

THE INNESES OF STOW

"I know that at one point in the family history there was a very big dispute over a will, and even to this day I understand there is money in Chancery. It was either my grandfather or great grandfather who spent a considerable sum in trying to establish a claim."

– William Arnold "Bill" Innes to Sir Thomas Innes in 1953.

The time has come to consider the vexing question of whether we, through Francis Innes Tranent, are descended from, or related to, Gilbert Innes of Stow, on whose estate, for many years, we thought we had some sort of claim never established. In this chapter, we'll look at the documentary evidence and in the following chapter we'll examine the DNA evidence.



Gilbert Innes of Stow

Our earliest known progenitor, Francis Innes Tranent, was born in 1776 or thereabouts when Gilbert Innes was twenty-five years of age and four years from inheriting his father's vast fortune. Gilbert, we know, never married, dying without lawful issue. Therefore, according to the Scottish Laws of Succession, we could only have had a claim on Gilbert's estate if Francis was descended from one of the male siblings of Gilbert's father, George, that is, from one of Gilbert's uncles. But even if we weren't so descended and had no legal claim

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on his estate, we might be related in other ways. Francis might have been one of Gilbert's many fly-blows; or he could have been descended from one of the collateral branches of the Stow family; or, last of all, he may not have been related at all and my relatives, his putative descendants, were hoodwinked like so many others.

"Meet One of Your Fly-blows."

For this colourful, if slightly disgusting phrase, I am indebted to the late Tom Stanley, 8th Baron Stanley of Alderley. "Meet one of your fly-blows," said Tom to Lord Shrewsbury at one of his shoots, a few years ago. He was introducing Jenny, my Cousin William's wife, the source of so much information, gossip, and hilarity through the writing of this piece. Jenny's great-grandmother was the illegitimate daughter of the Earl of Shrewsbury.

Let's look at each of these possibilities but first, who were the Inneses of Stow and where did they come from?

When Jane Innes, last of Stow, died at the advanced age of ninety-two on December 9, 1839,^{vi} she left a fortune so large and a will so vague that for a hundred years various branches of the Innes family, my own included, were encouraged, by fortune hunters on both sides of the Atlantic, to pursue their claims to her estate. Some claimants formed syndicates; others from abroad even went so far as to take up residence in Scotland.^{vii}

Chief among the organizers of what became syndicates of claimants was William Fitzstrathern, or Fitz, as he came to be known as Kate Deans and I researched him. He was an accountant and law

genealogist.¹⁰⁷ Importantly, as we'll see, he was also known to my third great-uncle Thomas Innes Edinburgh, who lived on William Street in Edinburgh.

Petrie Strange alias William Fitzstrathern

Until he became a law genealogist, Fitz, whose real name was Strange Petrie, worked as an accountant in the office of a writer to the Signet where he prepared taxation documents for approval of the Court of Session.¹⁰⁸ It was said of him that "He wrote a beautiful hand," to which I can attest, "and was uniformly obliging and attentive. He was good-looking, with rather an inclination to corpulency."

When he abandoned accountancy to become a law genealogist, he also abandoned his given name of Strange Petrie for the more aristocratically sounding William Fitzstrathern, putting it about that he was the illegitimate son of the Duke of Strathearn, by which title the Duke of Kent was known in Scotland. Whether true or not, "it was generally understood that he received from time to time money from the South."

As an investigator of pedigrees, he enjoyed some success. He successfully supported a claim brought by the Bishop of Winchester to a Nova Scotian baronetcy; although, it should be noted, the prelate's son later declined the title which might oth-

¹⁰⁷ Notes and Queries J.M. Note on 1 January, 1869, by Petrie Strange, alias Mr.

Fitzstrathern (4th S. ii. 392, 451).

¹⁰⁸ Ibid.

erwise have been challenged had he not done so. He also supported a successful claim to the estate of Sir John Leman which had languished in Chancery for many years.

How large was Jane Innes's fortune? Estimates vary, but upwards of two million pounds, the great bulk of which had been acquired by Gilbert Innes, Jane's brother, as a banker. At the time Jane inherited it, it was said to be the largest ever received by one individual in Scotland.

"I know that at one point in the family history there was a very big dispute over a will, and even to this day I understand there is money in Chancery. It was either my grandfather or great grandfather who spent a considerable sum in trying to establish a claim." So wrote my cousin W.A. "Bill" Innes to Sir Thomas Innes in 1953.

This was a popular misconception: that Jane had died intestate and that her large fortune lay in Chancery there for anyone who could prove their claim to it. We see it still alive in W.A. "Bill" Innes's letter quoted above. We also see it in earlier articles like one published in the *Sarnia Observer* on March 14, 1879,^{viii} which said: "Miss Jane Innes, conceiving the idea that her suitors were only fortune seekers, remained single, and in 1839, when she died by a fall, left neither heir nor will. There were at once many claimants to the estate, which, however, the Crown seized and placed in Chancery, from which few estates ever return." This report was patently false, as we shall see in the course of this chapter.

Who Were the Inneses of Stow?

The exact origin of this family is not known but it is thought that they descend from Walter Innes of Toux, second son of Walter Innes, First Laird of Innermarkie.^{ix}

The first of record for this branch of the Innes clan is Gilbert Innes in Longside, Aberdeenshire, whose son, William Innes, of Torterstone & Barnyards County, born in 1640, had three sons: Gilbert, born 1672; William, born 1676; and Alexander, born 1680.

The youngest, Alexander, was the first of this family to enter the Edinburgh banking world, and therefore one might be tempted to say that he was the one who “got the ball rolling.” Nevertheless, it is Gilbert Innes in Rora,^x his eldest brother, in whom our interest resides, as he was the one from whom the Inneses of Stow descended.

Gilbert Innes in Rora

While Alexander was making his way as the first banker of the family, Gilbert remained at home to become a tenant farmer in the Peterhead area, as his father was. They were middling folk, neither landed nor armigerous, and, having no heritable property, were not particularly absorbed by matters of pedigree or succession.



The church at Belhelvie, where Gilbert Innes in Rora is buried. In 2014 we had difficulty finding his gravestone, buried under sod as it was. In a few years, the

inscription will be worn away.

Gilbert had five sons and two daughters, born between the years 1702 and 1717, more than 120 years before Jane's estate would be settled; and yet, for reasons that we will soon explore, it was this generation and their offspring who would many years later determine the settlement of Jane's estate.

The children were: William, born 1702; George, born 1703; Isabel(la), born 1705; Mary, born 1705; Alexander, born 1711, Thomas, born 1714; and Gilbert, born 1717.

George Innes 1st of Stow

For the moment, let us focus on Gilbert in Rora's second son, George, who, following in his Uncle Alexander's footsteps, entered banking – and made a fortune. George's younger brother Alexander also became a banker and they both worked for the Royal Bank of Scotland.

George was a type we would recognize today and perhaps label as a self-made man. He was ambitious, driven and upwardly mobile. He became Chief Cashier of the Royal Bank of Scotland and Deputy Receiver of Land Rents for Scotland. Along the way, this tenant farmer's son also made a brilliant match, marrying Marion, the daughter of Sir John Lauder, 2nd Bt. of Fountainhall, from a family with Norman connections. In today's parlance, George had arrived. With Marion's support, and very possibly with her connections, George was able to amass a sizeable fortune. How he did it, we do not know and can only imagine. However, suffice it to say that banking in George's day was not the highly regulated industry it is today, when – even with all the regulations – bankers can still accumulate vast sums. Regardless of his methods, however, the result allowed him to acquire the estates of Stow and gain entry into the landed class to which his wife belonged. George and Marion had five children: Marion, born 1745; Allan, born 1747, who died

as a child; Jane, born 1742; Gilbert, born 1751; and David, born 1752, who died as a child.

On February 7, 1780, George Innes, now 1st of Stow,^{xi} died intestate, at the age of seventy-six. The fact that he died intestate is curious but of no immediate practical consequence as, in spite of this apparent carelessness, the succession was straightforward. To his only surviving male child, Gilbert, went his estate, Gilbert succeeding him as Gilbert 2nd of Stow.

Gilbert Innes 2nd of Stow

Gilbert Innes was twenty-nine when he inherited George's wealth, a huge sum for someone at any age but especially for someone so young. Whether this combined circumstance influenced his character development would be pure speculation on my part; however, the fact remains that his life did not evolve along conventional lines.



Dundas House, across the square from Gilbert's house, became the head office of the Royal Bank

As a young man of considerable property, he might have been expected, under the prevailing system of primogeniture, to marry and produce an heir (and a spare), thereby securing the family's recently attained position of power. But Gilbert didn't do that; didn't cement, if you will, the social advances made by his father. Instead, he remained single, resisted all entreaties to do the honourable thing, and chose to seek his pleasure outside the marriage bed. It is said that there was a very famous brothel in Edinburgh at that time, conveniently sited between Gilbert's home and his office at the Royal Bank of Scotland head office, well patronized by the Edinburgh aristocracy.^{xii}

A Courtesan's Note

"Gilbert Innes of Rora begat George Innes of Stow, who begat Jane Innes and Gilbert Innes, which Gilbert begat 67 bastards and he never was married – he was gathered to his fathers when he was 81 years old and the acts of his whoredom are written in the parish chronicles of Scotland."

By many different women, some of whom were socially respectable but most of whom were not, Gilbert fathered many children and the voices of their mothers can be heard in their letters, preserved for all to read at the National Archives of Scotland.¹⁰⁹ This note, for instance, written by a courtesan, was found among Fitz's Papers at the National Library.

To advance his clients' cause, Fitz gathered a great deal of anecdotal evidence about the Inneses of Stow, some of which found its way into the press of the day, some of which, like the stories below, did not; nevertheless, the stories do provide a measure of Gilbert the man.

The Nobleman's Jewels

¹⁰⁹ Innes of Stow papers at National Archives of Scotland. In April 2014, I spent a delightful two days at the National Library reading the Fitz. Papers with Kate Deans, whose great-grandfather, Robert Innes, was one of Gilbert's indiscretions and a very successful shipbuilder in Leith. (Jane Innes, who was fond of Robert, gave him his start in life by financing his shipyard.)

“MacDonald, pawnbroker of Edinburgh, stated that he knew Gilbert intimately, and related several anecdotes of his amours and pecuniary transactions which place him in no enviable light. As a sample, a foreign nobleman pledged with Mr Innes his wife’s diamond necklace, valued at 600 guineas, for only one hundred pounds, which Mr Innes bound him to repay within one month, otherwise the jeweled article became forfeited.

“By the delay of the post, the money came a day too late, and when the one hundred pounds were offered the usurer he (Gilbert) refused it and kept the diamonds, which Mr MacDonald has often seen.”¹¹⁰

If Fitz is to be believed, Gilbert was a ruthless, heartless man as the extract above makes plain. Quite apart from Gilbert’s ruthlessness, this story also suggests one of the means by which Gilbert enlarged his father’s already large fortune.

Such callous ruthlessness, however, was not confined to his business affairs, he was equally callous in his affairs of the heart, to which the incident as recounted by Fitz below attests.

Mrs. Leslie’s Demise

“Her death (Mrs. Leslie’s) was occasioned by a shock of a different manner. While Mr. Innes lived with her by frequent visits (she resided at St James’s Square comfortably with her family), she asked him to make a settlement for her and her family, and to

¹¹⁰ Fitzstrathern Papers, National Library of Scotland.

get rid of her importunities he presented her one day with a parcel neatly sealed up in strong cartage paper telling her that it contained a settlement by him in her favour, which he directed to be carefully placed in a box under lock and key and each was to have a key to said box but he made her promise that she would never open the sealed packet until after his death and that he would occasionally examine the package to see if she had kept her promise and if she broke her word she would get nothing. Relying on his truthfulness she did not dare to disturb the packet until his death when, according to his written orders on the outside of the packet, she sent for two lawyers in whose presence it was unsealed and examined when his fraud was discovered as the packet consisted of one blank packet within another and this had such an effect on Mrs Leslie that she became ill and died in a few days. The lawyers were disgusted. They represented the matter to Miss Innes and she provided for the children by giving each of them 5000 pounds. She said afterwards to Mackie that the son Leslie was a fool as the first thing he did with his money was to buy a gig and horse who ran off and broke the gig in Leith Walk on a lamp post."

Further down in the same notebook, there is an entry in which Fitz describes the relationship between Gilbert and his son, Robert Innes, Kate Dean's second great-grandfather.

A Barefooted Boy Finds Favour

"Robert Innes, shipbuilder Leith another son was neglected – a poor barefooted boy went to sea – returned home as a sailor, called on his father who disowned him – but when he died he

got in favour with Miss Innes whom he often visited and entertained her with his adventures and long yarns – wherefore she first gave him 500 pounds and afterwards bought him the building yard at Leith for 1,400 pounds.”

All these anecdotes paint a rather unattractive picture of Gilbert Innes. However, they illuminate only one side of his complex character. On the other side of the ledger, there is abundant evidence to suggest that he was a man of considerable refinement, a friend and patron of Raeburn, and an active and very generous participant in the intellectual and cultural life of Edinburgh.

In April 2014, Kate Deans and I visited Gilbert’s tomb in Greyfriars’ Churchyard. It was in disrepair, a broken finial on the grass. (How sad that those who received so much from Gilbert care so little about his memorial.)



Gilbert's Tomb

Gilbert died on February 26, 1832, without making a will, or even leaving a family pedigree as a guide to his lineal and collateral heirs.^{xiii} That he died without a will was negligent and inexcusable to say the least, and some, like his cousin David Littlejohn,

were not shy to express their view. Writing to Jane on March 13, 1832, from 3 Roxburgh Street, Edinburgh, he expresses the hope that “she is well notwithstanding the load of business thrown upon her by a Brother’s omission of a duty, which nothing but an entire confidence in the strength of mind, prudent discriminating



judgment and known probity possessed by his surviving sister could any other way excuse, or palliate.”

Jane Innes Inherits

At the time of Gilbert’s death, Jane was seven years his senior and already a very old woman. Nevertheless, in spite of her age, she moved from her small but elegant house at 7 Picardy Place to Gilbert’s immense but rather plain town house, 25 St. Andrew’s Square. The house which she now occupied *Jane’s house in Picardy Place, now fronted by a* was full of the detritus of Gilbert’s long and full life: his correspondence, his ledgers, his lawsuits; every last piece of paper that had ever crossed his bureau was there preserved – everything except a family pedigree.

“Let the mites fight for the cheese”.

– Miss Jane Innes

Jane survived her little brother, Gilbert, by seven years, living out her life unostentatiously,¹¹¹ unwilling – or perhaps unable – to spend all the income thrown off by Gilbert’s fortune. As a result, the fortune grew ever larger in her hands.

¹¹¹ Ibid. Jane Innes’s Obituary, *Gentleman’s Magazine*, Volume VIII, 1840.

Within a matter of days after Gilbert's death – nine, to be precise



Gilbert's house in St. Andrew's Square

– she executed a trust disposition and settlement of her heritable and movable properties, containing the usual clauses, in favour of three trustees, but without naming and recognizing any either as heir-at-law (entitled to her real estate) or nearest of kin (entitled to her personal estate). This omission was entirely owing to her ignorance of her genealogy, as she is said to have stated to her faithful confidential servant-men, one of whom, named Macqueen Mackay, was still alive in 1851, “that she really did not know

the names of relatives, or where they resided, but she was certain that her nearest of kin were poor people, residing somewhere in England, who would claim their rights when she was dead”; and she then remarked with emphasis, “Let the mites fight for the cheese, for I am too old to take the trouble to search them out.”¹¹²

To my ear, this statement has a ring of authenticity about it. One can imagine an old lady well into her eighties, suddenly burdened with cares of property ownership, saying this. It was also prescient. It should be noted that, at any time before her death, Jane could have specified beneficiaries, whether next of kin or not. Her trust disposition made provision for this. She could have revised her will: “To and in favour of such person or persons, and for such ends and purposes, as I may appoint and direct by any writing or writings under my hand, even although executed on death-bed, and however informal, if clearly indicative of my intention.” It is difficult to gauge how much significance to attach to the fact that she never took advantage of this clause. Perhaps she really was too old and too tired to be bothered. (We already have a sense of that.) It

¹¹² Ibid.

could also be that she had complete faith in her trustees to see that her estate went to her nearest of kin.

The Mitchells Stake Their Claim

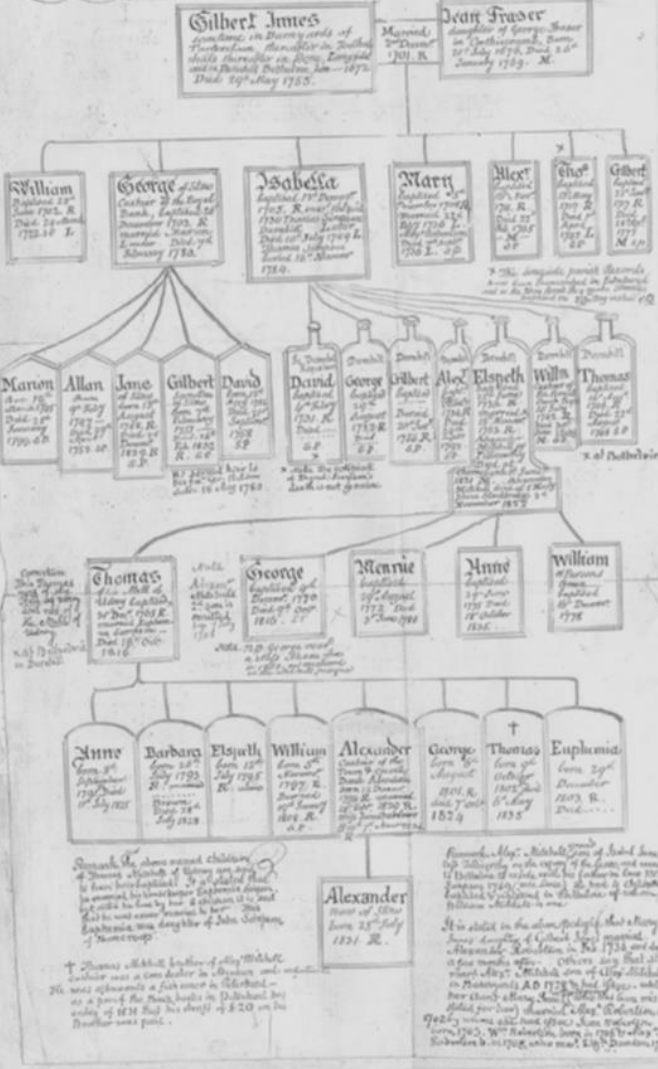
Jane died on December 9, 1839. And whatever else can be said, her estate was settled very quickly. Moving rapidly, and pre-emptively, William Mitchell of Parson's Green, as her nearest-of-kin, got possession of her personal estate, worth £800,000, and for his ward, the minor Alexander Mitchell, as her heir-at-law, he took possession of her real estate, including the estates of Stow.^{xiv}

Who was William Mitchell? William Mitchell was the third son of Jane's first cousin Elspeth Simpson, who was the daughter of Isabella Innes, the sister of her father, George. Elspeth married Alexander Mitchell of Tillicorthy. In other words, he was Jane's first cousin once removed.

Alexander Mitchell, William's ward, was even further removed from Jane. He was the grandson of William Mitchell's eldest brother, Thomas, and was therefore Jane's first cousin thrice removed.

Edinburgh, 26 August, 1856.

Pedigree of Alexander Mitchell Esquire (of Strath) as made up by his
Opals in 1840 and printed at his request with some remarks by J. R.



Alexander Mitchell's Pedigree. Reproduced with the permission of the National Library of Scotland

Scarcely a month had passed before Jane's trustees had transferred her estate to these two individuals, neither of whom could be considered close relatives, in a manner so expeditious as to raise eyebrows in certain quarters and ultimately result in changes to the law, among other things "creating a Sheriff in Chancery for Scotland to judge of pedigrees."

This doesn't necessarily suggest that there was any wrongdoing. It does, however, suggest that the process by which the assets were transferred was flawed and worked to the Mitchells' advantage and, perhaps, to the detriment of others.

| Quite apart from the size of the fortune that was at stake and which would have motivated anyone in the same situation, William Mitchell's eagerness to assert his great-nephew's claim – and his own – was perfectly understandable on a number of other grounds: that, first of all, although he couldn't be sure that they were Jane's "nearest of kin" genealogically, in every other sense they must have felt the nearest to her. They lived in the same town, moved in the same circles; William was Cashier of Jane's bank, the bank in which her fortune was squirrelled away – a bank with which both families had had a long association over time. This intimacy, if we can call it that, cut both ways: it gave William privileged access to Jane and her world, before and after she died, and it also made the allegations of wrongdoing levelled against them more plausible and, in a way, more difficult to refute.

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Other Claimants Surface

In a letter that I have already quoted to W.A. “Bill” Innes,¹¹³ dated January 9, 1953, Sir Thomas Innes (see Preface, Introduction and chapter 2)¹¹⁴ described the situation following Jane’s death, as follows:

“There was between 1839–60 a series of lawsuits as speculative syndicates were formed, which got people to put up money to lodge claims, and so successful was the ramp that they combed almost all the less established ‘Innes’ families extant in the middle of last century in efforts to lead them into believing they were ‘Stow’ cadets, and getting subscriptions to ‘fight’ claims mainly with not a shadow of real ground behind them.”

In spite of the legal challenges looming, mounted by Fitz and others, or perhaps impelled by them, William Mitchell proceeded very quickly to change his name by Royal License to Mitchell-Innes, and by April 1840 – a few short months after Jane’s death – the change was announced in the London *Gazette*.^{xv} In the announcement, William Mitchell, now Mitchell-Innes, gave the reason for his name change as: “In order to testify his affectionate respect for the memory of the said Jane Innes and Gilbert Innes, and towards the family of Innes, from which he is descended as aforesaid.”

¹¹³ William Arnold “Bill” Innes was my father’s second cousin.

¹¹⁴ Sir Thomas Innes of Learney GCVO, Advocate (1893–1971) was Lord Lyon from 1945 to 1969.

Over the next decade, with the Innes handle to his name and Jane's wealth at his disposal, William Mitchell-Innes proceeded to acquire the Ayton estate in Berwickshire, and in 1851, commissioned James Gillespie



Graham to build a red sandstone castle in the Scottish Baronial style on a scale commensurate with his newly acquired wealth. Subsequent additions by various architects resulted in the large, very Victorian, castle we see today.

Unfortunately for the Mitchells, clouds were gathering over the legitimacy of their claim and the manner in which it had been substantiated. It did not take Fitz, his claimants and others, long to discover “that the pedigrees of the Messrs

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Mitchell were not altogether supported by parochial evidence” (i.e. Parish Registers), as result of which they had to rely on “some antiquated letters, upwards of 100 years old, written by third parties, long since dead, to supply the want of marriage and burial registers.”¹¹⁵ And so began a series of legal challenges, none of which were ultimately successful, largely because those challenging quickly – or not so quickly – discovered that, if the Mitchells' genealogy was unsupported in certain respects, theirs was even more so. Fitz had failed them. Fitz's papers in the National Library of Scotland are full of anecdotal evidence and pretty family trees but

¹¹⁵ See Endnote xiii, *Aberdeen Journal*, February 12, 1851.

little hard evidence. Some of the stories, like the ones above, were little more than gossip, used to assassinate Gilbert's character; others to cast doubt on the Mitchells' claim; at both of which Fitz was very successful.

Where he was less successful and where one might reasonably question his motives, was in advancing genealogical evidence in support of his clients' counter claims. The paucity of his evidence makes one question his motives. Was he really nothing more than a scoundrel stringing his syndicate members along? Quite possibly. He certainly kept rather questionable company, for among his papers are letters written on behalf of Princess Olive of Cumberland, for whom he acted as secretary and of whom he was a friend. Princess Olive, whose real name was Olivia Serres, was no princess but rather an impostor, who claimed to be royalty and on the basis of forged documents tried to extort money from the Crown. She was unsuccessful but never prosecuted. Sadly, her story, while fascinating, falls outside the bounds of this chapter. On the other hand, Fitz, her friend, features prominently.¹¹⁶

The Mitchells, having established their claim quickly and pre-emptively, one might almost say with indecent haste – for so it appeared to some – “played for keeps,” frustrating the efforts of other claimants and in so doing, giving the appearance of being less than forthright, of having something to hide, with which Fitz and the press had a field day. For example, immediately after the antiquated letters, referred to above, had been produced in court, it is reported: “William Mitchell borrowed up these documents from the clerk of court, and they have never been seen since. This has given rise to

¹¹⁶ Olivia Serres (April 3, 1772 –November 21, 1834), known as Olive, was a British painter and writer. She is also known as an English impostor who claimed the title of Princess Olive of Cumberland, born at Warwick.

the before-mentioned action to compel exhibition of the old papers for legal inspection. The case has been before Lord Murray twice during the last month, and *Mr. Mitchell's counsel has resisted production on various grounds, and challenges the pedigree of the pursuers*, who make use of certain writings in old printed books, with a view to substantiate their claims.”

What were the letters in question and what did they purport to prove? The Fitz papers provide the answer. They were letters from Gilbert Innes in Rora and George Innes, his son, attesting to the deaths of his sons Thomas and William respectively, whose deaths it was necessary to prove in order for the Mitchells' claim to succeed. Fitz laments the fact that he was never given the opportunity to compare the signatures on the letters with other examples of Gilbert's signature, for example, on the many documents he signed as treasurer of the Parish of Longside. The Mitchells denied him this opportunity.

Reports like this undoubtedly gave encouragement to would-be claimants supported by Fitz and others.

The Proof Required for a Successful Claim

Pausing for a moment, let us consider what the claimants had to prove in order to substantiate their claim to be Jane's heir-at-law under the Scottish Laws of Succession, and therefore entitled to her heritable property, in other words, to her estates.

It may be recalled that Jane, at 92, was the last surviving member of her generation and that neither she nor any of her siblings had had lawful issue. As a consequence, the laws of succession looked to the preceding generation – the generation of her father, George – to find an heir-at-law, giving precedence to the youngest male of that generation or, if he was deceased, to his lawful issue; and if none of George's brothers had lawful, surviving issue, then and only then, were the female siblings and their issue considered.

In the case of the Mitchells (descendants of Isabella Innes, George's sister), they had to prove that none of George's brothers had lawful, surviving issue. And, by the same token, to trump the Mitchells' claim, a successful claimant had to prove the converse: that one of George's male siblings did indeed have lawful, surviving issue from whom they, the claimants, were descended. In both cases, once they had done that, they had to prove the male line of descent from that sibling down to his or her surviving heir-at-law.

Undaunted by the difficulty of proving their claim, many tried and none succeeded; this in part because the Mitchells, with deep pockets filled with Jane's cash, put up a spirited defence, but also for other, practical reasons: the quality of record-keeping in the early eighteenth century for people at the middle level in society left a lot to be desired. (And possibly, although it has never been proven, because there was some tampering with the evidence by the Mitchells.)

Several Claims Make It to Court

The Innes of Stow Succession case came before the courts five times in the 1850s, four times in the Supreme Court of Scotland where it was either removed or withdrawn, and once in the High Court of Chancery in England.^{xvi} Given the huge sums of money involved, it was only to be expected that the press of the day would give wide coverage to the proceedings, and they did. The *London Times* covered the Chancery trial extensively, prefacing its coverage by saying, "as it is of a very singular character we give it fully."¹¹⁷ Singular and sensational. The following excerpt gives one a sense of just how sensational the allegations brought at trial were.

¹¹⁷ *The Times*, Saturday, May 9, 1857. 1857 Law Reports, Vice-chancellor's Courts
INNES v. MITCHELL

In the course of the trial, the plaintiffs made all sorts of allegations of fraud and impropriety on the part of the Mitchells, doing so without producing a shred of supporting evidence. They alleged that William Mitchell had used his position to access and fraudulently manipulate family papers in support of their claim. Notably, they claimed that the parish record to the effect that William Innes, Jane's uncle, had died without children was either fabricated or referred to another William Innes. They also speculated that Jane Innes may have left specific instructions in her diary which were removed by William Mitchell. Most particularly they claimed that documents that established that Jane's Uncle William had children from whom they were descended were stolen from them by the agent of Alexander and William Mitchell. (He had requested the documents to evaluate whether an out-of-court settlement was appropriate.)

There was more. They claimed that the Mitchells had defaced gravestones to obliterate evidence and failed to properly gazette Jane's death. They further claimed that Jane's executors had been bribed by the Mitchells to settle the estate in their favour.

Anyone who takes the time to read the account of this trial in Drewry's Law Reports¹¹⁸ will be astonished by the inventiveness and destructive force of the allegations brought against the Mitchells by the plaintiffs' lawyers. As you read them, each allegation, taken individually, seems very plausible – very credible – and only in aggregate do they appear so gross in character that they stretch credibility. No wonder the taint of wrongdoing continues to surround the Stow succession even to this day.

¹¹⁸ Report of Cases Decided in the High Court of Chancery, 1856 to 1859 by Charles Stewart Drewry, Esq.

For those who are interested, details of three of the cases can be found in Appendix C.

Our Family Considers a Claim

After the 1860s, interest in the Stow Succession abated for a time until the early 1900s when, for some unknown reason, interest was rekindled, although not at the same pitch as before. In the case of our family – a family of Liverpool Scots who, at the time of the first spate of claims, were too busy re-establishing themselves in a new country, England, to be interested – our members had by the early 1900s become sufficiently well established, and prosperous, to be able to pursue the matter. Charles Robertson Innes¹¹⁹ was a case in point. He was a senior manager of a shipping company and was the one who, according to his son Bill, “spent a considerable sum trying to establish a claim” in the 1920s. In fact, little, if anything, concrete resulted from his investment, as Bill’s brother Charles reported to my grandfather in a letter from Gerrards Cross, in 1953:

“Auntie Annie has probably told you that your cousin David Innes did a lot of research on this about 1923 and 1924, and at the behest of my father I spent a weekend with him in London in June 1924.

“David Innes had a friend, Mr. Wilson, whom I also met. He was an official at Somerset House and in a position to obtain valuable information. David Innes, I believe, actually sighted the will [by which, I presume, he means Jane’s will]. My contention was that there was nothing to hide. We were the heirs or we were not. I asked if they had obtained the birth certificates of my grandfather Mr. William Innes and his three brothers, Messrs. David, Frank and John Innes. From there they could then proceed to obtain the

¹¹⁹ My grandfather’s first cousin.

birth certificate of my great-grandfather and his brothers and sisters, if any. I could, however, get nothing tangible from either of these two gentlemen. Everything was ‘hush hush.’”

Of the above-mentioned Mr. Wilson, he goes on to say in the letter: “I was unable to share the great confidence which David Innes reposed in him, because he would not answer direct questions. He may now, however, be willing to impart helpful information.” Sadly, no further information was forthcoming and what information had been obtained was lost, and with it any clues there might have been to our genealogy from that quarter.

Bertha Herdman Asserts Her Right

Among the papers of W.A. “Bill” Innes returned to me by Sir Malcolm Innes^{xvii} was a letter^{xviii} to one Bertha Herdman, living at 21 Domingo Vale, Everton, dated 27 November, 1900, from Lindsay, Howe and Company, a prominent firm of Edinburgh solicitors; and solicitors to Lady Reay,¹²⁰ the widow of Alexander Mitchell. Although lengthy, the letter is a “must read.”

The letter’s intent was to disabuse Bertha of any notion she might have that she had an interest in the Stow estate. While we are not privy to the other side of the correspondence (Bertha’s original letter to Lady Reay), we are able to piece together a partial picture of its contents from Lindsay Howe’s point-by-point rebuttal of it in their letter, given below; which, as a letter, is interesting not just because it provides, in a favourable light, a synopsis of the situation from the Mitchells’ perspective – one would expect nothing less

¹²⁰ Fanny Georgiana Jane, daughter of Richard Hasler, of Aldingbourne, Sussex, who married Donald James Mackay, 11th Lord Reay, KT, GCSI, GCIE, PC, DL, JP (December 22, 1839–August 1, 1921) in 1877.

from their solicitor; but also because it is a marvellous period piece of “legal hauteur” c. 1900.

“Lindsay, Howe and Co
32 Charlotte Square,
Edinburgh.
27th of November, 1900

“Madam,
Your letter of the 19th inst. has reached Lady Reay and has been forwarded to us by her Ladyship with instructions to undeceive you as to the facts relating to the succession of the late Miss Jane Innes of Stow, in regard to which she regrets to see that you have been grievously misinformed.

“In fulfillment of these instructions we have to furnish you with the following information:

“So far from there being in Chancery an accumulated fund of six million arising from the fortune left by Miss Innes, there is not now and never was a single penny of her fortune in Chancery. No such fund exists anywhere.

“There never was any ‘great trial’ when the late Mr. Mitchell was the successful litigant in obtaining the estates.

“At the time of Miss Innes’ death her true heirs were well-known. They were (i) the late Mr. Alexander Mitchell of Stow, who was then a minor and who afterwards became the first husband of Lady Reay, and (ii) his grand-uncle, William Mitchell of Parsonsgreen, who was the younger brother of Mr. A. Mitchell’s grandfather, and who afterwards took the name of Mitchell Innes. The former succeeded to the landed estates as the heir of line according to the ordinary legal rules of succession, being descended from the elder brother and the latter succeeded to the whole personalty as the sole

‘next of kin’, he being two degrees nearer in kinship to Miss Innes than his grand-nephew.

“The relationship of both to Miss Innes was perfectly well-known. The mother of Mr. Mitchell Innes and his elder brother, the grandfather of Mr. Alexander Mitchell, and Mr. Mitchell Innes for himself, had no difficulty whatever in establishing the facts and obtaining possession of the property, the former of the landed estates and the latter of the personalty, which was of great value but not nearly equal to two millions.

“The possession thus obtained immediately after the death of Miss Innes – more than 60 years ago – has never been disturbed. The landed Estates, as you seem to be aware, are in the possession of Lady Reay as the Representative of her first husband. The personalty in one form or another is still in the enjoyment of the descendants of Mr. Mitchell Innes, insofar as it has not been used or disposed of by them.

“In consequence of the largeness of the succession, many attempts were made to extort money from the heirs in possession on the threat that nearer heirs, who were said to have been discovered, would be brought forward and would claim the whole Estates unless some compromise were offered; but these threats were never listened to, and only in one case did the parties resort to legal proceedings by raising a suit in the English court of Chancery. The persons whose names were used in that case were poor, ignorant people resident in England and Wales, who never had any connection with the Innes family, but the real parties were a set of men who had been engaged for some time fabricating and forging documents to aid in making a show of a plausible case. When these documents were brought to light the case at once collapsed and the fabrications and forgeries were seen to be of so gross a character that the Criminal Authorities were led to institute an investigation with the view of discovering and punishing the authors of

them – unfortunately – however, without success in obtaining such clear evidence against any particular individuals as would secure a conviction.

“The only other attempt made in Court of Law to challenge the right of the heirs in possession was made by some respectable but ill-informed persons in Aberdeenshire, who were misled by certain similarities of names into believing themselves the true heirs, but whose advisers found on careful investigation that they had been labouring under mistake and abandoned the suit, paying all the expenses to which they had put the heirs in the possession.

“You and your friends appear to have been misled also by some similarities of names, and on that point we have to mention the fact that in Aberdeenshire and the neighbouring counties of Banff and Morayshire, the names of Innes, Fraser, and Cumming are very common and are common still.

“We may further inform you that Lady Reay is a lady of the highest honour – a lady in every sense of the word – one who would not possess any property unless she fully believed that it was hers in a moral as well as a legal sense. We may also mention that the Senior Partner has been concerned in these matters as Law Agent, first for Mr. Mitchell and afterwards for Lady Reay ever since the raising of the Chancery suit before referred to, that he has a thorough knowledge of the whole facts and of the Family papers, and that he can assure you that the succession of Miss Innes unquestionably devolved upon her right heirs, and that the idea that you or any of your relatives, or friends had or have any interest in it whatever is simply a dream which it would be best for you to dismiss from your mind forever.

“We are, madam,
Your most obedient servants,
(Sgd) Lindsay, Howe and Co.,

“Miss Bertha J. Herdman
West Villa,
21 St Domingo Vale, Everton, Liverpool”

Who, then, was Bertha Herdman? And how did this intriguing letter find its way into some old papers of W.A. “Bill” Innes?



This is Herdman’s painting of the Liverpool Landing Stage in 1864 as it must have appeared to Francis arriving by ship from Clydeside.

Bertha Herdman was an art teacher who lived in Everton, where our great-grandfather Frank settled in the 1860s. She was the daughter of William Gawin Herdman (1805–1882),^{xix} a

well-known landscape painter, and his wife, Elizabeth Darley Innes. The relationship of Bertha to our branch of the family remained a mystery until a reference to Thomas Maitland Innes¹²¹ surfaced in her will, dated August 27, 1926.

“At the instance of my solicitor Edward Moser (of Milne, Moser & Son of Kendal), it has been agreed by Thomas Maitland Innes to pay to me the sum of one thousand pounds for services rendered to him in support of his claim against the estate of Jane Innes

¹²¹ Thomas Maitland Innes is my third cousin once removed. This relationship was discovered by Joanne Downing, to whom I am very grateful.

of Stow in the event of his claim succeeding at the trial shortly to be held.”¹²²

Thomas Maitland Innes was born in South Leith in 1892 (when Bertha was already forty-one years old). He was the great-grandson of Thomas Innes Edinburgh and the second cousin of David Innes, to whom we have already been introduced. The reader may recall that David Innes did research on Charles Robertson Innes’s behalf with Mr. Wilson. From their relationship, it seems likely that they were either in league or at the very least, sharing information.

The letter from Lindsay, Howe to Bertha was written in 1900 and it wasn’t until the 1920s, almost twenty-five years later, that David Innes undertook his research and Thomas Maitland Innes ostensibly pursued a claim. In between times, in 1915, the first member of our family to be named Stow, my uncle, William Stow Innes (“Willie Stow”), was christened. The length of time between these events suggests that there is no obvious link between them save for the family lore that over the years had generated a sense of entitlement.

Descended or not?

Having reviewed the history of the Stow Succession, the time has come to examine the questions raised at the outset. Was our Francis Innes Tranent, the plasterer:

1. Descended from one of the siblings of Gilbert Innes’s father, George?
2. One of the many illegitimate sons of Gilbert Innes?
3. Descended from a collateral branch of the Inneses of Stow?

¹²² Joanne Downing, Herdman’s great-great-granddaughter, provided the extract from Bertha’s will, given below, and identified Thomas Maitland Innes as the second great-grandson of Thomas Innes of William Street, Edinburgh.

4. Unrelated in any way?

1. Descended from one of the siblings?

If we believe the Mitchells, the answer is short and simple. We cannot be Stow claimants because none of the male siblings of George Innes, 1st of Stow, had any lawful issue, male or female; and while George himself did – he had Gilbert – Gilbert never married and had lawful issue, although he more than made up for it on the other side of the sheets!

How solid was the evidence to support the Mitchells' contention that none of the brothers had lawful issue? To form an opinion, I looked at the evidence in some depth, sibling by sibling, and my detailed notes are included in Appendix D. My conclusions are as follows:

- a) Independent evidence corroborates the Mitchells' assertion that Alexander and Gilbert Innes died without issue.
- b) Independent evidence does not support their assertion that William and Thomas died without issue, and their own evidence is questionable, based entirely on family letters, not Parish Registers.

Even so, it has not been possible to draw a line between our known progenitor, the plasterer Francis Innes Tranent, and either William, George's eldest brother (born 1702), or his younger brother, Thomas (born 1714) – which is not to say that there isn't one. It may be that Thomas Maitland Innes was in possession of information passed down by father to son from his great-grandfather, Thomas Innes Edinburgh, who lived on William Street, and who was known to Fitz. We know that they knew each other because Fitz makes reference to Thomas in one of his notebooks. (See following page.) One third of the way down the page titled: "List of persons who may give evidence," he writes: "Mrs. Stewart now in

the employ of Mr Lawson, Seedsman near Crookstone but formerly in the employment of Mr Gilbert Innes of Stow. [NB T's Innes William Street knows her]."

List of persons who may give evidence

Miss Burnett H daughter of the late Gilbert Innes Esquire of Stow residing in Edinburgh

Miss Trotter a familiar visitor of Miss J. Innes

Miss Stenhouse daughter of Capⁿ Stenhouse d^o

M^{rs} Stewart now in the employ of M^r Lawson seedsman near Crookstone but formerly in the employment of M^r Gilbert Innes of Stow. [M^{rs} J. Innes William Street knows her]

Miss Oliphant residing somewhere in the Canongate daughter of M^r Glen who was in the service of M^r Innes of Stow ^{as housekeeper}. M^r Macqueen Mackie stated that she knew a good deal about the Innes matters, and that she died not long ago.

M^r Groszwell informed M^r Strathern that he had fallen in with the Undertaker who had made the Coffin for M^r Innes of Stow - that he was employed repairing Holywood houses, and that he could give some evidence respecting the Innes and the Mitchell's of Parsons green matters

From FitzStrathern's Papers, page 53. Reproduced with the permission of the National Library of Scotland

It seems reasonable to suppose that Fitz sought Thomas out at some point for information about his genealogy, or about joining one of his syndicates, or both. There is no evidence that Thomas joined a syndicate (not in itself surprising as he didn't have the means). Nevertheless, it is entirely possible that, through their relationship, information changed hands and the idea of a claim took hold and grew to capture the imaginations of subsequent generations of our branch of the family.

For such a claim to have any basis in fact, however, one must believe that William or Thomas, or both, didn't die as and when the Mitchells asserted, but lived on and lived on without a trace. Under what set of circumstances might this have occurred? The obvious one is that they were Jacobites. (In 1746, Thomas would have been thirty-two years old and William forty-two). While possible, one cannot hold out much hope of ever proving this and establishing a connection with Francis Innes Tranent. They would have gone into hiding, taking their genealogies with them. Nevertheless, remembering my father's account that one son "stayed behind and led the life of a fugitive for quite a while," in moments of fancy, giving my imagination free rein, I like to think that family lore got it right; that Francis Innes Tranent was the "Jacobite" Thomas Innes's great grandson, and therefore the rightful heir to Jane's estate. In this way, two strands of family lore would be very satisfactorily brought together.

2. One of the many illegitimate sons?

Gilbert had many illegitimate children – how many no one knows for sure. We have already met some of them, such as Robert Innes, the shipbuilder, and Mrs. Leslie's brood; others, like the Burnets,

whom we haven't met and who lived on the fringes of polite society, were acknowledged and supported by Gilbert but many more were treated with callous disregard.

When an illegitimate child was born in those days, the birth of the child was usually registered in the mother's name. Sometimes the child was registered in the name of both parents, as Janet Gaudge was, but this was not common.

Later in life, a child might choose to take its father's name, as Robert Innes, the shipbuilder, did; but if it so chose, because there was no official record of the name change, there was nothing to connect the birth record in the mother's maiden name with the surname of the father by which the child became subsequently known. If such was the case for our Francis, there would be no way of establishing a connection to Gilbert unless Gilbert acknowledged his paternity, or Jane did, perhaps in a letter making provision for the child. In situations like this, the Kirk Session records can sometimes provide a link between father and child because hapless, pregnant girls were routinely brought before the Kirk Sessions to shame them into identifying the fathers. In Gilbert's case, however, Kirk Session records are unlikely to prove helpful, as Gilbert's pockets were sufficiently deep to cover his tracks.

A cursory look at the abstracts of Gilbert and Jane's correspondence identifies several of Gilbert's bastard offspring. For all we know, the letters may contain information about Francis and Gilbert, establishing a connection between them – for example, the payment of apprenticeship fees. However, only by reading the letters – and they are voluminous – would we ever find out.

It is perhaps worth noting that, to my knowledge, there are no children named Gilbert among Francis Innes Tranent's descendants. Surely, given Gilbert's prominence, if Francis Innes Tranent was

one of Gilbert's illegitimate offspring, one might have anticipated one or two.

3. Descended from a collateral branch of the Inneses of Stow?

In a letter from Sir Thomas Innes to W.A. "Bill" Innes, dated March 31, 1958, Sir Thomas says, "I've been through a great many details of the Innes of Stow descent and think it practically impossible that there was any descent from the later Inneses of Rora, of whom Stow descends or from Cathlaw or Kirkton, the first two investigated cadets of the Stow line."

In effect, what he is saying is that our descent from any of Gilbert's uncles, including William and Thomas, is very unlikely, and our descent from his great uncle, Alexander Innes, the first banker, is equally improbable. On the latter, I would have to agree for many reasons, not least of which is the fact that, to my knowledge, not one of Francis's descendants was named Alexander. William and Thomas, yes, but never Alexander!

4. Unrelated in any way?

I have suggested that the notion of our claim may have had its genesis in the relationship between Thomas Innes Edinburgh and



Gilbert Innes of Stow 1819, from the James D Smillie Collection in the New York Public Li-

Fitz, and that this notion was then passed down from generation to generation to Thomas Maitland Innes and, in turn, to David Innes. Who started it all? Did Thomas have knowledge of his Stow descent, whether from Gilbert or his Uncle Thomas, which he shared with Fitz, or was it the other way round? Did Fitz persuade Thomas, as he did so many others, that he was related to

Gilbert in some fashion? We don't know.

Where does this leave us? On the basis of the documentary evidence, we would have to say, without any clear answers. It is possible that we are descended from Gilbert's Uncle William or more likely his Uncle Thomas. It is also possible that we are descended from one of Gilbert's illegitimate offspring. What is thought unlikely is a descent from any of the collateral Stow branches. And then, last of all, there is always the possibility that we are not related to Gilbert in any way except in the most distant way that all Inneses are related to one another; and that Fitz hoodwinked Thomas Innes Edinburgh, as he had so many others.

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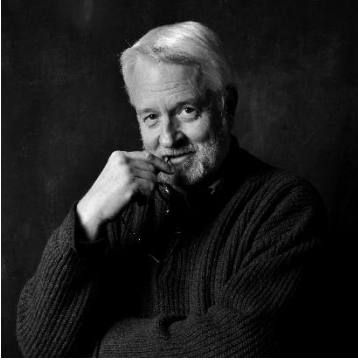
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ABOUT THE AUTHOR



Andrew Innes lives in Prince Edward County, at the eastern end of Lake Ontario, Canada, an area known for its artists, vineyards and Loyalist heritage. (His mother was of Loyalist descent.) Known as a painter, he paints for the sheer joy and challenge of it. His paintings, which can be seen at www.andrewinnes.com, reflect “an on-going attempt to distinguish the essential from the decorative and to discern the rhythms, patterns and geometry in nature.” He is unlikely to abandon his painting for writing anytime soon!

If you would like to contact Andrew you made do so at andrewjsinnes@gmail.com

vi Jane's Obituary, *Gentleman's Magazine*, Volume VIII, 1840.

SCOTLAND. – Dec. 9. At Edinburgh, in her 92nd year, Miss Jane Innes, of Stow. The fortune to which she succeeded on the death of her brother, the late Gilbert Innes, esq. about five years ago, was estimated at not less than a million sterling, and as she lived in a very moderate and unostentatious manner, it was considerably increased. Her charities, however, were numerous and unostentatious. The great bulk of the fortune, which is the largest, we believe, ever gained by one individual in Scotland, was the acquisition of Mr. Innes himself, as a banker. Her heir-at-law is William Mitchell, esq. of Parson's Green.

vii *Caledonian Mercury* of March 22, 1847.

In the course of last month, the representatives of a family of the name of Innes, who emigrated to America in 1784 ... have been resident in this part of the country for some time, and have taken every means in their power to establish their rights from existing records. They have also been in communication with several of the collateral relations of the Stow Innesses, with the purpose of ascertaining their precise connection with the American branch, which was supposed to be extinct.

viii *Sarnia Observer*, 1879:

MILLIONS IN CHANCERY

Innes Estate – Heirs in Montreal

Gilbert Innes was a banker in Scotland and at the time of his death possessed estates, etc., to the amount of \$22 million, which were left to Miss Jane Innes, his sister, who then entered and occupied the castle of Stow, in the parish of Inveraven, County of Banff. It became almost impossible to trace the ancestry of Gilbert and Jane Innes as the tablet had been stolen from their parents' grave and the little church in whose archives lay the family birth registers, etc., was burned to the ground, the papers being consumed with many others. Miss Jane Innes, conceiving the idea that her suitors were only fortune seekers, remained single, and in 1839, when she died by a fall, left neither heir nor will. There were at once many claimants to the estate, which, however, the Crown seized and placed in Chancery, from which few estates ever return. In Montreal there are several members of the Innes family, among them Mrs. Robt. Seath, and Mrs. Herbert and Miss Innes of Beaver Hall Square. They have several times been called on to subscribe to the funds of

what was termed “The Innes Association,” to recover the great estate. Others soliciting money toward the recovery of the estate, did not know enough to spell the name correctly but called it Ennis. There has been a great deal of litigation in the matter, but it is doubtful whether the estate will ever be recovered from chancery. The Innes Association was formed in New York with a capital of \$100,000. Legal proceedings were taken and it is alleged that they have met with considerable success toward the recovery of the estate. Several years ago, the late William Stephen, dry goods merchant of Montreal, visited the parish of Inveraven, Banff, and instituted some enquiries, but found that the task was too herculean for individual effort. Mr. Stephen’s mother was a Barbara Innes, of the same parish as Mr. Gilbert Innes. She claimed that she was a niece of Gilbert Innes but, as before stated, the burning of the chapel and the removal of the tomb-stone prevented the substantiation of the claim.

ix Robert Innes-Smith, *The House of Innes*, 1990, revised 1997.

The exact origin of this family is not known for certain but it is thought that they are yet another branch of the prolific Inneses of Innermarkie. Walter Innes, 1st Laird of Innermarkie, had a second son, Walter Innes of Toux, from whom it is thought they descend.

x Email from Sir Malcolm Innes to Andrew Innes, February 7, 2012.

“With regard to Rora, my understanding is that the ancestors of Stow were tenants in that property, and would thus correctly be designated ‘in Rora.’ If they had owned Rora (a named feu), then they would have been described as ‘of Rora.’”

xi Email from Sir Malcolm Innes to Andrew Innes, February 7, 2012.

The surname linked by “of” to the lands constituted the Territorial Designation which regularly used becomes the actual surname, e.g. “Cameron of Locheil.”

Many of the great Institutional Writers on the Law of Scotland (those whose writings, in the absence of legislation, or Court Decision, were authoritative statements of the law) used such names, e.g. Erskine of Carnock, Craig of Riccarton, Mackenzie of Rosehaugh. Thus Mitchell-Innes of Stow is a territorial designation. Hyphenated names were not found in Scotland before the end of the 18th century and were not really encouraged as usually they implied a break in the representation of the Family concerned – “Cameron-Head of Inverailort,” was not a true and effective continuation of the representation of the Family of Cameron of Inverailort.

xii Letter to Andrew Innes from Kate Deans, 2010.

“However I have come across references to Gilbert’s father, George Innes, and his uncle Alexander Innes who both seemingly fathered many illegitimate children as well. (The things people did to pass the time in the days before t.v.) There was a very famous brothel in Edinburgh at that time, somewhere between the Innes’s home and the Royal Bank of Scotland head office, and it was apparently well patronised by the Edinburgh aristocracy – handily sited between work and home – it certainly gives a different light on the usually conservative Edinburgh life.”

xiii *Aberdeen Journal*, February 12, 1851.

IMPORTANT CASE OF DISPUTED SUCCESSION. ACTION FOR REDUCTION AND RECKONING – MRS MARY FISHER OR FREDERICK, AND OTHERS, AGAINST ALEXANDER MITCHELL, ESQ.

This action was raised in May last, and has been since before Lord Murray in the Outer House. It is highly interesting both in a legal and literary point of view, being a question of pedigrees of the parties, which, in the most material links or chain of evidence, is chiefly built on old private letters, memorandum books and entries in ancient printed religious volumes, involving a princely fortune. Our readers will no doubt recollect that in December, 1839, Miss Jane Innes of Stow, and of wealthy memory, died unmarried, at the mature age of 92, possessed of real and personal estates, which the press then announced to be upwards of two millions sterling, without having nearer relatives than distant cousins. Her grandfather, Gilbert Innes, of Rora, County of Aberdeen, and her father, George Innes, Deputy Receiver General of Taxes, and her brother, Gilbert Innes of Stow, all lived to a good old age; but died without making any will, or even leaving a family pedigree as a guide to their lineal and collateral heirs; but Jane Innes, the last of that line, resolved not to die intestate. A few weeks after her brother's demise, in 1832, she executed a trust disposition and settlement of her heritable and movable properties, containing the usual clauses, in favour of three trustees, but without naming and recognising any either as heir-at-law or nearest of kin. This was entirely owing to her ignorance of her genealogy, as she is said to have stated to her faithful confidential servant-men, one of whom, named Macqueen Mackay, is still alive, “that she really did not know the names of relatives, or where they resided, but she was certain that her nearest of kin were poor people, residing somewhere in England, who would claim their rights when she was dead”; and she then remarked with emphasis, “Let the mites fight for the cheese, for I am too old to take the trouble to search them out.” Soon after the demise of this lady, in December, 1839, Mr W.

Mitchell of Parson's Green, got possession of her personal estate (sworn in Doctors' Commons to be £800,000) and he as curator to the said Alexander Mitchell, a minor, purchased a brief in Chancery, and by the *ex parte* proceedings that followed in the *inquisitio post mortem*, he took possession of the real estates, situated in various parishes and counties in Scotland. In January 1840, the press teemed with vivid accounts of the vast succession, and of this expeditious mode of procedure, the forms of which have since been changed by an act of Parliament, creating a Sheriff In Chancery for Scotland to judge of pedigrees. In consequence of these proceedings, various descendants of the Innes family, scattered over the island of Great Britain, whose ancestors had emigrated from their native parishes, and are identified with Jane Innes's progenitor viz., Gilbert Innes of Rora, set on foot keen enquiries into their genealogy. These parties early discovered that the pedigrees of the Messrs Mitchell were not altogether supported by parochial evidence, as they had recourse to some antiquated letters, upwards of 100 years old, written by third parties, long since dead, to supply the want of marriage and burial registers. Counsel in the case stated that, immediately after the service, Mr Wm. Mitchell borrowed up these documents from the clerk of the court, and that they have never been seen since. This has given rise to the before-mentioned action to compel exhibition of the old papers for legal inspection. The case has been before Lord Murray twice during the last month, and Mr Mitchell's counsel has resisted production and various grounds, and challenges the pedigree of the pursuers, who make use of certain writings in old printed books, with a view to substantiate their claims. Lord Murray has in the meantime remitted to the Sheriff of Edinburgh and his substitutes, as commissioners, to examine the witnesses on oath touching these matters. Hence Capt. J. Taylor, late of Hedon, in the County of York, who is one of the agents for another set of claimants to the Stow estate, and Mr (Fitz)Strathern, Law Genealogist, who has been engaged during the last nine years searching the public records, with a view to ascertain the proper position of the various claimants, have been examined as witnesses, or havers, in this judicial precognition.

We understand that there are several other persons in the north of Scotland, descendants of the Innes family, who likewise claim the estates. We shall therefore watch the proceedings of the parties, and furnish information from time to time regarding the judicial progress of this interesting case. — *Edinburgh News*.

Mrs Mary Fisher, who with others, brought this action, was, or claimed to be, the granddaughter of Thomas Innes, one of Jane's uncles — the youngest but one brother of George Innes, her father. We will look at the validity of her claim and others more closely later on.

xiv Mr W. Mitchell of Parson's Green got possession of her personal estate (sworn in Doctors' Commons to be £800,000) and he as curator to the said Alexander Mitchell, a minor, purchased a brief in Chancery, and by the *ex parte* proceedings that followed in the *inquisitio post mortem*, he took possession of the real estates, situated in various parishes and counties in Scotland.

xv London *Gazette*, April 1840.

Whitehall, April 3, 1840.

The Queen has been pleased to grant unto William Mitchell Innes (heretofore William Mitchell), of Parson's-green, in the county of Edinburgh, Esq. only surviving son of Alexander Mitchell, late of Cherrybank, near the city of Edinburgh, Esq. by Elspeth his wife, who was the only child and heir of Thomas Simpson, sometime of Darrahill, in the county of Aberdeen, by Isobel his wife, the only sister, having surviving issue, of the late George Innes, of Stow, in the said county of Edinburgh, Esq. sometime Cashier of The Royal Bank of Scotland, and Deputy Receiver General of Land Rents for Scotland, who was the father of the late Gilbert Innes, also of Stow, Esq. and of the late Jane Innes, sometime of Picardy-place, Edinburgh, and late also of Stow, spinster, deceased, Her Majesty's royal licence and authority, confirming to him, the said William Mitchell Innes, and to his issue, the surname of Innes, in addition to and after that of Mitchell, which he hath assumed, in order to testify his affectionate respect for the memory of the said Jane Innes and Gilbert Innes, and towards the family of Innes, from which he is descended as aforesaid. And Her Majesty has been further pleased to command, that this royal concession and declaration be registered in Her College of Arms.

xvi Under the banner of THE INNES OF STOW SUCCESSION CASE, a newspaper cut out among the Fitz papers begins: "This remarkable Anglo-Scoto case, which has been four times in the Supreme Court of Scotland and has been either removed or withdrawn from that judicature for reasons which we may hereafter notice, and is now before the High Court of Chancery in England, is likely to make as much noise throughout the length and breadth of the land as the famous Douglas Cause, which occupied the attention of English, Scotch, and French towards the end of the last century."

xvii Sir Malcolm Rognvald Innes of Edingight KCVO, WS, FSA SCOT. (b. 25 May 1938) was Lord Lyon King of Arms of Scotland from 1981 until 2001.

xviii The letter was originally furnished in the 1950s, to Sir Thomas Innes by Charles Buckley Innes, who merely said in his covering letter that “it was found amongst some old papers.”

xix Email from Joanne Downing, Bertha’s second great-niece
Son of a Liverpool corn merchant, William married Elizabeth Darley Innes, the daughter of a Scottish bookkeeper. A well-known landscape painter, in 1869, he published *Thoughts on Speculative Cosmology* and *The Principles of Art*. I am indebted to Joanne Downing, Bertha’s second great-niece, for some of the above information.