



Treasons Summons of 1568-69 against Flemings of Scotland

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using artificial intelligence research assistant Claude by Anthropic

based on information in *The Acts of the Parliaments of Scotland* volumes iii and iv

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The Treason Summons against the Flemings, 1568–1569

Source: The Acts of the Parliaments of Scotland, ed. Thomas Thomson and Cosmo Innes, 12 vols. (Edinburgh, 1814–1875), vol. iii, pp. 47–58 (with later references in vol. iii, pp. 61, 183, 283–284, 312 and 383–385, and vol. iv, pp. 80–81).

Summary

At the Parliament held at Edinburgh in August 1568, under the Regent Moray, two Flemings were summoned for treason: John, 5th Lord Fleming, great chamberlain, and John Fleming of Boghall. Both were found to have committed treason, but Parliament put off ("superseded") pronouncing sentence on them. Sentence was finally given on 17 November 1569, when all their lands, goods and offices were forfeited to the Crown.

The summons, 18 August 1568 (pp. 47–50)

On the second day of the continued Parliament, Mr John Spens of Condie, the King's advocate, produced a summons of treason under the Great Seal against John, sometime Archbishop of St Andrews, Lord Claud Hamilton, John Lord Fleming, John Fleming of Boghall and about twenty-five others, most of them Hamiltons. The general charges were that they had taken Queen Mary's part against the young King and the Regent after her escape from Lochleven, including the muster called at Hamilton for 9 May 1568. The defenders were called three times at the Tolbooth window and none appeared. The advocate also produced letters relaxing them from the horn, so that none could say he had been unable to appear and defend himself.

> *p. 47:* "... of condie aduocat to o' fouane lord and pducit and poſentit be ſumonde of treaſon vnder writtin dewlie execut and indorſat gevin vnder the teftimoniall of be greit ſeill vpoun Johne fūtym archibiſchop of ſanctanda claud hamiltoun fone to James Duk of chattellarault erle of arane lord hamiltoun t c Jhone lord flemig Jhone flemīg of boghall ..."

The charge against the Flemings (p. 51)

The particular charge against Lord Fleming and Boghall was that for about ten months they had supported, fortified and held the King's castle of Dumbarton against the King and the Regent, with hired soldiers, guns, powder and other munitions, and that they had refused to deliver it when

lawfully required on 19 and 20 January last (1567/8). The Latin summons here reads "Jacobum flemig de Boghall"; everywhere else in the record he is John, so this is probably a slip.

> *p. 51:* "... Ac dictum Johannem dominū flemīg Jacobum flemig de Boghall Pro eorum proditoriis ſuffultione munimine et detentione caſtrj et fortalicij noſtrj de dunbartane militibus ſtipendiarijs bombardis pulueribus machinis aliifq, rebus bellicis et detentione eiuſdem caſtrj contra nos dictum, noſtrum chariffimu conſanguinen Et regentem ac noſtram authoritatem regalem per ſpatium decem menſium Wpo ..."

How they were summoned (pp. 51–53)

The heralds (Peter Thomson, Islay herald; John Paterson, Snowdon herald; Adam McCulloch, Marchmont herald; and Alexander Forrester, Carrick pursuivant) served the summons on various days in June and July 1568. Lord Fleming was summoned at his dwelling places of Cumbernauld and the castle of Dumbarton, and again "at his dwelling place of Boghall beside Biggar"; Boghall at his dwelling place of Boghall and at Dumbarton Castle. Both were also proclaimed at the market crosses, Lord Fleming at Edinburgh, Lanark, Renfrew and Dumbarton, and at Peebles, Dumfries and Kirkcudbright. Lord Fleming was also summoned on sixty days' warning, the form used for those then out of the realm.

> *p. 51:* "... Johnne lord flemig at his dwelling places of conſanguineo et regenti aliifqq , noſtris nominibus dict cū ..."

> *p. 52:* "... Johnne lord flemig at his dwelling place of boghall befyde begar And ficlyk I fūmond the faid Johnne lord flemig at pe catt croces of peiblis drūfreis and kirkculbrey" rexiue and vpoun þe ſecund thrid vij and viij ..."

The sentences

1. The other defenders, 19 August 1568 (p. 54)

On the third day, the defenders again failing to appear, the Regent and Estates found that the Hamiltons and the others had committed treason on every point of the summons except the point about stuffing, detaining and withholding the castle of Dumbarton, which was the charge against the Flemings. The doom pronounced by Andrew Lindsay, dempster of Parliament, was that they had forfeited all their lands and goods, movable and immovable, for ever; that their dignities, names and memory were to be extinct and their arms torn out of the book of arms, so that they and

their posterity could never hold office, honour or dignity in the realm; that all their goods, lands, heritages and offices were confiscated to the Crown in property for ever; and that they were to undergo the pains of treason, the highest punishment of the law.

> *p. 54:* "... Juſtlie foirfaltitt thair haill landis and gudis movable and vnmovable for euir And thairfoir decernis and declaris thair digneteis names and memorie to Be perpetualle extinct and thair armes to be putt furth of be buik bairof Swa thatt thay and Euerie ane of thair poſtereteis according to be lawes of this realme may be fra this furth vnhabill and vncapable to bruik offices hono't or digneteis w'in the ſamy And als all pair guidis landis heretages and offeces and vtheris quhatſumen ptenīg to bame or ony of bame To be confiſcatt to Remane wt our faid fouerane Lord In proper ..."

2. Lord Fleming and Boghall: sentence superseded, 19 August 1568 (p. 54)

For "certain good and reasonable causes and considerations", the Regent and Estates superseded the pronouncing of the doom upon John Lord Fleming and John Fleming of Boghall, to be declared in the same Parliament, which was held to continue, whenever they pleased.

> *p. 54:* "... Hes ſupercedit and ſupercedis the pnūciatioun of be dome vpoun Johnne Lord flemig and Johnne flemyg of boghall to be declarit and pnūcitt man following Quhilk was pronūcitt be be mowth of andro lyndſay dempſter of this pit parliam ..."

3. The second summons, 19 August 1568 (pp. 55, 57)

The advocate then showed that on 18 August he had produced a second summons of treason against Hugh Earl of Eglinton, Gilbert Earl of Cassillis, John Lord Herries and his son William Maxwell, John Lord Fleming, William Lord Hay of Yester, Sir James Cockburn of Skirling, John Fleming of Boghall, John Gordon of Lochinvar, several Hepburns and Hamiltons and others, eighteen persons in all. They were found to have committed treason on all points, but the pronouncing of the doom on them was likewise superseded. (Cassillis and Patrick Congilton of that ilk were later struck out of the summons, having made their obedience to the King.)

> *p. 57:* "... hes fund That all be pſonis callit this day To be Pro baronibus nowmer of xviij perſonis hes committit treſſoun vpoun the haill poictis of the fut libellit And ſupcedis the pnūciatioun of the dome vpoun hew erte of eglintoun Gilbert erte of Caſſilis Johnne lord hereiß f W maxwell his fonet appeirand air Johnne lord flemig Willia lord hay of ..."

4. Lord Fleming and Boghall: sentence pronounced, 17 November 1569 (pp. 57–58)

At Edinburgh on 17 November 1569, in the same continued Parliament, the Regent and Estates recalled that on 19 August 1568 John Lord Fleming, chamberlain, and John Fleming of Boghall had been found guilty of treason and lese-majesty and their sentence superseded. They now recorded that both men had been often and most earnestly urged, by their old friends and by the Regent's own familiars and servants, to come to the King's obedience, and had utterly refused. The Estates therefore declared anew that both had committed the crimes of treason and lese-majesty in the summons, and decreed that all their lands, goods movable and immovable, offices and other possessions were confiscated to the King, to remain with him in property for ever, and that their persons should undergo the pains of treason, the extreme and last punishment of the laws of the realm. The doom was again pronounced by Andrew Lindsay, dempster.

> *pp. 57–58:* "... wnderſtandand thatt be faid Johnne Lord flemig and Johnne flemig of Boghall hes bene oft and diuſs tymes maiſt Erneſtlie defyritt baith be pair auld freindis andbe ſpecial familiaris and vtheris fruandis of be ſaid lord Regenttis grace to haue cumi to be obedience of of faid fouerane lord quhilk thay haue allutterlie Refuiſitt P ..."
>
> *p. 58:* "... THAIRFOIR the ſaid Regentt and thrie eſtaittis of this pit parliamentt hes ofnewdecernitt and declaritt Lyk as thay pñtlie decernis and declaris thatt be faid Johnne Lord flemig and Johnne flemig of Boghall and Ilk ane of bame hes Incurritt and omittitt the Anent be noïatioun / electioun acceptatioun and approbatioun of my lord of Mar In Regent crymes of treffone and leſe maiestie gtenitt in be ſaid ſumonde of treſſone Raiſitt and executt aganis IT is fund declarit and decernit be o' fouerane lord thame And thairfoir decernis and ordanis all and w' auiß of the thre Eſtatis t haill body of bis pñt parliamēt That be nominatioun conſtitutioun electioun ſyndrie landis guidis movable and vnmovable alſweill landis as offices and vther thingis quhatſumen 1 t ordinatioun of be noble and my lord Johnne e ..."

Protestations

On 24 August 1568 (p. 56) the Commendator of Cambuskenneth protested that the forfeiture of Lord Fleming should not prejudice him, and the laird of Dunipace made the same protest. At a later sitting (p. 58) Barbara Hamilton, Lady Fleming, widow of James Lord Fleming, protested through Mr David Borthwick that the forfeiture should in no way hurt or prejudice her.

p. 56: "... The laird of donypace pteſtit that the foirfalto of be lord flemig hurt no' vchiltre nor piuge thame not Sempill C ..."

p. 58: "... aif als greit availl ſtrenth force and effect in all reſpectis and conditionis or ßiudice barbara hamiltoun lady flemig relict of as ony thing done be quhatfumeuir regen ..."

What followed

The forfeiture of 1569 did not last. Within twenty-five years the Flemings had their lands back, by a series of separate acts. The record gives the reasons for each, and they are set out below. Points not taken from the Acts are marked as general history.

1. The loss of Dumbarton, 1571 (vol. iii, p. 61)

In 1571 Parliament approved the enterprise for "winning and recovering" the castle of Dumbarton out of the hands of "Johnne sumtym lord flemig declarit traitor". (General history: the castle was taken by surprise in the early hours of 2 April 1571 and Lord Fleming escaped by sea. He died in September 1572, still unreconciled to the King's party.)

p. 61: "... his hienes fay'full and trew fubiectis wes orda- ..... for pair ſlauchter and deſtructioun of the ſaid hous and caſtell furth of be hande of Johnne fumtym lord flemig declarit trato aganis o fouerane Lord and his aucte and the ..."

2. The Pacification of Perth, 23 February 1572/3

The civil war between the King's and Queen's parties ended with the Pacification agreed at Perth on 23 February 1572/3 and ratified in Parliament at Edinburgh in April 1573. Those of the Queen's party who accepted it, chiefly the Hamiltons and the Earl of Huntly, were to have their lives, lands and goods secured as though no forfeiture had been led against them. Lord Fleming had died a few months before it was made, and his son was a child, so the Flemings were not named in it. Every later grant to the family was framed as an extension of this Pacification to them.

3. The grant to the son, 11 November 1579 (vol. iii, p. 183)

In the Parliament at Edinburgh of October–November 1579, King James VI, with the advice of the three Estates, granted to "Johnne flemyng sone lauchfull to umquhile Johnne sumtyme lord flemyng" the same benefit, favour, grace and privilege as was contained in the Pacification of Perth, to be interpreted as largely and favourably as if he had been expressly named in it, for the security of his life, lands, heritages, actions, possessions and

goods. He was restored and rehabilitated and made able to enter by brieves to the lands and heritage of his father "as gif he had deit at oure soverane lordis fayth and peace", that is, as if his father had never been a traitor.

The reasons given are the standard ones for such grants: "wechtie and guid consideratiounis tending to the establisheing of peace and quietnes" and to the universal obedience of the King's authority. Two reservations were attached: the heritable disposition of the lands of Edmonstone to James Earl of Morton, and the sum Morton had consigned for the redemption of the barony of Kilbucho, were excepted, so that Morton kept the benefit of what he had obtained from the forfeiture. The pacification also did not extend to the murders of the King's father and of the Regents Moray and Lennox, the usual exception.

> *p. 183:* "... gevis and grantis to Johnne flemyng fone lau'full to vmqle Johnne ſumtyme lord flemyng That he fall haue brouk and enioy the like benefeit fauor grace priuilege and conditionis as ar contenit priuilege q* a ..."
>
> *p. 183:* "... Restorand rehabilitand and makand the ſaid Johnne ... lauchfull to enter be breuis to the landis and here- taige ſūtyme ptenig to his faid vmquhile father As gif he had deit at or fouane lordis fay' and peace ..."

4. The ratification of 1581, and Boghall (vol. iii, pp. 283–284)

In the Parliament of November 1581 the grant of 11 November 1579 to "Johne now lord flemyng sone and air of umquhill Johne lord flemyng" was ratified and confirmed anew, with one important change: the clause excepting the disposition of Edmonstone to "umquhile James sumtyme erll of Mortoun" was struck out, as if it had never been in the first act, so that Lord Fleming might enjoy the lands of Edmonstone according to his predecessors' infeftments. (General history: Morton had been executed in June 1581, so his claim no longer stood in the way.)

In the same Parliament John Fleming of Boghall, the other man sentenced in 1569, was given the benefit of the Pacification of Perth for the security of his life, lands, heritages and possessions, again "upoun wechtie and guid consideratiounis tending to the establissing of peax and quietnes".

> *p. 283:* "... Exceptand that pt of be foirſaid pacificatioun / berand this prouifioun That be heretable diſpoſitioun of be landis of edmiſtoun to vmq" James ſumtyme erll of mortoun be not comprehendit vnder be foirſaid pacificatioun Quhilk fices perſonageis vica ..."
>
> *p. 284:* "... gevist grantis to Johne flemyng of boghall the lyke fauour grace and benefite of pacifi- ..."

5. The pacification of May 1584 (vol. iii, p. 312)

In the Parliament of May 1584 the King granted the benefit of the Pacification again to "his weilbelouit cousigne Johne lord flemyng", for the surety of himself, his life, lands, heritages and possessions. The King's calling him "cousin" shows that by then the young Lord Fleming stood in royal favour.

> *p. 312:* "... grantis to his weilbelouit couſigne Johne lord flemyng ..."

6. The general restitution, Linlithgow, December 1585 (vol. iii, pp. 383–385)

After the lords who had been banished returned and came to the King at Stirling on 2 November 1585, the Parliament at Linlithgow passed a general act of restitution. It declared that all processes and sentences of forfeiture led since the King's coronation were of no force, and were to be "buried and put in perpetual oblivion" as if they had never been. The heirs, successors and posterity of everyone forfeited were made able to enjoy their lands, heritages, teinds, offices and possessions. With it went an "act of repossession" (dated 10 December 1585) for those who had been put out of their lands during the troubles.

> *p. 384:* "... Bot the ſamin ſalbe buriit and ... put in perpetuall obliuioun ..."

7. The extension of time, 1594 (vol. iv, pp. 80–81)

The repossession was not the end of it. An act of 1592 had required anyone claiming under the 1585 act of repossession to raise his action within a year and a day, or never be heard. The Parliament of 1594 passed an "Act in favour of the Lord Fleming", because John Lord Fleming and his servants and friends "of the name of Fleming", who had taken part in the past troubles, would otherwise lose the remedy. Three reasons are given:

(a) Lord Fleming had been a minor when the act of repossession was made, and for long afterwards.

(b) The family's title deeds ("evidentis") had been kept in the castle of Dumbarton, and had been taken out of it and scattered, and had only lately come to their hands.

(c) The 1592 act had only been proclaimed at the market cross of Edinburgh and never printed, and the time it allowed was very short.

Parliament therefore prorogued the act of repossession until the first day of November next, so that Lord Fleming and the Flemings could raise and pursue their actions to recover the lands, heritages, benefices, pensions,

teinds and possessions from which they and their fathers had been dispossessed "be occasioun of the saidis trublis".

> *vol. iv, p. 80:* "... Be the qlk act of preſcriptioun Jon lord flemig and his fvandis and freindis of the name of flemig quha wer pticipant of the trublis paſt / ar ſtayit fra pfewing and vſing of ß actionis and chargis competent to thame b ..."

> *vol. iv, p. 81:* "... howbeit the faid Jon lord flemig the tyme of the making of the faid act of repoffeffioun / and lang thaireftir / wes mino / and the euidentis belangand to him i his faidis freindis / and fvandis being whin the 81 fall incur and ſuſtein grit ſkaith without tymous remeid be pvydit And oure faid fouerane Lord and eſtaittis being of mynd that the faid Alex Lord Levingſtoun be not preiugit ..."

Why the Flemings regained their lands

Taken together, the record shows four reasons. First, the Crown's policy after the civil war was reconciliation: the Pacification of Perth restored the Queen's party, and fairness required that the Flemings, left out only because the 5th Lord had died, receive the same terms. Second, the man forfeited was dead, and his heir was a child who had done nothing against the King; he was restored "as if his father had died at the King's peace". Third, the obstacles in the way were removed: Morton's interest in Edmonstone fell away in 1581, and the 1585 general restitution swept away all forfeitures since 1567. Fourth, Parliament accepted in 1594 that the young Lord's minority and the loss of the family papers from Dumbarton were good reasons to give the Flemings more time to recover what had been taken. By then the 6th Lord was in royal favour, and in 1606 he was created Earl of Wigtown.

Others named in the same record

William Fleming sat throughout as commissioner for the burgh of Perth (pp. 47, 49, 56).

Note on the text

Extracts are given exactly as they appear in the text layer of the Google Books copy of volume iii, including the long s, contractions and OCR errors (for example "b" or "þ" for "the"). Extracts from vol. iv are from the Google Books copy of that volume. The English summaries are my own.