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## **POLITICS, THE PEOPLE, AND EXTRA-INSTITUTIONAL PARTICIPATION IN SCOTLAND, C. 1603–1712**

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**Abstract:** This article examines popular political participation in early modern Scotland. In Scotland, some of the preconditions of public politics identified by recent scholars were less obviously present than in England or France. There was no culturally dominant metropolis or royal court; the volume of printed publications, though rising across the period, remained comparatively small. Because of these characteristics, historians of popular involvement in Scottish politics should pay particular attention to the traditional means of participation inherited from the medieval and Reformation periods. The article explores three forms of extra-institutional participation, each of which evolved out of formal, institutional political practices, but were deployed by ordinary Scots seeking to express their views. Protestations, formal statements of dissent from a statute or decision, developed in the courts, but were used in extra-mural contexts in the seventeenth century. In towns, crowd demonstrations took the place of traditional means of formal consultation, as urban government became increasingly oligarchical. The article also examines congregational involvement in the appointment of parish ministers in the Reformed Church of Scotland. After this was legally instituted in 1690, significant numbers of small landowners and the landless poor claimed to have a say in the choice of their minister.

By employing the concept of the “public sphere” in studies of the early modern period, historians have highlighted developments in political communication that were distinctive to the era. Brian Cowan has pointed out the appeal of the public sphere to post-Namierite historians of

England in the late Stuart and Hanoverian periods. The model offers “a means of characterising and conceptually organising proliferating studies of the emergence of public opinion as a factor in political action,” emphasising “the efflorescence of print culture” and “the development of new spaces of public sociability.”<sup>1</sup> Peter Lake and Steve Pincus have noted that a similar rationale motivated historians responding to revisionist accounts of the early and mid-seventeenth century. The notion of an early modern public sphere restored ideology to historical analysis through the examination of public arguments, encompassing both manuscript and printed texts.<sup>2</sup> Working across the seventeenth and eighteenth centuries, historians have shown how contemporaries came to attribute reasoned judgement and even political authority to representations of public opinion in England and France.<sup>3</sup> Studies in historical linguistics have identified “the public” as a term originating in the 1640s and “public opinion” as a neologism of the 1730s in England.<sup>4</sup> Recognising that the notion of a rational public was itself a historical

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<sup>1</sup> Brian Cowan, “Geoffrey Holmes and the Public Sphere: Augustan Historiography from Post-Namierite to the Post-Habermasian,” *Parliamentary History* 28, no. 1 (February 2009): 166–78, at 167.

<sup>2</sup> Peter Lake and Steve Pincus, “Rethinking the Public Sphere in Early Modern England,” *Journal of British Studies* 45, no. 2 (April 2006): 270–92, at 271–3.

<sup>3</sup> E.g. David Zaret, *Origins of Democratic Culture: Printing, Petitions, and the Public Sphere in Early-Modern England* (Princeton, NJ, 2000); Mark Knights, *Representation and Misrepresentation in Later Stuart Britain: Partisanship and Political Culture* (Oxford, 2005); T.C.W. Blanning, *The Culture of Power and the Power of Culture: Old Regime Europe, 1660–1789* (Oxford, 2002); James Van Horn Melton, *The Rise of the Public in Enlightenment Europe* (Cambridge, 2001).

<sup>4</sup> Geoff Baldwin, “The ‘Public’ as a Rhetorical Community in Early Modern England,” in *Communities in Early Modern England: Networks, Place, Rhetoric*, ed. Alexandra Shepard and

construct, other scholars have sought to recapture the complexities of the early modern public sphere by describing publics and counter-publics.<sup>5</sup> Bronwen Wilson and Paul Yachnin have conceptualized publics as extra-institutional groups generated by association with a text, object, or practice.<sup>6</sup> For Peter Lake, publics were opinion groups to which textual arguments and exhortations could be directed.<sup>7</sup> The notion of a counter-public has been used to reflect structural dissent and conflict within the public sphere.<sup>8</sup> In these ways, scholars have produced a more historicized picture of early modern public politics by distinguishing between the schematic public sphere proposed by Jürgen Habermas and a more complex reality. Manuscript texts, performances, and objects have been studied alongside print as vehicles for the making of publics and public opinion, though print continues to be seen as a critical factor. This emphasis arises from the obvious importance of print as a new technology that facilitated communication outwith political institutions and across large and diverse populations. Print has long been seen

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Phil Withington (Manchester, 2000), 199–215; J.A.W. Gunn, “Public Opinion,” in *Political Innovation and Conceptual Change*, ed. Terence Ball, James Farr and Russell L. Hanson (Cambridge, 1989), 247–65, at 250.

<sup>5</sup> Michael Warner, “Publics and Counterpublics,” *Public Culture* 14, no. 1 (Winter 2002), 49–90. For a mass communication theory of publics, see Gerard A. Hauser, “Vernacular Dialogue and the Rhetoricity of Public Opinion,” *Communication Monographs* 65, no. 2 (June 1998), 83–107, esp. 85–6.

<sup>6</sup> Bronwen Wilson and Paul Yachnin, “Introduction,” in *Making Publics in Early Modern Europe*, ed. Bronwen Wilson and Paul Yachnin (Abingdon, 2010), 1–21.

<sup>7</sup> Peter Lake, *Bad Queen Bess? Libels, Secret Histories, and the Politics of Publicity in the Reign of Queen Elizabeth I* (Oxford, 2016), 9.

<sup>8</sup> Yael Margalit, “Publics: A Bibliographic Afterword,” *Making Publics in Early Modern Europe*, ed. Wilson and Yachnin, 232–43, at 237.

as essential to the development of modern news and public debate.<sup>9</sup> Yet traditional political practices also were important in producing a greater level of publicity and participation in the early modern period.<sup>10</sup>

By assessing popular political participation in early modern Scotland, this article examines a national context in which there were relatively small numbers of printed publications and consequently factors other than print can more easily be recognized. To be sure, in Scotland as elsewhere, rising print volumes and literacy facilitated appeals to and representations of public opinion outwith normal institutional boundaries. But new opportunities for public participation and political collectivity also developed from older modes of protest, complaint, association, and consultation. Laura Stewart has shown how a combination of petitioning, protestations, pamphleteering, and a national oath created a Covenanted public in 1638.<sup>11</sup> In this article, we highlight changes in conventional practices that enabled the expression of extra-institutional voices. Focusing on collective protestations, urban crowds, and congregational consultations, this article provides a snapshot of political participation in what have been termed “the interstices of institutions that claimed to represent the commonweal.”<sup>12</sup> As well as cases in which early modern Scots expressed political opinions on national issues, we include micro-studies of conflict in particular towns and parishes.

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<sup>9</sup> Margalit, “Publics,” 234; Joad Raymond, *The Invention of the Newspaper: English Newsbooks, 1641–1649* (Oxford, 1996); Zaret, *Origins of Democratic Culture*.

<sup>10</sup> Jason Peacey considers both print and participative practices in his *Print and Public Politics in the English Revolution* (Cambridge, 2013).

<sup>11</sup> Laura A.M. Stewart, *Rethinking the Scottish Revolution: Covenanted Scotland, 1637–1651* (Oxford, 2016), chap. 1.

<sup>12</sup> Wilson and Yachnin, “Introduction,” 13.

Our emphasis on participatory practices arises from the recognition that many of the preconditions of public politics seen in early modern England and France were less present in the Scottish case. There was no culturally dominant metropolis, comparable to London or Paris, with a population sufficient to sustain a decisive level of political discourse.<sup>13</sup> Nor, after the 1603 union of the English and Scottish crowns, was there a resident royal court. After 1603, many of the political decisions affecting daily life were taken in London, at greater remove from the scrutiny of the Scottish people than ever before. Edinburgh continued to be the location of most meetings of parliament, conventions of estates, and the general assembly of the Church. But only rarely – most notably in the periods 1637–1651 and 1700–1707 – did these representative assemblies foment the sort of print-fueled extra-institutional debate that historians see as characteristic of a public sphere.<sup>14</sup> The output of Scottish printing presses did rise across the early modern period: printers produced around ten times as many publications in the seventeenth century as in the sixteenth, and printing spread from Edinburgh to Glasgow and Aberdeen.<sup>15</sup> Pamphlet exchanges marked the controversial passage of the Articles of Perth (a set of changes to the celebration of holy days and the sacraments) through the general assembly

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<sup>13</sup> Alasdair Raffé, *The Culture of Controversy: Religious Arguments in Scotland, 1660–1714* (Woodbridge, 2012), 9.

<sup>14</sup> David Stevenson, “A Revolutionary Regime and the Press: The Scottish Covenanters and their Press, 1638–51,” *The Library* series 6, 7, no. 4 (December 1985): 315–37; Stewart, *Rethinking the Scottish Revolution*; Karin Bowie, *Scottish Public Opinion and the Anglo-Scottish Union, 1699–1707* (Woodbridge, 2007).

<sup>15</sup> Alastair J. Mann, “The Anatomy of the Printed Book in Early Modern Scotland,” *Scottish Historical Review* 80, no. 2 (October 2001): 181–200, esp. 188; Idem, *The Scottish Book Trade, 1500–1720: Print Commerce and Print Control in Early Modern Scotland* (East Linton, 2000), 214–24.

(1618) and parliament (1621).<sup>16</sup> Scholars have pointed out that the Covenanters' use of print included sophisticated propaganda aimed at an English public sphere, and polemical print remained significant after the Cromwellian conquest.<sup>17</sup> Printed news became more commonly available from the middle of the century through London papers, local reprints, and a few short-lived Scottish papers, before the launch of the *Edinburgh Gazette* in 1699 and the *Edinburgh Courant* in 1705.<sup>18</sup> Religious controversies stimulated greater levels of printed publication in the

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<sup>16</sup> Laura Stewart, "'Brothers in Treuth': Propaganda, Public Opinion and the Perth Articles Debate in Scotland," in *James VI and I: Ideas, Authority, and Government*, ed. Ralph Houlbrooke (Aldershot, 2006), 151–68; John D. Ford, "Conformity in Conscience: The Structure of the Perth Articles Debate, 1618–1638," *Journal of Ecclesiastical History* 46, no. 2 (April 1995): 256–77; Idem, "The Lawful Bonds of Scottish Society: The Five Articles of Perth, the Negative Confession and the National Covenant," *Historical Journal* 37, no. 1 (March 1994): 45–64.

<sup>17</sup> Sarah Waurechen, "Covenanter Propaganda and Conceptualizations of the Public during the Bishops Wars, 1638–1640," *Historical Journal* 52, no. 1 (March 2009): 63–86; Joad Raymond, *Pamphlets and Pamphleteering in Early Modern Britain* (Cambridge, 2003), 172–87; Joseph Black, "'Pikes and Protestations': Scottish Texts in England, 1639–40," *Publishing History* 42, no. 1 (January 1997): 5–19; R. Scott Spurlock, "Cromwell's Edinburgh Press and the Development of Print Culture in Scotland," *Scottish Historical Review* 90, no. 2 (October 2011): 179–203.

<sup>18</sup> Spurlock, "Cromwell's Edinburgh Press," 200–2; Julia M. Buckroyd, "Mercurius Caledonius and its Immediate Successors, 1661," *Scottish Historical Review* 54, no. 1 (April 1975): 11–21; William Cowan, "The Holyrood Press, 1686–1688," *Publications of the Edinburgh Bibliographical Society* 6, no. 1 (June 1904): 83–100, at 98; Karin Bowie, "Newspapers, the Early Modern Public Sphere and the 1704–5 Worcester Affair," in *Before Blackwood's: Scottish*

Restoration period, especially after 1680, while pamphleteering spiked at the revolution of 1688–90 and during the union debates of 1700–1707.<sup>19</sup> But few Scottish pamphlets before the late seventeenth century referred to “the publick” as a national community constituted in print.<sup>20</sup> Moreover, domestic print volumes remained constrained by censorship and costs until well into the eighteenth century.<sup>21</sup>

These considerations suggest that widening engagement with religious and political issues in seventeenth-century Scotland did not rely on fundamental changes in communicative practices or the appearance of significant new urban spaces in which print-fueled discussion took place. Instead, the opinions of the people at large were shaped and expressed predominantly through political practices inherited from the medieval and Reformation periods. To study political participation in early modern Scotland, we will identify traditional means of participation, which had often developed within institutions, and examine how they came to be used in extra-institutional contexts in the early modern era. This will shift our focus away from print technology and texts to a broader range of activities and ideas underpinning political participation and public debate. This approach is intended to complement recent research in Scottish history concentrating on politics within formal institutions, including important studies

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*Journalism in the Age of Enlightenment*, ed. Alex Benchimol, Rhona Brown, and David Shuttleton (London, 2015), 9–20.

<sup>19</sup> Raffe, *Culture of Controversy*; Clare Jackson, *Restoration Scotland, 1660–1690: Royalist Politics, Religion and Ideas* (Woodbridge, 2003); Bowie, *Scottish Public Opinion*, chaps. 4–5.

<sup>20</sup> Baldwin, “The ‘Public’ as a Rhetorical Community,” 200; Karin Bowie, “Public, People and Nation in Early Modern Scotland,” *Scottish Historical Review* (forthcoming).

<sup>21</sup> Mann, *Scottish Book Trade*, 139–48, 163–91, 217–18.



of the Scottish parliament, the privy council, and other governing bodies.<sup>22</sup> A recent survey has demonstrated notable participation by middling to elite ranks in Scotland's shires and burghs in elections and office-holding, avenues considered significant in developing civic culture and political engagement in early modern England and elsewhere but traditionally thought to be deficient in pre-union Scotland.<sup>23</sup> We consider here the impact of extra-institutional modes of participation.

Three types of participation involving the people at large will be discussed: protestations, urban crowd demonstrations, and the appointment of ministers to vacant churches. Each form was "extra-institutional" in a general and a specific sense. Speaking generally, all the participatory practices allowed for politics "out of doors" – on the streets, in taverns, churchyards, and fields. More specifically, each type of participation can be seen as parallel to,

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<sup>22</sup> See esp. *Parliament and Politics in Scotland, 1235–1560*, ed. Keith M. Brown and Roland J. Tanner (Edinburgh, 2004); *Parliament and Politics in Scotland, 1567–1707*, ed. Keith M. Brown and Alastair J. Mann (Edinburgh, 2005); *Parliament in Context, 1235–1707*, ed. Keith M. Brown and Alan R. MacDonald (Edinburgh, 2010); Alastair J. Mann, *James VII: Duke and King of Scots, 1633–1701* (Edinburgh, 2014), chap. 4; Laura Rayner, "The Tribulations of Everyday Government in Williamite Scotland," in *Scotland in the Age of Two Revolutions*, ed. Sharon Adams and Julian Goodare (Woodbridge, 2014), 193–210; Julian Goodare, *The Government of Scotland, 1560–1625* (Oxford, 2004). Among recent exceptions to this institutional focus are Stewart, *Rethinking the Scottish Revolution*; Tim Harris, *Restoration: Charles II and his Kingdoms, 1660–1685* (London, 2005); Idem, *Revolution: The Great Crisis of the British Monarchy, 1685–1720* (London, 2006).

<sup>23</sup> Keith Mark Brown, "Toward Political Participation and Capacity: Elections, Voting, and Representation in Early Modern Scotland," *Journal of Modern History* 88, no. 1 (March 2016): 1–33.

or developing out of, institutional practices. Protestations, formal statements of dissent from a statute or decision, were common in late medieval and early modern Scottish courts, including parliament, but were adapted in the seventeenth century for extra-institutional use. As a means of expressing discontent, urban crowd demonstrations became increasingly prominent in the early modern era as the majority of burgesses, the merchant and artisan freemen of Scotland's royal burghs, were edged out of direct participation in town councils. The involvement of ordinary members of parish congregations in the selection of their ministers was, as will be explained below, legally recognized for the first time in the seventeenth century. The principle of congregational consultation developed out of the Scottish Presbyterian system of Church government that had evolved in the late sixteenth century and had deep roots in traditions of communal consent.

Together these examples show how adaptations in political practice could facilitate influential participation by ordinary people on the fringes of Scotland's institutions. Instances of participation had the potential to generate what historians have termed publics, especially when the participation related to national issues and intersected with a campaign of printed publication, as happened in 1638 and before the Union of 1707. But this article emphasises participation rather than publics in order to capture continuity as well as change. Traditional concepts of appropriate consultation fueled indignant protest as institutional modes of dissent were redeployed in alternative public spaces. Beyond our period, political life in Scotland and elsewhere continued to be shaped strongly by late-medieval and sixteenth-century inheritances.

### **Protestations**

The "protestation" was a European device, seen most famously in the naming of the "Protestant" movement after a dissenting protestation in the 1529 imperial diet in Speyer. In a Scottish court of law, a "protestation" was used to reserve rights or dissent from a decision through a public

declaration recorded by the clerk of court or a notary in a written and witnessed “instrument.”<sup>24</sup> In one of its most common applications, a judicial protestation could be used by a defendant to make a summons null when the defendant had been summoned but the pursuer had failed to appear in court.<sup>25</sup> As John Ford has shown, litigants could use protestations for remeid (remedy) of law to raise appeals – on procedural grounds only – from Scotland’s highest civil court, the court of session, to the Scottish parliament.<sup>26</sup> Protestations were common in the Scottish parliament in relation to parliamentary ratifications of rights. Where these were seen to impinge on competing rights or privileges, a protestation could be entered. Indeed, a protestation was considered essential, because silence was taken to imply consent.<sup>27</sup> In 1594, an attempt was made to reduce routine protestations with an act declaring that all ratifications of private rights would be considered *salvo jure cujuslibet* (“without prejudice to the rights of anyone”).<sup>28</sup> In more general terms, a protestation could mean an affirmation or promise made in public by individuals or groups, often in relation to a statement of faith. In 1581, an anti-Catholic confession drawn up and sworn at the royal court included three different protestations made by

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<sup>24</sup> “Protestatione,” *Dictionary of the Scottish Language*,

<http://www.dsl.ac.uk/entry/dost/protestatioune>, accessed 11 April 2016.

<sup>25</sup> Sir James Dalrymple of Stair, *Modus Litigandi, or, Form of Process, Observed before the Lords of Council and Session in Scotland* (Edinburgh, 1681), 5, 7, 22.

<sup>26</sup> J.D. Ford, “Protestations to Parliament for Remeid of law,” *Scottish Historical Review* 88, no. 1 (April 2009): 57–107.

<sup>27</sup> Dalrymple, *Modus Litigandi*, 22.

<sup>28</sup> Keith M. Brown et al., eds., *Records of the Parliaments of Scotland to 1707*,

<http://www.rps.ac.uk/> (henceforth *RPS*), 1594/4/36, “Ratificationis in this Parliament to be *Salvo Jure Cujuslibet*,” 8 June 1594, accessed 11 April 2016.

each subscriber: a declaration of beliefs, an assertion of sincerity, and a promise of faithfulness.<sup>29</sup>

The accepted function of a protestation as a vehicle for a public statement made it a powerful tool in the hands of early modern dissidents.<sup>30</sup> Protestations offered a legitimate and public means to express resistance in the name of interested parties or adherents. In seventeenth-century Scotland, protestations came to be voiced outwith assemblies by groups claiming to speak for broad, and even national, constituencies. These public declarations could be made in the company of crowds of supporters. Three examples will be considered here: protestations against the parliamentary ratification of the Articles of Perth in 1621, against royal proclamations in 1638, and by extremist Presbyterians from 1679 to 1685.

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<sup>29</sup> Gordon Donaldson, ed., *Scottish Historical Documents* (Edinburgh, 1970), 150–3.

<sup>30</sup> One of the best-known early modern protestations was that of 1529 by which reforming “Protestants” became known. Protestations as a genre remain under-researched within early modern political history. For England and its colonies, see David Cressy, “The Protestation Protested, 1641 and 1642,” *Historical Journal* 45, no. 2 (June 2002): 251–79; John Walter, *Understanding Popular Violence in the English Revolution: The Colchester Plunderers* (Cambridge, 1999), 292–6; Edward Vallance, “Protestation, Vow, Covenant and Engagement: Swearing Allegiance in the English Civil War,” *Historical Research* 75, no. 4 (November 2002): 408–24; Michael J. Braddick, “Prayer Book and Protestation: Anti-Popery, Anti-Puritanism and the Outbreak of the English Civil War,” in *England’s Wars of Religion, Revisited*, ed. Charles W.A. Prior and Glenn Burgess (Farnham, 2011), 125–45; Jason McElligott, “Atlantic Royalism? Polemic, Censorship and the ‘Declaration and Protestation of the Governour and Inhabitants of Virginia’,” in *Royalists and Royalism during the Interregnum*, ed. Jason McElligott and David L. Smith (Manchester, 2010), 214–34.

The protestation of 1621 drew on institutional practices of dissent developed by Scottish churchmen after the 1560 Reformation. When presented with uncongenial crown policies, the general assembly used protestations to express dissent in the name of the national Church. In an instance from 1572, a protestation was made by “the haill Assemblie presently conveened in ane voyce.”<sup>31</sup> When the Church was divided, minority groups of clergy presented dissenting protestations to the assembly.<sup>32</sup> After 1603, as the membership of the general assembly became more restricted, and its meetings less frequent, dissident clergy began to make protestations out of doors.<sup>33</sup>

Dissenting clergy prepared a public protestation as a “last remedie” to avoid an “untymous silence” in 1621. The parliament had been asked to ratify the Articles of Perth, after their earlier adoption by the 1618 general assembly at Perth. The clergy opposed to the Articles thought they were following customary practices by gathering in Edinburgh to consult for the good of the Church. On being ordered to disperse and having had a supplication refused, they turned to protestation as a last recourse. They declared their intention to “hold fast their ancient faith” as professed by Kirk, king, estates, and “the whole bodie of this realme.” This referred to the 1581 confession of faith and its renewal with a band of association in 1589–90.<sup>34</sup> The technical part of their protestation rejected any prejudice to the liberties and practices of the Kirk

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<sup>31</sup> *Acts and Proceedings of the General Assemblies of the Kirk of Scotland*, 3 vols., Maitland Club, 59 (Edinburgh, 1839–45), 1:246.

<sup>32</sup> E.g., *Ibid.*, 3:947.

<sup>33</sup> On royal management of the general assembly after 1603 in conjunction with a reconstruction of episcopal authority, see Alan R. Macdonald, *The Jacobean Kirk, 1567–1625: Sovereignty, Polity, and Liturgy* (Aldershot, 1998), 101–47.

<sup>34</sup> John Hill Burton and David Masson, eds., *The Register of the Privy Council of Scotland*, 1st series, 14 vols. (Edinburgh, 1877–98), 4:465–7.

arising from the ratification of the Articles. The text was posted on the door of parliament and the Edinburgh mercat (market) cross so that the clergy's "reasonable dissassent" could be known.<sup>35</sup> Because a protestation could be used to challenge a court's decision, leaving the door open for further adjudication to resolve the matter, contemporaries could construe this protestation as having allowed non-compliance with the Articles. This helped to fuel a campaign of civil disobedience to the newly imposed requirement that worshippers kneel at communion.<sup>36</sup>

A series of public protestations in 1638 built on the example of 1621.<sup>37</sup> By February 1638, a broad-based movement opposing the unconstitutional promulgation of a new Church liturgy had been gathering steam since the previous summer. Royal proclamations designed to suppress opposition were met with immediate protestations. These aimed to undermine the proclamations by presenting legal counter-arguments in the name of the Scottish nation at large. To back up these claims, the organizers made efforts to ensure that large crowds of supporters were present at the protestations. A royal proclamation of 19 February 1638 in Stirling against unauthorized convocations was met with a protestation "according to order of law" justifying the movement's actions.<sup>38</sup> A circulated "advertisement" urged "both pastours and professors of all

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<sup>35</sup> David Calderwood, *The History of the Kirk of Scotland*, ed. Thomas Thomson and David Laing, 8 vols., Wodrow Society (Edinburgh, 1842–9), 7:485–7.

<sup>36</sup> On the non-compliance campaign, see Stewart, "'Brothers in Treuth'," 185–94.

<sup>37</sup> The author of the 1638 protestations, Archibald Johnston of Wariston, was aware of the 1621 protestation. His 1638 tract set the protestations in a long-range context encompassing previous clerical protestations. [Archibald Johnston of Wariston], *A Short Relation of the State of the Kirk of Scotland* ([Edinburgh], 1638), sig. B.

<sup>38</sup> John Leslie, earl of Rothes, *A Relation of Proceedings Concerning the Affairs of the Kirk of Scotland, From August 1637 to July 1638*, Bannatyne Club (Edinburgh, 1830), 63.

sorts” to come to Stirling for the protestation. This was said to have “brought in a great many,” including “two parts of all Fyff” and “a great many of East and West Lothian, and sum out of the West, in all about seven or eight hundred.”<sup>39</sup> Subsequent proclamations at Linlithgow and Edinburgh were met with the same protestation. An instrument taken at the Edinburgh mercat cross to record this action stated that the protestation was made “in name and behalfe of the nobilitie, barrons, burrows, ministers of the kingdome of Scotland” in front of “great numbers.”<sup>40</sup> As a result of their protestation, the movement’s leaders felt able to assure their supporters that it would be legal for them to meet in Edinburgh a week later to sign the National Covenant.<sup>41</sup> Prints of the February protestation were circulated with copies of the new Covenant to other burghs.<sup>42</sup>

A similar exchange of proclamation and protestation followed in July and September, again in front of crowds. On 4 July, a lengthy protestation insisted that the dissidents could not be pursued at law until free meetings of parliament and the general assembly could consider the disputed liturgy.<sup>43</sup> Charles I responded in September with a condemnation of those who “held

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<sup>39</sup> Ibid., 60, 65.

<sup>40</sup> Ibid., 86–9. See also Archibald Johnston of Wariston, *Diary of Sir Archibald Johnston of Wariston, 1632–1639*, ed. George Morrison Paul, Scottish History Society, 61 (Edinburgh, 1911), 316–18; Stewart, *Rethinking the Scottish Revolution*, 73–5.

<sup>41</sup> Rothes, *Relation*, 67–8.

<sup>42</sup> Ibid., 82.

<sup>43</sup> [Walter Balcanquhall], *A Large Declaration concerning the Late Tumults in Scotland* (London, 1639), 98–106; Johnston, *Diary*, 360; *The Protestation of the Noblemen, Barrons, Gentlemen, Borrowes, Ministers, and Commons, Subscribers of the Confession of Faith and Covenant, lately Renewed within the Kingdome of Scotland, made at the Mercate Crosse of*

themselves exeeded frome censure and punishment” by their protestations.<sup>44</sup> He sponsored a renewal of the 1589 confession and band as an alternative to the National Covenant and promised that meetings of the parliament and general assembly would be called.<sup>45</sup> A royal proclamation on 22 September was met with another extended declaration incorporating protestations for free assemblies and against the king’s confession. Speaking again in the name of the nation, from nobles to commons, the text insisted that protestation was a “legall” means of dissent “ordinarie in this Kirk since the reformation.”<sup>46</sup> The Covenanters’ spokesperson, Archibald Johnston of Wariston, recorded that “the comun people” joined in his protestation at the Edinburgh mercat cross, “crying, ‘God saive the king; bot away with bischopes, thes traitors to God and man, or any uther covenant bot our auin.’” Like the Covenanters’ earlier protestations, the text was printed and circulated to build support.<sup>47</sup> As an example of participation in public politics, the Covenanters’ protestations demonstrate the importance not just of a printed text but also the meaning and context of a protestation made in an extra-institutional setting.

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*Edinburgh, the 4. of Iulij Immediatly after the Reading of the Proclamation, dated 28. Iune. 1638, ([Edinburgh], 1638).*

<sup>44</sup> David Masson and P. Hume Brown, eds., *The Register of the Privy Council of Scotland*, 2nd series, 8 vols. (Edinburgh, 1899–1908), 7:65.

<sup>45</sup> [Balcanquhall], *Large Declaration*, 137–45.

<sup>46</sup> *Ibid.*, 157–73.

<sup>47</sup> Johnston, *Diary*, 392–3.



After the restoration of Episcopalian Church government in Scotland in 1661–2, hard-line Presbyterian dissenters returned to the practice of making dramatic public declarations.<sup>48</sup> Extremists read and posted declarations at the mercat crosses of Rutherglen on 29 May 1679, Hamilton on 13 June 1679, Sanquhar on 22 June 1680, Lanark on 12 January 1682, at multiple places in the southwest on 28 October 1684, and again in Sanquhar on 28 May 1685.<sup>49</sup> These were carefully staged events usually involving a body of armed men. These acts of public resistance included the burning of objectionable acts of parliament, often on a notable date, such as the king’s birthday, with a clear intention to appropriate normal practices of official communication and censorship. Not all of these declarations included a specific legal protestation, indicating the overlap of this judicial practice with the Christian notion of public protestation and testimony. In Rutherglen on 29 May, a group of about 80 armed men put out “Bonfires” that had been lit to mark the king’s birthday and the anniversary of his Restoration, and instead burned acts of parliament and privy council re-establishing episcopacy and the royal supremacy.<sup>50</sup> The Rutherglen declaration described itself as a “testimony against the iniquity of the times” and an act of “witnessing” against “all things that have been done publicly in prejudice of his [i.e. Christ’s] interest.”<sup>51</sup> More specifically, the Sanquhar declarations of 1680

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<sup>48</sup> The practice of protestation had been maintained within the Church, with a hard line ‘Protester’ group being named for protestations against a 1650 resolution of the Commission of the General Assembly.

<sup>49</sup> Rutherglen, Hamilton and Lanark are in Lanarkshire. Sanquhar is in Dumfriesshire.

<sup>50</sup> Robert Wodrow, *The History of the Sufferings of the Church of Scotland from the Restoration to the Revolution*, ed. Robert Burns, 4 vols. (Glasgow, 1828–30), 3:207–11; Richard L. Greaves, *Secrets of the Kingdom: British Radicals from the Popish Plot to the Revolution of 1688–1689* (Stanford, CA, 1992), 61.

<sup>51</sup> Wodrow, *History*, 3:66.

and 1685 included technical protestations against any prejudice to the Kirk arising from the succession of the Catholic duke of York. The 1685 protestation mirrored those of 1638 in opposing the proclamation announcing the accession of the duke as James VII. It also protested against the 1685 parliament as prelimited and unlawful. These protesters still claimed to speak in 1680 for the nation as the “representative of the true Presbyterian kirk and covenanted nation of Scotland.”<sup>52</sup> By 1685, pursuit of these extremists had reduced them to a “contending and suffering remnant of the true presbyterians of the Church.”<sup>53</sup> Nevertheless, the practice of protestation still gave them a means of speaking publicly against what they saw as an unconstitutional and uncovenanted monarch.

Though the protestation originated as an elite juridical device, used in courts of law to record objections to judicial decisions, in seventeenth-century Scotland it offered a way for dissenting groups to express oppositional views in public. Combined with Christian concepts of testimony, the protestation offered a flexible vehicle for collective statements of resistance. The established authorities contested the legal claims made by these protestations, but the active participation of ordinary people in public settings and the circulation of texts in print added weight to the protesters’ claims to speak for the nation.

### **Urban crowds**

A second aspect of popular political participation in early modern Scotland was engagement with urban government through crowd demonstrations. Perhaps the best known example is the Porteous riot of 1736, vividly narrated in Walter Scott’s *Heart of Midlothian* (1818). On 7 September 1736, an Edinburgh crowd broke into the tolbooth – the council house and prison – and seized Captain John Porteous of the town guard, who had been sentenced to death for firing

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<sup>52</sup> Donaldson, ed., *Scottish Historical Documents*, 241.

<sup>53</sup> Ibid., 242; [James Renwick et al.], *An Informatory Vindication* (Edinburgh, 1707), 191–204.

on the crowd at a tumultuous public execution in the previous April. Provoked by a stay of execution issued to him by the crown, the crowd carried Porteous to the Grassmarket, the normal place of public hanging, and lynched him. In this way, the crowd imposed its own sense of justice, ensuring that the unfortunate captain was put to death, whatever the authorities decided. Not only did the town council fail to prevent the riot and killing, but the government in Edinburgh did not successfully prosecute any of the participants.<sup>54</sup> The crowd had its way, regardless of the formalities of national and local courts.

In recent decades, scholars have recovered the wider phenomenon of which the Porteous riot was a spectacular instance. Drawing inspiration from studies of crowd violence in England, France and elsewhere, historians of early modern Scotland have convincingly challenged a long-standing view that the country's people were reluctant to participate in collective demonstrations against established authority and unpopular policies.<sup>55</sup> Building on this research, the present

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<sup>54</sup> As well as Scott's account, see esp. Kenneth J. Logue, "The Life and Death of the Notorious Captain John Porteous," in *The Scottish Nation: Identity and History*, ed. Alexander Murdoch (Edinburgh, 2007), 56–70; H.T. Dickinson and Kenneth Logue, "The Porteous Riot: A Study of the Breakdown of Law and Order in Edinburgh, 1736–1737," *Journal of the Scottish Labour History Society* 10 (June 1976): 21–40; H.T. Dickinson and Kenneth Logue, "The Porteous Riot, 1736: Events in a Scottish Protest against the Act of Union with England," *History Today* 22, no. 4 (April 1972): 272–81.

<sup>55</sup> See esp. R.A. Houston, *Social Change in the Age of Enlightenment: Edinburgh, 1660–1760* (Oxford, 1994), chap. 5; Bowie, *Scottish Public Opinion*, chap. 7; Christopher A. Whatley, *Scottish Society, 1707–1830: Beyond Jacobitism, Towards Industrialisation* (Manchester, 2000), chaps. 4–5; Valerie Wallace, "Presbyterian Moral Economy: The Covenanting Tradition and Popular Protest in Lowland Scotland, 1707–c. 1746," *Scottish Historical Review* 89, no. 1 (April 2010): 54–72.

section of the article identifies the specific place of crowd protests in the management of communal resources in towns. Because the majority of urban residents were excluded from formal channels of political participation, demonstrations had become the main means by which ordinary people could have a say in local decision-making.

By the second half of the seventeenth century, direct involvement in Scottish urban government, even in the self-governing royal burghs, had become limited to narrow oligarchies. Burgh setts (constitutions) restricted the right to vote and sit on the council to burgesses, who were usually a minority of the town's population. But only an elite of the burgesses held office. Beginning in the fifteenth century, and driven by a desire to prevent tumults, council elections in which the burgesses as a whole voted were gradually phased out. Apart from in the revolutionary circumstances of 1689, seventeenth- and eighteenth-century councilors chose their successors. Head courts – meetings of all the burgesses – had long been in decline. Even in Edinburgh, with the country's largest population and greatest social complexity, few beyond a small governing elite were ever consulted.<sup>56</sup> In these circumstances, periodic outbreaks of extra-conciliar violence became a familiar dimension of burgh politics.

In our discussion of urban crowd demonstrations, we will concentrate on the 1680s, a decade in which many royal burghs faced increasing indebtedness.<sup>57</sup> In this context, burgh magistrates were not infrequently accused of leasing public property at uncompetitive rates and

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<sup>56</sup> Laura A.M. Stewart, *Urban Politics and the British Civil Wars: Edinburgh, 1617–53* (Leiden, 2006), 23–44; Alan R. MacDonald, *The Burghs and Parliament in Scotland, c. 1550–1651* (Aldershot, 2007), 34–6; William Mackay Mackenzie, *The Scottish Burghs* (Edinburgh, 1949), esp. 121–3.

<sup>57</sup> For a discussion of the burghs' economic position, see John M. Toller, “‘Now of little significancy’: The Convention of the Royal Burghs of Scotland, 1651–1688” (Ph.D. diss., University of Dundee, 2010), chap. 3.

embezzling council funds.<sup>58</sup> At the same time, councils struggled to raise new revenues. In Linlithgow, where an extraordinary levy was imposed in 1687 to subsidize the stipend of the town's second minister, many inhabitants refused to pay and "Laugh[ed] at those who[']ll willinglie contrabut."<sup>59</sup> If times of economic stringency stimulated particularly acute controversies over urban property and revenues, cases of popular participation in similar disputes can nevertheless be found elsewhere in the early modern period.<sup>60</sup>

In November 1685, the council of the Lanarkshire royal burgh of Rutherglen decided to lease parcels of the town's common green or inch. All previous attempts to pay off the town's debts had failed, it was argued, but residents were reluctant to pay an extraordinary tax for this purpose. The provost and bailies were empowered to recruit tenants and set tacks (leases) to "aikers" of the green. But in February, the magistrates complained that "sume of the burgess[es] and Inhabitants" of Rutherglen had "Combyned togidder" to "hinder and Interrupe" those who had taken out tacks in their efforts to break and till the soil. Because the tacks obliged the council to give the tenants possession, the magistrates asked their fellow councilors to protect

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<sup>58</sup> *Extracts from the Records of the Royal Burgh of Stirling*, 2 vols., Scottish Burgh Records Society (Glasgow, 1887–9), 2:38–40; Petition of Provost John Carnegie, Forfar, 1689, Convention of Royal Burghs [Moses] Bundles, Bundle 212, Edinburgh City Archives; Answers for John Riddell of Hayning, Selkirk, c. 1691, GD123/184/6, National Records of Scotland (henceforth NRS).

<sup>59</sup> Linlithgow Burgh Council Minutes, 1673–94, B48/9/4, pp. 763, 766–7, 769, 774 (quotation), NRS. The reluctance to contribute might have arisen partly from Presbyterian dissent.

<sup>60</sup> The present discussion focuses on the relationship between crowd demonstrations and urban government, though there were comparable disturbances in rural areas. See esp. John Leopold, "The Levellers' Revolt in Galloway in 1724," *Journal of the Scottish Labour History Society* 14 (May 1980), 4–29.

the tenants in their use of the land. But most of the council – the minutes name seven men who were especially adamant – refused to cooperate, asserting that they opposed the leasing of the green. We do not know whether the tenants were able to farm the land unmolested, but by July 1686 the council had decided to cancel the tacks.<sup>61</sup>

Thus a collective demonstration led the council to reverse its decision to lease Rutherglen's common land. It is unclear whether the councilors who expressed their opposition in February had objected in November 1685; whether they supported or even participated in the obstructive crowd; or whether they simply changed their position when they witnessed the popular resistance to the policy. Nevertheless, the outcome should not have come as a surprise: in 1652, the council had leased the green with precisely the same result.<sup>62</sup> Moreover, earlier in the 1680s a similar proposal to derive revenue from common land in Peebles had provoked a still more disorderly response.

In February 1682, the council of Peebles resolved to set the burgh's common grass in tacks. A fortnight later, the meeting in which offers were invited for the tacks was interrupted by a group of men denouncing and threatening the magistrates. When two ringleaders were imprisoned, a crowd of around 100 broke them from prison. The magistrates then incarcerated eight of their most prominent opponents, only for a body of up to 300 people, apparently under female command, forcibly to release them on the following day. The crowd took the freed men to the cross of Peebles, where they “drank their good health as protectors of the liberties of the poor,” and likewise toasted the “confusion” of the magistrates. Members of the opposition to the leasing of common land then raised funds to support their leaders, who had been returned to prison pending prosecution by the privy council. The privy council found five men guilty of

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<sup>61</sup> Rutherglen Burgh Council Minutes, 1681–92, RU3/1/7, pp. 164–5, 166, 177–9, 187, 210, quotations at p. 178, Mitchell Library, Glasgow.

<sup>62</sup> David Ure, *The History of Rutherglen and East-Kilbride* (Glasgow, 1793), 111.

convocation, riot, and tumult, and ordered that their rights as burgesses be annulled. The burgh council fined over sixty other rioters, including six women.<sup>63</sup> But the opposition ultimately won the struggle over the commons in Peebles. At the burgh's elections at Michaelmas 1682, two of the men who had been convicted by the privy council were reappointed as town councilors (they had been members at the time of the riot). Indeed, the burgh council declared its willingness to defend their election, though they should have forfeited their right to be councilors as a result of the privy council's sentence. Unsurprisingly, the new council decided that it would not lease the common grass in future.<sup>64</sup>

The events in Rutherglen and Peebles show that opposition at large could compel burgh councils to abandon their proposals to privatize common land. In one further case, a town council sought, with the assistance of other inhabitants, to defend civic use of common land against the invasion of a local landowner. In February 1668, John Riddell of Hayning obtained a ruling at the court of session recognizing his rights of pasturage on the commons belonging to the burgh of Selkirk. This decision was unpopular in the town, and some sort of delegation was sent to the commons to obstruct Hayning's use. Reporting the incident to the privy council, Hayning complained that at least 22 armed men "did violentlie hound and dryve" his livestock from the common, "useing most minaceing expressions to his servants for offering to hinder them and incaice they should find them againe pasturing" there. The town's bailies admitted that they had been present with the dean of guild and the burgh officers, but denied being in

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<sup>63</sup> *Extracts from the Records of the Burgh of Peebles, 1652–1714*, Scottish Burgh Records Society (Glasgow, 1910), 102–5; P. Hume Brown, Henry Paton and E. Balfour-Melville, eds., *The Register of the Privy Council of Scotland*, 3rd series, 16 vols. (Edinburgh, 1908–70) (henceforth *RPC*, 3rd ser.), 7:369–70, quotations at 370. For reflections on health-drinking in Scotland, see Stewart, *Rethinking the Scottish Revolution*, 298.

<sup>64</sup> *Peebles Extracts*, 106–8.

arms. And they claimed that they had ordered the other inhabitants not to be present. Nevertheless, the privy council judged that a riot had taken place against Hayning, and imprisoned the bailies.<sup>65</sup>

The opposition between the townsfolk and Riddell of Hayning continued. In 1672, he complained that some of the inhabitants were deliberately pasturing sheep in a manner prejudicial to his “headroumes” (this probably referred to arable land adjoining the common). Moreover, a body of armed residents had recently thrown down Hayning’s sheepfolds and pens.<sup>66</sup> This may have been the last event in the struggle over the commons, and Hayning would later find himself provost of Selkirk, albeit he was nominated by James VII, rather than being elected by the council.<sup>67</sup> Nevertheless, in the late 1660s and early 1670s, there was clear popular participation in disputes that were waged formally between a landowner and an oligarchic town council. As this and the other examples illustrate, crowds played an influential role in the preservation of local rights and the management of common property in seventeenth-century Scottish towns.

### **Ministerial calls**

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<sup>65</sup> *RPC*, 3rd ser., 2:514 (quotations), 537, 551. See also Supplication for John Riddell of Hayning against Selkirk, 1668, GD123/184/1, NRS.

<sup>66</sup> Information for John Riddell of Hayning against Selkirk, 1672, GD123/184/2, NRS; “Heid,” *Dictionary of the Scottish Language*, [http://www.dsl.ac.uk/entry/snd/heid\\_n\\_adj\\_v](http://www.dsl.ac.uk/entry/snd/heid_n_adj_v), accessed 11 April 2016.

<sup>67</sup> Warrant Book of the Secretary for Scotland, 1 March 1687 – 23 Apr. 1688, SP4/12, pp. 407–8, NRS; Selkirk Court Record and Council Book, 1635–1704, BS1/1/1, fol. 497r., Scottish Borders Archive and Local History Centre, Hawick.



The involvement of parishioners in the selection of their ministers was perhaps the most participatory aspect of Scottish religious culture. Since the Reformation, the Church of Scotland had granted significant roles to laymen, both during periods when Presbyterianism was established and those in which bishops held office. This lay involvement focused especially on the exercise of discipline and administration at the parish level. But a strand of clerical opinion consistently favored extending the role of the laity beyond these duties to the appointment of ministers. The *First Book of Discipline*, drawn up in 1560 but not approved by the crown or parliament, declared that “it appertaineth to the people and to every severall Congregation to elect their Minister.”<sup>68</sup> Two decades later, the *Second Book of Discipline* (1578) proposed a new mechanism for the choice of ministers as part of a wider body of Presbyterian reforms in the Church. This model would have vested the “power of electioun” of ministers in the “eldarschip” or “assemblie” of pastors and elders, apparently the district-level presbyteries established from 1581.<sup>69</sup> But the promoters of this reform did not have their way, and the traditional system of presentations by the parochial patron was confirmed, even as parliament recognized Presbyterianism, in 1592.<sup>70</sup> It was only in 1649, during the most radical phase of the Covenanted regime, that presentations were abolished, and something like the proposal of 1578 was introduced. From 1649 to 1661, then, parish elders – supervised by the ministers of the local presbytery – had responsibility for nominating ministers to vacant livings. In practice, other interest groups such as heritors (owners of heritable property) were often consulted.<sup>71</sup> The

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<sup>68</sup> James K. Cameron, ed., *The First Book of Discipline* (Edinburgh, 1972), 96.

<sup>69</sup> James Kirk, ed., *The Second Book of Discipline* (Edinburgh, 1980), 179, 201.

<sup>70</sup> *RPS*, 1592/4/26, “Act for Abolisheing of the Actis Contrair the Trew Religioun,” 5 June 1592, accessed 11 April 2016.

<sup>71</sup> *RPS*, 1649/1/240, “Act abolishing Patronages,” 9 March 1649, accessed 11 April 2016; *Acts of the General Assembly of the Church of Scotland, M.DC.XXXVIII.–M.DCCC.XLII* (Edinburgh,

reform confirmed what the *Second Book of Discipline* suggests: congregational involvement in the choice of ministers was a specifically Presbyterian aspiration, which significantly expanded the participatory nature of the Reformed Church of Scotland.

After being revived alongside episcopacy at the Restoration, patronage was again overturned as a result of the revolution of 1688–90. Under the system adopted in 1690, a parish's heritors – now explicitly included – and elders drew up a call to a minister or candidate for ordination. The call was to be referred “to the whole congregation to be either approved or disapproved by them.” The process was to be administered by the local presbytery, which was then responsible for the minister's institution or ordination to his new charge.<sup>72</sup> The legislation sought to balance the interests of landowners and other parishioners, and did not simply transfer the power of presenting ministers from patrons to heritors and elders. Sir James Steuart of Goodtrees, one of the drafters of the statute, claimed that the word “propose,” rather than “present,” was deliberately used of the heritors' and elders' nomination, to ensure that the congregation could exercise a veto. “The Presentation was intirely abolished, either in one person or in many, and the choice lodged in the hands of the people, at the determination of the Presbitry.”<sup>73</sup> Moreover, a document among the general assembly papers for 1690 stated that calls were to be “subscribed by the Heritors or magistrats and Elders ... And the most considerable of the people In the name of the rest.”<sup>74</sup> On the other hand, Steuart himself thought

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1843), 212–13; Laurence A.B. Whitley, *A Great Grievance: Ecclesiastical Lay Patronage in Scotland until 1750* (Eugene, OR, 2013), 56, 58–60, 62–6, 280–3.

<sup>72</sup> *RPS*, 1690/4/114, “Act concerneing Patronages,” 19 July 1690, accessed 11 April 2016.

<sup>73</sup> Robert Wodrow, *Analecta: or, Materials for a History of Remarkable Providences*, 4 vols., Maitland Club (Edinburgh, 1842–3), 1:275.

<sup>74</sup> “The Ordinary Method of Calling a Minister from one Congregation to Another in this State of the Church,” CH1/2/1, fol. 66r., NRS.

that his legislation had been misunderstood, and that heritors and elders had too great an influence.<sup>75</sup> The procedures were ambiguous, then, but they certainly created the potential for ordinary worshippers, sometimes including female heads of household, to have their say.

When the system worked, it was inclusive, produced clear outcomes, and affirmed communal harmony. On 22 July 1702, for example, members of the kirk session of Lesmahagow, Lanarkshire, a parish with financial provision for two ministers, met with heritors and heads of local families to approve a list of possible candidates to serve in the second charge. The following month, in a meeting chaired by a minister from the presbytery, the heritors, elders, and heads of families “did elect and chuse Mr Robt. Black” to fill the vacancy. Black was duly called, ordained, and instituted to the parish, which he served until 1715.<sup>76</sup> But we have more detailed evidence of cases in which the process of appointing to parish vacancies broke down in acrimony. In these cases, questions were raised about the appropriateness of consulting people who were neither heritors nor elders, and whose role was therefore not clearly defined in the statute of 1690. The most important landowners attempted to assert decisive influence. We will examine two cases in depth. Both come from the south west, a region where the high number of small landowners made it more likely that there would be differences of opinion over ministerial candidates.<sup>77</sup> But the attitudes that are revealed towards participation in the choice of ministers could also be found in other parts of Scotland.

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<sup>75</sup> Wodrow, *Analecta*, 1:275.

<sup>76</sup> J.B. Greenshields, ed., *Annals of the Parish of Lesmahagow* (Edinburgh, 1864), 142–3; Hew Scott, *Fasti Ecclesiae Scoticae: the Succession of Ministers in the Church of Scotland from the Reformation*, rev. edn, 8 vols. (Edinburgh, 1915–50), 3:316.

<sup>77</sup> Ian D. Whyte, *Scotland before the Industrial Revolution: An Economic and Social History, c. 1050–c. 1750* (London, 1995), 156.

The Lanarkshire parish of Crawfordjohn became vacant on the death of its minister John Bryce in February 1704.<sup>78</sup> The earl of Selkirk, the parish's patron, was by far the most significant landowner in Crawfordjohn, though there were numerous small heritors. Selkirk's reluctance to support a call to Thomas Linning over the winter of 1704–5 ensured that the parish remained vacant, as Linning was called to another church.<sup>79</sup> The presbytery of Lanark then arranged for two men, Matthew Wood and James Wilson, to preach in Crawfordjohn. Whereas a large body of the parish supported a call to Wood, Selkirk was at the head of another party favoring Wilson.<sup>80</sup> Despite the synod of Glasgow and Ayr's support for the call to Wilson, the parish remained unsettled and divided, and the case came before the general assembly of 1708. The assembly ruled that both calls should be set aside, but Selkirk remained committed to Wilson's call, arguing that the assembly had been misinformed about the local circumstances.<sup>81</sup> No progress was made in the next six months, allowing the presbytery to nominate a candidate of its own choice, under the terms of what was known as the *ius devolutum*.<sup>82</sup> The presbytery's action was opposed by Selkirk and most Presbyterian ministers in the wider region, but was supported by the parishioners who had favored Wood.<sup>83</sup> Though the presbytery had its way in the short term, ordaining Robert Lang to Crawfordjohn in March 1709, Selkirk's opposition

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<sup>78</sup> Scott, *Fasti*, 3:298.

<sup>79</sup> Presbytery of Lanark Minutes, 1699–1709, CH2/234/4, pp. 163, 168, 173, 178, NRS.

<sup>80</sup> General Assembly Papers concerning Crawfordjohn, 1704–9, CH1/2/28/3, fols. 231r., 233r., 249r., 256r., NRS.

<sup>81</sup> Synod of Glasgow and Ayr Minutes, 1705–15, CH2/464/2, pp. 119, 129–31, NRS; General Assembly Register, 1706–10, CH1/1/20, pp. 449–50, 453–5, NRS; Papers concerning Crawfordjohn, CH1/2/28/3, fols. 258, 260r., NRS.

<sup>82</sup> Presbytery of Lanark Minutes, CH2/234/4, pp. 321–2, NRS.

<sup>83</sup> Papers concerning Crawfordjohn, CH1/2/28/3, fols. 228r., 258, 265r., 266r., 268r., NRS.

ensured that Lang was locked out of the church and obliged to conduct services in the kirkyard. He was transported to another parish in 1711. Soon after the restoration of patronage in 1712, Selkirk exercised his right to present a candidate to Crawfordjohn.<sup>84</sup>

The struggle over the church of Crawfordjohn divided the parish and put the system of appointing ministers under considerable strain. Opponents of Selkirk complained that the call to Wilson was not drawn up in the presence of the parishioners, but at the earl's castle in a neighboring parish, and it was signed by some heritors ordinarily resident in Edinburgh who had not heard Wilson preach. Selkirk's critics also alleged that he had compelled some of the supporters of Wood to switch their support to Wilson, threatening to remove tenants from their farms.<sup>85</sup> This latter claim reflected the fact that elders, who were often not heritors, and heads of families more generally were involved in the campaigning on both sides.

Selkirk's allies seemed to accept that his status as chief heritor, feudal superior, and parochial patron should allow him to decide the matter. Moreover, Selkirk asserted that the majority of parishioners with a legal right to call supported his candidate. Only three heritors signed a commission to Claude McMorran of Glaspine to represent the case against Selkirk: Glaspine himself, Thomas Stewart, "who is only Heretor of Ane Coatt House [i.e. cottage]," and James Colthart, a youth whose mother owned "ane oxgate of land." The other signatories to a petition in favor of Robert Lang's ordination were not landowners at all, it was alleged. Whether Selkirk was right to describe his opponents as youths, servants acting without permission of their masters, poor women, and lunatics, many were in social categories without a clearly defined

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<sup>84</sup> Presbytery of Lanark Minutes, CH2/234/4, pp. 340–1, NRS; Scott, *Fasti*, 3:298; Whitley, *Great Grievance*, 132.

<sup>85</sup> Papers concerning Crawfordjohn, CH1/2/28/3, fols. 241, 250r., NRS; Presbytery of Lanark Minutes, CH2/234/4, p. 254, NRS.

right to influence the settling of parish ministers.<sup>86</sup> Selkirk alleged that the “common people” were acting under pressure, or were driven by “faction and humor.” More generally, he argued that “it cannot but be of dangerous consequence to encourage Tennants and Cottars to appear against their masters.”<sup>87</sup> But members of the other party stressed their numerical preponderance among the parishioners as a whole, claiming to have a hundred signatures of elders, heritors, and other residents to their petition in support of Lang, one of several petitions surviving in the case. Moreover, Selkirk’s critics complained that the presbytery allowed him to act like a patron in the pre-1690 system. In 1707, Glaspine and his adherents alleged that the presbytery’s action in offering a call to Wilson “made way for bringing patronages into the Church again.”<sup>88</sup>

The difficulties of achieving consensus in a parish where many had a stake were equally apparent in Bothwell, thirty miles down the Clyde valley. The parish became vacant in 1703, after its minister John Orr was called to Edinburgh. The presbytery of Hamilton tried to prevent Orr’s transfer, and important heritors including the duchess of Hamilton and the earl of Forfar were against it. Stressing Orr’s success in uniting a formerly divided parish, which had largely overcome problems of Catholic recusancy and Presbyterian separatism, those opposing the removal of Orr also drew attention to Bothwell’s demography and patterns of landownership. Given the parish’s considerable size and population density, they argued, together with “the interest of several of the Nobility a great many Gentry besides a multitude of smaller heritors,” it would “not look strange” to “assert that it will be more difficult to settle again the paroch of Bothwell with a min[iste]r acceptable to all” than to fill the vacancy in Edinburgh.<sup>89</sup> This analysis

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<sup>86</sup> Papers concerning Crawfordjohn, CH1/2/28/3, fols. 228, 239r., 273r. (quotations), NRS.

<sup>87</sup> *Ibid.*, fol. 235r.

<sup>88</sup> *Ibid.*, fols. 271, 229Ar.; Presbytery of Lanark Minutes, CH2/234/4, p. 254 (quotation), NRS.

<sup>89</sup> Scott, *Fasti*, 1:75, 3:231; General Assembly Papers concerning Bothwell, 1702, CH1/2/3/4, fols. 375r., 377r., 378r., 383 (quotations), NRS.

was to prove correct. In November 1703, it was found that a petition asking for a call to be overseen by the presbytery had been “factiously contrived” by some parishioners, without the support of the kirk session or heritors. Over the following winter, the duchess and other heritors organized a call to a minister, but he declined to accept, presumably recognizing that the parish was disunited.<sup>90</sup> By late 1705, there were two main groups in Bothwell: one party, led by the duchess of Hamilton and most other heritors, favored settling George Campbell in the vacant church, while the majority of parishioners, including the earl of Forfar, preferred John Bannatyne. Investigating the situation, the presbytery counted the number of heritors, elders, and masters of families on each side, finding that there was also some support for three other candidates.<sup>91</sup>

The parish remained in this divided state, and in March 1707 the presbytery resorted to drawing up calls to both Crawford and Bannatyne. The duchess of Hamilton, adhering to Crawford, argued that she had more interest in the parish than did Forfar. She also complained that Alexander Adamson, moderator of the presbytery, was acting to promote the case of Bannatyne. When Adamson moderated the process, he allowed householders to sign Bannatyne’s call, even though their right to do so was questioned by the duchess’s representative.<sup>92</sup> The elders who supported Bannatyne warned that the imposition of Crawford would offend the people, and might lead them to separate from the Church. Thus the elders argued that the opinions of the congregation should be heard:

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<sup>90</sup> Presbytery of Hamilton Minutes, 1695–1719, CH2/393/2, pp. 224, 226 (quotation), 227–9, 231, 233, NRS.

<sup>91</sup> *Ibid.*, pp. 272, 276, 278–84.

<sup>92</sup> *Ibid.*, p. 313; General Assembly Papers concerning Bothwell, 1707, CH1/2/26/1, fols. 167, 177, NRS.

we cannot but humbly think [tha]t the Law abolishing the Tyranny of patronages and establishing popular calls hath had an eye to the just priviledge and Christian birthright of the people, when it appoynts Elders, who are generally Tennants themselves, to be legall Callers joyntly with the Heretors, not because so much of any weight in their personall votes, as, because they have oversight of the people ... and so are supposed to give the peoples mindes ... neither are Christian people to be so much despised and their judgement wholly contemned in what relates to the edification of their soules and the intrests of the gospell among them[.]<sup>93</sup>

Most studies of disputes about the settlement of ministers in Presbyterian Scotland have focused on episodes taking place after the restoration of lay patronage in 1712.<sup>94</sup> In that period, the voice of small landowners, tenants, and elders was limited to protest and secession from the established Church to dissenting Presbyterian bodies.<sup>95</sup> In the two decades before 1712,

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<sup>93</sup> Papers concerning Bothwell, CH1/2/26/1, fol. 176ar., NRS.

<sup>94</sup> See esp. Richard B. Sher, “Moderates, Managers and Popular Politics in Mid-Eighteenth Century Edinburgh: The Drysdale ‘Bustle’ of the 1760s,” in *New Perspectives on the Politics and Culture of Early Modern Scotland*, eds. John Dwyer, Roger A. Mason and Alexander Murdoch (Edinburgh, 1982), 179–209; Ned C. Landsman, “Liberty, Piety and Patronage: The Social Context of Contested Calls in Eighteenth-Century Glasgow,” in *The Glasgow Enlightenment*, eds. Andrew Hook and Richard B. Sher (East Linton, 1995), 214–26.

<sup>95</sup> Richard Sher and Alexander Murdoch, “Patronage and Party in the Church of Scotland, 1750–1800,” in *Church, Politics and Society: Scotland, 1408–1929*, ed. Norman Macdougall (Edinburgh, 1983), 197–220; Whatley, *Scottish Society*, 168–70; Callum G. Brown, “Protest in the Pews: Interpreting Presbyterianism and Society in Fracture during the Scottish Economic Revolution,” in *Conflict and Stability in Scottish Society, 1700–1850*, ed. T.M. Devine



however, the law allowed for popular participation in the choice of ministers. There was no clearly defined role for residents who were neither heritors nor elders. Yet where there was a disagreement about the selection of ministers, some argued that the issue should be determined by the extent of local support for the rival candidates. The social status of the heritors and the extent of their landownership were usually considered as well, but there was genuine popular engagement and participation in what were vital decisions for the spiritual welfare of ordinary Scots.

### **Conclusion**

This article suggests that early modern Scots could form and express opinions outside of political institutions through evolving modes of protest and consultation. In this exploratory article, the three practices discussed – protestations, urban crowd demonstrations, and ministerial calls in the system of 1690–1712 – were chosen as indicative examples. Other modes of engagement available to the Scottish people included the subscription of collective petitions and addresses and the swearing of covenants and bands.<sup>96</sup> Politically aware crowds cheered and booed outside Parliament House and attended public proclamations, political executions, and

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(Edinburgh, 1990), 83–105; Kenneth J. Logue, *Popular Disturbances in Scotland, 1780–1815* (Edinburgh, 1979), chap. 7.

<sup>96</sup> Stewart, *Rethinking the Scottish Revolution*, 62–70, chap. 2; Eadem, “Authority, Agency and the Reception of the National Covenant of 1638,” in *Insular Christianity: Alternative Models of the Church in Britain and Ireland, c. 1570–c. 1700*, eds. Robert Armstrong and Tadhg Ó hAnnracháin (Manchester, 2013), 88–106; Jamie McDougall, “The Reception of the 1643 Solemn League and Covenant” (M.Litt. diss., University of Glasgow, 2014).

organized protests.<sup>97</sup> Crowds offered violent resistance to unwanted parish ministers, an activity that shared some of the features of urban demonstrations, and echoed the context of the ministerial calls discussed above.<sup>98</sup> In all these ways and more, early modern Scots had opportunities to contribute their voices to local and national political affairs.

Each of the forms of participation discussed in this article emerged within a specific Scottish institutional context. Protestations were a common feature of Scotland's late medieval courts of law and parliament, and were adopted by members of the general assembly after 1560. Urban crowd demonstrations happened across Europe; in seventeenth-century Scotland, they were significant in part because they echoed the spirit, if not the precise forms, of the head courts and popular elections of late medieval burghs. The system of ministerial calls devised in 1690 built on earlier ecclesiastical processes and Presbyterian aspirations. The three practices and types of behavior evolved to allow the expression of opinions outside of institutional settings. Protestations articulated dissenting opinions across the seventeenth century. These presented the voice of the Church or nation at large in public settings, usually with supportive crowds. In the towns, burgesses and inhabitants used extra-mural protests to influence the decisions of oligarchic councils. From 1690, Parliament intended congregational calls to ministers to be regulated by the church courts, but the system allowed participatory habits to develop outwith formal ecclesiastical meetings.

Rather than search for features of English or French public politics in the Scottish case, we have started from those constitutional and legal frameworks that shaped Scottish political life in the early modern period. This is not to assert that early modern Scottish politics was radically different to that of England or elsewhere. Rising print outputs made political communication

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<sup>97</sup> Stewart, *Rethinking the Scottish Revolution*, 43–62; Houston, *Social Change*, chap. 5; Bowie, *Scottish Public Opinion*, 34–5, 42–3, 140–5; Bowie, “Newspapers.”

<sup>98</sup> Raffè, *Culture of Controversy*, chap. 8.

more extensive and inclusive in Scotland, even if a critical mass of print discourse was not achieved before the mid-eighteenth century. And parallels can be found in other societies to our three forms of participation, most obviously in the case of crowd demonstrations. Despite these similarities, however, the variation between national contexts makes it necessary to historicize accounts of the public sphere. The Scottish case demonstrates that early modern developments in public politics relied on the evolution of traditional participative practices as well as new modes of communication and association.