince of Desmond, HISTORICAL ESSAY ON THE KINGDOM OF MUNSTER, Kansas City, MO, 1994 (315 pagine);

- The MacCarthy Mór, Prince of Desmond, ULSTER'S OFFICE 1522-1800, Little Rock, 1996 (256 pagine);

- The MacCarthy Mór, Prince of Desmond, ONE THOUSAND ROYAL & NOBLE ANCESTORS OF THE HOUSE OF MacCARTHYS MOR, Belfast, 1987 (120 pagine);

- CASHEL '96 (56 pagine);

- THE STAG TRIPPANTS 1994, 95, 96, 97 (154 pagine);
- THE NIADH NASK HISTORY AND INTERNATIONAL ROLL 1996, Clonmel, 1996 (71 pagine);
- THE NIADH NASK HISTORY AND INTERNATIONAL ROLL 1997, Clonmel, 1997 (33 pagine);
- Patrick Michael O'Shea, NIADH NASK INSIGNA, Little Rock, AR, 1996 (16 pagine);
- copia del manoscritto della GENEALOGIE DE LA ROYALE ET SERENISSIME MAISON DE MacCARTHY, compilato da Sir Issac Heard, Norroy King of Arms (divenuto poi Garter) e Ralph Bigland, Clarenceaux King of Arms & Register of the College of Arms, circa 1765, Ms. 582, Trinity College, Dublin (100 pagine);
- The Count of Clandermond, THREE CENTURIES OF NIADH NASK BOOKPLATES, Clonmel, 1997 (104 pagine);
- THE LAST KING Donal IX MacCarthy Mór King of Desmond and Two Munsters, 1558-1596, Kanturk, 1996 (16 pagine), Count of Clandermond;
- GAELIC HERALDRY AND THE KINGDOM OF DESMOND, in Augustan Heraldry, Vol. III, N°2, 1994;
- Count of Clandermond, GAELIC FEUDALISM AND THE KINGDOM OF DESMOND, in The Augustan Omnibus 14, Vol. XXX, 1993; che aggiunti alle altre copie di documenti assommano a ben 2.250 pagine di documentazione.

For those who are not fluent in Italian I repeat in few words the content of the list:

- the recognition of the genealogy, coat of arms and title of MacCarthy Mór given by the Republic of Ireland, the recognition of the Herald of South Africa for the coat of arms of NN, the Canadian registration of the same as trade mark, etc; many authoritative letters from specialists in subjects relevant to the various titles claimed (the Chief Herald, Brooke-Little, Crotty, Debrett's, Burke's, an interesting letter from Guy Stair Sainty in which he firmly recognizes the titles and the Niadh Nask - which, now he tells me, deals with a document written to avoid legal action-), other private recognitions

recognitions made by the Pretenders of Royal Houses (as for example the Royal House of the Two Sicilies. Royal House of Savoy etc.), the implicit recognition of all the Chiefs of the Name of Ireland, of former Prime Ministers and President of Ireland, and many publications, which recognize the title of MacCarthy Mór and the coat of arms of Niadh Nask.

. But the plaintiff presented also many other documents which do not appear in the verdicts as for example books of Peter Berresford Ellis, Z.G. Alexy (Ex-libris armales 1985), Stephan Friar (A new dictionary of heraldry), or admissions in dynastic orders of Imperial House of Ethiopia, etc.

Any judge would have decided (with a similar pile of documents, without ANY sort of challenge, and without the smallest DOUBT) in favor of the plaintiff!

A few days before the 2nd verdict was issued I asked the judges if they had received any information regarding a challenge to the plaintiff made by the Chief Herald of Ireland! But none of them had any knowledge of it! This because my wife and I had heard, through other people, in the month of June 1998 that the Chief Herald had taken steps in the matter.

Certainly, I DO NOT consider myself an expert in Gaelic matters. For this reason in Turin in September 1998 during the 23rd International Congress of Genealogical and Heraldic Sciences I desired to ask Deputy Chief Herald Fergus Gillespie and another Consultant to the Chief Herald (Scott MacMillan) if it was true that MacCarthy Mór was recognized as Chief and obtained their affirmative reply (at this exchange were present other people interested in the subject and belonging to high public positions).

In September 1999, during the IX Colloquium of the Académie Internationale d'Héraldique in St. Pölten (Austria) I complained to the Deputy Chief Herald about his precedent reply to my answer (which prevented me from making decisions in the matter...). But Mr Gillespie explained to me that he could not tell me anything because it was forbidden for him to do so!

IN CONCLUSION THE FOLLOWING FACTS MUST BE KNOWN:

- 1) the judgments are based only on the veracity of the documents presented;
- 2) they base their actual official recognition on the competent authorities in the subject (in this case the Chief Herald of Ireland and the Herald of South Africa);
- 3) if the recognitions upon which the judgments are based lose their legal validity, that is they are rescinded and if the documents presented have been altered or are not authentic, the **JUDGMENTS ARE AUTOMATICALLY NULL AND VOID OF ANY LEGAL VALIDITY!!!**

For example: a person obtaining a judgement in his own favor with which he can build an house in a field against an other person who wanted to maintain it as field of corn. In the meanwhile he is building the house, the mayor expropriates the field to build a public street. Also if the judgement was completely valid, the change in the situation makes it invalid!!!

4) The Judges, I must say this precisely, are all authoritative persons, competent and of indisputable scientific seriousness, who have pronounced their judgment on the foundation of official documents which they believed to be entirely valid and complete. In the face of documentary proof of alterations of documents or in the face of the cessation of judicial validity of the recognitions upon which they have based their arbitration rulings, they would have to make a decision to carry out the necessary steps to declare to all the people interested in the matter that the judgment pronounced is invalid. The annulment of the judgments would entail other and gravely problematical things, and in the case of a proven alteration of the documents the judges could also carry out other legal actions against those who have betrayed their good faith.

Besides of this I also know that Dr. Horak is willing to bring a new legal action against Terence Mac Carthy because the precedent judgements was founded on documents now without value.

RATIONALE FOR CHOOSING ITALY FOR THE JUDGMENT OF MacCARTHY MOR vs. HORAK

I consider it logical that the arbitration proceedings were undertaken in Italy, since the defendant, Dr. Horak, is an Italian citizen.

Besides, I do not consider strange that Ireland (where the plaintiff was completely recognized) was not chosen and Italy was preferred, because 1) we are going to a complete European Community; 2) many other verdicts about nobility, genealogy and heraldry are issued in France, Spain, SMOM and (until few years ago) in the Republic of Saint Marino etc... and these verdicts are about nobility, genealogy and heraldry not always pertaining to those same countries where they are issued.

THE JUDGES AND THE DEFENDANT

The judges in the case of MacCarthy Mór vs. Horak were: Dr. Roberto Messina; Dr. Riccardo Pinotti and Dr. Bianca Maria Rusconi, all persons scientifically competent in nobiliary rights according to the laws at the time they existed in the Kingdom of Italy, and equally competent in heraldic rights, which refer to the right to a coat of arms as an extension of the name.

In addition, Dr. Horak is an earnest man, competent in nobiliary, heraldic and genealogical matters.

Dr. Robert Messina, Dr. Bianca Maria Rusconi and Dr. Marco Horak are three of my best friends, while Dr. Riccardo Pinotti is my father-in-law. **I want to stress that none of them are members of the Niadh Nask, nor have they received compensation of any sort for the judgment of MacCarthy Mór vs. Horak.**

The fact that they are all my friends, I believe, could not have in any way had an influence on their objective judgment, and because (as I have said) they had been provided with a pile of some 2,500 documents, among which many were of official recognition originating from the authority of States!

Besides, I have numerous friends in heraldic, genealogical and nobiliary matters who have beliefs totally opposed to my own (much to my displeasure), who have never had their opinions influenced by my beliefs in these matters, and who continue freely along their path which diverges from mine. In conclusion, even if we are members of the same associations, we each have our own ideas and continue to clash with each other, although we consider ourselves friends.

I have seen, with much flippancy, to me has been attributed the possible influence over the result of the arbitration ruling, but if one considers this a "judgment of convenience", I would offer many other things that are equally possible, not to exclude, for example: of 3 judges, 2 (Messina and Pinotti) are members of the Sacred Military Constantinian Order of St George of Naples (Spain), even as Horak is, along with Terence MacCarthy; of the 3 judges, 2 (Messina and Pinotti) are owners of a Spanish certification of arms and the same is indeed possessed by Horak, as well as by Terence MacCarthy and, consider again, all (the judges as well as the plaintiff and defendant) are competent antiquarian enthusiasts!! Does this have sufficient power to adulterate a serious ruling of these judges???

Frankly, it seems to me a somewhat ridiculous and infantile interpretive tinkering with the validity of the judgement to play games with mere allusions or inferences to sustain a vague atmosphere of doubt or discredit.

The incontrovertible fact is the numerous documents presented and the official recognitions!

For your information, the judges and the contending parties were aware of my findings regarding the genealogical proof of the plaintiff, that - as I have said many times - they are NOT in line with my scientific standard of documentary evidence, but that nevertheless they were sufficient for 2 Chief Heralds of Ireland and numerous dynastic Orders!

DIFFERENCE BETWEEN THE JUDGMENT OF A TRIBUNAL (TRIBUNALE) AND AN ARBITRATION RULING OF A LOWER COURT (PRETURA)

It is important not to confuse this sentence (arbitration ruling of a lower court) with that given according to another form from another type of judgment (tribunal judgment).

Remember that in Italy the rulings of judicial authority become final, even with regard to the Consulta Araldica, had to be annotated in the books and registers of nobility according to the proviso of article 73 of the Ordinamento dello Stato Nobiliare Italiano, approved with R.D. 7/6/1943 n.651. Note that many cases, tribunals have excluded the need of the Consulta Araldica to intervene in judgments.

The Consiglio di Stato in 1925 had observed that inscription in the Libro d'Oro could be legitimately nullified even when a final judgment existed between contending parties if there were other persons who could contest a certain right and for whom the ruling did not constitute "giudicato or cosa giudicata".

There are numerous and important examples of recognition of noble titles based on judicial sentence! Some sentences by authority of the judiciary: 1) Bonanno Michele (legitimacy of the succession to the titles of Prince of Linguaglossa, Baron of Maeggio, Baron of Delia); 2) de' Curtis Antonio, later Focas Flavio Angelo Ducas Comneno de Curtis di Bisanzio Gagliardi c. Nemagna (Count Palatine m., Prince mf., known to the general public as TOTÒ); 3) Rocco Giuseppe, etc. Let us remember however that the sentences of the Judicial Authority before 31 December 1947 were considered by the Presidenza del Consiglio normal nobiliary measures and so nobiliary titles and treatments recognized by them were written in the Libro d'Oro of Italian Nobility, while those coming after that date are considered, by the Constitution of the Republic, to have no effect of nobility and therefore they are recorded, by request of the interested persons, merely as a modification of a surname.

I remember especially that written in a particular way in the Libro d'Oro of Italian Nobility was the sentence of 15 November 1952, No. 6417, Mistruzzi vs. Mistruzzi, regarding the title of the Prince of Pietrastormina (m), etc.

At last with the sentence n°101 of the 8th of July 1967 of the Corte Costituzionale cannot exist more in Italy any possibility of nobiliary nature.

There are many persons known today in nobiliary, heraldic and chivalric circles who use their titles socially without opposition, but who are recognized only by virtue of a judicial sentence!

It is possible to compile a breathtaking list of persons "above suspicion" who are accepted as recognized nobility - believe me! - based solely on the rulings after 1948.

Certainly I am not interested in, nor do I desire to engage in, polemics on the matter of whether or not there exist a great many rulings that are based on "manufactured" documents. But I know that in the

world there are many judgements founded on “manufactured” documents. And to affirm that Italy is the country of rulings founded on false documentation is really incorrect and unjust!

In the Anglo-Saxon world the Deed Pool lets everybody very easily take the historical name of a great famous family (probably extinct) and I know that also some Italian have used this “legal” way... Because in Italy it is much more difficult to change the surname without justified motivations.

Just recently, I received a letter from France asking if I know a Prince or Duke without means ready to adopt a rich French, who is going to become Prince or Duke through a French Judgement!!! (SMILE)

About the matter (manufactured documents), it is a very small world, yet in Spain recently numerous false titles have been canceled (and they were “reabilitaciones” signed by the King!).

All the countries have their own faults in this field!!! And also in this case I could prepare a long list...

But the sentences of MacCarthy Mór vs. Horak really have nothing to do with the opinions of those sentences expressed by Mr. Sean Murphy MA of the Centre for Irish Genealogical and Local Studies or others, which have all been written in an incompetent manner without having read the entire sentences (otherwise they have understood them to be ANOTHER THING ENTIRELY!). I remind you again that the arbitration rulings of which we speak deal with the right to a coat of arms as a graphical expression of the name!

Unfortunately I must stress that the peoples who attend newsgroups rarely prove their affirmations by documents and prefer unscientifically expressions and superficial opinions while avoiding to study the question more deeply.

As I believe this occurs in all parts of the world, so too in Italy within the contents of the statement of a verdict are various verifications, motivations and considerations, which to a NON-EXPERT might resemble the attribution of so many rights (in this case, honors, receptions, concessions of titles, etc.).

After all, the same thing occurs in many official heraldic recognitions of Kings of Arms and Heralds, or in the private matters of patents of appointments to honors and chivalric orders on the part of the descendants of ancient sovereign houses (true dynasties), who have written in their letters patent, phrases which have nothing to do with the actual reality to which they refer (for example: in the Patent Letters of the Sacred Military Constantinian Order of St George of Naples it is written: “...Nos Magnus Magister eo quo pollemus supremo jure quod a praedecessoribus Nostri accepimus et gentium, consensione an antiquissima aetate recognitum presertim vero Maximorum Romanae Ecclesiae Pontificum autoritate communitum in perpetuum confirmatum et **Sanctae Sedis Protectione usque ad praesens robotatum gerimus scientes prudentesque...**” but everybody knows that the **Protection of the Holy See does not exist anymore beginning from 1924**. In the Patent Letters of the Order of the Merit of St Joseph of Tuscany we read: “...vogliamo quindi, e ordiniamo, che sia riconosciuto come... di detto ordine, con tutte le prerogative, e distinzioni al medesimo annesso, e conmettiamo **ai nostri Ministri, Governatori ed Ufficiali** di farlo riconoscere per tale ad ogni occorrenza...”, but all of us know that the actual Titular Great Duke of Tuscany has no Ministers, Governors and Officers...etc.

But recall again that the Constitution of the Italian Republic does not recognize titles of nobility, which in a sentence remain simply irrelevant and an embellishment, for THE POINT OF THE DISPUTE IS SOLELY THE RIGHT TO A COAT OF ARMS. Everything which labors toward this end (i.e., the recognition of titles) signifies NOTHING!

In spite of what you erroneously wrote on the NN, in the verdict it is considered only as: “..una corporazione o confraternità in pratica come una Corporazione nobiliare che raccoglie Gentiluomini possessori di stemma... In merito agli articoli 7-8 della Legge 3 marzo 1951, è ovvio che il NIADH NASK, data la sua natura di **Ordine non cavalleresco** e neppure di **Decorazione di natura cavalleresca** nel senso e negli intendimenti conosciuti e a cui si ispira la Repubblica Italiana, dovendosi considerare un Onore di contenuto Dinastico sorto in un'epoca nella quale non esistevano gli Ordini cavallereschi come vengono intesi secondo i dettami della legge in questione, per la sua natura e per i suoi scopi non può e non deve considerarsi soggetto ai dettami di tale Legge”.

In Italian the word “ORDER” means a group of persons which constitute a particular category with common characteristics! For example: the Order of Engineers, Order of Physicians... but also the Order of the Knights of the Lands of Alba (Ordine dei Cavalieri delle Terre d'Alba) which is an association with enological-gastronomic purposes...

In the Italian verdict the NN is defined in the aforesaid manner to avoid any confusion with Orders or Decorations according to the Law of 3rd of March 1951 because NN has nothing to do with an Order or Decoration according to the affirmations of that law... It is only an Association or Corporation or Confraternity and nothing more! So in Italy NN does not need any authorization to use it!

Please I pray you to read the Italian text and understand it in a juridical manner!

I should be pleased, reading this newsgroup, to finally find new contributions which support with true science and documentation the arguments they advance. I wish they could also place on the web the entire text, as well as copies, of the documents to which they refer.

Documentation, I have always maintained, is the foundation upon which is built every affirmation which must have scientific validity.

Without documentation, everything is supposition, and is no different from that which is vented by those who in their lives have nothing to do!

Thus, as I believe I have now presented in this forum some of my thoughts on this turn of events, I have no problem in stating clearly my thoughts, which are as follows:

1) I have always said to Terence MacCarthy that his genealogical proof, as I know it and as it is known to the Chief Herald, is totally insufficient according to my concept of serious and unquestionable genealogical proof!

But - take note - by the same strict standard I equally consider insufficient many other genealogical proofs, i.e. those recognized by the Regia Consulta Araldica Italiana which refer to Italian families of primary nobiliary importance, some of which have been accepted without discussion even by the people who frequent this newsgroup!

Besides this, in all the “Mac Carthy Mór” story there are really many contradictions (as now says the Genealogical Office) and a lot of incredible vicissitudes against every logic basis!

But, I repeat, I speak only for myself and I have no official authority, therefore my thoughts are limited to myself, and officially I always defer to what a State recognizes - without debating in any way on the merits of such recognitions.

2) Terence MacCarthy is perfectly aware that I have objections to almost everything presented in his Internet sites, because, in a few words, they seem to me - to put it delicately - somewhat behind the times. But note that I have made the same judgement on many other sites that I have seen maintained by persons in this newsgroup, which enjoy (or seem to enjoy) a certain consideration.

3) For me it is irrelevant, for the purpose of determining the scientific validity of a genealogy and a heraldic or nobiliary patrimony, that there is a negative judgment regarding the private life of a person (many members of Royal Houses have been accused privately of a particular lifestyle - for example the Infante Francesco d'Assisi di Borbone, King Consort of Spain, or the Infanta Isabel of Bourbon-Parma, wife of Emperor Josef II of Habsburg-Lorraine); just as indeed it is absolutely irrelevant, for the purpose of determining the scientific validity of a genealogy or of a heraldic or nobiliary patrimony, that there is a negative judgment of a criminal nature (many sovereigns might be considered criminals, together with Henri V of France or Tsarina Catherine of Russia).

4) I repeat that I give merit to the official recognition of a state, in this particular case the Republic of Ireland in the context of its proper competent office, that is, the Genealogical Office in the person of the Chief Herald. Yet I am quite perplexed by the basis of the subsequent declaration (Statement by Irish Genealogical Office, August 1999) in print and on the web whereby it is asserted:

“Statement by the Irish Genealogical Office

August 1999

(unsigned)

Genealogical Office

2 Kildare Street

Dublin 2

Ireland

Tel. 01-603 0200

RECOGNITION OF MR TERENCE MCCARTHY AS MACCARTHY MÓR

BACKGROUND

Arising from the publication and circulation of various statements, letters etc. which contain inaccurate and misleading information in relation to recent decisions and the reasons therefor, this statement has been prepared in the Genealogical Office for issue to those who have contacted the Office about these matters. In 1944, the Genealogical Office established a system under which "courtesy recognition" was granted to the senior descendants, by primogeniture, of the last inaugurated or de facto Gaelic chieftains. Some additional "chiefs of the name" were recognised by the Office in subsequent years, bringing the total to about twenty. Under these general arrangements, Mr Terence McCarthy, a native of Belfast, was formally recognised as MacCarthy Mór in 1992.

A review of Mr McCarthy's right to continue to be recognised as chief of the name was initiated in 1997-98, following receipt by the Genealogical Office of a claim for recognition from a Barry Trant McCarthy, resident in England.

Having carefully considered submissions made by or on behalf of Mr Terence McCarthy in the past 18 months and having reviewed the correspondence dating from 1977 between Mr McCarthy and the Genealogical Office, it was decided that:

- *(i) the 1992 decision to grant courtesy recognition to Mr. McCarthy as MacCarthy Mór must be regarded as null and void;*
- *(ii) the decision in 1979 to ratify and confirm arms to Mr McCarthy must be regarded as invalid; and*
- *(iii) the pedigree registered for Mr McCarthy in 1980 is without genealogical integrity.*

Notice of these decisions was sent to Mr McCarthy's solicitor on 13 July last.

Recognition as MacCarthy Mór

It is accepted that Mr McCarthy advised the Office in the 1980s of his view that tanistry (selection from within a limited family group i.e. the deirbhfhine) rather than primogeniture was the appropriate basis for recognition. The Office accepts that it might be considered to be inappropriate at this stage to set aside courtesy recognition in his case simply because it involved a departure from primogeniture; no such decision has in fact been made.

In making application for courtesy recognition in 1985, and in subsequent correspondence with the Genealogical Office, Mr McCarthy advanced a particular set of facts and statements on the basis of which recognition was formally granted in 1992. Central to this case was the assertion that Samuel Trant McCarthy revived the style and title of MacCarthy Mór in 1921, and that Terence McCarthy's grandfather succeeded, by tanistry, on the death of Samuel Trant McCarthy in 1927. An entirely different set of facts has been relied on by Terence McCarthy in more recent times as the basis of his claim to be known as MacCarthy Mór. He now asserts that Samuel Trant McCarthy was never entitled to recognition, that his claim was "entirely fictitious", and was based on the suppression and falsification of genealogical facts. In conjunction with this, he asserts that his own grandfather (Thomas) was invested as MacCarthy Mór in 1905.

Mr McCarthy has not denied that, up to the time of his formal recognition by the Genealogical Office in 1992 and, apparently, for some years afterwards, he openly acknowledged Samuel Trant McCarthy's assumption of the MacCarthy Mór chiefship and based his own case for recognition on succession from that gentleman, via his grandfather and father. It was not until February 1998 that he advised the Genealogical Office that the basis for his claim had been completely changed. The Office finds the reasons given by Mr McCarthy for his decision to base his original claim on succession.

from Samuel Trant McCarthy, and for deciding in more recent times to advance a different set of facts, to be entirely unconvincing.

In these circumstances, the real issue which arises in the case of Terence McCarthy is not whether recognition should be based on primogeniture or on tanistry. The fact is that he has declared that the factual basis on which he sought courtesy recognition, and was granted recognition in 1992, was false. By doing so, he has clearly invalidated the decision to grant him that recognition. The records of the Genealogical Office have, therefore, been amended accordingly and the decision made in 1992 has been declared null and void. The Office has also advised Mr McCarthy that it finds the evidence submitted by him in 1998 in support of the alternative basis for recognition to be unconvincing. There

is no record in the Office of a pedigree which, Mr McCarthy states, was sent to his grandfather by Sir Arthur Vicars, Ulster King of Arms, with a letter dated 30 October 1905. No reliable evidence has been adduced to support the claim by Mr McCarthy that his grandfather was invested as MacCarthy Mór in 1905, and no independent evidence has been submitted to show that an alleged "pacte de famille" ever existed, or as to the personalities who took part in the alleged pact.

Confirmation of Arms

Other issues in relation to Mr McCarthy's dealings with the Genealogical Office since 1977 have been reviewed arising from statements made to the Office by him or on his behalf in 1998. It has now become evident that the genealogical information submitted by him in 1979 in connection with a formal application for a confirmation of arms was incomplete and misleading in a number of important respects and that he failed at that time to produce to the Office all of the information which is now stated to have been in his possession at the time. The net effect was to induce the Genealogical Office to grant a confirmation of arms in December 1979 based on, and actually incorporating, incomplete and/or inaccurate information. That confirmation of arms must therefore be regarded as invalid, and the records of this Office have been amended accordingly.

It might be noted that, in applying for a confirmation of arms in 1979, Mr McCarthy made no mention of the use of the style or title MacCarthy Mór by his father or grandfather, a fact which would have been of crucial importance in dealing with his application.

Registration of Pedigree

In 1980, when making a submission to the Genealogical Office for the purpose of having a pedigree registered, Mr McCarthy presented a set of facts in relation to the early generations of his family which differed considerably from those contained in his 1979 application for a confirmation of arms. The discrepancies do not appear to have been detected and pursued with him at the time. In addition, serious gaps and inconsistencies exist in the chain of evidence in relation to that pedigree and, while Mr McCarthy has made detailed submissions in relation to these, the gaps and the inconsistencies still are not explained satisfactorily.

The Office has therefore advised Mr McCarthy of its belief that the information supplied by him in 1980 in requesting registration of his pedigree was seriously deficient and insufficient to warrant registration of the pedigree. It appears that reliance was placed at that time to an excessive degree on uncorroborated statements and uncertified copies, transcriptions, or summaries of documents, the originals of which were not produced or were said to have been destroyed by fire, flood or explosion. The Office takes the view, therefore, that the registered pedigree is without genealogical integrity and a notation to that effect has been made in the records of the Office.

Alternative claim for recognition as MacCarthy Mór

The claim of Mr Barry Trant McCarthy to be granted courtesy recognition as MacCarthy Mór requires considerable further investigation before a decision can be made. August 1999"

My only question is: Why did the Genealogical Office take so long a time to understand what it now asserts? And why did so many authorities, scholar in Gaelic matters and people not understand the value of the documentation?

I recognize the merit and value of the Genealogical Office which with its decision is showing now a scientific behavior; also although until now I have not seen any documents, I must believe that a public body of the State makes such a decision only with the valid support of documentary examination.

I only hope that the Genealogical Office will continue in this scientific way in the future and will re-examine past grants and matriculations both Irish and foreign.

5) My judgment is based solely on documentary evidence. However, I have yet to see the documents; in particular the document with which a certain Bernard MacCarthy is made to be the founder of the family. If, indeed, this document exists, it could alone be sufficient to close the question definitively! Mr Murphy talks about this document on the Internet. I asked my friend Dr. Lindgren (it is about 2 months ago) to request the document from Mr Murphy but the document has yet to arrive. Why? Today I know perhaps the true reason...

6) To Terence MacCarthy must be given indisputable credit for having revitalized a fascination with the forgotten remains of Gaelic culture. He has made known the history of the ancient Kingdom of Munster, has sought to present to public understanding and interest through publishing works once inaccessible or forgotten. Certainly the aspect of scientific truth with which these arguments have been offered could sometimes seem debatable, but I must again say that, in spite of the extremely long discussion which has taken place on the web, I have never met about these matters (I mean heraldry, genealogy and the history of chivalric orders) nothing more (excluding very few cases) than writers of popular science, keen, people who simply plagiarize, and remake books just published by others, while true scientific researchers that have serious and original information contributing to real knowledge can be counted on one hand.

7) If I was Terence MacCarthy and was convinced of my full rights, I would strive by all legal means against anyone in defense of my name and of all that it represents!

8) I am an understanding person, but I will not accept false documents, nor will I be content to have my good faith trampled and mocked by anyone!!!

I am ready to reply to every question if someone wants, but only in Italian because to translate into English would require considerable time from my other scholarly pursuits (in these days I am writing some scientific works on Italian genealogy and heraldry).

I believe that whoever wants to know the truth is also ready to make the effort to translate my Italian, (the same as I must make every day to remain informed of your opinions, reading your English), but if he does not desire to do so, surely he does not have the objective of justice in this matter, nor a profound desire to know the truth!

I must thank for their aid in translating my statement Dr. Patrick O'Shea and Dr. Carl Lindgren, who have showed a great kindness toward me.

Dr. Pier Felice degli Uberti (pfdegliuberti@gmail.com)

10th of October 1999