

**THE MAKING AND BREAKING OF A COMITAL FAMILY:  
MALCOLM FLEMING, FIRST EARL OF WIGTOWN, AND  
THOMAS FLEMING, SECOND EARL OF WIGTOWN**

PART 2

THE BREAKING OF AN EARLDOM: THE DECLINE OF EARL  
MALCOLM AND FAILURE OF EARL THOMAS

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David II's 1346 expedition into England and the catastrophic end to the campaign at Neville's Cross have been explored in depth in several studies. Likewise, the political consequences of the deaths or capture of so many of David's closest councillors have been analysed for both the king and the government of his realm.<sup>1</sup> What has not been explored in similar detail is the impact that the battle and its aftermath had on the political fortunes of a single noble family. With the king a prisoner and rivals like John Randolph and Maurice Murray dead, Robert Stewart and his associates regained their pre-1342 dominance, enhanced by Robert's status as David's sole heir and *de facto* lieutenant. For men who had been promoted by David to counterbalance his nephew's political influence—and the followers of such men—the removal of the king and resurgence of Robert's fortunes delivered a sharp lesson in realpolitik. Survival

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required accommodation with the new regime; failure to do so threatened political eclipse and social marginalisation. In this second part of the discussion of the rise and fall of the Fleming earldom of Wigtown the focus is on Earl Malcolm's decline in the changed political environment of post-Neville's-Cross Scotland and on the legacy bequeathed to his grandson and successor, Thomas. It presents a stark contrast to the preceding two decades of rising fortunes and exposes failures that were as much personal as political.

Malcolm, then in at least his mid-fifties, had fought alongside David in the second division of the army and was captured with him.<sup>2</sup> While David was immediately taken south for greater security, Malcolm was held in the custody of Robert Bertram, sheriff of Northumberland, for later transfer to London.<sup>3</sup> A warrant on Exchequer was issued on 7 March 1347 for payment to John D'Arcy, constable of the Tower, of 20 shillings *per diem* as his expenses for bringing 'David Bruce, Malcolm Fleming, and other Scottish prisoners' from Roxburgh, Wark and Bamburgh to London.<sup>4</sup> On 2 May, however, Bertram was indicted for contempt in allowing Fleming to escape.<sup>5</sup> Claiming to be ill, possibly due to wounds received at Neville's Cross, Malcolm had not accompanied the other Scottish prisoners but had remained in custody at Bothal. There, he had suborned one of his gaolers, Robert de la Vale, who then fled with him to Scotland, where Malcolm rewarded him with the lands of Dalzell and Kilsyth.<sup>6</sup>

Malcolm might have been expected to resume the prominence in government he had held previously but was instead striking by his invisibility. This absence may have been as much a consequence of the infirmity which had been his excuse for not being transported to the Tower as of his standing as one of the few survivors amongst David's closest partisans.<sup>7</sup> His personal links with Robert Stewart, who was again lieutenant, might have given him an important mediatory position, but, instead, he was conspicuously absent from what passed as Scotland's government until 1350-1351; he then only attended the parliaments and councils of 1351, 1352 and 1354 summoned to discuss David's ransoming.<sup>8</sup>

During this period, Malcolm's position in Galloway collapsed and the lordship which he had built in the early 1340s

disintegrated as the exiled native leadership returned with English support. Local figures who had submitted to David reverted to their former allegiance to Edward Balliol, who re-established a regional presence.<sup>9</sup> Two of Malcolm's associates, Alan Stewart of Darnley, who had estates in the Rhins, and John Kennedy of Dunure in Carrick, prevented the complete collapse of the pro-Bruce position in western Galloway and Carrick, but it was otherwise William, lord of Douglas, who led the offensive against Balliol's supporters and secured their eventual surrender in 1355.<sup>10</sup>

This personal inactivity was paralleled by a shift into greater dependency on the Steward and his intrusion into key components of Malcolm's lordship. As head of a large military following and an experienced politician, Malcolm should have been courted by the lieutenant, regardless of their past relationship, but was instead relegated to the political margins. One critical factor behind this situation was Malcolm's lack of an adult heir to provide the Fleming family's political-military adherents with a leader in the absence of Malcolm himself. If he was personally incapable of providing leadership to his following, even by the proxy of a son, and heading the defence of his own lands—and by extension those of his adherents—men would look elsewhere for leadership and protection. Malcolm's decline is illustrated by the brusque tone adopted towards him by Robert, who in June 1348 wrote as lieutenant to an unnamed 'sheriff of the castle of Dumbarton' requiring him to cease levying a render of flour to feed the castle's garrison from Paisley Abbey's tenants in the Lennox.<sup>11</sup> The letter mentioned a concordat on that subject previously made between 'you' (the sheriff) and 'them' (the monks of Paisley), which refers to the settlement agreed between Malcolm and the monks in November 1330, indicating that he was the unnamed sheriff in 1348. There are no courtesies in the letter, which is straightforwardly directive as an instruction from a superior lord to an official of inferior status. The tone could reflect the business-like manner of the chancellor, William Caldwell, a Stewart-linked cleric, and Robert's assertion of authority as lieutenant in the aftermath of Neville's Cross, but the lack of any courtesies or recognition of Malcolm's wider titles seems deliberate.

It was only *c.*1350 that Malcolm resurfaced as a named participant in a surviving act. This was as a witness to a private charter of Robert Stewart to Sir Robert Erskine, one of the new stars in the wider circle of the Steward's following and, from at least August 1348, chamberlain of Scotland.<sup>12</sup> This re-emergence coincided with Robert's temporary removal from office as lieutenant and replacement by a triumvirate of the earls of Ross and Mar, and the lord of Douglas;<sup>13</sup> Robert needed to court allies where he could. Malcolm, however, aligned with the party that David II was constructing *in absentia* and it is in that context that Malcolm attended the 1351 Dundee parliament where terms for David's release were debated.<sup>14</sup> Those terms, which would have removed Robert Stewart from the succession and replaced him with a Plantagenet prince, were unacceptable to a majority in parliament, even Robert's opponents. A reaction against David's preparedness to secure his release on such terms resulted in Robert regaining the sole lieutenancy once the parliament ended; Malcolm had miscalculated his alignment with David.

Clearly still perceived (in English eyes at least) as a key Bruce partisan, Malcolm was amongst those whose sons or heirs were named in a safe conduct of 5 September 1351 as hostages for David when he was released on parole to return to Scotland with fresh ransom terms.<sup>15</sup> Malcolm attended the Scone parliament at which that business was discussed but his only recorded input there was as witness to charters granted by David. These acts underscored the king's failure and the Steward's dominance; all were confirmations of grants by the Steward or his associate, Thomas Stewart, earl of Angus, to Sir Robert Erskine.<sup>16</sup> Not only had the Steward retrieved the allegiance of Erskine as chamberlain from the king but he was also able to manipulate parliament's suspicion of David, his plans, and by extension his few supporters to his benefit.<sup>17</sup> From this point inroads into the remnants of Malcolm's powerbase accelerated, and by 1353 Robert controlled Dumbarton Castle.<sup>18</sup>

Malcolm's hold on Dumbarton may have been weakening for some time. Regardless of whether or not it stemmed from the marriage of an otherwise unknown daughter to Sir John Danielston,<sup>19</sup> it was to that staunch Stewart partisan that the castle

was entrusted. Soon after his release in October 1357, David II confirmed a charter in Danielston's favour from Malcolm, which granted him the island and castle of Inchcailloch in Loch Lomond, the advowson of the church of Inchcailloch, and the lands of Kilmarnock, the last of which had been granted to Malcolm as part of his fee for the keepership of Dumbarton and confirmed to him heritably in 1341.<sup>20</sup> These grants to Danielston presumably involved the transfer of Dumbarton's keepership; he held the castle by 1359 and was drawing revenue from the barony of Cadzow for its maintenance.<sup>21</sup> Keepership of Dumbarton had not been explicitly a hereditary appointment—unless that was implicit in the hereditary grant of the lands attached to that position—but the castle had been the jewel amidst Malcolm's sprawling complex of lordships and his principal, and effectively private, residence. It had been, moreover, the lynchpin in his network of power, dominating the northern end of the Clyde seaways and forming a bridging-point between his Clyde-basin estates and his south-western earldom. He had, presumably, intended that it pass with his hereditary lands to his heir; its loss must have been a bitter blow.

After the March 1352 Scone parliament, with control of government concentrated in the hands of the Steward and his associates the earls of Angus and March, Malcolm withdrew to the political margins.<sup>22</sup> It was as a loyal Bruce man that he attended a meeting of council at Inverkeithing on 1 April 1354, where along with his fellow loyalist William, earl of Sutherland, he witnessed three charters, the last of which represented part an effort by David to court William Douglas.<sup>23</sup> Council concluded with agreement to reopen negotiations with Edward III and on 13 July terms were settled to be put before the Scottish parliament. If these were accepted, to cement the peace twelve Scottish hostages were to be delivered to England, headed by the sons and heirs of the earls of Sutherland and March and the heir of the earl of Wigtown.<sup>24</sup> As with the previous proposals, however, the plan was rejected.

Malcolm re-emerged into political life only in 1357. By then he may have been facing financial difficulties that stemmed from the loss of parts of his lordship from which he had drawn considerable income, most notably the sheriffdom and castle of Dumbarton. It was perhaps to address his money problems that in

April 1357 he granted his kinsman, Malcolm Fleming of Biggar, land at Auchmoir that had been wadset to him for £200,<sup>25</sup> in what seems to have been the selling-on of a debt. This transaction was the first signal of growing financial dependence on the Biggar Flemings that would become absolute in the years ahead. Malcolm's need may have been to gain the liquidity necessary to meet the costs of his grandson's soon-to-be-enforced residence in England as a hostage for the fulfilment of David's impending ransom settlement. That situation gained inevitability when Malcolm attended the assembly at Edinburgh on 26 September which authorised six Scottish commissioners to agree ransom terms and appended his seal to letters patent appointing the commissioners to conclude a firm treaty.<sup>26</sup> Agreement having been reached, on 3 October his grandson Thomas was delivered to Berwick as a hostage.<sup>27</sup>

This moment is the last certain point at which Malcolm can be seen alive and active, but there is reference to a now lost charter issued in December 1357 or January 1358 recording a grant to him from David of the five-merkland of Carnesmoel or Kirkiner in the Machars and the lands of Knock of Luce near Glenluce.<sup>28</sup> This act followed a charter of confirmation to Glenluce Abbey of a five-merkland of the earldom of Wigton and a five-merkland of Carnesmoel.<sup>29</sup> The subject-matter of the two documents may be the same and perhaps represents *post-facto* confirmation of Malcolm's rights in land which he had alienated to the abbey. That Malcolm's last recorded act was a gift to one of the principal monasteries in his earldom perhaps signals awareness of his mortality and preparation for death. There is no evidence that he attended David's first full council after his release, held at Scone around 6 November, but these charters may have been ratified there.<sup>30</sup>

Malcolm was possibly dead before 11 January 1358 when, in a transaction agreed at Dumbarton, the Steward secured a crown grant to Malcolm Fleming of Biggar of the lands in Lenzie that had been forfeited by John Kennedy.<sup>31</sup> If he were still alive, it is unthinkable that Malcolm would not either have been personally involved in this award concerning property within his original lordship—not even his consent is noted—or that at the very least he would have witnessed the king's charter. In his last days, Malcolm

cannot but have feared for the future, for his lack of consequence in the political community and replacement as a social and military leader in both Galloway and Dumbarton by other men had reduced him, and by extension the Fleming earldom, to virtual irrelevance. Malcolm's rise had been fuelled by his ability to attract ambitious men into his following, men who hoped to benefit from association with a lord in whose hands lay considerable patronage. Without access to such patronage, such men would soon turn elsewhere for lordship and advancement; indeed, some like the Wallaces had already pursued opportunities through other routes.<sup>32</sup>

Under normal circumstances, the leadership of the Fleming kin, and of the earl's personal following, would have devolved increasingly during his lifetime upon his heir, who would have been expected to form new bonds with the men upon whom Malcolm's power had been built. The presence of the entail, moreover, would have placed the succession to the earldom beyond question and men would have had no doubt as to with whom their future should lie. But the heir, his grandson Thomas, was an untried young man who had made no independent impression on the political or military scene before October 1357, and for the next five years was a hostage for David II's ransom; there would be no immediate revival of Fleming fortunes under a new, young earl. To add to the family's woes, Countess Marjory did not long outlive Malcolm. Into 1358/9 she was still drawing her personal income from properties that had been granted to her in liferent.<sup>33</sup> Described as 'foster sister to the king', she resigned into David's hands some of her personal lands in Dumfriesshire, which the king granted before January 1361 to Malcolm Wallace.<sup>34</sup> By that date she may already have been dead, for in 1361 her executors were acting to discharge her will.<sup>35</sup> In the space of around two years, the elder generation of the Flemings had been removed and the heir was not present in Scotland to take possession of his heritage.

Malcolm's son is historically obscure to the extent that not even his first name is known with certainty. He had been married around 1328/9 in a wedding to which Robert I made a substantial cash gift but the identity of the bride is unknown. There is no evidence for his activity after 1329 or, if he was the Hugh Fleming who witnessed a Lennox charter in the early years of David II's

reign,<sup>36</sup> after 1333 at the latest. If we set aside that latter identification, the latest possible date for his death moves forward nearly two decades to shortly before September 1351, when Thomas was first identified as heir to the earldom as a hostage during David II's return on parole to Scotland.<sup>37</sup> Given the silence of the sources on the question of Malcolm's son, however, it is probable that his death occurred closer to 1329x1333 than later (perhaps at Dupplin or Halidon Hill, but that is simply conjecture). Even if he was born late in 1333 to take the Halidon Hill possibility, Thomas still would have been in his middle twenties by the time he succeeded his grandfather, an age by which he should have been actively gaining an independent identity as a young knight amongst the leadership of the Bruce party. The fact that he was apparently socially, politically and militarily inactive through the later 1340s and 1350s raises more questions than answers, but two main solutions present themselves. First, a straightforward reading of his invisibility in the record before 1351 would be that he was born at a much later date and was still underage in the late 1350s, but his naming in the list of hostages given as security for David's return to captivity suggests that he was also more than an infant by that date. Second, he was around twenty when first identified as a hostage but had some form of disability which had prevented him from winning the place in Scottish elite society that his status as heir to an earldom should have given him. His later difficulties in exercising any kind of active personal leadership suggest that the latter might have been the case, but there is no independent evidence to support that explanation or any other.

Whatever his personal circumstance, Thomas became a hostage for David under the terms of the treaty of Berwick, being delivered on 3 October to Alan de Strother.<sup>38</sup> How long he remained in captivity is unclear as he is not named in English records after November 1358 when he and a group of other hostages were moved north into the keeping of the sheriff of Northumberland,<sup>39</sup> but David's successful negotiation of a six-month deferral of the 1359 instalment of his ransom might have extended Thomas's enforced absence. While David had recognised a debt of gratitude to Malcolm that stretched from the late 1320s that gratitude did not necessarily extend to the new earl, even

although his regular visits to Dumbarton before 1346 and during his periods of parole in the early 1350s must have meant that Thomas was known to him. Under the entail's terms, furthermore, David would have understood that the earldom of Wigtown would pass intact to Thomas. David may have regarded other components of Malcolm's former possessions that were not covered by the 1341 grants in free barony or the tailzie relating to the earldom lands and title as available for re-grant to men he wished to cultivate. Robert Stewart likewise continued to erode the sphere of Fleming influence.

By the early 1360s, when David had begun to exercise his kingly authority more effectively, his efforts to stem the spread of Stewart influence into Carrick meant a further undermining of Thomas's position. David's insertion of William Cunningham of Kilmaurs as 'lord' of the earldom of Carrick sometime in 1358 was surely intended to provide an experienced replacement locally for Malcolm Fleming.<sup>40</sup> Cunningham had appeared earlier on the fringes of Malcolm's wider network of associates in south-western Scotland, and David may have intended that he assume leadership of the following that Malcolm had built in Carrick and so aid in restoring crown authority in the far south-west. Evidently, however, despite a re-grant by David in 1362,<sup>41</sup> Cunningham failed to establish his lordship within Carrick through the hostility of the Kennedys, with whom David himself may have been in dispute, and by 1368 Cunningham had relinquished the earldom.<sup>42</sup> By that date, any hope that Thomas had of moving into the role in Carrick once filled by his grandfather had long gone.

If Thomas was released with the first group of hostages in November 1358 there is no evidence of his activity in Scotland, where David was rebuilding a following through which to challenge Robert Stewart, Thomas Stewart, earl of Angus, and William Douglas.<sup>43</sup> There are hints that the earldom of Wigtown may have been amongst lands resumed by the crown under the revocation of November 1357, for Wigtown was simply presented as a sheriffdom in the 1360 Chamberlain accounts despite the subsuming of that sheriffdom into the regality of the earldom in 1341.<sup>44</sup> The extent to which Malcolm had regained control after the reversal of 1346, discussed above, is unknown but it is significant

that other men—Alan Stewart, John Kennedy and William Douglas—were named as active in that regard with no suggestion that the earl had himself been involved. Thomas, therefore, may have inherited a title but little by way of authority to give that title substance. Equally little evidence, however, exists for an attempt to exercise active leadership either as earl in Wigtown or as a magnate in the wider south-west. The earliest hint of a social leadership role for Thomas occurs in an undated charter of Marjory Montgomery confirming her sale of Cassillis in Carrick to John Kennedy, which the king confirmed in August 1363.<sup>45</sup> Thomas did not actively witness the transaction but his seal as earl of Wigtown and that of his grandfather's old associate Sir Duncan Wallace, who was by then sheriff of Ayr, were appended to add weight to Marjory's right to sell. What is more significant in the timing of this (non-) appearance of Thomas as earl is that it occurred in the midst of David's frenetic burst of activity in the aftermath of the suppression of the rebellion of the Steward, William Douglas, and Patrick Dunbar, earl of March, in early 1363; throughout that tumultuous period the one magnate of comital status who is conspicuously absent from all records of events is Thomas Fleming.<sup>46</sup>

What can be read into this absence? There is no record that Thomas had returned as a hostage to England and the availability of his personal seal in the vicinity of Ayr before August 1363 seems to provide evidence against that being the case. While he might still have been a minor in 1357, the fact that he possessed a personal seal that carried legal weight as an authenticator of documents in the early 1360s is the clearest evidence for his being legally of age by that period. His possession of a personal seal suggests, moreover, that he was not in some way mentally incapacitated with the management of his affairs placed in the hands of his kinsmen. If he was then in possession of his mental faculties, why was he not providing his council to the king and participating actively in the political life of the kingdom? Here we seem to have the evidence that he was somehow physically incapable of the strenuous circuit of travel with the king as part of his court and council and of providing military leadership in the field as was expected of a man of his status. As an earl, Thomas appears to have lacked the ability to discharge those essential functions of comital power, the social

and political leadership of the community of his earldom and the military leadership of his *comitatus*. The tailzie had made him earl but legal entitlement could not give him the capability to exercise that role. For the king, who needed strong and effective political and military leadership locally and as part of his personal following, such an earl was of no conceivable use.

It is probably in that context that the re-grant of the earldom to Thomas in January 1367 should be seen. David's charter 'gave', 'granted', 'restored' and 'confirmed' Wigtown to Thomas as it had been held by his grandfather, but without the tailzie restricting succession to the direct male heirs of Earl Malcolm (the grant in feu and heritage was simply to Thomas and his heirs) and shorn of regality powers 'which for certain reasons we wish to remain in suspension until such time as we are persuaded to instruct otherwise on this'.<sup>47</sup> The use of the verb *restituere* (to restore or return) is very unusual and suggests that prior to January 1367 the earldom had in some way been in suspension and there is an implication that Thomas had not enjoyed even nominal possession. There is, however, no record of such a suspension and Thomas does appear to have been using—or at least was being accorded—the title earlier in the 1360s. The omission of the tailzie clause of the 1341 grant to Malcolm from the 1367 charter to Thomas is also problematical and could be over-interpreted, but failure to stipulate succession by legitimate male heirs of Thomas's body perhaps signalled recognition that the likelihood of him fathering such heirs was at best remote and an opening of possible succession to heirs general might have sweetened the pill of losing the regality rights. No indication is given of what the 'certain reasons' were for withholding the regality jurisdiction but suggestions of conflict with leading local men offered by Thomas in the early 1370s might point to successful lobbying with David by men who offered dynamic and assertive local leadership. There was nothing unusual about such a withdrawal of jurisdiction, which was a feature of the Act of Revocation of September 1367,<sup>48</sup> but the timing of this re-grant in advance of the revocation points to the addressing of a specific issue. Over and above the 'ancient regalities' which had existed in his father's reign (such as the ecclesiastical liberties of Arbroath

and Dunfermline abbeys and the regalian powers of the Randolphs in Moray), David was prepared to grant specific exemptions where such powers were essential for the maintenance of good order. The suspension of the Wigtown regality adds further weight to a sense of Thomas as personally failing to deliver effective local leadership.

David can have held few illusions as to the likely consequence of the loss of regality powers in Wigtown, for Thomas possessed no greater landed base in the earldom than his grandfather had. What was worse, however, was his lack of the intimacy with the south Ayrshire nobility which had reinforced Malcolm's authority in the 1340s. Thomas was earl in title but lacked capacity to enforce the social and political leadership that ought to have been attendant on that rank. The loss of regality immediately and fatally undermined his ability to exercise lordship in his earldom, and he soon faced considerable opposition from both native families, again headed by the MacDowells whose landholding David had restored. He was also challenged by the Kennedys, who were aligned with Robert Stewart and who were expanding their influence south from Carrick where they claimed the office of bailie, upon which Malcolm had founded his local influence.<sup>49</sup> The Kennedys, moreover, had replaced as *kenkynnol* the Carricks, who had possibly died out in the male line in the late 1340s or 1350s, and with that status assumed the leadership of the other kindreds of the earldom.<sup>50</sup> The Carrick power-base that had reinforced Malcolm's authority was now aligned against his grandson.

Outside Wigtownshire, Thomas's position also deteriorated. In Lenzie, where in 1357 his grandfather had sold or wadset to his kinsman Malcolm Fleming of Biggar the former Kennedy lands, alienation was made permanent in April 1362 when Fleming of Biggar and his wife received an extension of the king's 1358 grant in feu and heritage into a full entail for those properties.<sup>51</sup> Reversionary rights under a wadset were removed and a valuable portion of Lenzie was lost. The erosion of his landed position in Lenzie accelerated soon after February 1364 when Thomas made a grant in blenchferme of much of the eastern part of the barony lands to Sir Robert Erskine in thanks for his 'service and

help'.<sup>52</sup> The economic consequences of the loss of the Wigtown regality jurisdiction may be reflected in his grant of a six-year tack of the rest of Lenzie to Erskine in June 1368.<sup>53</sup> There is a strong indication in this succession of alienations and tacks that David II was easing his 'fixer' Erskine into a position of local power to replace the failing authority of the Wigtown Flemings. Erskine, however, aimed to consolidate his interests further west and Thomas's nearer kin were equally keen to preserve the integrity of the Lenzie barony, which they were as increasingly likely to inherit as heirs general under the 1367 settlement. Erskine was thus able to arrange an exchange settled by charter in April 1369 with Patrick Fleming, younger son of Malcolm Fleming of Biggar, Thomas's cousin, which saw him transfer his Lenzie properties to Patrick and Patrick transfer his lands of Dalnottar and Garscadden to Erskine.<sup>54</sup> Behind these processes, the Biggar Flemings were seeking to retrieve their heritage from their kinsman's finance-driven alienations.

Further difficulties were created for Thomas by Archibald Douglas, his new neighbour in eastern Galloway, who in September 1369 had received Galloway between the rivers Cree and Nith from the king.<sup>55</sup> David's grant made specific reference to Archibald's strenuous personal efforts in securing the pacification and restoration of justice in the region, reflecting an aggressive imposition of lordship in a manner that contrasted sharply with Thomas's failures. David's death in February 1371 did not lift pressure from Thomas, for as king Robert Stewart continued to dismantle Fleming lordship in Wigtown. The crown-led process started in April 1372 when Robert granted the whole lordship of Wigtown, with the exception of the barony of Kirkinner, which Malcolm Fleming had acquired by a separate act, to his nephew, Sir James Lindsay.<sup>56</sup> Robert's charter narrated that Thomas had first resigned them to David II in an unrecorded court process at Glasgow, then again in person in Robert's court at Perth on 19 April 1372. Lindsay was not granted the title of earl, but received the whole lordship with the full rights of barony and regality over it of which Thomas had been deprived; Robert understood the requirements for strong lordship in this turbulent region.

Lindsay, however, was unable to effect possession. The reason was that in January 1372 Thomas had already sold the earldom lands for £500 to Archibald Douglas,<sup>57</sup> a man whom the new king could ill afford to challenge. Archibald, whose power rested on a formidable military following backed by the substantial landed inheritance of his wife, Joanna Murray, could offer strong lordship where Thomas could not. Thomas's decision to sell, made on the grounds of his great and urgent necessity and due to the 'great and serious strife and utmost enmity' between himself and the greater men of the earldom, recognised that Archibald had both the resources and the reputation to enforce his authority in ways that Thomas had not and could not. Robert was forced to accept the dubious legality of this transaction and confirmed Archibald in possession but withheld the title of earl,<sup>58</sup> which later formed a *cause célèbre* in the conflict between James II and the Douglases. Kennedy ambitions in Wigtown, too, were checked by Douglas's coup, but at the cost of decades of rivalry between the two families. In neither Robert's plan for his nephew nor Thomas's sale of the earldom to Archibald were the rights of Thomas's heirs general acknowledged.

For Thomas, the cash sale of Wigtown—the only earldom disposed of in this way in medieval Scotland—was just part of a rapid spiral of decline. The money raised through the sale clearly failed to satisfy Thomas's 'great urgent necessity' and further extended tacks or wadsets were granted on his other properties. On 10 August 1371, Thomas entered into a contract for service with William, son of Thomas Boyd of Kilmarnock, promising payment of twelve merks annually at Thomas's residence at Fullwood until he provided William with land of equivalent value in the sheriffdoms of Dumbarton or Lanark. As security against default, Thomas pledged his lands of Govan 'lying in my hands at the time of this contract'.<sup>59</sup> In July 1372, just six months after the sale of Wigtown, Thomas was incapable of meeting his obligation to Boyd and entered into a new agreement whereby Thomas wadset the whole of Lenzie to him for £80, to be redeemed in one payment by the Feast of the Trinity 1373.<sup>60</sup> At this point Thomas's cousin, Malcolm Fleming of Biggar, stepped in and purchased the wadset of the Lenzie lands, for which he received royal ratification in

1374.<sup>61</sup> As with his son Patrick's acquisition of the portion of Lenzie granted to Robert Erskine in 1368, Malcolm's intervention was a reaction to his nominal head-of-kin's disposal of a major portion of his remaining properties with little prospect of their future recovery. Again, the Biggar Flemings were recovering an alienated part of their heritage. The final chapter in this tale of descent into social oblivion came on 20 September 1382 when Malcolm Fleming received charters confirming the grant to him of the barony of Lenzie, which Thomas had resigned to the crown.<sup>62</sup> By this resignation, Thomas finally lost his position as head of the kin, for he was left in possession of only the small property at Fullwood north of Stewarton, his residence from the late 1360s. There he sank into obscurity.

That, however, was not the end to the entangled mess of wadsets, tacks, loans, exchanges and surrenders that accompanied Thomas's fall. As with the peculiar behaviour surrounding his disposal of Wigtown, Thomas also entered separate contracts with other individuals which compromised the status of Lenzie and Fleming control within the barony. The parties involved were members of the Kennedy family, who were pursuing their inherited claims to lands within the barony. The first indication of an active interest in reacquiring their heritage is provided by an undated agreement between Thomas and Sir Gilbert Kennedy, son of John Kennedy of Dunure, which placed the town of Kirkintilloch—the chief place of the barony of Lenzie—in the hands of the Kennedys. It is probable that this deal was intended to complete the Kennedys' protracted efforts to recover what they had held in the thirteenth century from the Comyns (on which, see Part 1 above)<sup>63</sup> and may have been agreed by Thomas in an effort to ease Kennedy pressure on his position in Wigtown. That the Kennedys could make good its possession, although perhaps not immediately, was confirmed by an entail of January 1384 whereby John settled the forty merklands of Kirkintilloch on Gilbert.<sup>64</sup> The grant from Thomas, however, was not the end of the saga.

On 16 February 1374/5, just over two years after Malcolm Fleming's purchase of the wadset of Lenzie from William Boyd and only seven months after royal confirmation of his possession, Thomas granted Cumbernauld in wadset for 120 merks to John

Kennedy of Dunure.<sup>65</sup> The act, settled at Ayr, was witnessed amongst others by Sir Nicholas of Knockdolian, the last of the circle of Carrick men who had been associated with Thomas's grandfather, and Sir Gilbert Kennedy, John's son and already possessor of Kirkintilloch. Cumbernauld was, at that date, already a possession of Malcolm Fleming of Biggar and had been the location of the drawing up of the formal contract between Malcolm and William Boyd that had seen the wadset of the barony lands transferred into the former's hands. There is no further record of Kennedy possession of any interest in this property, which formed one of the chief centres of the Flemings of Biggar in the fifteenth century. It is possible that Thomas had redeemed the loan, but that would run against the trend in his behaviour evident in his other property deals. More likely, Kennedy had used this arrangement as leverage in his own efforts to secure concessions from Fleming over the lands of Kirkintilloch, the positive result of which can be seen in the 1382 entail of those lands to his son, Gilbert.

In all of this manoeuvring, Thomas appears as a powerless, hapless cipher. The wadset of Cumbernauld, however, as the final act in the long dissolution of the lordship constructed by Malcolm Fleming is representative of the forces that had torn it apart around Thomas. Perhaps long-broken in spirit and utterly uninterested in the fate of the heritage to which he had been heir, he was a passive onlooker as other men, politically skilled and militarily assertive, fought over the choicest portions.

In the space of sixty years, the senior branch of the Fleming family had risen to the level of the greatest nobility in the land only to fall back into utter obscurity. Malcolm had made his career in the service of the Bruces—both as a loyal agent and administrator in the localities and as a military leader—and had received the rewards accordingly; Thomas had been destroyed by his inability to serve in either capacity, falling prey to aggressively acquisitive men, including kin and close associates who had served his grandfather, and crushed under what seems to have been an increasing spiral of debt. He is the most important of the political failures of the reign of David II, a casualty in the king's drive to create a new nobility which relied on him for its power and prestige, yet ironically a creature of that same process in the

previous reign. Probably physically incapacitated (possibly from birth), abandoned by his grandfather's political associates and in acute financial embarrassment, Thomas was never in a position to assert the power that should have stemmed from his status as an earl. By 1372 he was overwhelmed by the forces arrayed against him, unable to hold his own in the turbulent politics of the kingdom and the cut-throat manoeuvring amongst his own peer-group. Within ten years he had sunk without trace into the obscurity of the minor gentry; even the date of his death is unknown. Scotland under the early Stewart kings had no place or memory for losers.

The remarkable but not uniquely brief efflorescence and quick demise of the Fleming earldom of Wigtown opens a window onto important dimensions of noble culture and society on the margins of Scotland's fourteenth-century magnate community. Essentially, the career of Malcolm is a narrative of the acquisition of the levers of power and their progressive loss as his personal authority and influence declined in his later years. It parallels, at a lower level in the social hierarchy, the career of John Stewart earl of Carrick (i.e. King Robert III), where an inability to maintain and provide dynamic personal leadership through injury led to an ebbing away of support and a loss of his control on government. For Thomas, any hope of recovery of his grandfather's early levels of influence was lost through his failure to deliver personal leadership to the residue of the Fleming following. Their experience underscores the continuing centrality of active, personal lordship and the very visible discharge of that function as a key attribute of social leadership in mid-fourteenth-century Scotland.

Leadership in this period still very much meant military leadership, and Malcolm spent much of the period down to 1346 in acquiring the landed resources and jurisdictional authority necessary to secure the following which delivered military strength. The Flemings' acquisition of the means to that end, however, did not come through inherited power or similar traditional routes, such as marriage. In them, we see rather a family whose rise was founded on personal service to the crown and who capitalised on the need of a still-shallowly-rooted new regime to bolster its authority in regions of the kingdom where loyalty to the previous

regime ran strong. As a family of regional but not yet national prominence, the Flemings under Malcolm's leadership seized an opportunity to fill a void in the political community of west-central Scotland that the forfeiture of the Comyns had created. Active military involvement in Robert Bruce's campaign to secure his crown after 1306/7 cannot be proven but what is clear is that Robert used Malcolm's administrative talents to bring stability to a strategic territory at the heart of the kingdom. From this springboard, Malcolm started a programme of aggressive territorial acquisition that catapulted him into a position of great influence within the apparatus of regional power.

Malcolm's rise through the 1320s was grounded in his accumulation of a series of senior administrative offices to which significant jurisdictional and fiscal powers attached. These offices—principally the sheriffship of Dumbarton and the stewardship of Carrick—reinforced his jurisdictional franchises within his personal landed possessions but, critically, whilst they brought income, influence and significant reserves of patronage they did not bring of themselves any direct increase in his ability to deliver that key indicator of extensive territorial lordship, the military following commensurate with magnate status. It was Malcolm's energetic network-building and forging of bonds with local lords in the eastern Lennox and Carrick, much reinforced by his ability to deploy the fiscal resources of his various offices, that gave him access to the manpower necessary to secure his position as a regional magnate. The Fleming banner, with the growing body of knights and men-at-arms gathered around it, became a symbol of appreciable military strength with a solid, territorial base beneath it.

Malcolm's securing of comital status was both a straightforward recognition by David II of the importance of his erstwhile guardian's role in saving his kingship but also of his capability to deliver the regional political and enhanced military leadership implicit in that rank. As with the offices acquired earlier, it was the jurisdictional powers attached to the earldom—in the case of the *de novo* creation of Wigtown enhanced with an award of regalian rights—that gave him the access to the power necessary to establish his authority within that territory. Again, however, it was his visible, assertive and directly personal role in converting a

parchment title into a reality that was key in that transformation. Between 1342 and 1346, Malcolm was active in the field, leading his meinie and winning lordship over the earldom. In October 1346, his success in this process was visible in the military retinue which followed his banner to Neville's Cross. The catastrophic outcome of that battle shattered his achievement.

Military defeat and the collapse of the following that Malcolm had spent three decades constructing revealed the fragility of a power-base built largely on jurisdictional franchises and offices. Incapacity to exercise power led to wider disempowerment. For Malcolm, the loss of the armed retinue which gave a physical reality to his status and personal authority meant the loss of the means to assert his lordship and provide the apical leadership implicit in his position as earl. Without the means to exercise coercive power the right to discharge such power became meaningless. Whilst Malcolm sought to rebuild upon the foundation which remained in place, he lacked the resources to make his efforts effective and was essentially powerless as others with access to greater resources moved to fill the void that the collapse in Fleming power had created.

In this quickening spiral of decline another process was being played out. It was the same issue of active, personal leadership that was critical in eroding confidence in the future of Fleming lordship. After 1346, Malcolm seems to have been incapable of providing that regular personal presence around which a following could coalesce; old age, illness and injury were taking their toll. In such circumstances, the next generation of a family should have come forward to gain recognition and provide confidence to its followers in the future continuity of leadership. Malcolm had no-one who could step into that role, for his heir Thomas was clearly incapable of exercising—or, indeed, of even inspiring faith in his ability to provide—effective leadership and strong lordship. The tailzie which controlled the succession to the earldom became a Sword of Damocles hanging over it: why invest faith in a lord who could neither reward that faith nor offer the prospect of improvement under a successor? As Malcolm's personal ability to discharge his offices waned, sentimental attachment to a man who had provided good service in the past was

outweighed by the need to ensure the proper functioning of those roles. Loss of office further undermined the ability to attract men into his service and diminished the possibility of future recovery of regional influence. Together, loss of certainty in a future under Thomas, a man who lacked any capacity to lead, and loss of access to the levers of local power formerly delivered through the patronage reserves Malcolm had once enjoyed, led to the draining away of any residual support. The Fleming earldom had been built on one man's personal dynamism; it fell when that driving leadership was withdrawn.

## NOTES

<sup>1</sup> See, for example, the collection of papers produced for the 650<sup>th</sup> anniversary of the battle: D Rollason and M Prestwich (eds), *The Battle of Neville's Cross 1346* (Donington, 1998). The principal political study is Penman, *David II*.

<sup>2</sup> Wyntoun, *Orygynale Cronykil*, ii, 476; Bower, *Scotichronicon*, vii, 261; *Anonimalle Chronicle*, 26.

<sup>3</sup> *Rotuli Scotiae*, i 680a.

<sup>4</sup> *CDS*, iii, no. 1488.

<sup>5</sup> *Calendar of Patent Rolls, Edward III*, viii, 1345-1348 (London, 1903), 314.

<sup>6</sup> *Rotuli Scotiae*, i, 695b; *Chron. Lanercost*, 351; *Anonimalle Chronicle*, 28; *Cal. Patent Rolls*, vi, 459, 552; *Calendar of the Fine Rolls*, vi, *Edward III 1347-1356* (London, 1927), 250; *RMS*, i, nos 108, 129.

<sup>7</sup> The only other man of comital rank to survive alive and at liberty from that group created or advanced by David was his brother-in-law, William, earl of Sutherland.

<sup>8</sup> *RRS*, vi, nos 115, 117, 119, 122, 128, 129, 130, 131.

<sup>9</sup> Wyntoun, *Orygynale Cronykil*, ii, 477. On 6 March 1347, Gilbert McCulloch, Sir Patrick McCulloch and his son, also named Patrick, and two members of the Wigtownshire Marshall family received payments on account from the English Exchequer as they were 'setting out for the north on the king's business'; *CDS*, iii, no. 1490. On 12 March, Duncan, son of Duncan McDowell, who had only submitted to David II in 1345, was lodged in the Tower of London; *CDS*, iii, no. 1491.

<sup>10</sup> Wyntoun, *Orygynale Cronykil*, ii, 487.

<sup>11</sup> *RRS*, vi, no.112.

<sup>12</sup> Historical Manuscripts Commission, *Supplementary Report on the Manuscripts of the Earl of Mar and Kellie Preserved at Alloa House, Clackmannanshire*, ed H Paton (London, 1930), 5 [hereafter HMC, *Mar and Kellie [Supplementary]*]; NRS GD124/1/147. Penman, *David II*, 142.

<sup>13</sup> Penman, *David II*, 157.

<sup>14</sup> *RRS*, vi, no. 115 (where the document is misdated to 1350).

<sup>15</sup> Penman, *David II*, 169. This was the first occasion that Malcolm's grandson, Thomas, appears in the records; *Rotuli Scotiae*, i, 744a.

<sup>16</sup> *RRS*, vi, nos 117, 119, 122.

<sup>17</sup> His plans rejected, David returned to captivity in England in late March. Wyntoun gives a sense of the resentment at David's proposals that the Steward had been able to turn to his advantage:

He made bot schort tyme here duelling,  
For he sped noucht at his lykyng,  
Agayne he passyd syne in England,  
As he before had tane on hand.  
And than a lang qwhille he lay thare,  
Or spek was off his lowsyng mare.  
Wyntoun, *Orygynale Cronykil*, ii, 488.

<sup>18</sup> *RMS*, i, app. i, no.152.

<sup>19</sup> *Scots Peerage*, viii, 522. There is no independent witness for a third daughter, only two known daughters, Marjory and Eva, are recorded.

<sup>20</sup> *ER*, i, 257; *RMS*, i, app. ii, no.1190; *RRS*, vi, no.30.

<sup>21</sup> The rents of Cadzow had been assigned to Robert Wallace as part of his fee by 1342. Danielston was in post by 1 August 1358. *ER*, i, 508, 582.

<sup>22</sup> *RRS*, vi, no. 128. He re-emerged in 1353/4 accompanied by Sir Nicholas of Knockdolian as a charter witness at Brechin. The dating of this charter [31 March a.r 24 (1354)] is suspect as Malcolm was apparently present the following day at Inverkeithing.

<sup>23</sup> *RRS*, vi, nos 129-131.

<sup>24</sup> *CDS*, iii, no. 1576. The majority of hostages were sons of Stewart adherents.

<sup>25</sup> *Wigtown Charter Chest*, no. 4.

<sup>26</sup> *APS*, i, 516; *CDS*, iii, no. 1651.

<sup>27</sup> *CDS*, iii, Appendix, no. VIII. His name in this text is given as 'Johan' but in the letters inspecting the indenture of the treaty, dated 5 October 1357 (*RRS*, vi, no.148) and all subsequent references, he is correctly identified as Thomas.

<sup>28</sup> *RMS*, i, app. ii, no. 1149.

<sup>29</sup> *RMS*, i, app. ii, no. 1148.

<sup>30</sup> *RRS*, vi, no. 150.

<sup>31</sup> *Wigtown Charter Chest*, no 5; *RRS*, vi, no. 160.

<sup>32</sup> Duncan Wallace, for example, as fourth husband of Eleanor Douglas, countess of Carrick, not only gained access to the growing political network of her brother, William, but also entry into the circle of men around David II. He appears in the 1360s and 1370s in possession of various properties that had once been in the hands of Malcolm Fleming, including Dalzell (*Glasgow Registrum*, i, no. 308; NRS GD436/1/3 and GD436/1/4; NRS GD119/160).

<sup>33</sup> *ER*, i, 548, 576, 589.

<sup>34</sup> *RMS*, i, app. ii, no. 1351.

<sup>35</sup> *Registrum Honoris de Morton*, ii, (Bannatyne Club, 1853), no. 79.

<sup>36</sup> See Part 1 note 33.

<sup>37</sup> *ER*, i, 103.

<sup>38</sup> *RRS*, vi, no. 148; *Rotuli Scotiae*, i, 812a; *CDS*, iii, 434.

<sup>39</sup> *Rotuli Scotiae*, i, 831b-832a, when his delivery from Alan Strother to Henry Strother in November 1358 was recorded.

<sup>40</sup> Penman, *David II*, 207.

<sup>41</sup> *RMS*, i, no. 113.

<sup>42</sup> It was granted on 22 June 1368 to John Stewart, the eldest surviving son of Robert Stewart; *RRS*, vi, no. 400.

<sup>43</sup> An undated charter issued by Thomas as earl of Wigtown to Sir Robert Erskine, granting him various lands in the barony of Lenzie, has been suggested as belonging to 'c.1359' but cannot be earlier than 20 February 1364 as its first witness is Adam of Lanark, bishop of Whithorn, who was consecrated that day; *Wigtown Charter Chest*, 7; NRS GD124/1/409.

<sup>44</sup> *ER*, ii, 47.

<sup>45</sup> *Crossraguel Charters*, i, no. 13; *RRS*, vi, no. 301.

<sup>46</sup> For detailed analysis of the rebellion and its aftermath see Penman, *David II*, chapter 9.

<sup>47</sup> *RMS*, i, no.250; *RRS*, vi, no. 368. The donative phrase is 'Sciatis nos dedisse, concessisse et hac presenti carta nostra restituisse et confirmasse...'. The retention of the regality was 'quam ex certa causa in suspenso remanere volumus quousque aliud super hoc duxerimus ordinare'.

<sup>48</sup> *RPS*, 1367/9/2-7. Date accessed: 11 March 2015.

<sup>49</sup> MacQueen, 'Kin of Kennedy', 278. For confirmation of the Kennedy family's right to the office of bailie, which was amongst a raft of Carrick-related business settled by Robert Stewart after his accession to the throne in 1371, see *RMS*, i, no. 508.

<sup>50</sup> MacQueen, 'Kin of Kennedy', 285.

<sup>51</sup> *RRS*, vi, nos 160, 270.

<sup>52</sup> HMC, *Mar and Kellie [Supplementary]*, 7. See above note 43 for dating; *RRS*, vi, no. 335.

<sup>53</sup> NRS GD124/1/414; HMC, *Mar and Kellie [Supplementary]*, 9; *RRS*, vi, no. 399.

<sup>54</sup> *RMS*, i, no. 491. It was agreed that if the 'heirs of old' of the barony recovered possession through the then current negotiations with England, Patrick would have reversionary rights to Dalnottar and Garscadden. Robert II confirmed the deal in August 1373, by which time the possible restoration of the heirs of the Comyns of Kirkintilloch had died with David II.

<sup>55</sup> *RMS*, i, no. 329; *RRS*, vi, no. 451.

<sup>56</sup> *RMS*, i, no. 414.

<sup>57</sup> *Wigtown Charter Chest*, no. 7. The full text is embedded in *RMS*, i, no. 507.

<sup>58</sup> *RMS*, i, no. 507.

<sup>59</sup> *RMS*, i, no. 492. In his document, Thomas was styled 'earl of Wigtown and lord of Fullwood'.

<sup>60</sup> *RMS*, i, no. 477.

<sup>61</sup> *RMS*, i, no. 477. The texts of both the wadset to William Boyd and Malcolm Fleming's purchase of the debt are rehearsed in full in Robert II's inspection.

<sup>62</sup> *RMS*, i, no. 740.

<sup>63</sup> For detailed discussion, see MacQueen, 'The Kin of Kennedy'.

<sup>64</sup> *RMS*, i, no. 466; *RMS*, ii, no. 874. The royal confirmation of Gilbert's charter from Thomas is dated 13 May 1374. John's settlement of Kirkintilloch on Gilbert survives only in a confirmation by James III in 1466.

<sup>65</sup> NRS GD25/1/15; *Crossraguel Charters*, i, no. 20.