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Petitioning in early seventeenth-century Scotland, 1625–51

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SUMMARY

In contrast to recent work on England and other parts of Europe, research on petitioning in early modern Scotland is still in its early stages, notably in respect of its political significance in a comparative context. This article investigates supplicatory activity in Scotland during a crucial period in which the petition came under intense scrutiny. The 1630s saw a determined attempt by King Charles I's Scottish government to clamp down on the use of supplications to express criticism of royal policy; assertive, but carefully controlled, petitioning was one part of a resistance strategy that resulted in the downfall of the king's regime. When a new government came to power in 1638 headed by the Covenanters, petitioning activity came to be seen as a potential challenge to their authority. Petitioning does not appear to have invoked 'opinion' in 1640s Scotland as has been claimed for England; the printed petition remained a rarity in Scotland. Nevertheless constitutional reform, combined with the wartime conditions of the 1640s, generated more recourse to petitioning, and the government recognized opportunities to enhance its claims to legitimate rule. A preliminary investigation of everyday petitions to the government during the 1640s shows how the narratives constructed by supplicants often sought to

endorse its values and ideals, but that this type of petitioning was also used by supplicants to critique the government's policies and hold it to its own rhetoric.

Introduction: 'Political' and 'everyday' petitioning in early modern Britain

Historians of early Stuart Britain are well aware that petitioning could be politically controversial. After the accession of Charles I in 1625, the king and his leading advisors made determined efforts to prevent petitions becoming a vehicle to critique royal policies. The king's seemingly disingenuous response to the 1628 Petition of Right (submitted to him by parliament in defence of the rights and liberties of the subject), which he accepted with reluctance only to cast doubt publicly on its legal status, has been seen as an important component of the crisis that led to the Personal Rule.¹ Although there was less drama when Scotland's parliamentary estates met, in the more informal body known as a convention in 1630 and then as a full parliament – with the king present – in 1633, petitions also proved problematic there. Supplications were suppressed in both sessions. When it was discovered that John Elphinstone, second Lord Balmerino, was in possession of a petition he had tried unsuccessfully to present to the king, he was

¹ For brief analysis of the petition and further reading, see R. Cust and A. Hughes, 'Introduction: after Revisionism', in R. Cust and A. Hughes (eds), *Conflict in Early Stuart England: Studies in Religion and Politics 1603–1642* (Harlow, 1989), pp. 30–1; A. Hughes, *The Causes of the English Civil War* (Basingstoke, 1991), p. 151.

put on trial for his life.² Petitioning as an expression of grievance was not only reasserted at the end of the decade, but also claimed by heterogeneous social groupings acting collectively. Used alongside other tactics to mobilize popular opinion, petitioning made a major contribution in both kingdoms to the collapse of royal government.³

This kind of activity, especially when led by individuals claiming to speak publicly for a larger body of people, could be termed ‘political petitioning’: the use of a traditional means of requesting redress of grievance to exert pressure and influence policy in ways that can be seen as a challenge to authority. According to the important work of David Zaret, petitioning took on a more elevated purpose. When printed and circulated for acquiring signatures, as occurred in England during the 1640s, the petition facilitated the breakdown of traditional

² Although found not guilty of composing the libel, Balmerino was convicted of hearing it and concealing the author’s identity. See P. Donald, *An Uncounselled King: Charles I and the Scottish Troubles, 1637–1641* (Cambridge, 1991), pp. 28–33; A.I. Macinnes, *Charles I and the Making of the Covenanting Movement, 1625–1641* (Edinburgh, 1991), pp. 128–41. See also K. Bowie, ‘From customary to constitutional right: the right to petition in Scotland before the 1707 Act of Union’, in this special issue of *PER*.

³ A. Fletcher, *The Outbreak of the English Civil War* (London, 1981), ch. 6; M.J. Braddick, *God’s Fury, England’s Fire: A New History of the English Civil Wars* (London, 2008), pp. 119–24, 128–31, 184–5, 205; L.A.M. Stewart, *Rethinking the Scottish Revolution: Covenanted Scotland, 1637–1651* (Oxford, 2016), pp. 62–70.

constraints on communicative practices and enabled the invocation of ‘public opinion’. Although contemporaries were reluctant to admit to innovatory practices, these activities created conditions favouring the emergence of a democratic culture.⁴ Few early modern historians accept Zaret’s thesis *in toto*, but it has generated fruitful debate amongst scholars, both on the means by which petitioning could be used to construct opinion and on the ambiguous consequences of its ability to invoke ‘the will of the people’.⁵ Although petitioning could be used as much to endorse as to challenge political norms,⁶ the

⁴ D. Zaret, *Origins of Democratic Culture: Printing, Petitions and the Public Sphere in Early Modern England* (Princeton, 2000).

⁵ For an important critique, see M. Knights, *Representation and Misrepresentation in Later Stuart Britain: Partisanship and Political Culture* (Oxford, 2005), ch. 3, esp. pp. 114–16 [quotation]. See also J. Walter, ‘Confessional politics in pre-civil war Essex: Prayer Books, profanations, and petitions’, *Historical Journal* 44, (2001), pp. 677–701; Stewart, *Rethinking*, pp. 30–1.

⁶ Richard Hoyle has suggested that collective petitioning often had ‘conservative’ aims, but could be *seen* as threatening: R. Hoyle, ‘Petitioning as popular politics in early sixteenth-century England’, *Historical Research* 75, (2002), pp. 365–89. See also J. Maltby, *Prayer Book and People in Elizabethan and Early Stuart England* (Cambridge, 1998), esp. chs 3, 5.

resulting debates helped to encourage in people an understanding of themselves as a public.⁷

The vast bulk of petitions were not ‘political’ in the sense suggested above. They were produced by an individual or small group seeking redress of a personal injustice or the attainment of favour. Social historians see ‘everyday’ petitions reinforcing hierarchical relationships, mediating rather than confronting socio-economic inequalities, and giving ‘information’ rather than expressing ‘opinion’. Such petitions have been used to deepen historical understanding of how and under what terms subordinate groupings expressed agency *within* the constraints of a hierarchical society.⁸ These so-called ‘bread-and-butter affairs’, which made ‘pragmatic appeals’ to achieve ‘tangible’ direct outcomes, seemed to Derek Hirst to ‘belong to a different category’ from the public, collective forms of petitioning

⁷ A.J. Whiting, *Women and Petitioning in the Seventeenth-century English Revolution: Deference, Difference, and Dissent* (Turnhout, 2015), pp. 10–12.

⁸ Zaret, *Origins*, ch. 4, esp. pp. 68, 90, 93. See also R.A. Houston, *Peasant Petitions: Social Relations and Economic Life on Landed Estates, 1600–1850* (Basingstoke, 2014), p. 24; B. Waddell, *God, Duty and Community in English Economic Life, 1660–1720* (Woodbridge, 2012), pp. 126–38; W.M. Ormrod, ‘Introduction: medieval petitions in context’, in W.M. Ormrod, G. Dodd and A. Musson (eds), *Medieval Petitions: Grace and Grievance* (Woodbridge, 2009), pp. 3–4.

that had interested Zaret.⁹ The ubiquity of the everyday variety in early modern societies, combined with an often formulaic nature, can make them difficult to use as analytical tools. Beyond the observation that political petitions drew on the supplicatory language and forms of the everyday kind, in order to justify and legitimize the demands of their authors, the two types seem so different in their aims and intentions that historians can be forgiven for wondering whether they should be seen as variants of the same phenomenon.

This article considers the relationship between political and everyday petitioning in early modern Scotland. Instead of looking at the ways in which everyday supplications informed political petitioning, it explores how the immediate experience of political petitioning in the 1630s informed supplicatory activity thereafter. Legal and rhetorical battles over where to draw the boundaries of legitimate supplicatory activity influenced the nature of institutional reform in the coming decade.

⁹ D. Hirst, 'Making contact: petitions and the English Republic', *Journal of British Studies* 45, (2006), pp. 28–9. This question has been raised by Brodie Waddell, 'Was early modern England a petitioning society?', in B. Waddell (ed.), *Addressing Authority: An Online Symposium on Petitions and Supplications in Early Modern Society* (2016). [<https://manyheadedmonster.wordpress.com/2016/11/01/addressing-authority/>]. Mark Knights, without using this terminology, separates everyday from political petitions: *Representation*, p. 116.

We begin with an examination of Charles I's drive to contain criticism of controversial policies by imposing limitations on political petitioning. The trial of Lord Balmerino in 1634 featured a significant effort to redefine a certain type of petition as a 'libel'. This development, and the reaction against it at the end of the 1630s, informed how supplicatory activity developed during the period of Covenanter government, so-called after its foundational text, the 1638 National Covenant.

Controversy over the use of petitioning was both a problem and an opportunity for a new regime seeking to establish its authority. The third section assesses how the Covenanter leadership sought to impose new controls over the supplicatory process that would block challenges both from unauthorized collective public petitioning and from direct appeals to the king. At the same time, the leadership undertook institutional reforms that made the process for submitting everyday petitions more open and accessible. The Covenanter leaders, unlike their allies in England, were largely successful in preventing petitioning becoming a means for groupings either inside or outside parliament to mobilize opinion against them. Only in the spring of 1648 did rival factions attempt to use supplications to demonstrate support for their policy agendas. This campaign was carefully controlled by established political and religious figures. There was nothing in Covenanted Scotland on the scale of the popular, collective petitioning seen in England in 1643 (the women's peace petitions) and 1649 (the Leveller campaign for constitutional change). When Covenanter unity disintegrated after

King Charles II landed in Scotland in June 1650, rival factions utilized, not supplications, but the more assertive forms of ‘remonstrances’ and ‘resolutions’.¹⁰

At the heart of the remodelled Covenanter constitution was a parliament that had, by the end of 1641, taken over most of the king’s prerogative powers. Prior to 1638, the principal organ of routine central government in Scotland, and the major recipient of petitions outside parliamentary sessions, was the king’s privy council. From 1638, it was rivalled, and then eclipsed, by a powerful executive body called the Committee of Estates, created by the Covenanters to coordinate decision-making between parliamentary sittings.¹¹ The committee’s extant registers begin only in 1643, although it was active before that date. Parliament sat more frequently during the 1640s than in the previous decade, but not continuously as in England. Much of its expanding workload was passed to subcommittees that also considered petitions; many do not have comprehensive records and no register of petitions seems to have survived. Evidence of petitioning activity for the period from 1637 until the destruction of Covenanter government (by the English New Model Army) in 1651 is spread across a wide

¹⁰ Stewart, *Rethinking*, pp. 279–91; A. Hughes, *Gender and the English Revolution* (Abingdon, 2012), pp. 54–61, 109–10. See also J. Peacey, *Print and Public Politics in the English Revolution* (Cambridge, 2013), pp. 341–6, 358–60.

¹¹ For the privy council’s problematic history in this period, see n.24.

range of incomplete record series, and attempting to quantify petitioning in any meaningful way for this period would be challenging. Significantly, there seems no obvious way of working out how many petitions failed, still less the reasons why.¹²

It nonetheless seems probable that the creation of new governing institutions and the demands of warfare not only generated more petitions but also offered up a wider range of issues about which to petition. This article will explore the use of petitioning during and immediately after a royalist rising against Covenanter government during the mid-1640s. New committees were tasked with punishing the rebels and assisting those who had suffered at their hands, leaving us with rich material for studying the rhetorical strategies deployed by petitioners. As Hirst has shown, this approach can reveal something of both the workings of government and how people at the time thought it worked.¹³ More importantly, it exposes how some individuals sought to use the enhanced opportunities for everyday petitioning, as well as the government's own rhetoric, to hold it to account.

¹² One petition that was explicitly rejected related to the trial of four royalists. No explanation was recorded by the estates for their decision. K.M. Brown *et al*, *The Records of the Parliaments of Scotland to 1707 [RPS]* (St Andrews, 2007–18), 1645/11/19.

¹³ Hirst, 'Making contact', esp. p. 28.

‘Petition’ vs ‘libel’ in Caroline Scotland

In December 1634 Lord Balmerino was put on trial under the charge of lesing-making (verbal sedition), on the grounds that a draft petition to the king in his possession, which had been copied and shared with others, constituted a calumnious attack on the king. Balmerino’s defence team asserted that the document was a ‘supplication or petition’ (the terms were used interchangeably); *ergo*, it could have no treasonable meaning or intent. The Lord Advocate, Sir Thomas Hope, acting for the king’s interest, countered that Balmerino had, in fact, handled a ‘scandalous, odious, infamous, and seditious Libel’.¹⁴ This legal debate over the status of petitions revealed competing, and ultimately incompatible, visions of the constitutional order. One version took for granted the right of the nobility to give counsel and implicitly defended the more participatory parliamentary culture that had emerged in the second half of the sixteenth century.¹⁵ The other projected a traditional view of the prince as the

¹⁴ W. Cobbett (ed.), *State Trials*, 33 vols (London, 1809–28), vol. iii, 1627–40, pp. 597–712; 597, 610, 679. For the trial, see n.2.

¹⁵ For brief but important comments about petitioning before 1603, see A.J. Mann, ‘House rules: parliamentary procedure’, and J. Goodare, ‘Parliament and politics’, in K.M. Brown and A.R. MacDonald (eds), *The History of the Scottish Parliament: Volume 3. Parliament in Context, 1235–1707* (Edinburgh, 2010), pp. 126, 128–9, 141, 152–3; K. Bowie, *Scottish Public Opinion and the Anglo-Scottish Union, 1699–1707* (Woodbridge, 2007), pp. 56–8.

fount of all justice under God, while simultaneously downplaying widely accepted notions of parliament as a deliberative and counsel-giving body.¹⁶

The defence argued that petitioning was a legitimate means of drawing the king's attention to the 'grievances' of his people. As a member of the nobility, Balmerino had simply been fulfilling his role as 'a born counsellor' when he asked his fellow-peer, John Leslie, sixth Earl of Rothes, to intercede for the supplicants by offering the petition to the king. This approach had been refused. Noblemen, according to Balmerino's procurators, possessed both a 'duty' and a 'liberty' to counsel the king, inside and outside parliament, 'for the weal of all'. At no point had Balmerino used 'direct speeches' to draw 'the people in factions' and, hence, he was not guilty of sedition.¹⁷

Lord Advocate Hope responded by stating that the defence's generous definition of a petition would allow every man to assault the king's 'sacred person' with impunity. The document was really a libel, because it contained 'reproaches and scandals against the person, state and government of our gracious sovereign'.¹⁸ By using the word 'libel', Hope was taking advantage of a recent

¹⁶ For medieval conceptions of the role of parliament, see G. Dodd, *Justice and Grace: Private Petitioning and the English Parliament in the Late Middle Ages* (Oxford, 2007), pp. 239, 318.

¹⁷ *State Trials*, vol. iii, 1627-40, pp. 617, 619-20, 622.

¹⁸ *State Trials*, vol. iii, 1627-40, pp. 597-8, 627-8, 636.

lexical shift. ‘Libel’ had commonly meant a treatise, a formal missive, or an indictment. The legal association continued to be reflected in the term *libellus*, meaning ‘petition’ in the Roman law tradition. A scurrilous, defamatory, or treasonable pamphlet ‘posted up or circulated’ seems to have become known as a ‘libel’ in Scotland only in the later sixteenth century.¹⁹ Hope’s argument served not only to reinforce the hierarchical view of petitioning as a humble appeal for the grace of a divinely ordained ruler, but also to redefine any expression of grievance not invited by the king as a potentially libellous act of personal disloyalty. It further implied that nobles were not possessed of a right to offer counsel, but were obligated to give it only when requested to do so by the king.

Political petitioning and the establishment of Covenanted government

Use of the petitionary form to mobilize resistance to a new Scottish liturgy in 1637, and its influence on the National Covenant, have been analysed elsewhere.²⁰ These petitions were very carefully deployed and it is hard to believe, given the organizing role adopted by Balmerino and Rothes, that the

¹⁹ *Dictionary of the Older Scottish Tongue*, libel *n*. See also *The Oxford English Dictionary*, libel *n*.; Ormrod, ‘Introduction’, p. 6.

²⁰ Stewart, *Rethinking*, pp. 62–70, 98–9. See also L.A.M. Stewart, “‘Thair is na offence to supplicat’: Presbyterian petitioning in early modern Scotland’, in Waddell (ed.), *Addressing Authority*.

1634 trial was not in their minds. In September 1637, at least 46 petitions (probably more) were submitted to the privy council as the body through which orders to use the liturgy had been issued. The council then dispatched a leading courtier to London to 'represent the state of the busines' to the king. None of the petitions were printed, they were not copied in large numbers, and only one appears to have been circulated around its locality for the purpose of gathering subscriptions. It is possible that the supplicants wished to demonstrate to the king that, because the right of his 'born counsellors' to propound 'grievances' in the name of the commonweal had been denied, the nobility had no means of preventing the people from taking action independently. The contemporary 'historical information' penned by Rothes alludes to such thinking. It claimed that, shortly after the 23 July riots against the liturgy, a number of nobles had sent private letters to the privy council urging it not to enforce the prayer book. They argued, further, that if the council failed to heed the advice of the nobility, the people would 'numerouslie and confusedlie petitione his Majestie', exclaim against the council, and thereby 'diminische the peoples respect to his Majestie, which sould be cairfullie cherished'. Lord Advocate Hope's language at

Balmerino's trial, emphasizing the reverence due to a 'sacred and sovereign prince', was being thrown back at the government.²¹

Mobilization of opinion through petitioning and crowd actions, culminating in mass swearing and signing of the 1638 National Covenant, posed a dilemma for the Covenanter leadership once they formed a provisional government. Collective supplications that had drawn in people from outside the governing elite, and purported to speak on their behalf, threatened a socio-political order that the Covenanters fully intended to uphold. The constitutional settlement made with the king in 1641 allowed the Covenanters to reunite the political elite around the traditional structures of governance. This they achieved with extraordinary success.²² Having reinvested parliament and Kirk with legitimacy, the Covenanters had little interest in promoting further public debate, especially if it risked views contrary to their own being publicly expressed. The privy council was assertively petitioned by a crowd sympathetic to the king in May 1642, as relations deteriorated between Charles and his English parliament.²³ These scenes alarmed Covenanters, who knew how effective such tactics had

²¹ J. Leslie, *A Relation of Proceedings concerning the Affairs of the Kirk of Scotland from August 1637 to July 1638*, J. Nairne (ed.), (Edinburgh, 1830), pp. 7–8; *State Trials*, vol. iii, 1627–40, p. 598.

²² Stewart, *Rethinking*, pp. 85–6, 125–7.

²³ D. Stevenson, *The Scottish Revolution, 1637–44: The Triumph of the Covenanters* (Edinburgh, pbk edn, 2003), pp. 248–9.

been in 1637–38, and encouraged them to impose tighter regulation over petitioning practices.

One way in which petitioning could have troubled Covenanter government was the conviction that subjects were entitled to supplicate the king personally. One such attempt was made in February 1643, when an unnamed group of ‘noblemen, barons, gentlemen and others’ sought to gain subscriptions to a petition requesting liberation from payment of an annuity that the crown had tried to levy on teinds (tithes) after 1633. A remodelled privy council,²⁴ now led by the country’s premier politician, Archibald Campbell, eighth Earl and first Marquis of Argyll, took exception and argued that ‘the publict judicatoris’ were the proper channel for ‘convoying’ business between ‘his Majestie and his people’. A printed proclamation was immediately issued by the council to inform ‘the subjects’ that direct appeals to the king without its knowledge would be regarded as ‘unusuall and unwarrantable’. Two weeks later, a new petition was directed from the same group to the council, explaining with all ‘humilitie’ that they had acted in the belief that ‘recourse to the King’ was both ‘agreable with the naturall

²⁴ The privy council did not meet November 1639–November 1641, convened regularly thereafter until June 1643, then lapsed again. See D. Masson (ed.), *Register of the Privy Council of Scotland [RPCS]*, 2nd series, 8 vols (Edinburgh, 1899–1908), vol. vii, 1638-43, esp. pp. 142, 450. Miscellaneous documents from 1643 to 1650 were calendared in a supplementary volume, *RPCS*, 2nd series, vol. viii, 1644-60, esp. p. v.

libertie of the subject' and 'consonant' with the powers kings derived from God. This was a traditional view of petitioning from which Charles himself would surely not have demurred. The council insisted on viewing the original petition, promptly answered the supplicants, and composed its own letter to the king.²⁵

Lord Advocate Hope had attempted in 1633 to redefine what constituted a petition. Ten years later, a council of which both Hope and Balmerino were members took action to control the petitioning process. A proposal to prevent 'forder subscriyveing' of the teinds petition was so sensitive that the council took the uncommon step of holding and recording votes on the act.²⁶ Why was no protest made against the council's astonishing assertion that it ought to be an intercessor between monarch and subjects? After all, direct petitioning of the king had been considered, and attempted, by Covenanters on several occasions during the crisis years of 1638–40.²⁷ A probable answer lies in events south of the border, where the campaign season of 1642 had ended with an indecisive battle at Edgehill. Both the king and the English parliament sought thereafter to secure assistance from Scotland. In January 1643, one month before the teinds petition

²⁵ *RPCS*, 2nd series, vol. vii, 1638-43, pp. 394, 397, 398, 404–5, 405–6, 407.

²⁶ *RPCS*, 2nd series, vol. vii, 1638-43, p. 607 (on intervention, 12 agree, 5 to delay; on the act, 14 agree, 2 reject).

²⁷ For references to direct petitioning, or attempts at it, see Donald, *Uncounselled King*, pp. 69, 121, 126, 252.

came to light, rival supplications were submitted to the privy council, by Covenanters who sympathized with the English parliament, and by royalist nobles and lairds. The calling of a convention of estates in May 1643, which approved an alliance with the English parliament (called the Solemn League and Covenant), seems to have contained further petitioning. During the tense early months of 1643, both the Covenanter leadership and its critics had drawn back from aggressive public petitioning in favour of seeking to control the mechanisms through which an intervention in England would be sanctioned. The Solemn League signified a political triumph for the Covenanters associated with the marquis of Argyll.²⁸

Petitioning remained a danger for the Covenanter leadership but, as in the 1630s, it was too valuable in other ways, and too closely associated with assumptions about legitimate rule, for the practice to be systematically suppressed. From the perspective of the Covenanter leadership, reform of the parliamentary process for reading, scrutinizing and responding to petitions provided an opportunity to validate the autonomy of the estates in the wake of Charles I's attempts to reduce it to dependence on the royal will. The nature of these reforms has been subjected to a definitive analysis by John Young and needs only a little further elaboration here. Of key importance was the establishment of a committee process for preparing bills and supplications, which ensured (in

²⁸ The best account remains Stevenson, *Scottish Revolution*, pp. 248–75.

theory) that all propositions could be viewed, and if necessary debated, by the whole house. This development has rightly been seen as a response to increased royal control since 1603 over the parliamentary preparatory committee known as the Lords of the Articles.²⁹

Reform of the legislative process probably did make it more transparent, but also more cumbersome and time-consuming. An increasingly elaborate committee structure made it possible for petitions to be submitted to more than one body and for politicians to avoid making difficult decisions by passing the case to someone else. The result was duplication of effort, increased workloads, and an enhanced likelihood of contradictory instructions being issued. By the middle of the decade, war was creating so much business for the Committee of Bills that it was struggling to complete its work before a given parliamentary session closed. In August 1645, supplications remaining at the end of a session were remitted by parliament to the Committee of Estates, which was granted the power either to make a determination or to conclude that the petition was a judicial matter.³⁰ Further modifications were made to procedure in 1649 during

²⁹ J.R. Young, *The Scottish Parliament, 1639–1661: A Political and Constitutional Analysis* (Edinburgh, 1996), esp. pp. 21–2, 31–2. See also A.R. MacDonald, ‘Deliberative processes in parliament c.1567–1639: multicameralism and the Lords of the Articles’, *Scottish Historical Review* 81, (2002), pp. 42–4.

³⁰ *RPS*, 1645/7/24/74.

one of the decade's busiest sessions. An act of March 1649 observed that 'the multiplicite of effairs of greater moment' – one way to describe the recent execution of the king by a faction of his English subjects – should take priority over the 'great amount of business of small importance'. Petitions that had been discussed in committee, instead of coming straight to parliament, would now be passed on to three commissioners, whose job was to produce a 'short note' to help representatives make decisions more efficiently.³¹ At least 90 supplications were reported on during the session that opened in January 1649 and a further 60 outstanding items were remitted at its end to the Committee of Estates.³²

In the next section we will look at some of the ways in which supplicants adopted the rhetoric of the governing regime, and constructed narratives that endorsed its self-image, in order to maximize the likelihood of a favourable response. The Covenanter leadership, by making the process for submitting everyday petitions more transparent, signalled their commitment to restoring constitutional norms, but this also meant reinforcing customary constraints on the use of petitions to express opinion. Supplicants continued to need expert assistance to ensure adherence to accepted forms. They were required to submit themselves to a process controlled by the parliamentary elite, in which the use of publicizing tactics to exert pressure on representatives – such as convening to

³¹ *RPS*, 1649/1/284.

³² *RPS*, A1649/1/110, 111, 113; 1649/1/114.

make a collective presentation, circulating petitions to acquire signatures, or printing them – was tacitly denied. After a period of turmoil in which the people had been able (or, in the eyes of some, licensed) to exert an undue level of influence, the Covenanter leadership was keen to demonstrate that it had re-established a legitimate political order headed by the natural leaders of society.

Petitions to parliament in Covenanted Scotland: narratives, form and language

The exceptional conditions of the 1640s, and the more sophisticated administration created so that government could respond to them, almost certainly gave certain people more cause to become petitioners. Scotland was on a war footing for most of the 1640s. In order to pay for armies that were active across the archipelago, Covenanter government experimented with novel taxation in the form of an excise (January 1644) and a reformed land tax called the monthly maintenance (February 1645). Quotas set for raising and supplying soldiers, and for lending money to the public, were predicated primarily on rental values. During and after a royalist rising led by James Graham, fifth Earl and first Marquis of Montrose, and Alasdair MacColla, new committees were created to punish so-called ‘malignants’, mainly by fining them, and to investigate claims for compensation by those whose goods had been either seized or destroyed.³³ As

³³ Stewart, *Rethinking*, ch. 4.

the case studies below will demonstrate, these processes stimulated petitioning, particularly by propertied people.³⁴ It is likely that poorer supplicants often looked to their social superiors, ideally those with connections in Edinburgh, to intercede for them and bear the cost.³⁵

Securing obedience to new governing structures, and sustaining confidence in controversial legal proceedings, depended on convincing governing elites that processes operated according to a reasonably transparent and consistent set of principles.³⁶ Receptiveness to petitions against administrative errors in the valuation process, for example, or taking action in support of individuals who had been overpaying due to vindictive or malicious reports of their worth, helped to foster compliance. Due process was particularly carefully observed with those who came under censure for acting against the public good. Hugh Blair of Blairstoun had been found guilty of the relatively minor offence of taking a letter of protection from the marquis of Montrose and fined accordingly. In March 1646, he petitioned the Estates after a central committee had imposed the fine,

³⁴ There were expenses involved in drawing up a petition: A. Hughes, 'Parliamentary tyranny? Indemnity proceedings and the impact of the civil war: A case study from Warwickshire', *Midland History* 11, (1986), p. 64.

³⁵ For one example involving the Marquis of Argyll, see *RPS*, 1645/11/81; 1645/11/299; 1646/11/31; 1646/11/536. National Records of Scotland [NRS], Supplementary Parliamentary Papers, 1646, NRS, PA7/4, nos 135, 136.

³⁶ Hughes, 'Parliamentary tyranny?', esp. pp. 52–4, 62–5.

unaware that the local war committee had already instructed him to supply two foot soldiers in lieu of the money. Hence, he had been ‘double punished for ane and the same fault’. His petition was received favourably and the error rectified.³⁷

Winkling out political deviancy was accompanied by an effort to compensate loyal Covenanters for damage incurred at the hands of royalists. The Committee for Losses came into being during 1645. When its commission was renewed in February 1646, the committee was instructed to revise and consider supplications, draw up reports, and record them in a register, which was put into the care of Mr Andrew Baird, the busy deputy clerk register. (It appears not to have survived.)³⁸ The creation of new bodies whose work included evaluating the worth of people’s goods acted as a stimulus to petitioning. Indeed, Baird himself turned supplicant. In April 1647, Baird complained that he had produced reports on many supplications from ‘sundrie distressit gentlemen and utheris’, about which he could do nothing, because ‘I haif not access to yor Lo[rdships] to communicat this’. Baird’s concern was that he would be accused unfairly of neglecting his work.³⁹ This petition is suggestive of the administrative difficulties created when an expanding central administration took on new tasks.

³⁷ NRS, PA7/4, no. 122.

³⁸ Young, *Scottish Parliament*, pp. 126, 132, 149, 167, 169–70. *RPS*, 1645/11/213; also 1646/11/65.

³⁹ NRS, PA7/4, nos 134, 289.

Identifying malignants and compensating losses required government officials to make assessments about political reliability. Were the petitioners known to be good Covenanters? Had they paid their taxes and put out troops when requested? For accused malignants, details of a hitherto unspotted record of dedicated service to the public, preferably supported by testimony from credible persons, was of great importance. As ‘artful constructs designed to get something done’,⁴⁰ petitions utilized forms of expression and narrative structures that the authors believed would help them achieve their objectives. Petitions were almost certainly a collaborative effort, involving the supplicating individual or group, the person(s) who drew up the document, and central committee members who may have advised on, or made, amendments. The Committee for Losses, for example, was permitted to revise supplications and, as we will see, these documents could go through more than one version. It is likely, too, that local bodies such as shire war committees and kirk sessions had input into the production of a petition.⁴¹ Although problematic pieces of evidence for investigating how Scots might have ‘self-fashioned’ themselves as Covenanters, petitions can reveal something about how the language and rationales of

⁴⁰ Ormrod, ‘Introduction’, p. 11.

⁴¹ War committee papers are scattered and fragmentary, with only one known record of any length (for Kirkcudbright). Kirk session records vary widely, but could be investigated further.

government informed one of the most important means by which people engaged with central bodies.⁴²

The case of Dame Elizabeth Maxwell, Lady Herries the elder, is interesting in that she was not obviously someone that the Covenanter regime had reason to look upon favourably. She was, or had been, a Catholic recusant, and her son, John Maxwell, 7th Lord Herries, had been censured by the government for participating in the royalist rising. He was charged with high treason in February 1645 but, two years later, following ‘full debate’ in parliament, the decret of forfeiture was rescinded with provisos.⁴³ Although Dame Elizabeth’s lands appear to have been held in her own name, and were thereby unaffected by the decret, these circumstances were unlikely to make for a sympathetic hearing.

Three petitions in Dame Elizabeth’s name survive.⁴⁴ Her first supplication was read on 28 January 1646 and stated that the commissar-depute, William Livingstone, a leading financial officer, had been given a warrant to lift the

⁴² Hughes, ‘Parliamentary tyranny?’, pp. 67–9.

⁴³ *RPS*, 1645/1/75, 1646/11/211. Lord Herries’ cautioner, Thomas MacLellan, 2nd Lord Kirkcudbright, may have influenced the outcome. The MacLellans were connected to John Campbell, 1st Earl of Loudoun, Lord Chancellor. Stewart, *Rethinking*, p. 240. Herries’ estates were confirmed at the Restoration. *RPS*, 1661/1/268. See also, J. Balfour Paul (ed.), *Scots Peerage*, 9 vols (Edinburgh, 1904–14), vol. iv, p. 416; vol. vi, p. 487.

⁴⁴ NRS, PA7/4, nos 3, 17; Warrants of the Committee of Estates, PA12/1, November 1640–October 1646, [unpaginated], 26 March 1646.

revenues from her estate for the years 1644 and 1645. Livingstone should have paid Dame Elizabeth a £1,000 annual allowance out of these revenues. This he had not done, leaving her with nothing to sustain herself. She therefore requested that her own servants be permitted to ensure she received what was rightfully hers. This petition was approved.⁴⁵ A second copy of the petition appears to have been remitted to the Committee of Monies. It is the same in substance as the first but in places the wording and spelling are slightly different.⁴⁶ A summary of Dame Elizabeth's rents and an order to the government's auditors to review Livingstone's accounts also survive.⁴⁷ On 29 April,⁴⁸ the committee ruled that Dame Elizabeth should be permitted to uplift her own rents during her lifetime, subject to conditions.⁴⁹

The third petition was addressed to 'parliament and committie of estatis' and composed at some point during the next six months. Although similar to the

⁴⁵ NRS, PA7/4, no. 3.

⁴⁶ NRS, PA7/4, no. 3; PA12/1, 26 March 1646.

⁴⁷ NRS, PA7/4, no. 17-1.

⁴⁸ NRS, PA12/1.

⁴⁹ NRS, Register of the Committee of Moneys (south), 3 February–26 October 1646, PA14/3, p. 172 (act of 29 April recorded on 2 May as previously 'omitted'). Oddly, the Committee of Processes has a warrant dated 29 April, allowing Dame Elizabeth to uplift her rents, subject to conditions, crossed out. NRS, PA7/4, no. 17-4. The final decision must be that in the register.

first two, it contains new information that speaks to the problem of different committees issuing contradictory orders. While Dame Elizabeth's petition had been sitting with the pile marked for the Committee of Monies, the Committee of Estates had issued a warrant to a Lieutenant Colonel Home, giving him permission to uplift her rents. A warrant on the reverse of the petition, signed by the clerk register, Alexander Gibson of Durie, reaffirmed Dame Elizabeth's rights in November 1646.⁵⁰ This is the last known reference to the case.⁵¹

These are the bald facts, but Dame Elizabeth's petition was also enriched with additional detail designed to promote a favourable outcome.⁵² One of the most important features of petitions in this period was mention of the supplicants' good carriage. Dame Elizabeth was careful to stress that she had never been 'deficient in the publick in ony thing that concerncit me Bot hes peyit all dewis proportionalie according to my rent as any other in the kingdome hes done'. In the third petition, Dame Elizabeth stated that she was 'willing and reddie' to do whatever was required of those of 'lyke estate' to herself for 'the weill of ye

⁵⁰ NRS, PA7/4, no. 17-3.

⁵¹ There is no mention of Dame Elizabeth in *RPS*. For reference to Elizabeth Gordon, Lady Herries the younger, and her children, see *RPS*, 1645/11/26.

⁵² The rhetorical strategies deployed by female petitioners in civil war England exhibit similarities to those outlined here. See H. Worthen, 'Supplicants and guardians: the petitions of Royalist widows during the civil wars and Interregnum, 1642–1660', *Women's History Review* 26, (2017), esp. pp. 532–6.

publict'. We learn further that Dame Elizabeth was 'ane Ladie honorablie borne', forced to support herself and her 'great familie' on 'the favor of my friends, q[ui]ch is now become short'. She was not only 'of great age past fourscoir yeirs', but also 'so havelie diseasit' that she had been bedridden for the past three months and unable to conduct her 'lau[fu]ll effairs'. By way of verification, she could produce a testificate signed by the elders of her parish.

This petition seeks to put the committee under an obligation to extend its sympathy and protection to a vulnerable old woman. '[I]t can not stand w[i]t[h] yor honor to let me sterve', states the petition, while 'yor' commissar – note the use of the possessive pronoun – 'lifts my monies'. A seemingly small modification to the third petition takes out the sentence impugning the 'honour' of the committee and replaces it with more supplicatory language: 'I maist humblie beseik Yor L[ordships] to have dew consideratioun of ye premisses ... and Yor L[ordships] confortable ans[we]r humblie I beseik'.⁵³ Having attained the desired outcome (restoration of her revenues), the third petition avoids jeopardizing the rectification of the minor fault (the mistaken lifting of the revenues for 1646) with impolitic language.

A more complex case is that of James Murray, second Earl of Annandale. After initially supporting the king, Annandale took the 1641 oath of parliament

⁵³ NRS, PA7/4, nos 3, 17-3. Two testificates survive, dated Jan. and Mar. 1646, NRS, Yule Collection, GD90/2/74, 75.

endorsing the Covenant and thereafter served in government.⁵⁴ Annandale later joined the royalists and, by the early months of 1646, he was under investigation for malignancy by the Committee of Processes. With hopes of a royalist military victory in England now fading away, Annandale did the only sensible thing and offered up a fulsome apology. He assured the committee ‘that as nothing is more odious to the supplicant then his owne errors and the memorie of them: so, not ane thing is or can be more intended then the faithfull service of the cuntrie, when ever occasioun sall give him opportunitie, or he sall be honoured with the commands of the said committee, which is his greatest ambitiou’.⁵⁵

Annandale’s unctuous tone mattered less to the committee than the intercession of the vanquisher of Montrose, Lieutenant General David Leslie. In February 1646, Leslie sent a letter to the Committee of Processes testifying to Annandale’s ‘willingnes to evidence his repentence by being serviceable to his native kingdome’ and urging them not to ruin Annandale for what Leslie called ‘a smal synne’. Annandale had been granted a ‘paroll’ by Leslie preserving ‘his life and estate’ after his surrender. Clemency towards Annandale, stated Leslie,

⁵⁴ *RPS*, A1641/8/1a; 1644/1/129; 1644/6/225; 1644/6/249. Annandale was in favour in early 1645, as suggested by *RPS*, 1645/1/112. See also Young, *Scottish Parliament*, pp. 35, 121, 285–6.

⁵⁵ See *NRS*, PA7/4, nos 48–54 (Annandale’s petition, no. 49); *NRS*, PA12/1, 26 March 1646 (copy and recommendation by the committee). See also *NRS*, PA11/4, fos 209r–v; *NRS*, PA14/3, pp. 43, 136, 169.

would be taken 'as done to my self'. His 'word of honor' was at stake. A second, more strongly worded letter was required when the committee, equivocating, decided to impose a fine on Annandale, but left the final decision to parliament. If his personal guarantee was not honoured, Leslie continued, 'I should be rendered incapable in doing any service to my native cuntrey'. The case should be delayed 'untill I be heard', for Leslie was not prepared to endure 'the publique reproach of a deceiver' should the terms of his parole be ignored.⁵⁶

The Covenanter leadership had been put in a dilemma. On 26 March 1646, the Committee of Estates recorded receipt of Annandale's supplication and remitted it to the Committee of Processes, with the caveat that the Lieutenant General 'may not have reason to think his parroll broken'.⁵⁷ The Committee of Processes duly acknowledged its 'respect' to Leslie, remitted the 'full procedor' to parliament, but insisted on the fine. Annandale supplicated parliament again in January 1647 in similar terms to his earlier petitions. Parliament's final word was that Annandale's fine should be regarded as a 'debt' to be repaid by the 'public'

⁵⁶ NRS, PA7/4, nos 48, 49, 52.

⁵⁷ NRS, PA11/4, fos 209r-v.

with interest.⁵⁸ Leslie's intercession had been the decisive factor in this outcome.⁵⁹

There is a coda. One of the most prominent and committed Covenanter nobles on the Committee of Processes was John Kennedy, 6th Earl of Cassillis. In April 1646, Cassillis signed the warrants, in the name of the committee, agreeing to repay Annandale's fine in the event that parliament decreed he was free of censure. Underneath his own signature, Cassillis has added this line: 'signes as the judgement of the comitte not my owne'.⁶⁰ Was Cassillis offended with the committee for slighting the word of the saviour of Covenanted Scotland, or offended with parliament for placing the private word of a soldier above the demands of public justice? The immediate context in which the protest was made – the agreement to repay the fine – suggests the latter.

Thus far, we have considered examples of petitions to the government requesting favour and redress. We have observed three recurring rhetorical themes: the suffering of the supplicant; their fulfilment of all public duties; and their sorrowful acknowledgement of any errors committed. A petition by John Downie, skipper of a ship called (ironically, as things turned out) the *Fortune* of

⁵⁸ *RPS*, 1646/11/118.

⁵⁹ Annandale was not trusted again with public office until Charles II's arrival in Scotland. *RPS*, A1651/5/8; M1651/5/18.

⁶⁰ *NRS*, PA7/4, nos 51, 54.

Leith, was similarly concerned with a request for favour, yet did so in language not of supplication but of complaint. Downie's petition was first read by the Committee of Estates in August 1644. By the time a second copy was directed to the Committee of Monies, and a warrant was issued in the supplicant's favour on 28 May 1646, an uncharacteristically strident petition had been honed into the customary supplicatory form.

Downie's first petition opened not with an entreaty but with a complaint. He had been 'prest' by the Committee of Estates in February 1644 to transport a cargo of meal from Leith to Carrickfergus for the supply of the Scottish army in Ireland.⁶¹ A petition of this kind would ordinarily have emphasized the supplicant's willing service to the public. Instead, Downie revealed that he had been so reluctant to undertake the task that he had tried to buy his way out of it. He had made known his objections, too, 'as namelie, the unseasonabell tyme of the yeir, my unfitnes of the voyage never having being in thois pairtis befoir, the danger of pyrates and severall utheris q[ui]lks might hav hendered me thairfra'. In an extraordinary passage, the skipper went on to claim that the Committee of Estates had imprisoned and otherwise punished others who had refused to go to Ireland. By these means, 'it pleasit your Lo[rds]hips] to compell me to undertaike the said voyage'. This was tantamount to an accusation that the committee was guilty of oppressive and arbitrary action – a serious charge against the

⁶¹ NRS, PA12/1, 3 and 8 August 1644.

government. Having ‘faithfullie and trewlie’ completed his errand, Downie turned his ship for home but, as he had feared, it was seized by a Dunkirk frigate commanded by ‘Iyrische rebels’. Although the skipper and his crew were eventually put ashore in Scotland, the ship was lost to the pirates. Despite repeatedly seeking reparations, which Downie thought in ‘all equitie and conscience’ the committee was obligated to provide, the skipper had received no redress. Now Downie and his co-owners faced ruin.⁶² Offering compensation was in the committee’s best interests to ensure that ‘I and all uthris’ would be the ‘moir encouraged to undertak your Lo[rdships] imploymentis with the greater cheirfullnes’.

Before accepting the commission, Downie had taken the wise precaution of insuring the *Fortune* with the Edinburgh merchant and future commissary-general, James Stewart. The committee’s first act was to find out whether ‘publict contracts’ had been drawn up for the sum Downie claimed his ship was worth. Although both points were confirmed, the process then stalled, necessitating a second petition from Downie that was read by the Committee of Monies in May 1646. This one was more succinct and took a less strident tone.⁶³ Downie opened

⁶² Alexander Downie of Edinburgh, a co-owner of the *Fortune* and importer of sail canvas, advanced money to the public in 1641. He was awaiting payment in 1649. *RPS*, 1644/6/174; 1649/5/403; A1650/5/59–60.

⁶³ *NRS*, PA7/4, nos 157, 158.

by citing the ‘maney inconvenementis’ undergone on the voyage, but no mention was made of having refused the mission and, crucially, all criticisms of the government had been removed. Adopting at least a show of humility, and in language more likely to appeal to the Covenanter leadership, Downie stated that the cargo had been safely delivered thanks to ‘the providence and assistance of god upoun my diligent and cairfull endeavors’. Further detail suggests an attempt to observe supplicatory forms by stressing the suffering of the petitioner. It was implied that the public men of the realm could hardly show themselves less inclined to ‘charitie’ than the poor ‘countrie peopill’ who had assisted Downie and his crew after being put ashore by the pirates. Customary supplicatory terms concluded the petition by ‘humblie’ beseeching the committee to consider his ‘humble desyre’.

Some progress was now made and the Committee of Monies agreed that Downie’s losses were a public debt. Despite a warrant being issued for payment, no money was forthcoming. In August 1649, over five years after his fateful journey, Downie was still petitioning for recompense. His heart must have sunk when he found out that parliament had punted his case back to the Committee of Monies.⁶⁴ Yet, while the 1644 petition had been ignored, the 1646 petition appears to have been read and approved within a week. The problem for Downie, as indicated in the 1649 act, was that the government simply did not have the

⁶⁴ *RPS*, 1649/5/404.

means to recompense him. There is no way to be sure that the different tone taken by the two versions explains these contrasting responses, and we cannot know whether the redrafting was carried out at the recommendation of someone within the government. At the least, it seems that the failure of the first petition prompted a rethink of the petitioner's language and the reconstruction of the supplicatory narrative.

Conclusions: Petitioning and processes of governance

Political petitions have attracted the attention of early modern historians as a device capable not only of giving expression to opinion, but also of invoking it, most notably when they have been deployed collectively and as an adjunct to other forms of lobbying, mobilizing and protesting. This kind of petitioning departed from what David Zaret regarded as the 'traditional' role of the supplication as a means of validating hierarchical socio-political relationships. We can accept that these two modes of petitioning have different political meanings and effects, without endorsing Zaret's dichotomous model. In a path-breaking analysis, Jason Peacey has proposed that we consider a spectrum of participatory activity. '[A] range of *everyday practices*', appropriated by a widening cross-section of society, became just as important as the dramatic examples of political organizing for breaking down the barriers that limited access to political knowledge. Supplicants began printing their petitions during the 1640s, not necessarily to mobilize opinion – although this also happened –

but to distribute them to potentially large numbers of parliamentarians who were not known to them. Peacey's work suggests historians need to look more closely at how petitioning activities can reveal more than one purpose and be interpreted in multiple ways.⁶⁵

Mobilization of people from outside political institutions, using a range of tactics that included the printed petition, is seen as one of the hallmarks of the English revolution. Petitions were not used in this way in Covenanted Scotland. The campaign against the liturgy in 1637 had deployed collective, extra-institutional petitioning in a controlled way that sought to demonstrate the organizers' respect for established political norms, and so did not offer a precedent for mass petitioning. Supplications were almost never printed, thereby re-emphasizing the association of print with institutional authority.⁶⁶ On a practical level, it was less necessary for supplicants to develop new ways of getting their business noticed in a comparatively small, single-chamber parliament, where procedure – for all the developments of the period – remained relatively straightforward. Supplicants appear to have decided that adopting novel tactics was not likely to bring them further advantage.

If petitions did not, in themselves, take on revolutionary forms in Covenanted Scotland, they nonetheless spoke to other developments in the

⁶⁵ Peacey, *Print and Public Politics*, pp. 14–22 [quotations at 15, 17; author's italics], 268–70.

⁶⁶ Stewart, *Rethinking*, pp. 267–79.

exercise of state power. Many petitioners continued doing what they had always done: asking for clemency, defending themselves against charges of wrongdoing, demanding justice, and seeking confirmation of their property rights. The supplicatory formulas topping and tailing petitions remained much the same. However, the narratives contained within them alluded to government bodies and activities that had been transformed by the pressures of sustained warfare. Covenanted government used a different (albeit not entirely novel) language to justify what it was doing and the writers of supplications quickly began to emulate it: the petitions of Covenanted Scotland frequently refer to all things ‘public’ and use the hitherto unusual term ‘malignant’.⁶⁷

Everyday petitioning invited participation in governing processes, which the Covenanter leadership encouraged as a means of legitimizing their claim to rule. This does not mean that Covenanter government exerted complete control over petitioning practices or its meanings. John Downie and Dame Elizabeth Maxwell, in different ways, used the petitionary form to critique a government that was not living up to its own rhetoric and to remind the powerful of their social obligations. Although both individuals were arguably asserting a traditional right to express grievance, the government’s tolerance of such criticism is suggestive of its desire to avoid being accused of acting as arbitrarily as Charles I. Annandale’s petitions superficially seem to represent a more complete

⁶⁷ Stewart, *Rethinking*, pp. 219–23.

submission to the government's expectations and demands. The Covenanter leadership could use the repentant Annandale to demonstrate publicly that a just government did not act punitively; this interpretation was undermined by Leslie's parole. Annandale appealed not so much to the government's clemency as to its good sense in recognizing that it could not thwart Scotland's most powerful military figure.

That Covenanter government was able to contain innovations in petitioning practices so much more effectively than the English parliamentary leadership is interesting in itself. It suggests that we need to remain as attentive to points of divergence across national boundaries as we now are to the forces driving the creation of transnational cultures.⁶⁸ During the 1640s both the English and Scottish parliaments underwent profound changes in procedure, composition and, most troublingly, the power they wielded. The achievement in Scotland of a broadly accepted constitutional settlement seems to have fostered a reluctance thereafter to test its resilience by pushing the boundaries of what constituted legitimate petitioning practices. We have some sense, through Karin Bowie's work, of how populist petitions and addresses in the years around the 1707 Act

⁶⁸ Knights, *Representation*, p. 111; L.A.M. Stewart, 'Introduction: Publics and participation in early modern Britain' and J. Peacey, 'Print culture, state formation, and an Anglo-Scottish public, 1640–1648', *Journal of British Studies* 56, (2017), pp. 709–30 and 816–35.

of Union drew on memory of the Covenanter era.⁶⁹ Given what we now know about the exertions of the Covenanter leadership to prevent the normalization of collective political petitioning, there is no little irony here. When in power, the Covenanters had contained the idea that their actions in the late 1630s could be read as a challenge to accepted political norms. Future interpretations were out of their hands.

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⁶⁹ Bowie, *Scottish Public Opinion*, pp. 99–101, 109, 125–30.