Legal Crisis and Artistic Innovation in Thirteenth-Century Scotland

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Abstract

Weathered, damaged, and largely forgotten, the thirteenth-century effigies of Walter and Mary Stewart lie amid the evocative ruins of Inchmahome Priory on an island in the Lake of Menteith, Stirlingshire (Scotland). This tomb has been overlooked by art historians, yet it is the earliest surviving example in the British Isles of effigies of husband and wife lying side-by-side on the same tomb, the forerunner of a trend for commemorating marriage which would not become widespread for almost another hundred years. The intimacy of Walter and Mary's relationship is expressed through a complex exchange of gestures, unparalleled in medieval funerary sculpture: both figures stretch out an arm to embrace one another around the shoulder, while Walter reaches across with his other hand to pull the folds of Mary's cloak over her body. The following article considers the possible connection between this remarkable instance of artistic innovation and Walter and Mary's involvement in a long-running dispute over their possession of the earldom of Menteith. Examining the gestures of the figures, the decision to place the monument at Inchmahome, and the probable identity of Walter as patron, I argue that the effigies were intended as an enduring witness to the legitimacy of Walter and Mary's possession of their title and lands.

> *"Walter 'the Freckled', acting on his wife's behalf, obtained the earldom of Menteith through shameless trickery, and the support of the magnates."*

Figure 1

Map of Scotland at the end of the 13th century, indicating earldoms and sheriffdoms, from Robert the Bruce, and the Community of the Realm of Scotland by Geoffrey Barrow, 3rd edn (Edinburgh, 1988).

With this damning sentence, the fourteenth-century Scottish chronicler John Fordun begins his account of Walter Stewart's role in the conflict over the earldom of Menteith, a dispute that was to last twenty-four years and engage the attentions of the Pope, three kings, and a large part of the Scottish nobility (fig. 1).[1] The previous earl of Menteith, Walter Comyn, held the earldom on behalf of his wife, the heiress Isabella. After Comyn's sudden death in 1258, his widow remarried Sir John Russell, an obscure English knight. This union caused outrage among the earl's heirs, who responded by imprisoning the newly-weds and accusing Isabella of murdering her late husband.[2] In the ensuing violence and confusion, Walter Stewart, younger son of the third High Steward of Scotland, advanced a claim on behalf of his wife Mary, who was a kinswoman of Isabella.[3] In 1261 a court of magnates assembled by King Alexander III of Scotland awarded the earldom to Walter and Mary.[4] This ruling was highly controversial—a letter from Pope Urban IV described the investiture as "unjust" (*contra iustitiam*)—and Walter Stewart's possession of the earldom continued to be challenged by Isabella and her heirs (fig. 2).[5] The case was brought before three different courts: the first was convened by the papal legate Pontius at York sometime between 1261 and 1263, the second met at York in 1273, while the third was assembled by Alexander III at Scone in 1285.[6] At this final gathering, Alexander pronounced his definitive judgement on the matter: the earldom was to be divided, with Walter and Mary retaining the title of earl and half of the land, while the rest was granted to Isabella's heir.[7]
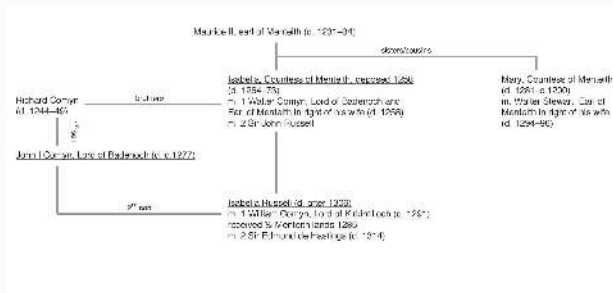

Figure 2

Simplified genealogical diagram, showing the parties who disputed Walter and Mary's possession of the earldom of Menteith. Digital image courtesy of Jessica Barker.

The accounts of this long-running dispute are not the only traces that Walter and Mary have left on the historical record. The couple are also notable for their remarkable joint memorial in the

Augustinian priory of Inchmahome, located on an island in the Lake of Menteith (Stirlingshire, Scotland), the earliest surviving tomb in the British Isles to depict the effigies of a married couple side by side (Figs 3 and 4).[8]

Figure 3

Aerial photograph of the islands of Inch Talla and Inchmahome, Lake of Menteith, Collection Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS). Digital image courtesy of Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS).

Despite its unique design, early date, and the historical significance of the couple commemorated, the Inchmahome memorial has been largely overlooked in the scholarly literature: a survey of Scottish medieval tombs published in 2013 fails to even mention the monument.[9] The only discussions of the tomb in the last twenty years are two contributions by Geoffrey Barrow and Virginia Glenn to *Medieval Art and Architecture in the Diocese of Glasgow*: Barrow examines the tomb's historical context and suggests a possible patron, while Glenn explores artistic models, emphasizing the monument's European connections.[10] Such exclusion is perhaps due to the monument's remote location, damaged condition, and the apparent absence of comparable tombs from the same period. Yet the memorial to Walter and Mary undoubtedly represents the uppermost echelon of artistic production in Scotland during the high Middle Ages, both in terms of the quality of its carving and the innovative nature of its design. A new investigation into the tomb at Inchmahome has the potential to make a valuable contribution to our understanding of material culture in thirteenth-century Scotland, a time and place often overlooked in narratives of medieval art.[11]

Figure 4

Unknown maker, *Monument to Walter and Mary Stewart*, Chapter house, Inchmahome Priory, circa 1281–96, sandstone, height: 217 cm. width: 89 cm (at feet of effigies), 228 cm (at heads of effigies). Digital image courtesy of Jessica Barker.

This article examines Walter and Mary's monument in the context of the protracted crisis over their possession of the earldom of Menteith. Recent studies highlight the importance of conflict and disputed inheritance in explaining the design, patronage, and location of funerary monuments. Anne McGee Morganstern's work on "kinship tombs"—memorials that depict the family of the deceased on the tomb chest—emphasizes the function of these monuments as vehicles for displaying claims to property and titles.[12] Morganstern points out that a significant number of kinship tombs were commissioned in the context of a contested inheritance or minority, such as the lost memorial to Thibaud III, Count of Champagne (d. 1201) at Saint-Étienne in Troyes, erected by the count's widow during a period when the inheritance of their young son, Thibaud IV (d. 1253), was being energetically and sometimes violently contested by his cousin, Philippa de Champagne and her husband, Erard de Brienne.[13] Concerns over inheritance may also explain the unusual design of the brass to Richard Quatremain (d. 1477) and his wife Sybil (d. 1483), located in the south transept of the church of St Mary in Thame (Oxfordshire). Its mysterious third effigy, depicted in armour and positioned just below Richard and Sybil's feet, was identified by Kelcey Wilson-Lee as Richard Fowler, who had been legally nominated as heir to the childless couple's estates.[14] Arguing that Richard Quatremain's commissioning of the brass in around 1465 should be understood in the context of his strenuous efforts to ensure the estates passed to the heir of his choosing, Wilson-Lee suggested that the monument may have been intended to encourage local acceptance of Quatremain's nominated heir.[15]

A broader perspective on the legal utility—actual and potential—of funerary monuments is provided by Julian Luxford's article on "Tombs as Forensic Evidence".[16] Luxford draws together a wide range of material, including legislation, records of parochial disputes, monumental inscriptions, and the illustrations of the Anlaby cartulary, to argue that tombs were understood to possess particular value as legal evidence in late medieval English society. Central to this thesis are the records of three cases from the Court of Chivalry (Scrope v. Grosvenor, 1385–90; Lovell v. Morley, 1386–91; Grey v. Hastings, 1407–17), in which litigants and deponents regularly cite tombs as evidence for the right of an individual to bear a particular coat of arms.[17] These testimonies include a remarkably detailed description of the brass to Sir Hugh Hastings (d. 1347) in the parish church of Elsing (Norfolk), viewed *in situ* by the court officials on the request of Sir Edward Hastings, who referred to the monument among "certain [items of]

evidence necessary and indispensible for him to prove [his case]".[18] Luxford, Morganstern, and Wilson-Lee present a diffuse but suggestive body of evidence of the legal function of the medieval tomb, indicating that funerary monuments were understood as a category of object particularly suited to act as proof of titles, lands, and property, with the potential to be cited in a court of law. Drawing upon their studies, this article considers how far the dispute over the earldom of Menteith may explain the innovative design and unusual location of the tomb at Inchmahome. In doing so, it also proposes that scholars of medieval art should pay closer attention to "unique" objects: artworks that often resist being categorized within broader art-historical narratives, but whose very strangeness can provide valuable insights into the mechanisms and motivations of artistic invention in the Middle Ages.[19]

The Effigies of Walter and Mary Stewart

The monument to Walter and Mary Stewart is now located in the chapter house of Inchmahome Priory. It was carved from a single block of green-tinged stone, probably sourced from a local quarry: sandstone of similar appearance was used for the west front of the priory church at Inchmahome and in the masonry at Dunkeld cathedral.[20] The effigies are over life-size. The long sides of the stone block measure approximately 219 centimetres, with the width of the slab tapering from 128 centimetres wide at their heads and 89 centimetres at their feet (fig. 4).[21] The figures lie side by side with their feet resting against two dogs, a larger animal for the knight and smaller one for the lady (fig. 5). A large heater-shaped shield (92 centimetres in length) covers much of the left side of the knight's body, stretching from his shoulders to his knees (fig. 4). The carved heraldry on the shield is now worn and flaked, but in a photograph from the early twentieth century it is clearly discernable as the arms of the Stewart family (*a fess chequey*) with *a label of five points in chief*, the same coat of arms found on a seal of Walter Stewart appended to a Deed of Homage to Edward I from 1292 (fig. 6).[22] Directly below the sword-belt on the knight's left hip, there is a deep, trapezoidal hole cut neatly into the surface of the effigy (fig. 4). This hole is also depicted in an engraving of the tomb published by William Stirling, minister of the church at Menteith, in 1815, the earliest known depiction of the monument (fig. 7). Since the knight lacks a carved sword, the hole may have functioned as a socket to attach a metal or wooden sword to the effigy.[23] This possibility is supported by the diagonal groove running downward from the hole to the knight's knee, cutting across the folds of his surcoat, which could have acted as a furrow for the scabbard to rest in (fig. 4).

Figure 5

Unknown maker, *Monument to Walter and Mary Stewart*, Chapter house, Inchmahome Priory, circa 1281–96, sandstone, height: 217 cm. width: 89 cm (at xfeet of effigies), 228 cm (at heads of effigies). Digital image courtesy of Jessica Barker.

Figure 6
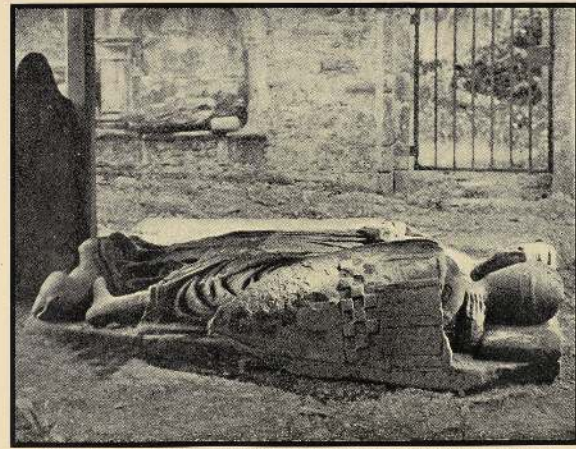
Unknown photographer, *Monument to Sir Walter Stewart, Earl of Menteith, and his wife Mary, Countess of Menteith*, circa 1917–26, photograph, from *Inchmahome and the Lake of Menteith* by John Stewart (Edinburgh, 1933), p. 84.
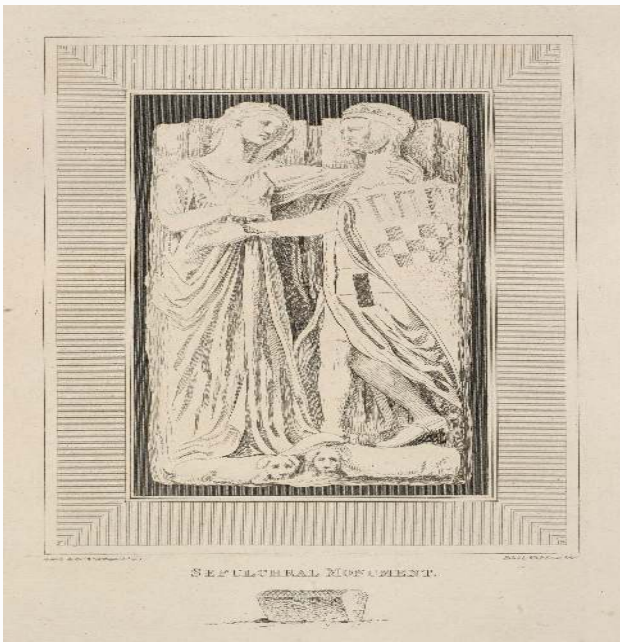

Figure 7

William Stirling, *Sepulchral Monument*, 1815, engraving, from *Notes Historical and Descriptive, on the Priory of Inchmahome* by William Stirling (Edinburgh, 1815).

Figure 8

Effigy of a knight (possibly Gerard d'Isle), Church of St Michael, Stow-Nine-Churches (Northamptonshire), mid-13th century, Purbeck marble. Digital image courtesy of Graham Field, themcs.org.
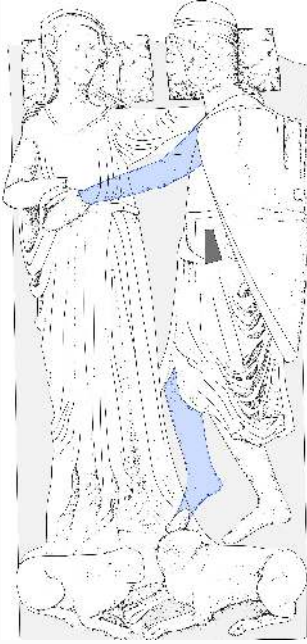
Figure 9

Drawing of the monument to Walter and Mary Stewart, reconstructing the position of the knight's right arm and leg. Digital image courtesy of Matilde Grimaldi.

The armour and pose of the Inchmahome knight is typical of thirteenth-century military effigies in England. The figure wears a loose surcoat, falling to his calf in deep, curved folds and split in the centre to reveal a knee-length hauberk (see fig. 4). A mail coif covers his head, fastened across the chin, with a wide fillet tightening the mail. Although the knight's leg is badly damaged, the straps across the back and under the sole of his foot suggest he was originally wearing mail chausses. A narrow belt fastens the effigy's surcoat, wrapped twice around his torso with the end draped over his left thigh. This is closely comparable to the armour worn by the Purbeck-marble knights at Stowe-Nine-Churches (Northamptonshire), probably dating from the third quarter of the thirteenth century,[24] and the Temple Church (London) [RHCM 7], most likely made in the middle of the thirteenth century (fig. 8).[25] The cross-legged pose of the Inchmahome knight provides another parallel with early English effigies. The knight's right leg is bent behind his body, his foot pressed against the dog with his toes pointing towards the female effigy. Although his left leg has broken off below the knee, the position of the surviving stump suggests that it was placed over his right leg, stretched out in the direction of the woman. An abraded area on the bottom of her dress indicates the position of his left foot (fig. 9). This variant of the cross-legged pose—characterized by stiff legs with little bending of the knees, crossed high up, with feet and toes pointing in the same outward direction—was termed the "walking position" by Harry Tummers.[26] It is associated with a group of mid-thirteenth-century Purbeck marble effigies, concentrated in London and the surrounding area to the north and west.[27] Many of the effigies in this group are also notable for the restful composure of their body, their hands resting flat on their chest or shield, an attitude shared by the Inchmahome knight, who places his left hand on his wife's torso.[28]

Figure 10

Standing noblewoman, west front of Wells Cathedral, Somerset, mid-13th century. Digital image courtesy of Christian Hance.

The female effigy at Inchmahome also has parallels with sculpture made in England during the latter half of the thirteenth century. In contrast to the figure of the knight, the woman lies flat on the stone slab in an attitude of peaceful repose, only her head turned to look at her husband. She is shown in a simple gown, gathered at the waist by a narrow belt, its material falling to her feet in long, tightly packed, vertical folds. She wears a floor-length mantle, fastened across her chest by a long cord. The drapery, gathered across the right side of her body, is articulated by four deep, triangular folds. This combination of tightly packed, straight lines on the gown and deep, triangular-shaped folds on the mantle (a juxtaposition also found on the knight's surcoat) is typical of the "broad fold" drapery style, which originated in France and first appears in England on sculpture at Westminster Abbey from the 1250s.[29] The head covering worn by the female effigy at Inchmahome is also characteristic of this period. She is depicted in a flat, circular cap, fastened by a band across her forehead, with a veil flowing behind her neck and joining with the folds of her cloak. Her ears, chin, and neck are exposed. This is closely comparable to a statue of the Virgin of the Annunciation framing the entrance to the chapter house at Westminster Abbey (dating to around 1253), as well as a standing noblewoman on the west front of Wells Cathedral (complete before around 1250–60) (fig. 10).[30] The courteous gestures of the Wells lady, her right hand clutching her mantle and left hand fingering its clasp, are common to depictions of noblewomen from the thirteenth century, such as the effigy of a woman at West Leake (Nottinghamshire), dated to around 1280–90.[31] These sculptures provide a guide for interpreting the gestures of the female effigy at Inchmahome. Although her right hand has broken off at the wrist, the positioning of the arm and an abraded area on her chest suggest that she was shown fingering the end of the long cord that fastens her mantle (fig. 4). Like the female statue at Wells, the Inchmahome effigy has her mantle pulled across the right side of her body. In this case, however, it is the hand of the knight rather than her own that grasps the material, the husband performing this courtly gesture on his wife's behalf (fig. 9).

It is difficult to assess the significance of the similarities between the Inchmahome effigies and English sculpture. Funerary monuments in Scotland have suffered great losses, meaning that there are very few surviving thirteenth-century monuments north of the border with which to compare the Inchmahome effigies.[32] The closest parallel is a heavily restored knightly effigy at the church of St Bride, Douglas (South Lanarkshire) (fig. 11).[33] The figure has lost his left leg and part of his right foot, but it is clear from the position of his thigh that he was originally depicted with one leg crossed over the other at the knee and both feet pointing outwards, mirroring the "walking position" of the Inchmahome knight. The St Bride's effigy is usually dated to the second quarter of the fourteenth century on the basis of its association with "Good"

Sir James Douglas, who died in Spain in 1330 while travelling to the Holy Land with the heart of Robert the Bruce, King of Scotland (d. 1329). This identification, however, is by no means secure.[34] The effigy may instead belong to the preceding century: the knight's long surcoat, draped over his legs with overlapping diagonal folds and fastened by a wide belt, is closely comparable to thirteenth-century military effigies, such as the knight at Stow-Nine-Churches (fig. 8). Memorials from England and continental Europe were fashionable at the Scottish court during the fourteenth century, with royal patrons importing entire monuments, as well as materials and artists, from abroad: exchequer rolls from the end of the reign of Robert the Bruce detail the purchase of Italian marble and Baltic timber for his funerary monument at Dunfermline Abbey, fragments of which still survive.[35] In 1372 Edward III granted licence to a group of masons to travel to Scotland to build the tomb of David II; one of them had been employed in carving images and angels at St Stephen's Chapel, Westminster in the 1350s.[36] Although there are no documented examples from the thirteenth century, similar artistic exchange is plausible during the years of Alexander III's majority (1260–86), a period characterized by amicable relations between Scotland and England and extensive connections among their ruling elites.[37] Since the monument to Walter and Mary was made from a local stone, the most likely explanation for the style of the effigies is for a group of masons trained in England to have travelled north of the border in order to carve the memorial.

Figure 11

Effigy of the 5th Earl of Douglas, Church of St Bride, Douglas, South Lanarkshire. Digital image courtesy of Otter.

Gesture, Intimacy, and Law

One feature of the Inchmahome monument is unique among surviving examples of thirteenth-century funerary sculpture in the British Isles: the effigies of Walter and Mary lie side by side, carved from the same block of stone. The earliest memorials in England with the effigies of husband and wife date from around the second quarter of the fourteenth century, for example the monument to a knight and lady at Howden Minster (Yorkshire, East Riding), recently re-dated by David Park to around 1325–30.[38] Thirteenth-century tombs of married couples do survive in France, the Netherlands, and Germany, such as the tomb of Henry the Lion (d. 1195) and Matilda of England (d. 1189) at Brunswick Cathedral (Lower Saxony, Germany), made in around 1235–40.[39] This monument is typical of double tombs from western Europe, which are characterized by praying figures lying flat on the tomb slab with no interaction between the couple. They thus

bear little resemblance to the dynamic poses of the effigies at Inchmahome, which are exceptional in their complex and intimate exchange of gestures. Both effigies reach across to embrace one another around the shoulder, their arms overlapping to create an unbroken connection between the spouses, while the knight turns on his side to look at his wife, his left arm reaching across to pull her mantle over her body (figs 9 and 12). The dynamic pose of the effigies underlines the emotional and psychological bond between the couple, their entangled limbs encouraging the viewer to treat the two figures as a single entity. At the same time, the vigorous sideways sweep of the knight's gestures, his firm grasp on the woman's mantle and neck, and the forceful press of his foot on her drapery, seem to demonstrate a possessiveness amounting almost to compulsion: the earl literally "takes hold" of his wife.

Figure 12

Unknown maker, *Monument to Walter and Mary Stewart*, detail showing the effigies' embrace across the shoulders, Chapter house, Inchmahome Priory, circa 1281–96, sandstone, height: 217 cm. width: 89 cm (at feet of effigies), 228 cm (at heads of effigies). Digital image courtesy of Jessica Barker.

Figure 13

Unknown maker, *Monument to Wiricho von Treuchtlingen and Agnes von Muhr*, Heidenheimkreis Weißenburg-Gunzenhausen, Baden-Württemberg, Germany, circa 1349. Digital image courtesy of Bildarchiv Foto Marburg / Lala Aufsberg.

This combination of gestures is not found on any other surviving joint memorial; the rarity of the design and the difficulty of carving such vigorous poses in three dimensions suggest that they were specifically requested by the patron. The closest sculptural parallels are memorials that depict the husband embracing his wife around the shoulder: this gesture is found on a low-relief funerary slab at Holweirde (Netherlands) to an anonymous couple, probably dating from the latter half of the twelfth or first half of the thirteenth century,[40] and two fourteenth-century German monuments, the first in Scheßlitz (Bamberg), commemorating Freidrich VII von Truhendingen (d. 1332) and his wife Agnes,[41] and the second in Heidenheim (Baden-Württemberg), depicting Wiricho von Treuchtlingen and Agnes von Muhr (d. 1349) (fig. 12).[42] An English example of the shoulder embrace — albeit in two rather than three dimensions — can be seen in a peculiar roundel depicting the Black Prince holding the hand of Joan of Kent while placing his arm around her shoulders, which was added to a genealogical roll in the third quarter of the fourteenth century.[43] This gesture also features in historiated initials of the Bride and Bridegroom at the opening of the Song of Songs, which sometimes show the man, identified as the bridegroom, Christ, or a king, with his arm across the woman's shoulders in illustration of the verse "his right hand shall embrace me."[44]

It should be noted that in all these examples it is the man who embraces the passive body of the woman; the act of placing his hand on her shoulder seems to express the superiority—spiritual or familial—of the male figure over the female. The effigies of Walter and Mary, however, are distinctive in the mutuality of the shoulder embrace, their overlapping arms doubling the connection between the figures (fig. 13). Such symmetry of embrace is extremely unusual. It is occasionally found in images of lovers in thirteenth- and fourteenth-century manuscripts: for instance, an illumination from *Li Ars d'Amour*, probably made in Arras at the start of the fourteenth century, shows a man and woman pressed against one another, wrapped in the same mantle and with their arms resting on each other's shoulders, giving the impression of two heads on a single body (fig. 14).[45] A particularly striking example is a historiated initial marking the beginning of the Song of Songs from an early fourteenth-century Bible, possibly of East Anglian provenance, which depicts a king and queen sitting side by side on a double throne, leaning in to kiss, their hands placed around one another's shoulders (fig. 15).[46] This embrace seems to be motivated by a mutual desire for power as much as shared intimacy, as both figures use their outstretched arm to reach towards the other's sceptre.[47] While none of the manuscripts or monuments mentioned above could have acted as models for the Inchmahome effigies, considered as a group they suggest a wider artistic context for the representation of this gesture.

It is significant that the placement of one's arm around the shoulder of another was particularly associated with the depiction of spousal relationships, a posture used to express both intimacy and ownership.

Figure 14

Lovers joined as one, detail from *Li Ars d'Amour*, Arras, Pas-de-Calais, France, early 14th century, illumination on parchment. Collection Bibliothèque royale de Belgique, Brussels, (MS 9543, fol. 22v). Digital image courtesy of Bibliothèque royale de Belgique.

Figure 15

King and Queen embracing, opening of the *Song of Songs* from a bible possibly made in East Anglia, circa 1320–30, illumination on parchment. Collection Trinity College Library, Dublin (MS 35 (A. 1. 2.), fol. 182v). Digital image courtesy of Trinity College Library, Dublin.

The pose of the effigies may also represent Walter's dependence on his wife for his legitimate possession of the earldom. The use of gesture to communicate and confirm legal actions would have been familiar to the audience of the Inchmahome tomb: in her book, *Land, Law and People in Medieval Scotland*, Cynthia Neville highlights the use of ritual gesture as a means to lend authority to the baronial courts during the twelfth and thirteenth centuries.[48] As sheriff of Ayr (by 1264) and Dumbarton (1271–88), Walter would have presided over such courts on numerous occasions.[49] Contemporary evidence also suggests Walter's awareness of his legal dependence on Mary. A charter dated 14 August 1267 in which Alexander III confirms a gift by Walter of half the villa of "Broculy" (Bracklinn) to Gilbert Brigte of Glencarnie is careful to acknowledge that the earl is able to donate this land only "with the consent and will of Mary his spouse, countess of Menteith".[50] In 1281 Walter brought Mary with him in the distinguished retinue that escorted Margaret, daughter of Alexander III, to Norway for her marriage to Eric II; the countess was the only noblewoman, apart from the bride-to-be, to undertake this journey.[51] Although the gestures on the Inchmahome monument do not appear to have a specific legal meaning (in contrast to, for example, the joining of right hands and the making of a formal oath), the mutual embrace of the effigies could have been understood by contemporaries as an expression of the importance of Walter's marriage for the legality of his possession of the earldom of Menteith.

Location and Audience

Prior to being installed in the chapter house during a restoration project carried out by the Office of Works in 1926, the memorial to Walter and Mary was located in the centre of the choir in the priory church.[52] Photographs taken before the restoration (with the monument under a nineteenth-century wooden shelter) show the effigies facing the high altar, their feet level with the sedilia and their heads opposite the eastern door (figs 6 and 16). Two nineteenth-century plans of the priory church identify the "Tomb of the Red Cross Knight & Lady" in the same position.[53] This location indicates the importance and ambition of Walter and Mary's monument. Placed directly before the high altar, the knight and lady would have been highly visible to the priest celebrating mass, as well as the canons singing in the choir (fig. 17). The relatively small size of the priory church would have intensified the tomb's visual impact: there is no transept or choir aisles and the chancel is only 7.2 metres wide internally, so that the memorial would have occupied more than a sixth of the width of the floor space.[54] The exaggerated scale of the figures would have captured the attention of the canons in the choir, drawing their gaze downwards from the high altar during mass and the Divine Offices, a reminder for them to include Walter and Mary in their prayers. As well as re-focusing the canons' eyes, the monument also re-directed their feet. Since the heads of the effigies were level with the eastern door, the canons had to walk around the monument in order to exit the choir and return to the cloisters via the night stair, the physical obstruction potentially acting as another prompt for them to remember the earl and his wife.

Figure 16

The ruined choir of Inchmahome Priory prior to the restoration project of 1926, glass-plate photograph. Collection Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS), SC 1172991. Digital image courtesy of Crown Copyright.
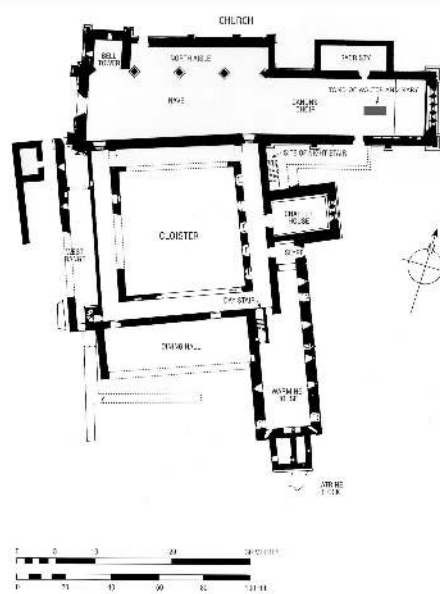

Figure 17

Floor plan of Inchmahome Priory, with the original location of the monument indicated in red. Collection Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS), SC 1172991. Digital image courtesy of Crown Copyright.

As well as ensuring prayer for their souls, the location of Walter and Mary's monument proclaimed the legitimacy of their earthly status. In the thirteenth century, burial in front of the high altar was a privilege usually reserved for founders and their descendants. For instance, William the Lion, King of Scotland (d. 1214) was interred prominently before the high altar at his Tironensian foundation of Arbroath Abbey (Angus), while four generations of the Ros lords of Helmsley were buried near the high altar in Kirkham Priory (Yorkshire, North Riding), founded by their ancestor, Walter Espec (d. c. 1147–58).[55] The priory of Inchmahome, however, had not been founded by Walter and Mary but by the previous earl of Menteith, Walter Comyn (fig. 2).[56] Given her close relationship to the founder, Comyn's wife Isabella (the countess usurped by Walter and Mary) would have also expected the right of burial at Inchmahome. Through its position in the choir of the priory church, the monument to Walter and Mary thus appropriated a foundation closely associated with their rivals as their own mausoleum, asserting the couple's status as the rightful successors to the earldom. This monumental claim to legitimacy would not have been limited to the Augustinian canons of Inchmahome. Robert the Bruce made at least three visits to the priory in the first decade of the fourteenth century, and as a royal guest would have sat in the choir in close proximity to Walter and Mary's monument.[57] With the principal seat of the earldom of Menteith, Doune Castle, only 16 kilometres west of Inchmahome,[58] and another possible residence for the earl on the adjacent island, Inch Talla, it is likely that the priory occasionally hosted other noble visitors (fig. 3).[59]

Nevertheless, the relative inaccessibility of its island location probably meant that knowledge of the tomb of Walter and Mary spread predominantly through second-hand accounts, rather than visits to the monument *in situ*. Luxford notes that testimonies from the Court of Chivalry are "remarkable for demonstrating the extent to which both ecclesiastics and laymen were aware of the location and appearance of tombs existing in local and national churches".[60]In the case of Grey v. Hastings, both plaintiff and defendant submitted drawings of tombs as evidence, while the Anlaby cartulary (dating from around 1450) contains three drawings of monuments in the margins of documents relating to the deceased.[61] These images were often accompanied by a description of the monument's position in the church, suggesting the importance of location to contemporaries' understanding of the meaning and authority of these memorials.[62] Considered in this context, it is probable that the audacious choice of location for the monument to Walter and Mary was widely known among the Scottish elite and could even have reached their rivals for the earldom. Indeed, the island location, far from rendering their memorial more obscure, may have served to fuel gossip about Walter and Mary's tomb by evoking the romantic associations of Arthur and Guenevere's burial on the Island of Avalon.[63]

Patronage

An examination of the Inchmahome monument suggests the close involvement of the patron in its location and design. In his discussion of the tomb, Barrow notes that "one would expect" Alexander, the eldest son of Walter and Mary, to be responsible for commissioning the monument to his parents.[64] As heir to the earldom of Menteith, Alexander would have had good reason to commission a monument that stressed the legitimacy of his parents' possession of the title. A survey of the events of Alexander's life, however, suggests he had little time or opportunity for artistic patronage. First recorded as earl of Menteith in 1296, Alexander was held prisoner by the king of England, Edward I, from April 1296 to March 1298.[65] After escaping from custody in Flanders, he played an active role supporting Robert the Bruce in his conflicts with Edward I, until his untimely death sometime between around 1304 and 1306. Barrow

acknowledges that Alexander was unlikely to be concerned with an elaborate memorial to his parents during these tumultuous years of warfare, suggesting instead that the earl commissioned the Inchmahome tomb in the period immediately following his accession to the title, which he claims occurred in around 1293–96.[66] This argument is undermined by uncertainty surrounding the date of Walter Stewart's death, and thus of Alexander's accession: there are surviving letters addressed by Edward I to Walter dated 29 June 1294, and there is no firm evidence of his death until 1296.[67] Alexander's descendants also seem unlikely candidates for the patron of the Inchmahome monument. Alan, Alexander's son, came out in support of Bruce at his coronation, surrendered to the English, was deprived of his earldom, and subsequently died (probably in captivity) sometime between 1306 and 1309.[68] The earldom was in custody for much of Bruce's reign, first on behalf of Alan's young son, Alan II, and later on behalf of his sister, until granted by the Scottish king to Sir Murdoch of Menteith in around 1323 (fig. 18).[69] The costume and drapery of the effigies, as well as the cross-legged pose of the knight, argue against the monument being commissioned far into the fourteenth century.

Figure 18

Genealogical diagram, showing the descendants of Walter and Mary Stewart. Digital image courtesy of Jessica Barker.

This raises the possibility that Walter Stewart himself was the patron of the Inchmahome tomb. He was clearly concerned with providing for the commemoration of himself and his family. In a charter dated 19 January 1262, Walter renewed and confirmed a grant by Dufgall, son of Syfyn of the church of Kilcolmanel (Kintyre) to Paisley Abbey, "for the salvation of the souls of my ancestors buried in Paisley monastery".[70] A later document, dated to around 1290 by the archivist William Fraser, confirms the donation of churches and chapels in Knapdale (Argyll) by Walter to the abbey of Kilwinning in Cunningham (North Ayrshire).[71] In this charter the emphasis has shifted from the commemoration of Walter's ancestors to himself and his wife. Walter states that he makes the gift in pure and perpetual alms, as well as "for the salvation of my soul and that of lady Mary my late spouse, countess of Menteith, and the souls of all my ancestors and successors".[72] The reference to Mary as Walter's "late spouse" (*quondam sponse*) reveals that the countess predeceased her husband; she is last recorded in 1281, although her exact date of death is not known.[73] The loss of his wife may have acted as the prompt for Walter to commission their monument at Inchmahome. In the fourteenth and fifteenth centuries, it was commonplace for the surviving spouse to order a joint memorial on the demise of their husband or wife. One famous example is a now-lost alabaster memorial commissioned by John of Gaunt after the sudden death of Blanche of Lancaster in 1368, commemorating a marriage that had brought him extensive lands, as well as the titles of duke of Lancaster, earl of Derby, earl of

Lincoln, and earl of Leicester.[74] In the nineteen years between the completion of the monument in 1380 and his death in 1399, the duke visited the memorial on numerous occasions, including the anniversaries of Blanche's death and to mark important political events, such as his reconciliation with the citizens of London in 1381.[75] For Walter, like John of Gaunt, commissioning a monument that depicted himself alongside his deceased spouse would have been a means of creating an enduring connection to a past intimacy and a lasting record of the lands and status that he had acquired through marriage.

It is not difficult to imagine why commemorating his marriage would have been of particular interest to Walter in the final decades of the thirteenth century. No individual would have been more aware of and more affected by the disputes surrounding his accession to the earldom. Walter had profited handsomely from his marriage to Mary; it was in his interests (and those of his descendants) to memorialize their union. Although we know with hindsight that the division of 1285 was the final resolution of the dispute over the earldom, Walter may have felt less secure. His ally and champion, Alexander III, died only a year later in 1286. In the political vacuum that followed, his rivals for the earldom, the Comyn family, directed the governance of the realm.[76] The dominance of this faction contributed to growing tensions among the Scottish elite, allowing the English king to make increasing interventions north of the border.[77] This must have been a cause of concern for Walter: Edward I had supported the Comyn's claim to the earldom, sending letters to Alexander III in 1282 encouraging him to settle the dispute in their favour.[78] A seal used by Edmund Hastings, son-in-law of the deposed countess, in 1301 suggests continuing antagonism over the earldom. Although Edmund is careful not to use the title of earl (*comes*), which had been awarded to Walter and his heirs in the settlement sixteen years previously, his seal is striking for the close association which it creates with the earldom of Menteith, featuring an escutcheon of *three bars wavy* (the arms of Menteith), surrounded by the legend "Seal of Edmund Hastings Earldom of Menteith" (*s. edmundi hasting comitatu menetei*).[79] Given the unstable political climate of the late thirteenth century, Walter had ample motivation to commission a lasting reminder of his claim to the earldom through the heiress of Menteith, a monument protected from his rivals by its island location and placement within the priory church.

One further piece of evidence illuminates the circumstances around the commissioning of the Inchmahome tomb. On 6 April 1496, King James IV of Scotland renewed a grant of the church of Kippen to the royal abbey of Cambuskenneth that had been made long ago by Walter Stewart and his son Alexander. Although this document dates from the late fifteenth century, the wording of the earlier charter would have been followed closely in order to ensure the legal validity of the donation. According to the charter:

> The gift was made by the late Walter earl of Menteith, and Alexander, his son and heir apparent, in pure and perpetual alms, for the salvation of their souls and that of Matilda, late wife of the said Alexander, and for their chosen burial-places in our said monastery.[80]

Barrow and Glenn have interpreted this charter as evidence that the monument to Walter and Mary was originally intended for the royal abbey and only placed at Inchmahome after a change of plan.[81] Cambuskenneth, founded by King David I in around 1140 and located in close proximity to the royal castle at Stirling, would certainly have been a prestigious location for their memorial.[82] Excavations in 1864 uncovered a large number of burials within the choir and transepts of the abbey church, including a fine stone coffin and a fragment of a carved sword, possibly from a military effigy.[83] As the holder of numerous royal offices, including the sheriffdoms of Ayr and Dumbarton, and a close ally of Alexander III, it is not difficult to imagine

why Walter might have sought to advertise his connections to the Scottish Crown through burial at the abbey.[84] It is less clear, however, who would have ignored this request and moved Walter and Mary's monument to the priory of Inchmahome, or why they might have done so.

There is another explanation for the Cambuskenneth charter, one that does not require frustrated intentions or altered plans. Mary's absence from the charter is notable: the document states that burial places were sought for Walter, Alexander, and Alexander's wife Matilda, but makes no mention of Walter's spouse. Although no date is given for the original charter, it seems likely that Mary was already deceased by the time it was drawn up. Presumably Walter and Alexander were not concerned with providing for Mary's burial because her body had already been interred. It is also significant that the donation is reported to have been made by Walter and Alexander alone, with no mention of the "*consensus et voluntas*" (consent and agreement) of Mary, a clause standard to charters in which Walter alienates lands from his wife's earldom during her lifetime.[85] So it is quite possible that Mary was already buried at Inchmahome, while Walter, Alexander, and Matilda were interred in the abbey church of Cambuskenneth. This would mean that the Inchmahome monument would have been commissioned by Walter to mark the site of Mary's grave alone. Although the rarity of double tombs in the thirteenth century makes it difficult to find contemporary parallels, there are several later examples of a joint memorial marking the grave of a single spouse.[86] For instance, Sir Simon Felbrigg is depicted alongside his wife, Margaret of Silesia, on a magnificent brass at the parish church of Felbrigg (Norfolk) made shortly after her death in 1416, but his body was buried in the choir of the Norwich Blackfriars following his own death in 1443.[87] In 1460, Sir Simon's corpse was joined by that of his second wife, Katherine Clifton, whom herself had ordered a joint monument with her first husband, Sir Ralph Green, at the parish church of Lowick (Northamptonshire) some forty-one years previously.[88] Like Walter, Katherine commissioned a double tomb in the context of a dispute over lands acquired through her marriage: she had been given substantial properties by her late husband, including the manor of Lowick and advowson of its parish church, a settlement that was disputed by Ralph's younger brother at the court of Chancery.[89] The likelihood that Walter ordered his effigy to be included on the memorial to his wife, despite the fact that he intended his body to be buried elsewhere, thus draws attention to the political and legal significance of the decision to commission a joint monument. The two carved figures, bodies entwined for eternity, were intended primarily as a statement to the living about the enduring importance of Walter and Mary's marriage and the inheritance of lands that it entailed.

Conclusion: Law, Marriage, and Material Culture

The bitter dispute over the earldom of Menteith would have profoundly shaped Walter and Mary's life and their attitude to the earldom. Against this background, certain features of the couple's memorial become more comprehensible. The decision to commission a double effigial tomb, extremely unusual for this period, appears to reflect Walter and Mary's mutual dependence on their marriage for possession of the earldom. While the dynamic poses of the effigies clearly belong to the artistic context of thirteenth-century English funerary sculpture, the unique combination of gestures at Inchmahome also represents the importance of the relationship between Walter and Mary, encouraging the viewer to treat the figures as a single, indivisible entity. The location of the memorial at Inchmahome Priory, rather than a foundation associated with the Stewart family, was a statement of the couple's position as the rightful successors to the previous earl of Menteith, appropriating his foundation as their own mausoleum.[90] The legal and political facets of this joint monument are highlighted in Walter's apparent decision (along with

his eldest son and daughter-in-law) to be buried apart from Mary at the more prestigious royal abbey of Cambuskenneth.

The monument at Inchmahome alerts us to the importance of law, property, and inheritance for understanding a significant new trend in late-medieval tomb sculpture: the shift towards memorializing marriage. Whereas this early and innovative joint memorial was connected to an exceptional dispute, in the fourteenth and fifteenth centuries the growing popularity of double tombs was encouraged by broad shifts in the legal and economic status of marriage. Chief among these changes was the introduction of jointure: a legal device whereby specific lands from the husband's family became the joint property of the couple and their heirs, a clause which was increasingly common in marriage contracts from the end of the thirteenth century onwards.[91] While jointure led to a general increase in the proportion of lands owned jointly by husband and wife, the devastation wrought by the Black Death ruptured the transmission of property along the male line, meaning that in the ensuing decades many more inheritances passed to or through women.[92] The greater wealth available to wives in the fourteenth and fifteenth centuries also led to an increase in contested testaments, with widows often forced to go to court to defend their jointure or dower from their husbands' male heirs.[93]

Against the backdrop of such wide-ranging social, economic, and legal shifts, funerary monuments assumed a particular importance as evidence for the legitimacy of a relationship and the transfer of titles and property that it entailed. The evidential value of funerary monuments lay in their intrinsic and sustained connection to a specific individual (or couple), as well as in their ability to situate these persons in a particular place.[94] Indeed, the monument to Walter and Mary anticipates a later trend for placing double tombs on lands that had been acquired through marriage.[95] Written evidence for the citing of memorials in court may be slight, but, as Luxford states, to dismiss the legal facet of funerary monuments on this basis is to overlook a crucial point: by representing a contested claim as seemingly "set in stone", one function of memorials was to prevent the outbreak of litigation.[96] The patronage, location, and design of joint memorials thus responded to concurrent shifts in marriage contracts, inheritance, and litigation, meaning that law and material culture were inextricably entwined, much like the effigies of Walter and Mary at Inchmahome.

Acknowledgements

About the author

Jessica Barker is a specialist in medieval art, with a particular emphasis on sculpture. She studied at the University of Oxford and the Courtauld Institute of Art, where she was subsequently Henry Moore Postdoctoral Fellow. She joined the

Courtauld in 2018, after two years as a lecturer in the department of Art History and World Art Studies at the University of East Anglia. Jessica's research addresses questions of the macabre, gender, concealment and the body. Her monograph, *Stone Fidelity: Marriage and Emotion in Medieval Tomb Sculpture* explores the intersection of love and death in funerary art from fourteenth and fifteenth-century England. She has published widely on death and commemoration, with articles in journals including *Art History*, *British Art Studies*, *Gesta*, and *The Sculpture Journal*. For her next project, Jessica is thinking about practices of care and conservation in the Middle Ages, in particular how attitudes to the material integrity of sculpture might relate to new philosophies regarding the integrity of the self. Jessica is one of the conveners of the Sculptural Processes Group, a network for art historians, curators, conservators and artists interested in processes of making across all periods and geographies.

Footnotes

1. "Walterus Bullok, ex parte uxoris suae, comitatum de Menteth proterve calumnians, favore magnatum adeptus est." John Fordun*, Chronica Gentis Scotorum*, ed. William F. Skene, 2 vols (Edinburgh, 1871), 1: 298. Medieval accounts of the dispute can be found in Fordun, *Chronica Gentis Scotorum*, 1: 298–99, 2: 293–94; Walter Goodall, ed., *Johannis de Fordun Scotichronicon: cum Supplementis ac Continuatione Walteri Boweri*, 2 vols (Edinburgh, 1759), 2: 120; Augustinus Theiner, *Vetera Monumenta Hibernorum et Scotorum, 1216–1541* (Rome, 1864), 93–94, no. 237; Andrew of Wyntoun, *The Orygynale Chronykil of Scotland*, ed. David Laing, 3 vols (Edinburgh, 1872), 2: 263–64. For discussions of the case in secondary literature, see Michael Brown, *The Wars of Scotland, 1214–1371* (Edinburgh: Edinburgh University Press, 2004), 35, 55, 94; Marion Campbell, *Alexander III, King of the Scots* (Isle of Colonsay, Argyll: House of Lochar, 1999), 123–24; Paul C. Ferguson, *Medieval Papal Representatives in Scotland* (Edinburgh: The Stair Society, 1997), 104–7; Alan Young, *Robert the Bruce's Rivals: The Comyns, 1212–1314* (East Linton, Scotland: Tuckwell Press, 1997), 75–74.
2. Fordun, *Chronica Gentis Scotorum*, 1: 298; Theiner, *Vetera Monumenta*, 93, no. 237.
3. Fordun, *Chronica Gentis Scotorum*, 1: 298; Theiner, *Vetera Monumenta*, 93*,* no. 237. There has been some debate over whether Mary was Isabella's sister or her cousin (Geoffrey Barrow, "The Social Background to the Bute Mazer", in *Medieval Art and Architecture in the Diocese of Glasgow*, ed. Richard Fawcett, British Archaeological Association Conference Transactions 23 (London: British Archaeological Association, 1998), 127, 132 n. 59).
4. Fordun, *Chronica Gentis Scotorum*, 1: 298; Ferguson, *Papal Representatives*, 104; Theiner, *Vetera Monumenta*, 93, no. 237.
5. Theiner, *Vetera Monumenta*, 93, no. 237.
6. For the first court case, see Fordun, *Chronica Gentis Scotorum*, 1: 298–99; Theiner, *Vetera Monumenta*, 93–94, no. 237. For the second case, see Goodall, *Scotichronicon*, 2: 120. For the third case, see Wyntoun, *Orygynale Chronykil*, 2: 263–64.
7. Wyntoun, *Orygynale Chronykil*, 2: 263–64.
8. While double effigial monuments to married couples first appear in continental Europe in the middle of the thirteenth century, the earliest surviving examples in England date from the early fourteenth century. See Jessica Barker, "Monuments and Marriage in Late-Medieval England: Origins, Function and Reception of Double Tombs" (PhD diss., Courtauld Institute, University of London, 2015), 20–59.

9. Iain Fraser, "Medieval Funerary Monuments in Scotland", in *Monuments and Monumentality Across Medieval and Early Modern Europe*, ed. Michael Penman (Donington: Shaun Tyas, 2013), 9–17.

10. Barrow, "Bute Mazer", 127–28; Virginia Glenn, "Court Patronage in Scotland, 1240–1340", in *Medieval Art and Architecture in the Diocese of Glasgow*, ed. Richard Fawcett, British Archaeological Association Conference Transactions 23 (London: British Archaeological Association, 1998), 117.

11. A number of recent studies draw attention to the richness and vitality of medieval art and architecture in Scotland. See, for example, the essays in Jane Geddes, ed., *Medieval Art, Architecture and Archaeology in the Dioceses of Aberdeen and Moray*, British Archaeological Association Conference Transactions 40 (Abingdon: Routledge, 2016).

12. Anne M. Morganstern, *Gothic Tombs of Kinship in France, the Low Countries, and England* (University Park, PA: University of Pensylvannia Press, 2000), 152–55.

13. Morganstern, *Gothic Tombs of Kinship*, 13. See also Michel Bur, "Les Comtes de Champagne et la 'Normanitas': Sémiologie d'un tombeau", in *Proceedings of the Battle Conference on Anglo-Norman Studies 3*, ed. R. Allen Brown (Woodbridge: Boydell, 1981), 24–25.

14. Kelcey Wilson-Lee, "The Quatremain Mausoleum at Thame, Oxfordshire", *Transactions of the Monumental Brass Society* 17, no. 5 (2007): 460, 462.

15. Wilson-Lee, "Quatremain Mausoleum", 465–66.

16. Julian Luxford, "Tombs as Forensic Evidence in Medieval England", *Church Monuments* 24 (2009): 7–25. See also Luxford, "'Thys ys to remembre': Thomas Anlaby's Illustrations of Lost Medieval Tombs", *Church Monuments* 20 (2005): 31–39.

17. Luxford, "Tombs as Forensic Evidence", 13–17. See also Maurice Keen, *Origins of the English Gentleman: Heraldry, Chivalry and Gentility in Medieval England, c. 1300–c. 1500* (Stroud: Tempus, 2002), 25–70.

18. "Et puis apres mesme la partie defendant proposa deuant, qe y sont en lesglise parochiel de Elsyng, en diuerses lieux deins icelle, certeins euidences a luy necessaries & busoignables pour sa proeue, cest assauoir sepultures et certeins armes." Anthony R. Wagner and James G. Mann, "A Fifteenth-Century Description of the Brass of Sir Hugh Hastings at Elsing, Norfolk", *Antiquaries Journal* 19 (1939): 422–24. See also Julian Luxford, "The Hastings Brass at Elsing: A Contextual Analysis", *Transactions of the Monumental Brass Society* 18, no. 3 (2011): 193–211; Luxford, "Tombs as Forensic Evidence", 13–14.

19. For further discussion, see Jessica Barker, "Invention and Commemoration in Fourteenth-Century England: A Monumental 'Family Tree' in the Collegiate Church of St Martin, Lowthorpe", *Gesta* 56, no. 1 (2017): 105–28.

20. Richard Fawcett, *The Architecture of the Scottish Medieval Church, 1100–1560* (New Haven, CT: Yale University Press, 2011), 150.

21. The stone block is a slightly irregular trapezoid: the long side on the dexter (adjacent to the female effigy) is 218 cm, while the long side on the sinister (adjacent to the male effigy) is 220 cm. All measurements are my own.

22. The Latin legend reads: "Walteri Senescalli Comitus de Menetet" [Walter Stewart, Earl of Menteith]. William Fraser, *The Red Book of Menteith*, 2 vols. (Edinburgh, 1880), 2: 454–55, 461; Henry Laing, *Descriptive Catalogue of Impressions from Ancient Scottish Seals* (Edinburgh, 1850), 129, no. 784.

23. Attached swords are found on a number of thirteenth-century knightly effigies, including examples at Rippingale (Lincs.) and Dorchester Abbey (Oxon), albeit in these cases the cross-

guard was carved in stone with only the scabbard made as a separate piece. For illustrations, see H. A. Tummers, *Early Secular Effigies in England: The Thirteenth Century* (Leiden: Brill, 1980), plates 97, 110.

24. Arthur Gardner dates the Stow-Nine-Churches effigy to c. 1260, whereas Tummers places it between c. 1260 and c. 1270. Arthur Gardner, *English Medieval Sculpture: The Original Handbook Revised and Enlarged with 683 Photographs* (Cambridge: Cambridge University Press, 1951), 160; Tummers, *Early Secular Effigies,* no. 121, p. 142.

25. Although Philip Lankester recently dated this figure (along with RCHM 3, 4, and 6) to c. 1240–80, the thin, rippling folds of the drapery, comparable to the Dorchester knight, point to a date around the middle of the thirteenth century. Lankester, "The Thirteenth-Century Military Effigies in the Temple Church", in *The Temple Church in London: History, Architecture, Art*, ed. Robin Griffith-Jones and David Park (Woodbridge: Boydell, 2010), 133–34.

26. Tummers, *Early Secular Effigies*, 86–87, 110–11.

27. Tummers and Lankester suggest that this group of effigies were made by a single workshop, possibly connected to London (the city functioning either as a base for manufacture or for marketing and distribution). Tummers, *Early Secular Effigies*, 86–87, 110–11; Lankester, "Thirteenth-Century Military Effigies", 130–32.

28. For examples of effigies that combine the "walking position" with the placement of the hand on the chest, see the knights at Eastwick (Herts) and Temple Church (RCHM 6 and 7). Lankester, "Thirteenth-Century Military Effigies", plate 56; Tummers, *Early Secular Effigies*, plates 29, 30.

29. Comparable examples in funerary sculpture include the female effigies at Lyonshall (Heref.) and West Leake (Notts.), both dating from the latter half of the thirteenth century. Tummers, *Early Secular Effigies*, 145, no. 165, plate 164; 145, no. 178, plates 142 and 146.

30. Philip Lankester, "A Military Effigy in Dorchester Abbey, Oxon", *Oxoniensia* 52 (1987): 167–68; Paul Williamson, *Gothic Sculpture, 1140–1300* (New Haven, CT: Yale University Press, 1995), 204–6, figs 305 and 306. See also Glenn, "Court Patronage", 117.

31. For the effigy in West Leake, see Tummers, *Early Secular Effigies*, 145, no. 179, plate 163. In his *Early Secular Effigies* (102), Tummers identified fifteen examples of this pose in England dating before 1300.

32. Fraser, "Funerary Monuments in Scotland", 9–12, 15; Richard Fawcett, "Aspects of Scottish Canopied Tomb Design", in *Monuments and Monumentality*, ed. Penman, 129.

33. Mary Markus, "St Bride's Douglas: A Family Mausoleum", *Proceedings of the Society of Antiquaries of Scotland* 134 (2004): 405–7. See also Richard Fawcett, *Scottish Medieval Churches: Architecture and Furnishings* (Stroud: Tempus, 2002), 311; David MacGibbon and Thomas Ross, *The Ecclesiastical Architecture of Scotland: From the Earliest Christian Times to the Seventeenth Century*, Vol. 2 (Edinburgh, 1896), 2: 524, fig. 917.

34. The late fourteenth-century chronicler John Barbour records the burial of James Douglas at St Bride's and the erection of a "rich tomb of alabaster" in his memory. Whereas the canopied recess on the north wall of the chancel with the Douglas arms was probably part of this arrangement, the effigy within the arch is more problematic: it is made of freestone, not alabaster, and is clearly designed to be seen in the round, whereas in the current arrangement its shield is obscured by the chancel wall. Some of these problems are noted by Markus, "St. Bride's, Douglas", 405–07, 420 n. 8 (although she maintains the identification of the effigy as James Douglas).

35. Fraser, "Funerary Monuments in Scotland", 13–15; Michael Penman, "A Programme for Royal Tombs in Scotland", in *Monuments and Monumentality*, ed. Penman, 243. See also Glenn, "Court Patronage", 117.

36. Fraser, "Funerary Monuments in Scotland", 14; John Harvey, *English Mediaeval Architects: A Biographical Dictionary Down to 1550*, rev. edn (Gloucester: Sutton, 1984), 229.

37. During the thirteenth century, nine of the thirteen Scottish earls owned land south of the border. Young, *Robert the Bruce's Rivals*, 79.

38. David Park, "Medieval Burials and Monuments", in *The Temple Church in London: History, Architecture, Art*, ed. Robin Griffith-Jones and David Park (Woodbridge: Boydell, 2010), 89–91. See also Barker, "Monuments and Marriage", 45–59, 232–33.

39. Barker, "Monuments and Marriage", 32–59.

40. Barker, "Monuments and Marriage", 37–38. See also Truus van Bueren and Rolf the Weijert, eds, *Database Medieval Memoria Online, commemoration of the dead in the Netherlands until 1580* (Utrecht University, 2013), s. v. "memorial object ID 28", http://memo.hum.uu.nl.

41. Hans Körner, *Grabmonumente des Mittelalters* (Darmstadt: Wissenschaftliche Verlag, 1997), 140, 142.

42. Kurt Bauch, *Das Mittelalterliche Grabbild: Figurliche Grabmaler des 11 bis 15 Jahrhunderts in Europa* (Berlin: de Gruyter, 1976), 114, 327 n. 249; Joseph Morsel, "La noblesse dans la mort. Sociogenèse funéraire du groupe nobiliare en Franconie (XIVe-XVIe s.)", in *Autour des morts: mémoire et identité*, ed. Olivier Dumoulin and Françoise Thélamon (Mont-Saint-Aignan: Université de Rouen, 2001), 393.

43. London, British Library Additional MS 47170, mm. 10–11, front), discussed in O. Barron, "A Royal Pedigree and a Picture of the Black Prince", *The Ancestor* 11 (1904): 158–60; Julian Luxford, "Intelligent by Design: The Manuscripts of Walter Whittlesey, Monk of Peterborough", *Electronic British Library Journal* (2013), Article 13, 22–24, http://www.bl.uk/eblj/2015articles/article13.html. Since a large roundel for Richard II has been drawn but not filled in or labelled, these additions must date to sometime between the birth of Richard II in 1367 and the death of the Black Prince in 1376.

44. Song of Songs 2:6, 8:3. A good example of this iconography is found in Oxford, Bodleian Library, MS Laud Misc. 150, fol. 3r. See also Bede's *Commentary on the Song of Songs*, St Albans, c. 1130 (Cambridge, Kings College, MS 19, fol. 21v), illustrated in Michael Camille, *The Medieval Art of Love: Objects and Subjects of Desire* (London: Laurence King, 1998), fig. 14; and the full-page miniature in Honorius Augustodunensis's *Exposition on the Song of Songs*, Germany, c. 1200 (Munich, Bayerische Staatsbibliothek, Clm. 18125, fol. 1v), illustrated in Melanie Holcomb, *Pen and Parchment: Drawing in the Middle Ages* (New Haven, CT: Yale University Press, 2009), 104.

45. Brussels, Bibliothèque Royale Albert 1er, MS 9543, fol. 22v. See Alison Stones, *Gothic Manuscripts, 1260–1320*, Part 1 (London: Harvey Miller, 2013), 1: 60, 2: 177–87. For other examples of lovers in this pose, see Averroes, *Commentary on the Physics of Aristotle*, Oxford, c. 1260 (Paris, Bibliothèque Nationale, MS lat. 6505, fol. 132v), illustrated in Nigel Morgan, *Early Gothic Manuscripts*, Vol. 2: *1250–1285* (London: Harvey Miller, 1988), fig. 277; the Litlyngton Missal, Westminster, c. 1383–84 (London, Westminster Abbey, MS 37, fol. 286v), illustrated in Eric G. Millar, *English Illuminated Manuscripts of the 14th and 15th Centuries* (Paris: G. van Oest, 1928), plate 72.

46. Dublin, Trinity College, MS 35 (A. 1. 2.), fol. 182v. See Lucy Freeman Sandler, *Gothic Manuscripts, 1285–1385*, 2 vols. (London: Harvey Miller, 1986), 2: 90–1, no. 88.

47. A similar pose can be seen on the porphyry tetrarchs, stolen from Constantinople and inserted into the corner of the treasury of San Marco in Venice after 1231. The co-emperors are depicted in two pairs, each grasping the other around the shoulder with one hand and using the other to clutch the hilt of their sword. Holger A. Klein, "Refashioning Byzantium in Venice, ca. 1200–1400", in *San Marco, Byzantium and the Myths of Venice*, ed. Henry Maguire and Robert S. Nelson (Washington, DC: Dumbarton Oaks, 2010), 210.

48. Cynthia Neville, *Land, Law and People in Medieval Scotland* (Edinburgh: Edinburgh University Press, 2010), 27–31. For the importance of gesture to medieval law more broadly, see Jean-Claude Schmitt, "The Rationale of Gestures in the West: Third to Thirteenth Centuries", in *A Cultural History of Gesture: From Antiquity to the Present*, ed. Jan Bremmer and Herman Roodenburg (Ithaca, NY: Cornell University Press, 1992), 59–70.

49. Campbell, *Alexander III*, 145; Young, *Robert the Bruce's Rivals*, 72–73.

50. "hac presenti carta nostra confirmasse donationem illam quam Walterus Senescalli, comes de Meneteth, fecit Gilberto filio Gilberti de Glenkerny, militi, de consensu et voluntate Marie sponse sue, comitisse de Meneteth, de medietate ville de Broculy cum pertinenciis." Fraser, *Red Book*, 2: 217, doc. 10. See also Amanda Beam, John Bradley, Dauvit Broun, et al, *The People of Medieval Scotland, 1093–1314* (Glasgow and London, 2012), http://db.poms.ac.uk/record/source/980/.

51. Campbell, *Alexander III*, 215.

52. For the restoration project, see Kirsty Owen, *Inchmahome Priory: The Official Souvenir Guide*, rev. edn (Historic Scotland, 2010), 31; John Stewart, *Inchmahome and the Lake of Menteith* (Edinburgh: privately printed, 1933), 11.

53. See also the 1815 plan of the priory church in William Stirling, *Notes Historical and Descriptive, on the Priory of Inchmahome* (Edinburgh, 1815), opposite page 109. The accompanying text on page 94 describes the monument as located "in the centre of the choir".

54. The tomb of Walter and Mary is 1.28 m at its widest point. The choir of the priory church is 7.2 m wide and 20.1 m long internally. The nave measures 22 m long and is 7.2 m wide at the east end and 8.3 m wide at the west end. This can be compared to the width of the choir at Sweetheart Abbey, a fourteenth-century Cistercian foundation in Kirkcudbrightshire, which is approximately 8.5 m wide. These architectural dimensions are taken from MacGibbon and Ross, *The Ecclesiastical Architecture of Scotland*, 2: 115–6, 339, converted from feet to metres.

55. Fawcett, *Scottish Medieval Churches*, 304; Danielle Westerhof, *Death and the Noble Body in Medieval England* (Woodbridge: Boydell, 2008), 67. For more examples of founders and their descendants buried within their religious house, and the use of such burials to assert the legitimacy of familial succession, see Brian Golding, "Burials and Benefactions: An Aspect of Monastic Patronage in Thirteenth-Century England", in *England in the Thirteenth Century: Proceedings of the 1984 Harlaxton Symposium*, ed. Mark Ormrod (Woodbridge: Boydell, 1986), 64–75.

56. Walter Comyn established Inchmahome Priory in 1238. Cosmo Innes, ed., *Liber Insule Missarum* (Edinburgh, 1847), xxix–xxxii.

57. Robert the Bruce is recorded at Inchmahome in 1306, 1308, and 1310. Fraser, *Red Book*, 1: 513–17.

58. Although long believed to be a late fourteenth-century structure, recent research has revealed that much of Doune Castle actually dates from a century earlier, thus placing it within the lifetime of Walter Stewart. Richard Oram, "The Greater House in Late Medieval Scotland", in

The Medieval Great House, ed. Malcolm Airs and P. S. Barnwell (Donington: Shaun Tyas, 2011), 55–58.

59. A residence for the earl most likely existed on Inch Talla from the time of the founding of the priory in the thirteenth century. Fraser, *Red Book*, 1: 497; Alan Young, "Comyn, Walter, earl of Menteith (d. 1258)", in *Oxford Dictionary of National Biography*, online edn (Oxford University Press, 2004), DOI:10.1093/ref:odnb/6049.

60. Luxford, "Tombs as Forensic Evidence", 15.

61. Luxford, "Hastings Brass", 209–11; Luxford, "Thomas Anlaby's Illustrations", 32–37; Luxford, "Tombs as Forensic Evidence", 13–17, 19–21.

62. Luxford, "Thomas Anlaby's Illustrations", 33–34, 36. See also Luxford, "Hastings Brass", 210 n. 71; Luxford, "Tombs as Forensic Evidence", 15–16.

63. The burial of Arthur and Guenevere gained new prominence in the late thirteenth century: on 19 April 1278 Edward I ordered the remains of Arthur and Guenevere to be exhumed and reburied amidst great ceremony in a new tomb in the crossing of the abbey church at Glastonbury. See John Carmi Parsons, "The Second Exhumation of King Arthur's Remains at Glastonbury, 19 April 1278", in *Glastonbury Abbey and the Arthurian Tradition*, ed. James P. Carley (Cambridge: D. S. Brewer, 2001), 179–83.

64. Barrow, "Bute Mazer", 128.

65. Barrow, "Bute Mazer", 127.

66. In "Bute Mazer" (127–28) Barrow argues that a charter dated January 1292 or 1293 is the last certain record of Walter as earl of Menteith. For the charter, see Joseph Bain, ed., *Calendar of Documents Relating to Scotland in Her Majesty's Public Record Office*, Vol. 2 (Edinburgh 1884), 155–56, no. 660.

67. James B. Paul argued that the 1294 letters do not provide conclusive proof that Walter was still alive. However, it is notable that there are no records referring to Alexander as earl until 27 April 1296, when he was defeated in battle at Dunbar and taken prisoner the following day by Edward I. James B. Paul, ed., *The Scots Peerage*, Vol. 6 (Edinburgh: D. Douglas, 1909), 132–33. See also Barrow, "Bute Mazer", 127.

68. Geoffrey Barrow, *Robert the Bruce, and the Community of the Realm of Scotland*, 3rd edn (Edinburgh: Edinburgh University Press, 1988), 276.

69. Barrow, *Robert the Bruce*, 276.

70. "Noverit universitas vestra me, caritatis intuitu, pro salute animarum antecessorum meorum in monasterio de Passelet sepultorum, concessisse et hac presenti carta confirmasse Deo et Sancto Jacobo et Sancto Mirino predicti loci, et monachis ibidem Deo servientibus et imperpetuum servituris, donationem quam Dufgallus filius Syfyn' predictis monachis fecit et carta sua confirmavit, priusquam terram suam de Schyphinche mihi contulit". Fraser, *Red Book*, 2: 216–17, doc. 9 .

71. Fraser, *Red Book*, 2: 220–21, doc. 13. See also Barrow, "Bute Mazer", 127.

72. "hac presenti carta mea confirmavi Deo et monasterio Sancte Marie et Sancte Wynnini de Kylwynin in Cunningham, et monachis ibidem Deo servientibus et perpetuo servituris, ecclesiam de Kylmachornat in Knapedale, cum capellis Sancte Marie in Cuapro et Sancti Michaelis in Inwerlaxo, et cum tribus denariatis terre in Riventos eidem ecclesie de Kylmachormat annexis, et cum omnimodis aliis commoditatibus ad dictam ecclesiam cum capellis suis de iure pertinentibus . . . pro salute anime mee et domine Marie quondam sponse mee, comitisse de Menetheht, et animabus omnium antecessorum meorum et successorum." Fraser, *Red Book*, 2: 220, doc. 13.

73. Campbell, *Alexander III*, 215.

74. Simon Walker, "John, duke of Aquitaine and duke of Lancaster, styled king of Castile and León (1340-90)", *Oxford Dictionary of National Biography*, online edn (Oxford University Press, 2004): DOI:10.1093/ref:odnb/14843.

75. Jessica Barker, "Stone and Bone: The Corpse, the Effigy and the Viewer in Late-Medieval Tomb Sculpture", in *Revisiting the Monument: Fifty Years Since Panofsky's Tomb Sculpture*, ed. Barker and Ann Adams (London: Courtauld Books Online, 2016), 121–24, http://courtauld.ac.uk/research/courtauld-books-online/revisiting-the-monument; Oliver Harris, '"Une tresriche sepulture.' The Tomb and Chantry of John of Gaunt and Blanche of Lancaster in Old St Paul's Cathedral, London", *Church Monuments* 25 (2010): 7–35.

76. Young, *Robert the Bruce's Rivals*, 99–100.

77. Young, *Robert the Bruce's Rivals*, 116.

78. Bain, *Documents Relating to Scotland*, Vol. 4 (1888), 357, 387, no. 1763.

79. The legend on the seal is now badly damaged, but is recorded in an engraving in *Vetusta Monumenta*, Vol. 1 (London, 1767), plate xxxii. The *bars wavy* (which bear no relation to the arms of Hastings, *or, a maunche gules*) must represent the earldom of Menteith as they were also incorporated into a seal of around 1296 belonging to Alexander, Walter's heir. See Barker, "Monuments and Marriage", 168–69; Fraser, *Red Book*, 1: xliii–xlix, 2: 455–56, 461; Bruce A. McAndrew, *Scotland's Historic Heraldry* (Woodbridge: Boydell, 2006), 51.

80. "per quondam Walterum comitem de Menteith et Alexandrum eius filium et heredem apparentem in puram et perpetuam elemosinam data fuit pro salute animarum ipsorum ac Matilde sponse dicti quondam Alexandri ac pro suis sepulturis in dicto nostro monasterio electis." William Fraser, ed., *Registrum Monasterii S. Marie de Cambuskenneth, A. D. 1147–1535* (Edinburgh, 1872), 168, doc. 129.

81. Barrow, "Bute Mazer", 127; Glenn, "Court Patronage", 117.

82. Fawcett, *Scottish Medieval Churches*, 329.

83. James E. Alexander, "An Account of the Excavations at Cambuskenneth Abbey in May 1864", *Proceedings of the Society of Antiquaries of Scotland* 6 (1864–66): 19–20.

84. Campbell, *Alexander III*, 145; Young, *Robert the Bruce's Rivals*, 72–73.

85. Kippen was situated within the earldom of Menteith, meaning that, if Mary were alive, Walter would be legally obliged to gain the countess's permission before donating the church. See Fraser, *Registrum Cambuskenneth*, cxxix.

86. See Barker, "Monuments and Marriage", 179–80.

87. For an illustration of the brass, see Muriel Clayton, ed., *Catalogue of Rubbings of Brasses and Incised Slabs*, rev. edn (London: Board of Education, 1929), plate 17. The location of Sir Simon's burial is known from the will of his second wife, Katherine Clifton, as discussed in Francis Blomefield, "North Erpingham Hundred: Felbrigg", in *An Essay towards a Topographical History of the County of Norfolk*, Vol. 8 (London, 1808), 110.

88. For the contract, see Sally Badham and Sophie Oosterwijk, "English Tomb Contracts in the Long Fourteenth Century", in *Monumental Industry: The Production of Tomb Monuments in England and Wales in the Long Fourteenth Century*, ed. Sally Badham and Sophie Oosterwijk (Donington: Shaun Tyas, 2010), 217–18; Barker, "Monuments and Marriage", 60–63.

89. Barker, "Monuments and Marriage", 95–96.

90. The mausoleum of the Stewart family was located in Paisley Abbey (Renfrewshire). Walter referred to his ancestors buried at Paisley in a grant he made to the abbey in 1262. Fraser, *Red Book*, 2: 216–17, doc. 9.

91. Simon Payling, "The Politics of Family: Late Medieval Marriage Contracts", in *The MacFarlane Legacy: Studies in Late Medieval Politics and Society*, ed. R. H. Britnell and A. J. Pollard (Stroud: Sutton, 1995), 21–47. A connection between the introduction of jointure and the appearance of double tombs in England is suggested by Peter Coss in *The Lady in Medieval England, 1000–1500* (Stroud: Sutton, 1998), 85–86.

92. A study by Simon Payling reveals that the proportion of inheritances passing to or through daughters rose from less than 20 percent in the first half of the fourteenth century to over 30 percent in the second half. Simon Payling, "The Economics of Marriage in Late Medieval England: The Marriage of Heiresses", *The Economic History Review*, n. s., 54, no. 3 (2001): 414.

93. Mavis E. Mate, *Women in Medieval English Society* (Cambridge: Cambridge University Press, 1999), 81–82; Joel T. Rosenthal, *Patriarchy and Families of Privilege in Fifteenth Century England* (Philadelphia: University of Pennsylvania Press, 1991), 204.

94. Luxford, "Tombs as Forensic Evidence", 21.

95. Barker, "Monuments and Marriage", 93–96, 152–53.

96. Luxford, "Tombs as Forensic Evidence", 21–22.

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