

## Introduction

If you have not carried out much research using testaments this is a good tutorial to start with, because eighteenth century testaments are easier to understand than those of earlier or later centuries.

In eighteenth century testamentary registers the handwriting is more recognisable to us than the mixture of secretary hand and cursive in sixteenth and seventeenth century testaments. More varieties of the testamentary process can be found in nineteenth century registers, especially after heritable property was allowed to be bequeathed in 1868, and these are invariably longer, with more legal jargon and written in a monotonous type of handwriting, which does not make it easy to identify important information.

All the examples in this tutorial were recorded between 1760 and 1790 by the Commissary Court of the Isles, whose jurisdiction covered many of the islands off the west coast of Scotland, including Bute, Arran and the Hebrides. They are all testaments dative: the simplest form of testament. These will give you a good grounding in the basics of the testamentary process and also show that testaments, far from concerning only the land-owning and merchant classes, were often made on behalf of lowlier souls, such as tenant farmers, fishermen, servants and sailors.

The tutorial should take between two and three hours to complete, either online or on paper using the printable version. Pages 1-18 can be printed and used as a primer or *aide memoire* when reading images of testaments on your computer screen or in an archive search-room. The main aim of the tutorial is to describe the process of the testament dative and coach you to identify and understand the legal jargon found in them. Some of the exercises concern calculations of sums of money using pre-decimal currency and can be skipped if you want to shorten the tutorial.

## Contents

Pages 1-3	Introduction to testaments dative
Page 4	A testament dative qua nearest of kin - Alexander Murphy, fisherman on Arran
Page 5	The resulting testament part 1 (introductory clause)
Pages 6-8	The resulting testament part 2 (inventory)
Pages 9- 10	The resulting testament part 3 (confirmation clause)
Pages 11-13	A testament dative qua creditor
Pages 14-20	Further exercises
Page 21	Revise what you have learned

The answers to questions and transcriptions can be found in the 18th Century Testaments Tutorial Answers PDF: <http://www.scottishhandwriting.com/18cTPrintTutorial.asp>.

## Transcribing Conventions

As in other parts of the Scottish Handwriting website, the conventions used in transcriptions are to expand abbreviated words using square brackets, for example the abbreviated word *Exr* becomes *Ex[ecuto]r*. Symbols, for example the ampersand (&), which are still in current use, are used without expansion. Abbreviations of some Latin words in widespread use today are indicated with the tilde mark (~), for example *viz~* for *videlicet* and *L~ s~ d~* for pounds, shillings and pence (the Latin terms *libra*, *solidi* and *denarii*).

### Introduction – testaments dative

When they think about the word ‘testament’ in this sense, most people imagine a **testator** (someone who makes a will) naming one or more persons to carry out the terms of the will (**executors**). In Scotland this form of testament was called a **testament testamentar**.

There is no legal requirement for individuals to make wills and the vast majority of people die **intestate** (without making a will). If someone dies intestate, there is no obligation for the successors to go to court and many families sort things out amicably amongst themselves. In such cases no testament is recorded.

Sometimes the successors feel the need to appoint an **executor** to make the necessary legal and financial arrangements relating to the estate on their behalf. The process by which an executor is appointed by a court, in the absence of a will, results in a document called a **testament dative**.

In the eighteenth century **heritable property** (land and buildings) could not be bequeathed in a will: on the death of the owner it passed to the heir (usually the eldest son). **Movable property** (cash, livestock, furniture, clothing etc) was used to meet any outstanding debts owed by the deceased, and the remainder was divided into a maximum of three parts: the **widow's part**, the **bairns' part** (all children had a right to an equal share) and the **dead's part**. The dead's part could be bequeathed in a will, but in testaments dative there was, of course, no will, so the division was between the widow and the children (and where one or other of these did not survive, there was no division).

Until 1823 the appropriate court was usually a commissary court, whose jurisdiction was based on the diocese of a pre-Reformation bishop. The court levied a fee for confirming the testament: this was called the **quot** and was usually one-twentieth of the value of the movable property of the deceased which remained after any debts had been paid.

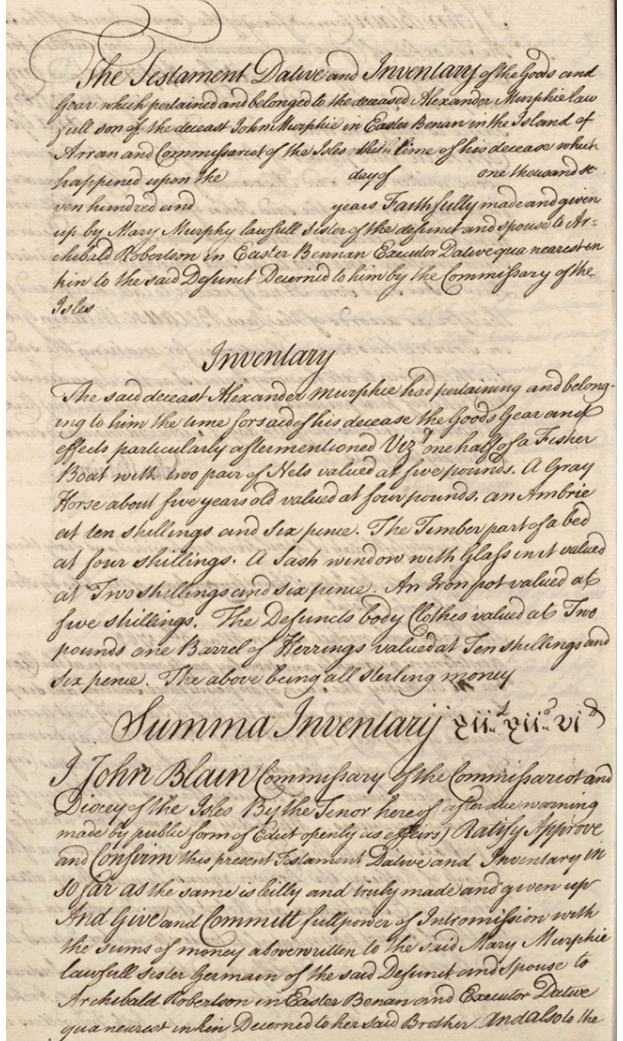
If the value of the movable estate was very small, the court might waive the quot. In the margin of a testamentary register this may be indicated by the words *quota nulla* or *na quot*. By the mid-eighteenth century families and creditors used the testamentary process to pursue relatively small amounts of money (such as salary owed to the deceased or a specific debt owed by or to the deceased).

Commissary courts recorded the testaments in registers and the majority of testaments in seventeenth and eighteenth century registers are testaments dative. Most appoint family members as executors and these are called **testaments dative qua nearest in kin**. If the deceased died in debt a creditor could have himself appointed executor. In such cases, the testament is called a **testament dative qua creditor**.



The testament dative is the simplest form of testament. Once you understand how and why testaments dative were obtained you will be able to move on to other forms of the testamentary process.

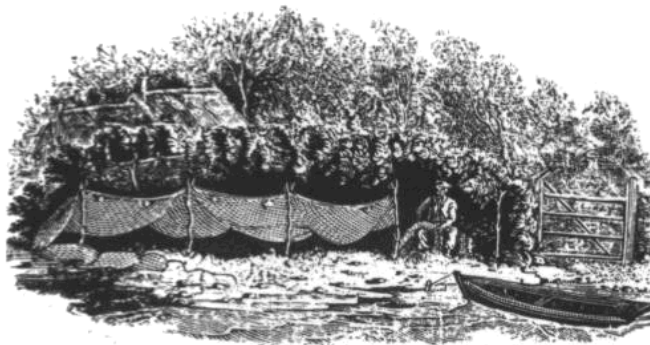
Look at the testament below. Don't try to read it at this stage but even in the reduced size of image you can see that it is split into three main parts:

	<ul style="list-style-type: none"> <li>• an introductory paragraph</li> <li>• an inventory (beginning with the sub-title <b><i>Inventory</i></b>) and ending in the words <b><i>Summa Inventarij</i></b> and a sum of money in Roman numerals)</li> <li>• a closing paragraph.</li> </ul>
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These represent the three main parts of the testament dative – the **introductory clause**, the **inventory** and the **confirmation clause**.

We're about to examine the testamentary process using a real example – the testament of Alexander Murphy, a fisherman on the island of Arran.

## A testament dative qua nearest of kin - Alexander Murphy, fisherman on Arran



Alexander Murphy rented a dwelling or lived in someone else's house in Easter Bennan on the island of Arran and he made his living by fishing (he was the joint owner of a fishing boat). He died intestate in 1762 or 1763 and his nearest relative was his sister Mary, who was married to Archibald Robertson, and they also lived in Easter Bennan. Mary Murphy was entitled to claim the movable estate of her late brother, but she faced an obvious complication: some of the movable estate was in the form of a share of a fishing boat and equipment.

To establish her rights to the movable estate and obtain an act of court (which she could use to back up her claim if any dispute were to arise) she went to the Commissariat of the Isles, in Rothesay, to have a testament dative registered.

On the 27 May 1763 she appeared before the Commissar, John Blair, who had previously given public notice of the hearing, warning anyone who might have an interest in the estate to be present at court.

Mary Murphy presented an inventory of her late brother's movable goods:

- a half share in the fishing boat and nets,
- a horse,
- furniture and household goods,
- clothes,
- a barrel of herring.

She had to declare any debts owed by the deceased or to him. In this case Alexander Murphy appears to have been neither a debtor nor a creditor at the time of his death, so no debts are listed.

The testamentary process required that, in the event of anyone challenging the settlement of the estate (for example a rival claimant or a creditor requiring a debt to be paid), she would reappear in court to show that the settlement had been legally carried out and to meet any outstanding obligation. To do this she had to provide the court with a guarantee: **caution** (pronounced 'kay-shun'), which was similar to the idea of bail in a criminal case. This meant persuading another person (**cautioner**), usually a resident in the court's jurisdiction or someone the court felt was trustworthy, to agree a **bond of caution**, by which the cautioner would be penalised if the executor failed to resolve any challenge in court. In this case Mary Murphy persuaded Alexander Robertson, Excise Officer in Rothesay (probably a relative of her husband) to be cautioner.

The Commissar duly confirmed the testament dative and in the next few pages we'll examine its constituent parts.

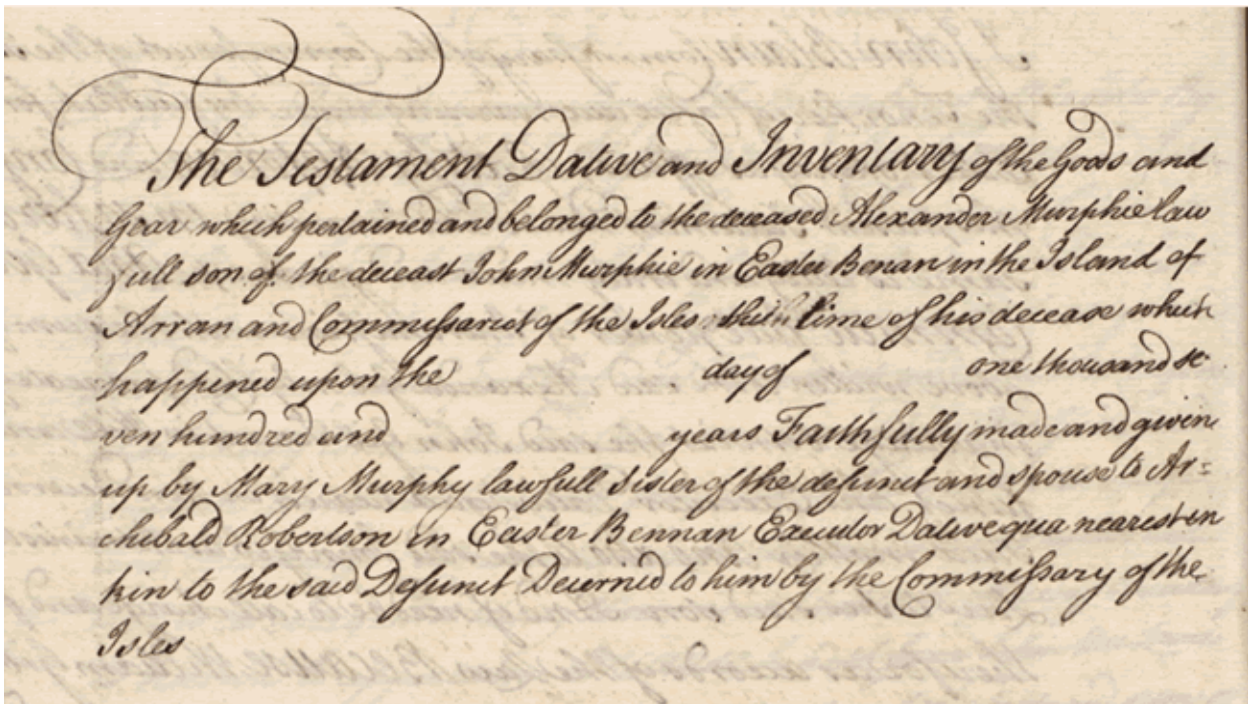


**The resulting testament part 1 (introductory clause)**

The first clause of a testament is the introductory clause in which the executor declares the identity and date of death of the deceased and the relationship between the executor and the deceased. In this case, Mary Murphy was unable to give a precise date of death, so the clerk left blanks for the day, month and year (such blanks are quite common in testaments dative). Her relationship to the deceased and her right to movables were confirmed by the court.

In the image below note some of the words and phrases, which occur commonly in testaments:

- *Goods and gear* – movable property
- *Pertained* – belonged to or legally connected to a person
- *Time of his/her decease* – time of his/her death
- *Faithfully made and given up* – accurately made and presented in court
- *Defunct* – the deceased
- *Executor dative qua nearest in kin* – family member appointed executor by the court
- *Decerned* – decreed by a court



(National Archives of Scotland, CC12/3/6/16)

**Exercise1:** In the transcription below fill in the missing common phrases

The Testament Dative and Inventory of the \_\_\_\_\_  
 \_\_\_\_\_ which \_\_\_\_\_ and belonged to the deceased Alexander Murphie law-  
 full son of the deceast John Murphie in Easter Bennan in the Island of  
 Arran and Commissariot of the Isles the \_\_\_\_\_ which  
 happened upon the [blank] day of [blank] one thousand se-  
 ven hundred and [blank] years \_\_\_\_\_ and \_\_\_\_\_  
 \_\_\_\_\_ by Mary Murphy lawfull sister of the \_\_\_\_\_ and spouse to Ar-  
 chibald Robertson in Easter Bennan \_\_\_\_\_  
 \_\_\_\_\_ to the said Defunct \_\_\_\_\_ to him by the Commissary of the  
 Isles

Mary Murphy then provided the court with an inventory of the movables belonging to the deceased (go to the next page – the inventory).



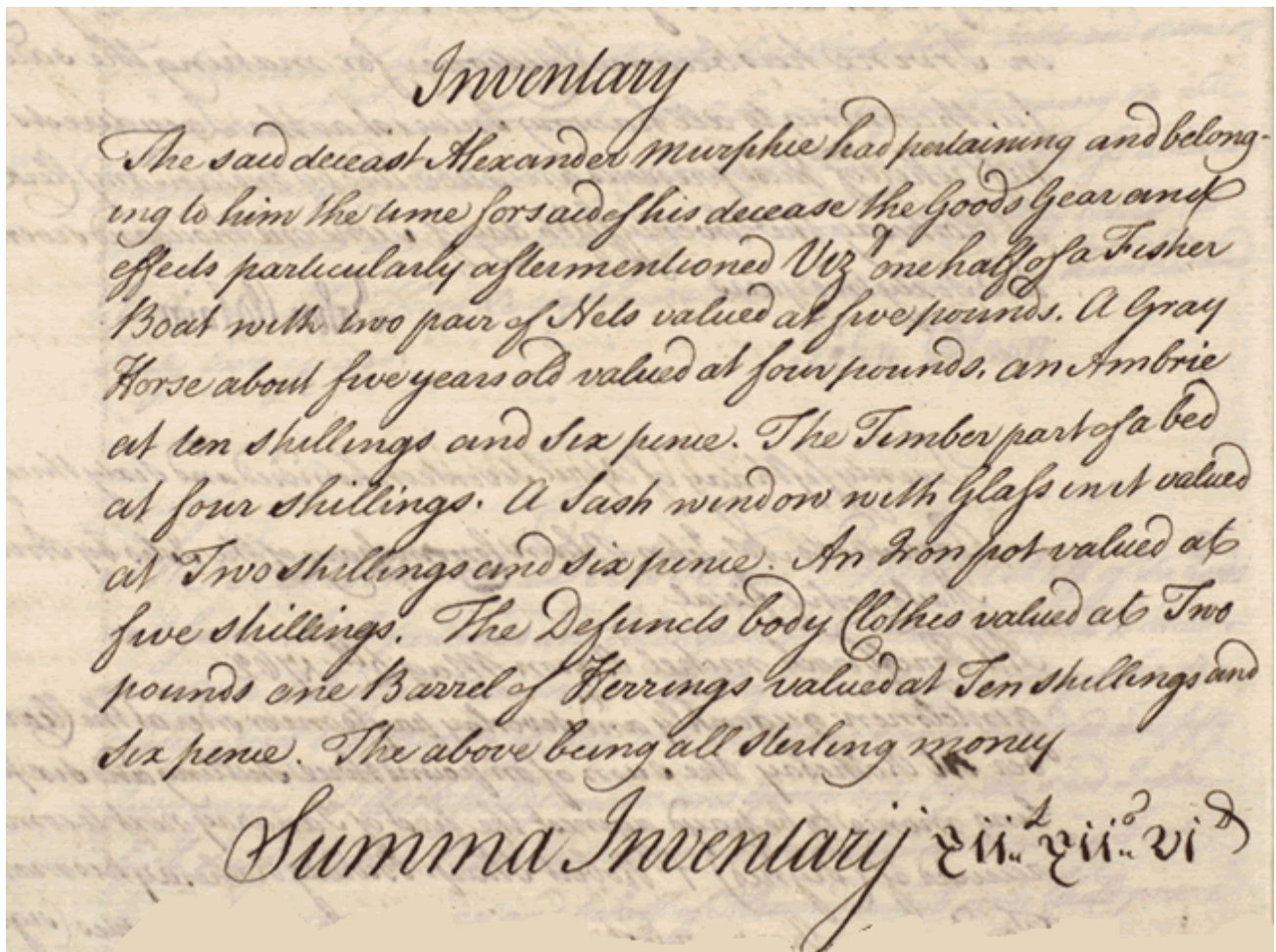
**The resulting testament part 2 (inventory)**

The inventory lists the movable goods. If there were any debts owing to or by the deceased these would normally be listed as well. In a typical inventory you would expect to find some or all of the following:

- the deceased's means of livelihood (tools, equipment etc)
- the products of work or trade (e.g. agricultural crops and manufactured goods)
- domestic animals (e.g. horses for transport, cows for milk)
- furniture, house fittings, cooking utensils, personal effects and valuables
- clothes
- cash

In addition to the common phrases already encountered in introductory paragraphs, you should expect certain other words and phrases to occur frequently in inventories:

- Inventar/Inventory/Inventarij* – the inventory (line 1)  
*Viz~* – abbreviation for the Latin *videlicet*, meaning 'that is to say' (line 4)  
*Body clothes* – personal clothing (line 10)  
*Summa Inventarij* – the total value of the inventory (line 13)



(National Archives of Scotland, CC12/3/6/16)

### *Inventory*

*The said deceast Alexander Murphie had pertaining and belonging to him the time forsaide of his decease the Goods Gear and effects particularly aftermentioned Viz~ one half of a Fisher Boat with two pairs of Nets valued at five pounds. A Gray Horse about five years old valued at four pounds, an Ambrie at ten shillings and six pence. The Timber part of a bed at four shillings A sash window with Glass in it valued at Two shillings and six pence. An Iron pot valued at five shillings. The Defuncts body Clothes valued at Two pounds one Barrel of Herrings valued at Ten shillings and six pence. The above being all sterling money  
Summa Inventarij xij lib~ xii s~ vi d~*

### **Vocabulary and Dictionaries**

Because inventories list livestock, crops, furniture and other movable goods, many of them have names which have long since disappeared from current use. For example, the ambrie (line 6) was an item of furniture serving as a cupboard or sideboard. When reading inventories written in Scotland it is useful to have one or more types of dictionary to hand. Ideally you should have a Scots dictionary but you may also find that occasional access is required to a nineteenth century English dictionary (for archaic words which are not specifically Scots). For advice about Scots and older English dictionaries see the ScottishHandwriting.com coaching manual: <http://www.scottishhandwriting.com/cmBib.asp>.

### **Numerals and Money**

In eighteenth century Scotland Roman numerals were giving way to Arabic numerals, but in testaments of this period it is possible to find numbers and sums of money written in Roman numerals, Arabic numerals and long-hand. Sums of money were usually rendered in pounds, shillings and pence in either sterling or pounds Scots. You will need to be able to calculate in pounds, shillings and pence, which was the monetary system in Scotland until the introduction of decimal currency 1971. For more information about numerals and sums of money see the ScottishHandwriting.com coaching manual: <http://www.scottishhandwriting.com/cmMon.asp>.

By the mid-eighteenth century, families and creditors used the testamentary process to pursue relatively small amounts of money (such as salary owed to the deceased or a specific debt owed by or to the deceased). In cases like this, where only one sum of money is covered by the testament, the clerk would write *summa inventory patet* (the Latin word *patet* means 'open' or 'clear').

### **Crops and Livestock**

Many inventories include crops and livestock and the terminology relating to these might seem baffling when you first encounter it. An explanation of these is outwith the scope of this tutorial – for help with this see the SCAN website Weights and Measures Guide: <http://www.scan.org.uk/measures/index.asp>.



**Exercise 2.**

An exercise in calculating in pounds, shillings and pence.

What was the total value of the **household** contents, that is the furniture, sash window, iron pot, clothing and barrel of herring?

**Remember:**

20 shillings = 1 pound

12 pence = 1 shilling

240 pence = 1 pound

If your sub total has more than 12 pence or 20 shillings you will need to round them up to the next shilling or pound.

The table below should help you to work out your answer.

**Answer:**

Item	Value		
	Pounds (L)	Shillings (s)	Pence (d)
<i>ambrie</i>			
<i>timber bed frame</i>			
<i>sash window</i>			
<i>iron pot</i>			
<i>clothing</i>			
<i>barrel of herring</i>			
Sub total			
Total			



### The resulting testament part 3 (confirmation clause)

The confirmation clause is the part of the testament which has the most legal jargon and the least historical information, but nevertheless it might tell you some things about the family or business associates of the deceased or executor, most importantly the identity of the cautioner. The confirmation clause may include a bond of caution. The precise form of words this took, and whether the bond of caution was recorded in the confirmation clause itself or in a separate clause, varied from court to court.

You should be able to identify the following words and phrases and know what they mean:

- *as effeirs* – as concerns
- *by the tenor hereof* – in the manner, or exact wording, repeated here
- *cautioner* – person who stands surety
- *committ* – give control
- *decerned* – decreed by court
- *defunct* – deceased
- *executor dative* – executor appointed by the court
- *for his/her interest* – for his/her legal concern
- *given up* – presented in court
- *in so far as* – because or on condition that
- *leilly and truly* – legally and honestly
- *power of intromission* – power to handle property and financial matters
- *qua creditor* – who is creditor of the deceased
- *qua nearest in kin* – who is nearest in kin to the deceased
- *ratify* – confirm
- *same/samen* – the person/matter/document already mentioned
- *these presents/this present* – this document
- *subscribed/subscribed* – signed

**Exercise 3.** In the transcription below fill in the blanks with the common phrases

*I John Blain Commissary of the Commissariat and  
Diocesis of the Isles \_\_\_\_\_ after due warning  
made by public form of Edict openly \_\_\_\_\_, \_\_\_\_\_ approve  
and confirm \_\_\_\_\_ Testament Dative and Inventory in  
so far as the \_\_\_\_\_ is \_\_\_\_\_ made and \_\_\_\_\_  
and Give and \_\_\_\_\_ full \_\_\_\_\_ with  
the sums of money abovementioned to the said Mary Murphie  
lawfull sister Germain of the said \_\_\_\_\_ and spouse to  
Archibald Robertson in Easter Benan and \_\_\_\_\_  
\_\_\_\_\_ decerned to her said Brother And Also to the  
said Archibald Robertson her husband \_\_\_\_\_ And if  
need be to call charge and pursue therefore as accords of the Law  
Because Alexander Robertson officer of Excise in Rothesay has  
become \_\_\_\_\_ for making the said sums furthcoming to all having  
interest as the Law directs In witness whereof \_\_\_\_\_ are  
\_\_\_\_\_ by me and my Clerk of Court at Rothesay the Twenty  
seventh day of May one thousand seven hundred and sixty three  
years.  
John Blain*



In the example used here this part of the testament is affected by bleed-through from ink in the page overleaf – you can see how heavy strokes of the pen on the testament overleaf make some words in the confirmation clause difficult to read

I John Blain Commissary of the Commissariot and  
Diocey of the Isles By the Tenor hereof after due warning  
made by public form of Edict openly as effects) Ratify Approve  
and Confirm this present Testament Dative and Inventory in  
so far as the same is lilly and truly made and given up  
And give and Commit full power of Intromission with  
the sums of money abovescriben to the said Mary Murphie  
lawfull sister german of the said Defunct and spouse to  
Archibald Robertson in Easter Benan and Executor Dative  
qua nearest in kin Decerned to her said Brother And also to the  
said Archibald Robertson her husband for his Interest And if  
need be to call charge and pursue therefor as awards of the Law  
BECOME Alexander Robertson Officer of Excise in Rothesay has  
become cautioner for making the said sums forthcoming to all having  
Interest as the Law directs In witness whereof these presents are  
Subscribed by me and my Clerk of Court at Rothesay the Twenty  
seventh day of May one thousand seven hundred and sixty three  
years

John Blain

(National Archives of Scotland, CC12/3/6/16-17)



### 3 A testament dative qua creditor

In the introductory clause and inventory of the testament dative qua creditor below, a creditor of the deceased has himself made executor in order to effect repayment of a loan and associated interest which had accrued on it, as described in the bill which is summarised in the testament. Note the use of the double-f as a capital F in the name of the deceased and the creditor.

#### Transcription

*The Testament Dative and Inventory of the Goods and Gear which pertained and were addebted to the deceast Robert Firline late Boatman at Cladoch near Brodick in arran within the Commissariot of the Isles the time of his decease which was in the month of 176 faithfully made and given up by James Fullarton of Corse E[xecuto]r dative qua Cred[ito]r decerned to the said defunt by decree of the Commissary of the said Commissariot of date the 28 day of Nov[embe]r 1769 years in so far as the said J. F. by his bill dated the 15<sup>th</sup> day of April 1749 y[ea]rs drawn upon and accepted by the Defunct ordered ag[ains]t Mart[im]is then next to pay to him the Drawer or his order the sum of 6. 6. 3 sterling which bill was upon the 17<sup>th</sup> day of Nov[embe]r that year protested for not payment and the Instrument of Protest taken thereupon was registered in the Sheriff Court Books of Buteshire the 8<sup>th</sup> day of May following of which sum above mentioned and interest thereof there was paid on the 16<sup>th</sup> of May 1759 L~ 1-3-4 and on the 10<sup>th</sup> of Novem[be]r 1762 L~ 4-9-6 which payments are marked on the back of the bill and likewise paid 19s~ 3 of Interest As the Decreet Dative there anent more fully bears. Inventory There was pertaining and belonging to the defunct at the time foresaid of his decease the Goods under written valued at the respective sums after mentioned To Wit a yaul with sails Masts Cable and anchor at L~ 5-10 shillings and a young Quey at fifteen shillings both the forsaid sums being sterling money Sum of the Inventory L~ vi.v sterl[ing]*

#### **Explantion of the bill of exchange**

Robert Firline had agreed the terms of the loan from James Fullarton in the bill dated the 15 April 1749, by which Firline would pay 6 pounds 6 shillings 3 pence on 11 November 1749 (*Mart[im]is then next*). Firline failed to pay off the loan, whereupon Fullarton protested the bill for non-payment at the sheriff court of Bute and had an instrument of protest registered on 8 May 1750. This empowered Fullarton to take steps to enforce payment (in Scots law this is termed *diligence*) and one of the ways of doing this was to have himself declared executor dative qua creditor by the commissary court when Firline died, presenting in evidence the extract instrument of protest.

A *yaul* was a type of small boat, a *quey* was a heiffer, a **decreet dative** was an act of court appointing someone executor, *anent* is the Scots word for 'concerning', and the phrase **more fully bears** means 'more fully indicates'. *Martimis* is the legal quarter day Martinmas (11 November). Note the abbreviations for *executor*, *creditor*, *years*, *against*, *martimis*, *november*, and *sterling*.

**Exercise 4**

How much money in total had Firline paid to Fullarton by the time of his death?

The table below should help you to work out your answer. An image of the original is given on page 13.

**Answer:**

Date	Value		
	Pounds (L)	Shillings (s)	Pence (d)
1759			
1762			
<i>By time of death</i>			
Sub total			
Total			



The Testament Dative and Inventa-  
ry of the Goods and Gear which pertained and were  
addebt to the deceast Robert Girdline late Shoatman  
at Cladoch near Brodick in arran within the  
Commissariat of the Isles the time of his decease which  
was in the month of 176 faithfully made  
and given up by James Fullerton of Gorse & dative  
qua Cred: decreed to the said deparnt by decree of the Com-  
missary of the said Commissariat of date the 28 day of  
Nov: 1769 years inso far as the said J. F. by his bill dated  
the 15<sup>th</sup> day of April 1749 yrs drawn upon and accepted  
by the Defund ordered agt Mart: then next to pay to him  
the Drawer or his order the Sum of 6. 6. 3 Sterling which  
bill was upon the 17<sup>th</sup> day of Nov: that year protested for  
not payment and the Instrument of Protest taken there-  
upon was registred in the Sheriff Court Books of Muteshire  
the 8<sup>th</sup> day of May following of which sum above mentioned  
and interest thereof there was paid on the 16<sup>th</sup> of May 1759  
£1. 3. 4 and on the 10<sup>th</sup> of Novem: 1762 £4. 9. 6 which  
payments are marked on the back of the bill and likewise  
paid 1963 of Interest as the Decree Dative there anent  
more fully bears. Inventory There was pertaining and  
belonging to the deparnt at the time foresaid of his decease the  
goods under written valued at the respective sums often  
mentioned To wit a yaul with sails Mast & Cable and  
anchor at £5. 10 Shillings and a young Quey at fifteen  
Shillings both the foresaid sums being Sterling money.  
Sum of the Inventory £ 21. 8 Ster.

(National Archives of Scotland, CC12/3/6/74)

### Exercise 5

Sometimes the main difficulty in a testament (or indeed any document) is identifying place names or personal names. In the introductory clause and inventory of the following testament page (p15), there are several tricky place names: some on the island of Bute and another one elsewhere. Answer the questions and transcribe the last line of the inventory.

5.1 Is the testament a testament dative qua creditor or a testament dative qua nearest of kin?

**Answer:**

5.2 Who was the deceased?

**Answer:** [ ] in the parish of [ ]

5.3 What was his occupation?

**Answer:** [ ] on HMS [ ]

5.4 Where did he die?

**Answer:** at the [ ] of [ ]

5.5 Who was the executor?

**Answer:** [ ] farmer in [ ]

5.6 What was the debt being pursued by the executor?

**Answer:** Six pounds Thirteen shillings sterling of [ ] for his [ ]  
on [ ] of [ ]

5.7 Transcribe the last line of the inventory?

**Answer:** [ ]



Exercise 5

The Testament Dative and Inventory of the  
debts and sums of money which belonged and  
were owing to the deceased Robert Duncan of the  
Parish of Kungarath within the Commissary of  
the Isles Leamoon who died at the siege of  
Negapatnam on board his Majesty's ship  
Mercuria the seventeenth day of November  
Seventeen hundred and Eighty one Faithfully  
made and given up by Archibald Duncan  
Mariner in Burgedale lawful brother german  
of the said defunct and Executor Dative and  
nearest in kin to him conform to Decree  
Dative of the Commissary of the Isles pronounced  
thereanent of date the second day of September  
Seventeen hundred and Eighty four

Inventory.

There was owing to the said Robert Duncan at  
the time foresaid of his decease Six pounds Thirteen  
shillings sterling of wages for his service on board  
of said ship

Summa Inventarij facti

(National Archives of Scotland, CC12/3/6/203)



**Exercise 6**

The next example is a more complicated inventory taken from the testament dative of Catherine Hamilton, the widow of a farmer (William Hamilton) on the island of Arran. Fill in the blanks in the transcription and make a total of the inventory's value.

6.1 Fill in the gaps in the transcription:

*Inventory*

\_\_\_\_\_ The \_\_\_\_\_ upon the said William Hamilton's  
possession valued at Sixteen pounds. The \_\_\_\_\_ upon the  
said possession valued at Three pounds. Two \_\_\_\_\_ valued at  
Four Pounds a \_\_\_\_\_ and \_\_\_\_\_ valued at Ten pounds. \_\_\_\_\_  
and other \_\_\_\_\_ valued at Two pounds Four \_\_\_\_\_  
valued at Six pounds thirteen shillings and four pence Two \_\_\_\_\_  
\_\_\_\_\_ at one pound each Two pounds a \_\_\_\_\_ valued at fifteen  
shillings. Two \_\_\_\_\_ at Ten shillings each One pound a \_\_\_\_\_  
\_\_\_\_\_ and \_\_\_\_\_ valued at Three pounds ten shillings a \_\_\_\_\_  
and \_\_\_\_\_ at Fifteen shillings \_\_\_\_\_ at  
Fifteen shillings a \_\_\_\_\_ and an \_\_\_\_\_ at one pound. Two  
\_\_\_\_\_ Eight shillings \_\_\_\_\_ Two pounds. Two \_\_\_\_\_  
one pound. \_\_\_\_\_ one pound \_\_\_\_\_  
due to the Defunct and her Husband at the time forsaide of her  
decease Ten pounds \_\_\_\_\_ valued at one pound the  
whole of the above sums being sterling money



6.2 What was the total value of the movable estate?

The table below should help you to work out your answer. An image of the original is given on page 18.

**Answer:**

Line	Item	Price		
		Pounds	Shillings	Pence
1				
2				
3				
4				
4&5				
5				
6&7				
7				
8				
8&9				
9&10				
10				
11				
12				
12				
12				
13				
13				
15				
<b>(TOTAL)</b>				
<b>TOTAL</b>				



Exercise 6

*Inventarij*  
*Imprimis* The Crop and Hay upon the said William Hamiltons  
possession valued at Sixteen pounds. The Crop of Potatoes upon the  
said possession valued at Three pounds. Two Horses valued at  
Four Pounds a Stell and Shelle valued at Ten pounds. Hogsheads  
and other Brewing Utensils valued at Two pounds Four Cows  
valued at Six pounds thirteen shillings and four pence Two three  
year olds at one pound each Two pounds a Stock valued at fifteen  
shillings. Two Queys at Ten shillings each one pound, a Horning  
Boat and pertinent valued at Three pounds ten shillings a plough  
and labouring Utensils at Fifteen shillings Six Chairs at  
Fifteen shillings A press and an Ambrie at one pound. Two  
Bed Steeds Eight shillings Bed Cloths at Two pounds. Two Cheats  
one pound. Kitchen furniture one pound Out standing debts  
due to the Defunct and her Husband at the time for said of her  
decease Ten pounds Table Linen valued at one pound the  
whole of the above sums being Sterling money.

(National Archives of Scotland, CC12/3/6/17)



**Exercise 7**

The next example is the confirmation clause for the testament which featured in Exercise 6.

Fill in the blanks in the transcription.

*I John Blain principal Commissary of the Commissariat  
and Diocess of the Isles \_\_\_\_\_ (after due warning  
made by public form of Edict openly \_\_\_\_\_) Ratify Ap-  
prove and Confirm this present Testament Dative and  
Inventory in So far as the \_\_\_\_\_ is \_\_\_\_\_ made and  
\_\_\_\_\_ and Give and Committ full \_\_\_\_\_  
with the Debts and sums of money abovewritten to the said John  
Hamilton Tenant in Glenshant lawfull brother German and  
Mary Janet Jean Margaret Elisabeth Anne and Geills Hamil-  
tons lawfull sisters German and [ \_\_\_\_\_ ]  
\_\_\_\_\_ to the said \_\_\_\_\_ their brother And if need be to  
call Charge and pursue therefor as accord of the Law Because  
Henrie Bannatyne shoemaker in the Cladoch of Arran has  
become \_\_\_\_\_ for making the said sums forthcoming to all  
partys having \_\_\_\_\_ as the Law directs In witness whereof  
\_\_\_\_\_ are \_\_\_\_\_ by me and my Clerk of Court at  
Rothesay the fourth day of July one thousand seven hundred and  
sixty three years  
John Blain*



Exercise 7

I John Blain principal Commissary of the Commissariat  
and Dickey of the Isles By the tenor hereof (after due warning  
made by public form of Edict openly as effects) Ratify Ap  
prove and Confirm this present Testament Dative and  
Inventory in so far as the same is truly and truly made and  
given up and Give and Commit full power of Jurisdiction  
with the Debts and sums of money above written to the said John  
Hamilton Tenant in Glesshant lawfull brother German, and  
Mary Janet Jean Margaret Elisabeth Anne and Geillis Hamil  
tons lawfull sisters German and Executors Dative qua nearest of  
kin Decerned to the said Defunct their brother And if need be to  
call Charge and pursue therefor as awards of the Law Because  
Heinie Bannatyne Shoemaker in the Cladoch of Arran has  
become Cautioner for making the said sums forthcoming to all  
partys having Interest as the Law directs IN WITNESS whereof  
these presents are subscribed by me and my Clerk of Court at  
Rothsay the fourth day of July one thousand seven hundred and  
sixty three years

John Blain

(National Archives of Scotland, CC12/3/6/18)

### Revise what you have learned

Are you sure you understand the following parts of the testament, the concepts which lie behind it and various common words and phrases which appear in testaments?

Read through the key ideas and terms in the list below and, if you are still unsure of any of them, go to the part of the tutorial which deals with them.

	Tutorial section
testament testamentar testament dative testaments dative qua nearest in kin testament dative qua creditor  intestate executor Movable property the widow's part the bairns part the dead's part commissary court quot	Introduction – page 2
introductory clause inventory confirmation clause	Introduction – page 3
caution cautioner bond of caution	Testament dative qua nearest in kin – page 4
goods and gear defunct decerned viz body clothes	Introductory clause – pages 5
summa Inventory summa inventory patet	Inventory – pages 6-7
pounds, shillings and pence	Inventory – page 8
by the Tenor hereof as effeirs leilly and truly power of Intromission these presents	Confirmation clause – page 9
decret dative more fully bears	Testament dative qua creditor – pages 11-13