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Scotland's People

Transcription

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Claude

Testament of William Fleming, Earl of Wigtoun (1681)

Diplomatic transcription and summary

Source: Glasgow Commissary Court, Wills and testaments, CC9/7/44, images 214 to 216 (folios numbered 215 to 217). © Crown copyright, National Records of Scotland.

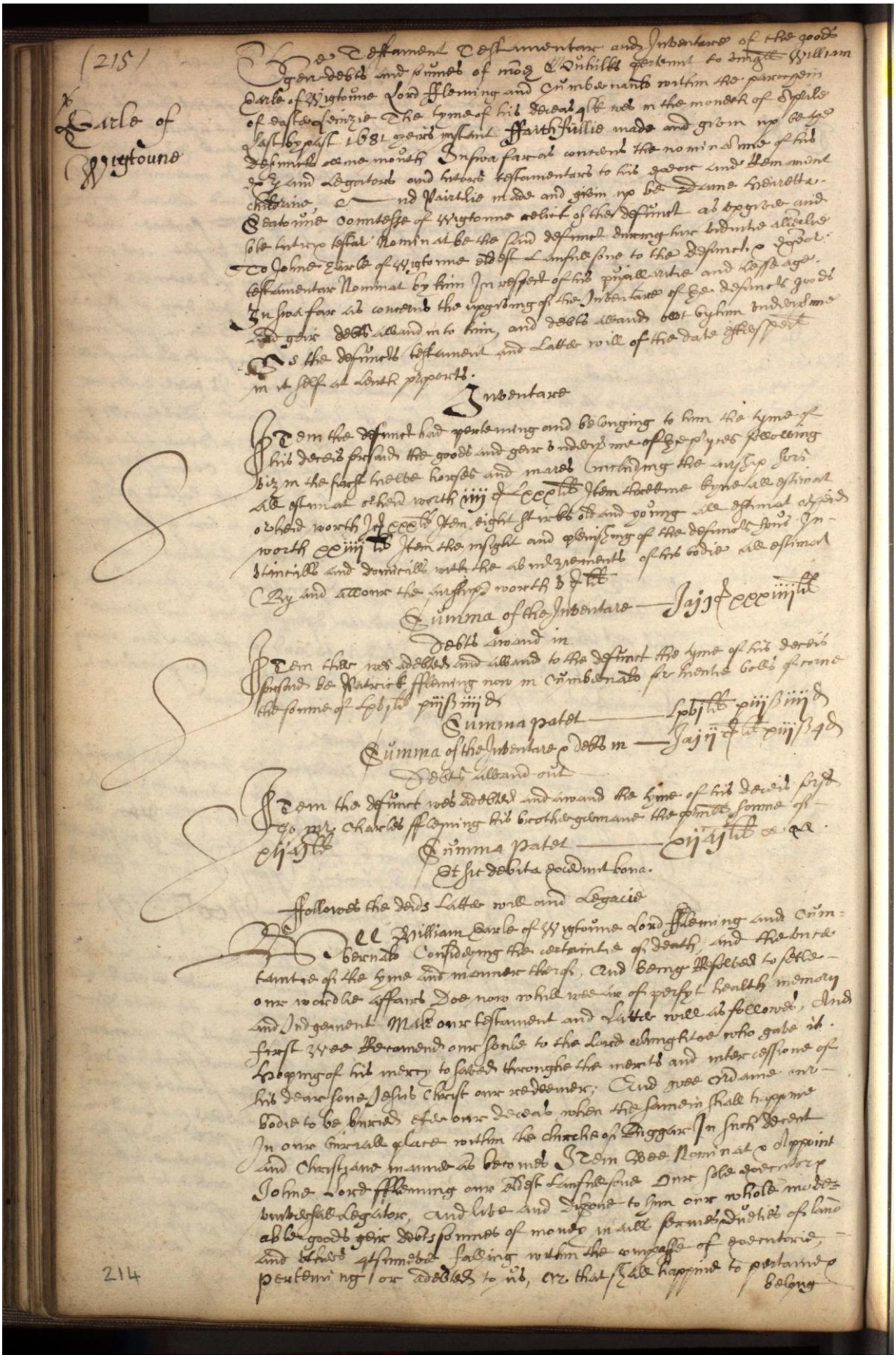
Conventions: Original spelling is kept and abbreviations are not expanded (superscripts are shown as ^c, ^m, and so on). Square brackets mark uncertain readings, and [?] marks letters or words I could not read. Line numbers are mine and restart on each page. An image of each manuscript page precedes its transcription. A small number of lines, mostly on the third page, are heavily bracketed because the hand is cramped or faint; they should be checked against the original before being quoted.

Part A: Transcription

Page 1 (folio 215, image 214)

Inventory, debts, and the opening of the Latter Will.

1681 Fleming, William (Wills and testaments Reference CC9/7/44, Glasgow Commissary Court) Image 214 Last image 216
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(215)

Earle of Wigtoune

Testament Testamentar and Inventare of the goods gear debtis and sowmes of money Vmquhill pertenit to vmq^ll^ William Erle of Wigtoune Lord ffleming and Cumbernald within the parochin of ——— of ——— the tyme of his decease ——— last bypast 1681 yeiris Mr Iames ffairholme made and grein ane ——— testament ——— ane Inventar ——— ane ——— ane ——— ane

Page 1 (folio 215, image 214) – transcription

[top left] (215)
[left margin] Earle of / Wigtoune

The Testament Testment & XXXar and Inventare of the goods
Geir debts and sumes of mony & [ubills?] pertent to vmqll William
Earle of Wigtoune Lord fflemming and Cumbernauld within the paroghin
of [?]East[?]Lenzie The tyme of his Decease qlk wes in the moneth of Apryle
last bypast 1681 zeires [?]nstant ffaithfullie made and given vp be the
Defuncts same moneth Insofar as concerns the nominatione of his
Exrs and Legators and Intrs testamentars to his goods and Gear ment-
[?]ioning, [?]-nd Pairtlie made and given vp be Dame Henrietta
Seatoun and Countesse of Wigtoune relict of the Defunct as Executrix and
sole intromettrix nominat be the said Defunct during her widowitie allenarlie
To John Earle of Wigtoune eldest [&] lawfull sone to the Defunct, & Execut-
testamentar Nominat by him In respect of his pupillarite and Lesse age.
Insofar as concerns the vpgiveing of the Inventare of the Defuncts goods
and geir debts awand in to him, and debts awand out by him vnderwritt[?]ne
As the Defuncts Testament and Latter will of the date effter [spect?]
in it selff at lenth Purports.

Inventare

Item the Defunct had pertening and belonging to him the tyme of
his deceas foirsaid the goods and geir Vnderwrittin of the pryces following
viz in the first twelve horses and mares Including the [?]
[?]e estimat [?] [?]h worth iiij[?] ccc[?] li Item thrattine [kyne?] [?]ll estimat
[?]h[?]d worth J[?] ccc li Item eight [stirks?] old and young [all?] estimat [?]
worth ccc[?] iiij li Item the Insight and plenishing of the Defuncts house In-
[?]tirills and domicills with the [?]buil[?]garments of his bodie all estimat
[?]y and attoure the Insight worth [?] [?] li
Summa of the Inventare ---------- Jajj[?] [?]ccc~~e~~ iiij[?]li 2,300/4/-

Debts awand in

Item ther wes adebted and awand to the Defunct the tyme of his deceas
foirsaid be Patrick fflemming now in Cumbernauld for [?]~~re~~thertie bolls of corne
the Summe of [lxvj?] li [?]xiij s iiij d 66/13/4
Summa patet ---------- [lxvj?] li [?]ij s iiij d 66/13/4
Summa of the Inventare & debts in ---------- Jaj[?] [?] [?] li [?] s 4d
2,300/8/4

Debts awand out

Item the Defunct wes Adebted and awand the tyme of his decess first
to mr Charles fflemming his brother germane the summe of
[illegible figure, left of the Summa line] xij ?
Summa patet ---------- [illegible figure] xij ?
Et [sit?] debita [?]cedunt bona.

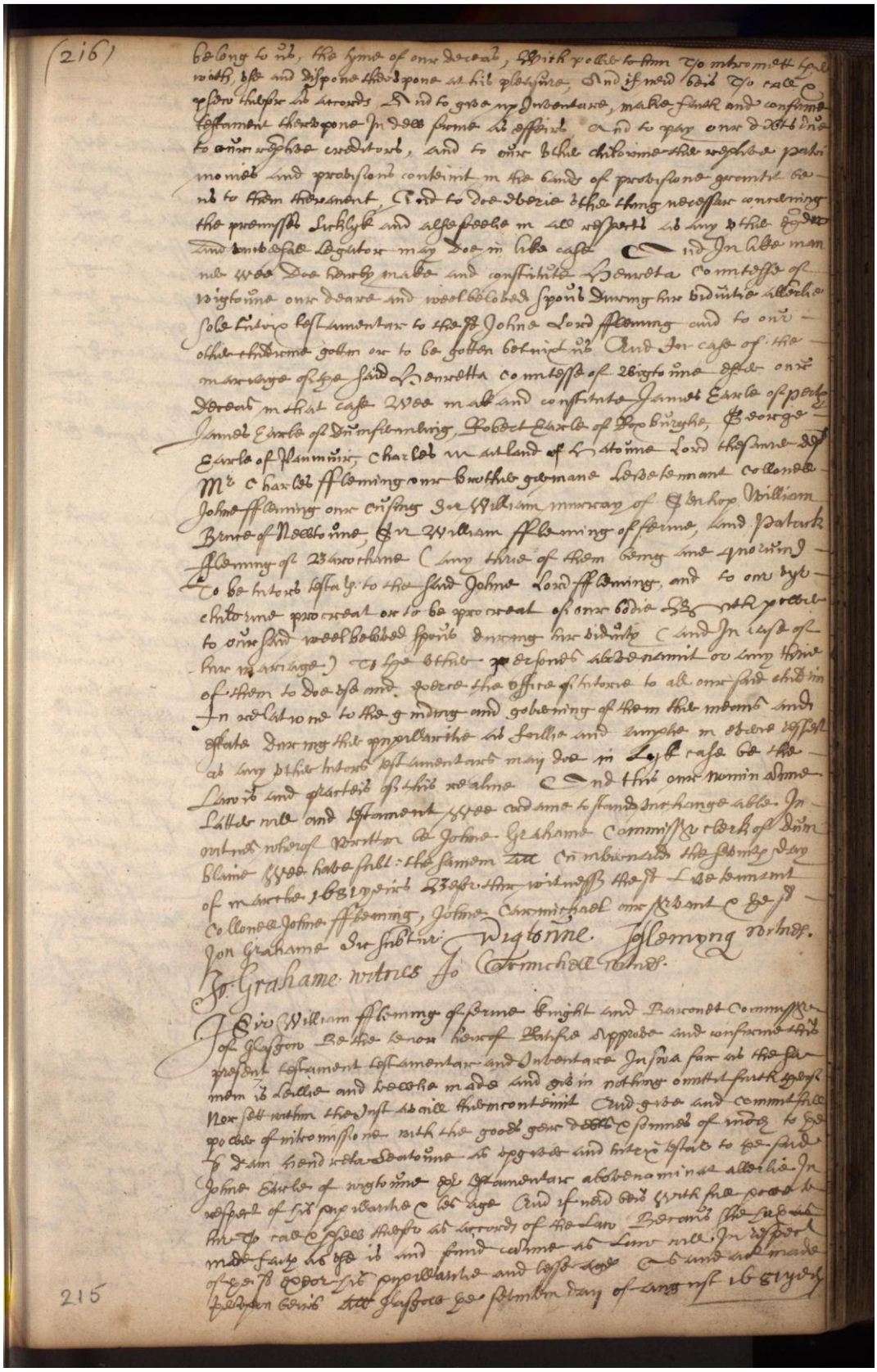
ffollowes the Deids Latter will and Legacie

Wee William Earle of Wigtoune Lord fflemming and Cum-
bernauld Considering the certainty of death, and the [vncer?]-
tainty of the tyme and manner thereof, And being desirous to sette-
tle our worldlie affaires, Doe now whill wee ar of perfyt health memory
and Judgement Make our testament and Latter will as followes, And
first wee Recommend our Soule to the Lord almightie who gave it
hopeing of his mercy to salvatione throughe the merits and intercessione of
his deare sone Jesus Christ our Redeemer, And wee Ordaine our
bodie to be buried efter our Decease when the samin shall happen
In our buriall place within the Church of Biggar In such Decent
and Christiane manner as becomes. Item wee Nominat & Appoint
John Lord fflemming our eldest Lawfull sone Our sole Executor & Vni-
versall Legator, and Give and Dispone to him our whole move-
able goods geir debts sumes of money in all fformes and [?]
And others aforementioned falling within the compasse of Inventarie,
pertening or addebted to us, or that shall happen to pertaine &
belong

Page 2 (folio 216, image 215)

Conclusion of the Latter Will, the dating clause, and the Commissar's confirmation.

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Page 2 (folio 216, image 215) – transcription

[top left] (216)

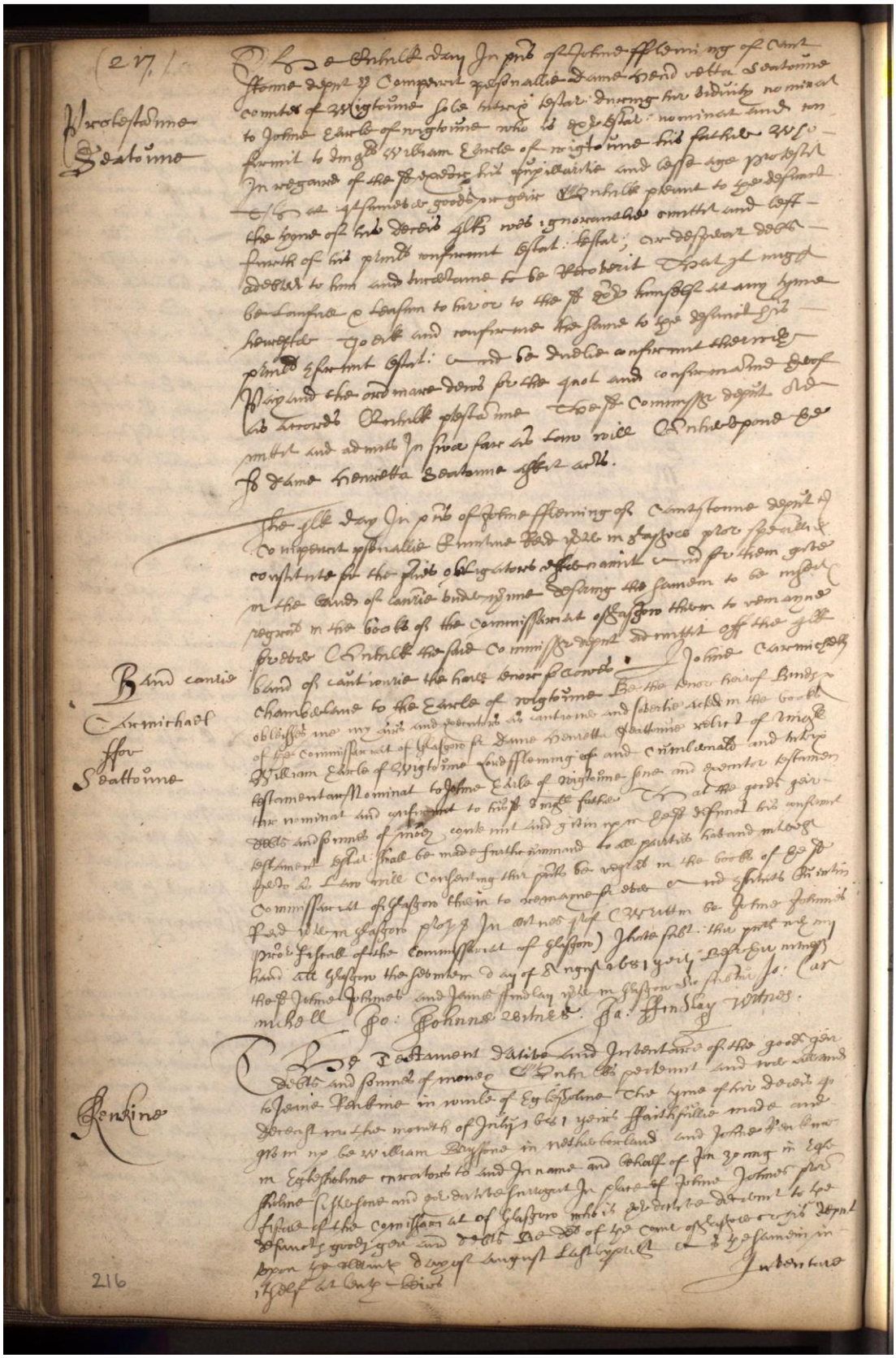
belong to vs, the tyme of our decease, With power to him to intromett [?]all with, vse and dispone thereupone at his pleasure, And if need beis To cause [?]ore thereof to recordis, And to give vp Inventare, make fayth and confirme testament thereupone In dew forme as effeirs And to pay our debts due to our whole creditors, and to our other children the whole patrimonie and prouisions contained in the bonds of prouisione granted be vs to them thereanent, And to doe euerie other thing necessar concerning the premisses Lawfull and allseffeckle in all respects as any other sole and vniversall Legator may Doe in like case And In lyke manner Wee Doe hereby make and constitute Henrietta Countesse of Wigtoune our deare and weelbeloued Spous During hir viduitie allen[?]rlie sole Intrix testamentar to the sd John Lord fflemming and to our other children gotten or to be gotten betwixt vs And In case of the mariage of the said Henrietta Countesse of Wigtoune efter our Decease In that case Wee mak and constitute James Earle of Perth James Earle of Dumfermling, Robert Earle of Roxburghe, George Earle of [P?]anmure, Charles Maitland of Hatoune Lord the sonne[?] Mr Charles fflemming our Brother germane Lieutenant Collonell John fflemming our Cusing Sir William murray of Stenhop William Bruce of Newtoune, Sir William fflemming of ffarme, and Patrick fflemming of Barrochane (Any three of them being and [?]ccepting To be tutors testamentars to the said Johne Lord fflemming, and to our [?]yt-children procreat or to be procreat of our bodie [?] to our said weelbeloued Spous During hir viduitie (And In case of hir marriage) To the other persons abovenamit or any three of them to Doe vse and exerce the office of tutorie to all our said children In relatione to the guyding and gouerning of them the meanes and estate During thir pupillarite as fullie and ample in [euerie?] respect as any other tutors testamentars may doe in [Lyke?] case be the Lawes and practiks of this realme And this our Nomin[?] Latter will and testament Wee ordaine to stand [?] [?]able, In witnes whereof written be Johne Grahame Commissar clerk of Dumblane Wee haue subscribed the samin att Cumbernauld the secund day of marche 1681 yeirs Before thir witnesses the Lt[?] Collonell Johne fflemming, Johne Carmichaell our seruant, & Mr Jon Grahame [?]u subscriv: Wigtoune. [Jo?] fflemyng witnes. Jo. Grahame witnes Jo. Carmichaell witnes.

I Sir William fflemming of ffarme Knight and Baronett Commissar of Glasgow Be the tenor hereof Ratifie Approue and confirme the present testament testamentar and Inventare Insofar as the samein is Lawfullie and trewlie made and gevin in nothing omitted furth thereof Nor sett within the Inst [?]will th[?]mentionit And gives and committs full power of intromissione with the goods geir debts & sumes of money to the sd Dame Henrietta Seatoune As Execx and Intrix testar to the said Johne Earle of Wigtoune sole Testamentar abovenamed allerlie In respect of his pupillarite and lesse age And if need beis With full power to him to caus [?] tutors as accords of the Law Because the [?] made fayth as vse is and found cautione as Law will In respect of the Earle[s?] pupillarite and lesse age [?] [?] [?] made [?] [?]eis Att Glasgow the [?]seventeen day of August 1681 yeirs

Page 3 (folio 217, image 216)

Protestation, bond of caution, and the start of an unrelated testament at the foot.

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Page 3 (folio 217, image 216) – transcription

[top left] (217)
[left margin] Protestatione / Seatoune

The whilk day In presence of Johne fflemming of Cant-
stoune Depute & Comperit personallie Dame Henrietta Seatoune
Countess of Wigtoune sole Intrix testar During hir viduity nominat and con-
to Johne Earle of Wigtoune who is Executor testar nominat and con-
firmit to vmqll William Earle of Wigtoune his father & [?]
In regaird of the sd Earle his pupillarite and lesse age protest[?]
[?] [?] Inventar of goods or geir Whilk pertent to the defunct
the tyme of his deceis qlk wes ignorantlie omittit and left
furth of his pnt confirmed [Testament?] [testar?]; or [?] debts
[deblet?] to him and [?]ntrusione to be [?]erberit That [?] might
be Lawfull Seasine to hir or to the sd Earl himselff at any tyme
heirefter [?]ive and confirme the same to the defunct his
pnt Executor testat: And be dewlie confirmit thereupon
[?] the [?] [?] [?] for the [?] and confirmatione thereof
[?] Whilk protestatione the sd Commissar depute ad-
mittit and admitt In sua far as law will Whereupon the
sd Dame Henrietta Seatoune askit act.

[left margin] Band cautie / Carmichaell / ffor / Seatoune

The qlk day In presence of Johne fflemming of Cantstoune depute &
Comperit personallie Johne Carmichaell [?]Bord in Glasgow [?] [?] [?] and
constitute for the sd [?] obligators eftir namit and for them both
in the Lands of Cautionrie [?] [?] desyring the samein to be insert
Registrat in the books of the Commissariat of Glasgow thair to remayne
[?] [?] whilk the sd Commissar depute admittit off the sd
Band of cautionrie the tenor followes: Johne Carmichaell
Chamberlane to the Earle of Wigtoune Be the tenor heirof Binds [?]
[?] me my airs and Executors and successors [?] in the books
obleisses me my airs and Executors to Caution[?] and [?]
of the Commissariat of Glasgow ffor Dame Henrietta Seatoune relict of umqll
William Earle of Wigtoune Lord fflemming of and Cumbernauld and intro-
mittrix [?] Testamentar Nominat to Johne Earle of Wigtoune sone and Executor
testamentar
[?] nominat and confirmit to his said umqll father That at the goods geir
debts and sumes of money contenit and gevin vp in the sd defunct his Testament
Testat: shall be made furthcumand to all parties haveand interest
[?] as Law will Consenting thir pnts be registrat in the books of the sd
Commissariat of Glasgow thair in to remayne ffor [?]ce[?] and [?] Constitut [Procur?]
[?] Johne Johnstoune [?] in Glasgow [?] [?] In Act of [?] Written be Johne Johnstoune
[?] [?] in Glasgow [?] Procurator fiscall of the Commissariat of Glasgow) Whilk subs
thir pnts wes my
hand att Glasgow the [?]ten seventeen day of August 1681 yeirs Befor thir witnesses
the sd Johne Johnstoune and James ffindlay writers in Glasgow Jo: Car-
michell Jo: Johnstoune witnes Ja. ffindlay witnes

[left margin] [?]Renkine

The Testament Datiue and Inventare of the goods geir
Debts and Summes of money Whilk pertenit and was awand
to Jeane [P?]erkine Renkine in [?] of Eglishame the tyme of his deceis qo
Deceist in the month of Julij 1681 yeirs ffaithfullie made and
given vp be William Bryssone in Netherbarland and Johne [?]erkine Renkine
in Eglishame [Credit?]ors to and In name and behalf of Jon Young in Egl-
ishame [?]ilne [?]ilkeson and [?] [?] [?] in place of Johne Johnstoune [?]
[?]eill of the Commissar of Glasgow who is ordainit to Intromit to the
Defunctis goods geir and debts [?] of the court of Glasgow of ye [?]
[?]pon the [?]eleventh day of August Lastbypast And [?] the samein [?] ...
[?]lf at lenth [?]
Inventare

Part B: Summary

This summary draws mainly on the passages I could read with confidence. Figures I could not read are not given, and where a reading rests on bracketed words I say so.

The document

The document is the confirmed testament of **William Fleming, Earl of Wigtoun, Lord Fleming and Cumbernauld**. It gives the date of death as the month of April 1681. It contains the inventory of his goods and debts, his Latter Will, and the Commissar's confirmation. The Latter Will was made at **Cumbernauld on 2 March 1681**, about a month before his death, and was written by Johne Grahame, Commissar clerk of Dunblane. The confirmation was given at Glasgow in August 1681 by **Sir William fflemming of ffarme, Knight and Baronet, Commissar of Glasgow**. The day of the month is not legible to me. Seventeenth

Executors and administration

- **Executor and universal legatory:** John Lord Fleming, the Earl's eldest lawful son, who succeeded as Earl of Wigtoun. The Latter Will names him "sole Executor & Vniversall Legator" and gives him all moveable goods, gear, debts and sums of money, with power to intromit, to give up the inventory, to confirm the testament, to pay the debts, and to pay the provisions to the other children.
- **Executrix and sole intromitter:** Dame Henrietta Seatoun (Seton), Countess of Wigtoun, the Earl's widow. She gives up the inventory as executrix and sole intromettrix, nominated by the deceased, *during her widowhood only*. The testament is made up in her name "in respect of" her son's pupillarity and lesser age, meaning he was a minor.
- **If she remarries:** the Latter Will provides that the tutors named below take over the office of tutory, including management of the children and of the estate during their minority.
- **Confirmation:** the Commissar confirms the testament and gives Dame Henrietta power of intromission as executrix and intromitter for the minor Earl, with power to have tutors appointed as the law requires. The wording continues in a section I could not read in full.

Legatees and provisions

- John Lord Fleming takes the whole estate as universal legatory, subject to the debts.
- The testator's **other children**, born and to be born, are to receive "the whole patrimonie and prouisions contained in the bonds of prouisione" he had granted them. Their provisions come from those bonds and are paid by the executor. I did not find a named legatee other than John Lord Fleming in the readable text.
- The Earl directs that he be buried in his burial place within **the Church of Biggar**.

Tutors testamentars

If Henrietta remarries, any three of the following who accept are to act as tutors to John Lord Fleming and the other children:

- James, Earl of Perth; James, Earl of Dumfermling; Robert, Earl of Roxburghe; George, Earl of [P?]anmure (the first letter is uncertain).
- Charles Maitland of Hatoune, Lord [name or title unread the sonne].
- Mr Charles fflemming, the Earl's "brother germane" (full brother).
- Lieutenant Colonel John fflemming, the Earl's cousin.
- Sir William Murray of Stenhop; William Bruce of Newtoune; Sir William fflemming of ffarme (who is also the confirming Commissar); and Patrick fflemming of Barrochane.

Inventory and debts

- **Goods:** the inventory lists livestock (horses and mares, and apparently cattle, with values given in Roman numerals) and the plenishing of the Earl's house. I could not read the individual valuations or the total, which is written with a thousands prefix, so I have not given figures.
- **Debts owing to the Earl:** one item is a debt from **Patrick fflemming, now in Cumbernauld**, for bolls of corn, with a sum in pounds, shillings and pence. The number of bolls and the sum are not secure. Thirty
- **Debts owing by the Earl:** one item is owed to **Mr Charles fflemming, his brother germane**. The sum is not legible. A Latin tag follows the debts, which I read only in part, so I haven't relied on it to say whether the debts exceeded the goods.

Procedure after confirmation (page 3)

- **Protestation:** Dame Henrietta Seatoun protests, before John fflemming of Cantstoune, depute, that goods or gear pertaining to the Earl at his death and omitted from the inventory may still be confirmed later for the minor Earl. The depute admits the protestation "in so far as law will". Parts of this entry are bracketed.
- **Bond of caution:** John Carmichaell, chamberlain to the Earl of Wigtoun, stands cautioner (surety) to the Commissariat of Glasgow for Dame Henrietta. The goods, gear, debts and sums in the testament are to be made available to all parties with an interest. The bond is registered in the Commissariat books and was witnessed at Glasgow in eleventh August 1681 by Johne Johnstoune and James ffindlay, writers in Glasgow. This may be the same John Carmichaell named as the Earl's servant and witness to the Latter Will, but I can't confirm that from the texts.
- **Next entry:** the foot of page 3 begins a different testament, of a man who died in July 1681 in Eaglesham (the name is partly unread), given up by creditors. It is not part of the Earl of Wigtoun's testament.

Readings to check against the original

- The place-name in line 4 of page 1, after "within the paroghin of". East Lenzie
- All the figures in the inventory and the two debts, and the Latin tag at the end of the debts.
- The title after "Charles Maitland of Hatoune Lord" the sonne and the first letter of "[P?]anmure", both on page 2. P
- The day of the month in August on the Commissar's confirmation (page 2) and in the bond of caution (page 3). 17
- The first block of page 3 (the protestation) and the opening of the Eaglesham testament, where many lines are bracketed.