

# THE PRIVY COUNCIL OF JAMES V OF SCOTLAND, 1528–1542\*

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**ABSTRACT.** *The development of the Scottish privy, or secret, council has hitherto been located in the 1540s and attributed to the pressures on government brought about by royal minority. Concomitantly, scholarship exploring the personal rule of James V (1528–42) has focused on the king's relations with individual magnates and neglected the subject of institutional development during his reign. Through an examination of commentary on the council outwith the council register, ranging from acts of parliament to correspondence and reports by foreign observers, this article posits a significantly earlier date for conciliar development in Scotland than has hitherto been appreciated. The council is visible throughout the personal rule of James V, assuming a particularly significant role in Anglo-Scots diplomacy from 1540 until 1542, when it was delegated by James to respond to letters during his frequent absences from Edinburgh. This aspect of council activity provides an example of institutional development facilitating rather than hindering the continuation of a peripatetic royal court, an unusual combination in not only a Scottish but a wider European context. Reassessing the significance of James V's council thus has broader implications for understandings of his kingship and the expansion of crown power in sixteenth-century Scotland, whilst throwing light on questions of Anglo-Scots diplomacy.*

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On 22 July 1542, the Scottish council dispatched a letter to the Scottish ambassador to London, Sir James Learmonth of Darcy.<sup>1</sup> The missive recounted violence on the Anglo-Scottish border and emphasized the extent to which this outbreak of conflict ran contrary to James V's irenic intentions towards the realm of his uncle, Henry VIII. In the context of the summer of 1542, when England and Scotland were sliding slowly towards war and border raids were increasing, much to the avowed distress of Scotland's sovereign, these sentiments

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<sup>1</sup> Council of Scotland to James Learmonth, 22 July [1542], Edinburgh, National Records of Scotland (NRS) SP13/30/2.

were entirely unremarkable. Sadly, this is a somewhat anticlimactic revelation to draw from a previously undiscovered piece of correspondence.<sup>2</sup> More noteworthy than the letter's contents, however, is the fact that there is no other record of the Scottish council meeting to discuss this topic. The letter thus reveals an otherwise unrecorded item of council business. Moreover, this letter, and others like it dating from that summer, shows the council taking an active role in Anglo-Scottish diplomacy.<sup>3</sup> This, by contrast, is surprising, since the accepted narrative of conciliar development in Scotland states that the council grew in significance during royal minorities, but that before Mary's personal rule, adult Stewarts did not usually govern through their councils.<sup>4</sup> This article revises our understanding of conciliar development in Scotland by demonstrating that during the personal rule of James V the council played a larger and more significant role than has hitherto been recognized, and that an important facet of this role was undertaking diplomacy with England.

The connection between royal minority or weakness and conciliar development pointed to in the previous paragraph echoes conclusions drawn south of the border, particularly in the contexts of the minorities of Henry VI and Edward VI of England.<sup>5</sup> Despite this, more broadly, the Scottish council has received significantly less scholarly attention than its English counterpart.<sup>6</sup> This historiographical comparison is not intended to raise even the shadow of a suspicion that the council, or indeed any other Scottish institution, should be considered through paradigms developed in another national context, excellent though the research may be, and fruitful as international comparisons can prove. Rather, it is to emphasize that in considering the Scottish council of the 1530s this article has more of the character of an

<sup>2</sup> It is cited in none of the following calendars of correspondence or investigations of James V's career: J. S. Brewer et al., eds., *Letters and papers, foreign and domestic, of the reign of Henry VIII* (21 vols., London, 1862–1932), xvii; Denys Hay, ed., *Letters of James V collected and calendared by the late Robert Ker Hannay* (Edinburgh, 1954); Jamie Cameron, *James V: the personal rule, 1528–1542* (Edinburgh, 1998); Andrea Thomas, *Princelie Majestie: the court of James V of Scotland, 1528–1542* (Edinburgh, 2005).

<sup>3</sup> Council of Scotland to James Learmonth, 30 July [1542], NRS SP13/30/1; Council of Scotland to James Learmonth, 21 Aug. [1542], NRS SP13/30/3.

<sup>4</sup> Julian Goodare, *The government of Scotland, 1560–1625* (Oxford, 2004), p. 130.

<sup>5</sup> Dale Hoak, *The king's council in the reign of Edward VI* (Cambridge, 1976); John Watts, *Henry VI and the politics of kingship* (Cambridge, 1996); Stephen Alford, *Kingship and politics in the reign of Edward VI* (Cambridge, 2002).

<sup>6</sup> Classic contributions to this discussion include G. R. Elton, 'Tudor government: the points of contact, 2: the council', *Transactions of the Royal Historical Society*, 25 (1975), pp. 195–211; John Guy, 'The privy council: revolution or evolution', in Christopher Coleman and David Starkey, eds., *Revolution reassessed: revisions in the history of Tudor government and administration* (Oxford, 1986), pp. 59–85; Dale Hoak, 'Two revolutions in Tudor government: the formation and organization of Mary I's privy council', in *ibid.*; John Guy, 'Tudor monarchy and its critiques', in John Guy, ed., *The Tudor monarchy* (London, 1997), pp. 78–109. For the Tudor council in a broader geographical context: Jon G. Crawford, *Anglicizing the government of Ireland: the Irish privy council and the expansion of Tudor rule, 1556–1578* (Blackrock, 1993).

initial salvo into uncharted territory than the contribution to a venerable debate which readers more familiar with a 'southern British' context might expect. Consequently, many aspects of the Scottish council's development and business remain in need of investigation, and this research raises as many questions as it answers. To set this unfamiliar scene, it is helpful to commence with a brief overview of the known contours of how and when the Scottish council developed.<sup>7</sup>

The records of the councils of James III (r. 1460–88) and James IV (r. 1488–1513) were largely administrative in character.<sup>8</sup> Pre-eminently, they were concerned with dispensing patronage, and characterized by 'fluidity and versatility'.<sup>9</sup> During the minority of James V (1513–28), the council retained this character as a large and somewhat amorphous body, whose duties were both governmental and judicial.<sup>10</sup> From this large group, smaller sub-groups could be selected for specific activities. For instance, auditors of exchequer were usually selected from amongst the lords of council, and undertook these duties as lords of council sitting in the exchequer.<sup>11</sup> Likewise, the full name of this council, the lords of council and session, incorporated reference to the judicial sessions held by some of its members. By the 1520s, the council had entered a period of transition whereby the judicial sessions were gradually separated from its other activities.<sup>12</sup>

The foundation of the College of Justice in 1532 was a significant moment in this process, and has attracted considerable attention in its own right from legal historians.<sup>13</sup> Although it is not the purpose of the present article to enter into the debate surrounding the inception of the College, it is helpful to outline briefly what it meant for the rest of the council. The College of Justice was not a court, rather, it created a permanent, paid, body of judges, and, significantly, provided them with an institutional 'home' from which developed a

<sup>7</sup> For a fuller discussion, see Trevor M. Chalmers, 'The king's council, patronage, and the government of Scotland, 1460–1513' (Ph.D. thesis, Aberdeen, 1982); Atholl Murray, 'Exchequer, council and session, 1513–1542', in Janet Hadley Williams, ed., *Stewart Style, 1513–1542: essays on the court of James V* (East Linton, 1996), pp. 97–117, at p. 105; Goodare, *Government of Scotland*, pp. 128–72; A. Mark Godfrey, *Civil justice in Renaissance Scotland: the origins of a central court* (Leiden, 2009).

<sup>8</sup> For an account of the changing nature of their records, see T. Thomson et al., eds., *Acts of the lords of council, 1501–1503 (ADC)* (3 vols., Edinburgh, 1839–1991), III, pp. xii–xxiii.

<sup>9</sup> Chalmers, 'King's council', p. 7.

<sup>10</sup> W. K. Emond, 'The minority of King James V, 1513–1528' (Ph.D. thesis, St Andrews, 1988).

<sup>11</sup> Murray, 'Exchequer, council and session', p. 105.

<sup>12</sup> Efforts were made sporadically from the late fifteenth century onwards to separate the judicial record from other business: *ADC*, III, pp. xx–xiii.

<sup>13</sup> R. K. Hannay, *The College of Justice: essays on the institution and development of the court of session* (Edinburgh, 1933); A. Mark Godfrey, 'Jurisdiction in heritage and the foundation of the College of Justice in 1532', in Hector MacQueen, ed., *Stair Society Miscellany*, IV (Edinburgh, 2002), pp. 9–36; John Cairns, 'Revisiting the foundation of the College of Justice', in Hector MacQueen, ed., *Stair Society Miscellany*, V (Edinburgh, 2006), pp. 27–50; Godfrey, *Civil justice*.

sense of ‘corporate identity...distinct from that of the King’s Council’.<sup>14</sup> The process of segregation of which the College’s foundation was a part ensured that councillors who were not senators of the College (in essence, those who were not legally qualified) were excluded from meetings of the council which heard private disputes.<sup>15</sup> Over time, the council’s judicial sessions developed into Scotland’s central civil court, although the privy council continued to function as ‘an extraordinary court of justice, dispensing remedies where the ordinary process of law was defective, non-existent or inappropriate’.<sup>16</sup>

The College of Justice’s foundation did not alter established record-keeping practices. Governmental business and private cases, or meetings of the council and its legal sessions, continued to be recorded in the same council register.<sup>17</sup> During James V’s personal rule, from 1528 until 1542, the quantity of governmental business entered into the register of the lords of council and session declined, a trend which became particularly marked from 1535 onwards.<sup>18</sup> Meanwhile, the quantity of private disputes steadily increased. Following James’s death on 14 December 1542, increased numbers of governmental decisions were recorded in the old council register. By 1545, however, a second record had come into use, known today as the Privy Council Register. The first extant volume commences in July 1545, and by 1549 the council had acquired a clerk, albeit, at this stage, one who held the position as ‘a mere appendage of the office of clerk register’.<sup>19</sup> There is no evidence to indicate whether it was indeed the first such register, or if earlier comparable volumes have been lost.<sup>20</sup> It certainly lacks the calligraphic fanfare with which a new record might be expected to commence. Moreover, an unknown quantity of council registers were destroyed in the mid-1540s, when an invading English army adopted a policy of fire and sword across Scotland and sacked Edinburgh, including burning Holyrood.<sup>21</sup> In February 1549, some missing documents were explained to be unavailable because the council records dating from 1544 had been ‘brynt’.<sup>22</sup> A contract made and registered in

<sup>14</sup> Godfrey, *Civil justice*, pp. 146–7; Murray, ‘Exchequer, council and session’, p. 109.

<sup>15</sup> Godfrey, *Civil justice*, pp. 106–7.

<sup>16</sup> *Ibid.*; Murray, ‘Exchequer, council and session’, pp. 115–16; Goodare, *Government of Scotland*, p. 130. For the privy council as a court and the details of its jurisdiction and procedural practices, see P. G. B. McNeill, ‘The jurisdiction of the Scottish privy council, 1532–1708’ (Ph.D. thesis, Glasgow, 1960), pp. 32–7.

<sup>17</sup> NRS CS6; NRS CS7. Selections from the public business printed in R. K. Hannay, ed., *Acts of the lords of council in public affairs, 1501–1554 (ADCP)* (Edinburgh, 1932).

<sup>18</sup> *ADCP*, p. xliii.

<sup>19</sup> P. G. B. McNeill, ‘Clerk of the privy council’, *Juridical Review*, 7 (1962), pp. 55–8, at p. 55.

<sup>20</sup> Privy Council Register, 1545–7, NRS PC1/1; *ADCP*, p. xliii.

<sup>21</sup> Marcus Merriman, *The rough wooings: Mary, Queen of Scots, 1542–1551* (East Linton, 2000), pp. 148–9. Hertford, Lisle, and Sadler to Henry VIII, 9 May 1544, British Library (BL) Add. MS 32654, fo. 179v; Anon., *The late expedition in Scotlande, made by the kynges hyghnys armye, vnder the conduit of the ryght honorable the erle of Hertforde, the yere of our Lorde God 1544* (London, 1544), sig. Biii.

<sup>22</sup> *ADCP*, p. 581.

March 1544 was likewise contained in ‘ye quair of ye...bukis...[that] wes brynt and distroyit’.<sup>23</sup> Beyond the fact that they contained copies of contracts registered with the council, the nature of the burned materials is unclear: they could have been analogous to the Privy Council Register, the register of the lords of council and session, included volumes of both items, or constituted a transitional record. The crucial point is that the council’s archive was already damaged to an unknown extent by 1549 when the lost materials included, although may not have been limited to, items produced in 1544.<sup>24</sup>

Moving away from this terra incognita of archival loss back towards the firm ground of extant records, the distribution of governmental business in these records has provided the basis for the prevalent historiographical narrative of governmental change driven by the monarch’s age and gender. A decline in the recorded quantity of governmental business during the personal rule of James V is explained by the suggestion that as an adult male ruler James V was strong enough to eschew the governmental institutions which had served as a poor stop-gap substitute during his minority. In due course, his daughter’s minority and absentee rule (1542–61) in turn provided a space for other parts of government to take on greater power at the crown’s expense, a situation which, for the first time, did not then reverse during Mary’s personal rule (1561–7). Famously, Jenny Wormald characterized the higher levels of magnate involvement in government which prevailed during minorities as a ‘safety-valve’ against Stewart expansionism which might, if left unchecked, have disturbed the delicate balance of crown–noble, and inter-noble, relations which allowed the Scottish polity to function largely without institutions.<sup>25</sup> Whilst informal, personal relations were a central facet of Scottish political life in this period, it is worth noting that this historiographical emphasis perhaps explains why the Scottish council has hitherto largely escaped scholarly attention. To date, Julian Goodare’s study of the privy council c. 1560–1625 is the sole serious attempt to expose its development. Defining the privy council as ‘a corporate body that kept records’ and ‘which, unlike its predecessors, did things itself’, Goodare argued that it emerged as a part of adult monarchical government during Mary’s personal rule and thereafter assumed a central role in governance.<sup>26</sup> Goodare further points to the appointment of a secret council in 1543 and the commencement of the extant registers in 1545 as evidence that ‘the privy council began during the minority of Mary, when a return to conciliar government was to be expected’, and emphasizes the presence of officers of state as a key reason for the council’s efficacy.<sup>27</sup> Goodare’s privy

<sup>23</sup> NRS CS6/21, fo. 108r. See also NRS CS6/21, fo. 140r.

<sup>24</sup> Numerous non-conciliar documents were also burned during the English occupation: NRS CS7/2, fo. 37v; NRS CS7/4, fo. 135v; NRS CS7/5, fo. 54r. Earlier scholars have also posited the existence of lost council records: *ADCP*, p. vi; *ADC*, III, p. xxiii.

<sup>25</sup> Jenny Wormald, *Court, kirk and community: Scotland, 1470–1625* (London, 1981), p. 13.

<sup>26</sup> Goodare, *Government of Scotland*, pp. 130–1.

<sup>27</sup> *Ibid.*, pp. 130, 135.

council thus resembles that to which G. R. Elton saw Thomas Cromwell serve as midwife in England.<sup>28</sup>

In the foregoing paragraphs, three related terms have been employed to the body under consideration: council, privy council and secret council. Contemporaries used them interchangeably, with ‘secret council’ being the favoured Scots term, first recorded in 1371.<sup>29</sup> The name ‘privy council’ emerged in Scotland in the mid-sixteenth century and was more usual in an English context.<sup>30</sup> Both the Scots ‘secret’ and English ‘privy’ councils relate to terminology in France, where, by the 1530s, a relatively large body called the conseil privé received petitions in the afternoons, whilst in the mornings a more select council known as the conseil étroit met François to discuss politics.<sup>31</sup> The conseil étroit was sometimes called the ‘conseil des affaires’, and was part of a long-standing French pattern of a small select council developing ‘within or alongside the greater body’ of the council. When François returned to France in 1526 following his captivity after the Battle of Pavia, the balance between the bodies shifted, whereby ‘the select councillors assumed the limelight’.<sup>32</sup> Certainly, the relationship between the two councils was fluid, as were the names applied to them.<sup>33</sup> English visitors often described the conseil étroit as the ‘privy council’, presumably in an attempt to conjure the most similar English body.<sup>34</sup> It is perhaps worth remembering that whilst in both English and Scots usage the word ‘privy’ encompassed both a sense of proximity and secrecy, to French ears the term ‘privé’ held only the latter meaning and could be better translated as ‘secret’. ‘Étroit’, on the other hand, could be translated as ‘narrow’, ‘close’, ‘restrained’, or ‘rigorous’, and therefore would have evoked a sense of greater intimacy with the monarch more analogous to the word ‘privy’.

Moving on from problems of nomenclature, telling the story of the early stages of the Scottish secret council’s development exclusively from the council register has had the result of historiographically embedding the early sixteenth-century Scottish council in moments of monarchical weakness. This approach has much to commend it: in an age of personal monarchy, the person of the monarch was itself an organ of governance; when it altered, other parts of the body politic would have to adapt in concert. Nevertheless, crown weakness was not the only reason why the Scottish council developed

<sup>28</sup> Elton, ‘The council’, pp. 197, 203 especially.

<sup>29</sup> ‘Secret Counsall n.’, Dictionary of the Scots Language, 2004, Scottish Language Dictionaries Ltd, [www.dsl.ac.uk/entry/dost/secret\\_counsall](http://www.dsl.ac.uk/entry/dost/secret_counsall), accessed 29 Apr. 2015.

<sup>30</sup> ‘Privé n.’, *ibid.*, [www.dsl.ac.uk/entry/dost/dost44584](http://www.dsl.ac.uk/entry/dost/dost44584), accessed 29 Apr. 2015.

<sup>31</sup> Cédéric Michon, ‘Conseils et conseillers sous François Ier’, in Cédéric Michon, ed., *Les conseillers de François Ier* (Rennes, 2011), p. 36.

<sup>32</sup> John Guy, ‘The French king’s council, 1483–1526’, in Ralph A. Griffiths and James Sherborne, eds., *Kings and nobles in the later middle ages* (Gloucester, 1986), pp. 274–94, at p. 276.

<sup>33</sup> Michon, ‘Conseils et conseillers’, p. 37.

<sup>34</sup> *Ibid.*, p. 38.

in the ways it did, at the times it did. Moreover, although the council registers are, of course, a central source for this subject, other materials have an important role to play in filling gaps in this record or providing information of a different kind. Indeed, Goodare recognized that without an adult monarch record-keeping might develop its own momentum in an attempt to create ‘formal collective responsibility’.<sup>35</sup> During the reign of an adult monarch, no such imperative to record existed and fewer records would be created. Changes in record-keeping therefore do not automatically reflect a shift in practice. To understand the Scottish council, we must cast our nets a little wider, temporally and archivally. So doing exposes greater conciliar activity during the personal rule of James V than has hitherto been appreciated. Following this, it is necessary to recalibrate our understandings of both the story of administrative development in Scotland and the personal rule of James V.

## I

For Gordon Donaldson, Jenny Wormald, and other historians writing prior to the 1990s, James V represented the worst excesses of Stewart monarchy, a rapacious magnate-crusher with a personality marked by ‘a streak of sadistic cruelty’, unable to forge, let alone to maintain, functional political relationships with his nobles.<sup>36</sup> Jamie Cameron’s 1998 biography forced significant emendations to this picture, arguing that for most of James’s personal rule he enjoyed the support of most of his magnates.<sup>37</sup> Although challenging Wormald’s view of James himself, more broadly, Cameron worked within the Wormaldian paradigm that Scotland largely did not require governmental institutions, instead placing emphasis on the significance of personal networks of kin and friends.<sup>38</sup> As such, Cameron’s main concern was James’s relationships with his magnates *outwith* governmental institutions. His interest in the council focused on the issue of membership, arguing for the dominance of magnates over lesser men, but sidestepping questions relating to its broader activities and significance.<sup>39</sup> The more active council described below reinforces the picture of James’s ability to work with his nobility, whilst highlighting the importance of the institution of the council. This institutional forum of governance was, however, neither an alternative to nor set in opposition against other facets of rule, but worked alongside and overlapped with extra-institutional networks and connections. Indeed, the fact that on occasion it was specifically

<sup>35</sup> Goodare, *Government of Scotland*, p. 130. For an English parallel, see Watts, *Henry VI*, p. 126.

<sup>36</sup> Gordon Donaldson, *Scotland: James V to James VII* (Edinburgh, second impression, 1971), p. 62; Wormald, *Court, kirk and community*, p. 12; Cameron, *James V*, pp. 1–8.

<sup>37</sup> Cameron, *James V*.

<sup>38</sup> Wormald, *Court, kirk and community*, p. 15.

<sup>39</sup> Cameron, *James V*, pp. 292–4. For further comment on James’s court, see Thomas, *Princelie Majestie*.



noted that James had taken a decision ‘by thadvise of his counsaile’ could suggest that this was not consistent practice.<sup>40</sup> However, an active council during James’s personal rule dovetails with James’s testamentary provisions for governance during a potential future minority of one of his children and appointment of multiple vicegerents during his voyage to France in 1536.<sup>41</sup> Potentially, these attempts to enshrine a group element in governance were rooted in his own experience of governing with a council.

When James commenced his personal rule in June 1528, aged sixteen, having escaped from the control of his step-father, Archibald Douglas, sixth earl of Angus, the political community clearly placed a premium on providing the apprentice monarch with adequate counsel. Four sets of provisions were for James’s council in the first fifteen months of his personal rule, each with variations in numbers of members and the individuals appointed.<sup>42</sup> On 6 July 1528, twelve councillors were nominated to be on ‘the kingis consale’, of whom a minimum of three or four were ‘to remain evir with the kingis grace with his officiaris for the directione of all materis that sall happin to occur concernyng his grace realme and liegis and uthiris ways’.<sup>43</sup> At the same time, the eighteen-strong session was ordered to make permanent residence in Edinburgh. James’s personal rule thus commenced with two related conciliar bodies: one static, based in Edinburgh, and focused upon judicial matters, the other mobile, relatively small, and created to support the king in a range of ‘materis’. This phrase, ‘materis that sall happin to occur’, is vague, but perhaps deliberately so since it was presumably elastic enough to stretch to encompass the full range of crown business. By 9 November 1528, this arrangement was presumably not working adequately since membership of James’s ‘secrete counsaile’, who should ‘vaikie [attend] daily’ was revised to twelve (eight of whom had already appeared as councillors in July) plus the officers.<sup>44</sup> Evidently, whilst creating a new regime in the aftermath of Angus’s exile to England these councillors were facing substantial demands: later that day the Lords determined that ‘na actioun nor mater to be ressavit nor takin befor thame unto the tyme the kingis materis and the materis concernyng the commoun weile of the haile realme be ordourit and adressit’.<sup>45</sup>

Eight days later, on 17 November, James issued an ordinance naming twelve ‘lordis spiritual and temporale ordanit to be apoune our secret consale’. Four individuals were replaced, and there was no mention of the officers although the chancellor, secretary, and advocate were named as councillors.<sup>46</sup> In

<sup>40</sup> Eure to Henry VIII, 9 Feb. 1542, BL Add. MS 32637, fo. 19r.

<sup>41</sup> Amy Blakeway, *Regency in sixteenth-century Scotland* (Woodbridge, 2015), pp. 46–8.

<sup>42</sup> *ADCP*, pp. 277, 290, 294, 315; Cameron, *James V*, pp. 63–4, 70–1.

<sup>43</sup> *ADCP*, p. 277. Gavin Dunbar, archbishop of Glasgow, was listed twice both by his position as chancellor and his ecclesiastical title.

<sup>44</sup> *Ibid.*, p. 290.

<sup>45</sup> *Ibid.*, p. 291.

<sup>46</sup> *Ibid.*, p. 294.



addition to a general duty that ‘all or pairt of them to ane sufficient nowmber sall sitt and avis apoune all and sindry gret matteris and actionis concerning the weale of us and realme’, these men were charged with persuading Patrick Hepburn, third earl of Bothwell, to accept the office of lieutenant on the borders and, if Bothwell refused, to identify a suitable alternative. This specific task explains at least one of the changes in membership, since Bothwell, who had been on the 9 November list, was evidently unable to negotiate with himself and thus dropped. Differences between the two lists were small. Cameron even considers them to be part of the same initiative whilst identifying an apparent increase in James’s own influence since in August, councillors had been selected to remain with James, whilst in November, they were being directed to fulfil a specific task.<sup>47</sup> However, since James also ‘promittant be this our hand writ to stand and abyde fermelie at the consale of the said lordis’, this council seems like an attempt to maintain influence over, if not to curb, royal initiative and promote solidarity within the regime.<sup>48</sup>

Membership of the council remained a concern. An undated royal letter, inserted into the register at the point of late August or early September 1529, set out another list of members. These were the most detailed provisions to date, members were ‘chosin to be with us and till sitt apoune our secret consell and assist till our chancelar continually in ordoryng all sik thingis as concernys justice, our honour, the common weill of our realm and our profitis of baith properte and casualiteis’.<sup>49</sup> James also promised that their efforts would not be in vain, declaring that ‘our mynd is nocht to declyn by na maner of way’ from their advice. The detailed arrangements for membership which followed reveal one of the problems facing James, and other early modern rulers, in securing sufficient conciliar attendance and counsel, namely, that senior magnates and ecclesiastics had responsibilities both with the monarch and elsewhere. Since James Beaton, archbishop of St Andrews ‘may nocht be continual’ whilst Argyle, Moray, and Bothwell ‘may nocht be laserit till await apoune the consell’, replacements were appointed to sit and remain sitting even when the archbishop and earls were present. At a minimum, therefore, as envisaged in the summer of 1529, James’s council would consist of six bishops, three lords, three lawyers, the chancellor, and six officers, whose numbers might be swelled by an additional four members, namely the archbishop of St Andrews and the three earls.

At the beginning of James’s personal rule, there was a prevalent concern that public business, or ‘materis concernyng the common weile of the hail realme’, should receive adequate attention, perhaps as an attempt to legitimize the new regime.<sup>50</sup> Moreover, such concerns were approached in a consistent manner,

<sup>47</sup> Cameron, *James V*, p. 52.

<sup>48</sup> *ADCP*, p. 294.

<sup>49</sup> *Ibid.*, p. 315.

<sup>50</sup> For comparable instances, see Blakeway, *Regency*, p. 178.

namely by providing the monarch with a 'secret counsaile', consisting of a core of twelve ecclesiastics and temporal lords, usually including or being augmented by the officers. This secret council had a wide commission, and James could also depute it to perform specific tasks. It was to be headed by the chancellor, and some, although not all, of the provisions suggested it should meet on a daily basis. Likewise, it was sometimes, but not consistently, noted that it should remain with James, who promised to take its advice.

Given that the secret council as envisaged in this period was small, one of the questions raised by these provisions is what happened to councillors who were 'dropped'? For instance, between November 1528 and the summer of 1529, was Bothwell, then acting as the king's lieutenant but not on the most recent list of councillors, excluded from meetings of the secret council? Creating a core secret council with an exclusive membership has a parallel with developments in the session, and potentially at this stage the phrase 'secret council' denoted a sub-committee of the larger body of the 'council', just as the lords of session and lords of exchequer were lords of a wider council temporarily entrusted with additional responsibilities.<sup>51</sup> In this case, the body which became the privy council did not simply congeal from the sloppy leftovers which hung around Holyrood after the session had had first pick: rather, it too was deliberately selected and shaped. The Scottish separation of judicial functions to leave a smaller 'political' council was part of a broader European movement, encompassing not only the obvious comparative points of France and England, but Charles V's creation of three councils for the Low Countries in 1531.<sup>52</sup>

## II

Demonstrating that James was ruling with a 'secret council' between 1528 and 1529 does not fundamentally challenge the contention that as an adult monarch he eschewed institutions. The first two years of James's personal rule, between the ages of sixteen and eighteen, were a liminal period between minority and majority. Although these early transitional arrangements for a twelve-strong secret council did not endure, a strong conciliar institutional presence in James's government, as opposed to counsellors surrounding and advising the king, is evident throughout his personal rule. On 12 April 1530, James celebrated his eighteenth birthday. By this juncture, he was clearly choosing his own councillors since on 19 May 1530 a group of twenty-one lords were 'divisit be the kingis grace to sitt apoun grete materis as he hes presentlie ado'.<sup>53</sup> It is tempting to connect these men with the 'lordis of secrete consaile' who until

<sup>51</sup> Godfrey, *Civil justice*, pp. 106–11; Emond, 'Minority of King James V', p. 549.

<sup>52</sup> Michon, 'Conseils et conseillers', pp. 36–8; Elton, 'The council', pp. 201–3; Cédéric Michon, 'Essai de synthèse', in Cédéric Michon, ed., *Conseils & conseillers dans l'Europe de la Renaissance v. 1450–v. 1550* (Rennes, 2012), pp. 349, 351–2.

<sup>53</sup> *ADCP*, p. 327.

the end of the month discussed a range of provisions for the good rule of the borders and obedience amongst the inhabitants of the Isles.<sup>54</sup> Although one order issued by this group, that relating to the Isles, was issued in the name of 'King and Council', those related to the borders were set forward by 'the lordis of secret council' or 'the lordis'. Such terms could simply be stock phrases which bore little relation to actual participation in the decision-making process; however, omitting the royal name might indicate a degree of independent action, or at least acknowledged the potential for such independence. In any event, it is clear that conciliar authority was considered an effective weapon in managing the traditionally troublesome geographical extremities of the Stewart realm.

Two years later, the Anglo-Scottish border war of 1532–3 provoked a flurry of conciliar activity, including drafting correspondence to English officials, and the organization of 'wapinshawings', literally 'weapon-showings', or military musters.<sup>55</sup> Moreover, the council issued advice and instructions to the commissioners appointed to settle the Cannonby priory dispute, one of the most provocative sources of disagreement with England.<sup>56</sup> A phrase in this advisory document, 'The lordis of counsale thinkis at the said article salbe ansurit to in this maner...', combined with the fact that the document was penned 'Anentis the answers to be maid be the Kingis Grace', implies that the council was formulating diplomatic responses to the English on behalf of but separately from their monarch, albeit that pronouncements were formally made in the king's name. As hostilities declined in 1533, the presence of governmental business in the council register returned to lower pre-war levels, with a dramatic drop from 1535 onwards.

The set of answers to the English commissioners discussed in the previous paragraph survives in a single copy outwith the council register: evidently, even prior to the decline in recorded governmental business in the register from 1535 onwards not every item considered by the council survives in the extant papers. This raises the broader point that looking beyond the council register reveals a continued role for the council for the high-water mark of James V's personal power, between 1535 and 1542. The first piece of evidence for the continued governmental activity of the council has been hiding from historians in plain sight. On 12 June 1535, parliament passed an act creating a 'counsale for the commonwele'. This brief statute is worth quoting in its entirety: 'Item, it is thocht expedient be the lordis of articulis that my lord chancellor, with ane certane of lordis with him, sitt owklie [weekly] for commonyng and

<sup>54</sup> *Ibid.*, pp. 327–9. For broader context, see Cameron, *James V*, p. 77.

<sup>55</sup> *ADCP*, pp. 382–97; C. Patrick Hotle, *Thorns and thistles: diplomacy between Henry VIII and James V, 1528–1542* (Lanham, MD, 1996), pp. 60–78; Richard Hoyle, 'The Anglo-Scottish War of 1532–3', in *Camden Society Miscellany*, xxxi (London, 1992), pp. 23–9.

<sup>56</sup> 'Answers to be made by the King's Grace', [May 1532], NRS SP13/25. A possible clue to the identities of the individuals present at these discussions is revealed in the list of names written on the verso.

trating of materis concernyng the commoune wele of the realme and advertising of the kingis grace therof.<sup>57</sup>

By the 1530s and 1540s, the term commonweal had ‘acquired powerful and decidedly patriotic resonances for Scots’, expressing ‘both the community’s sense of collective identity and the public responsibilities of its members’, including those of its head, the monarch.<sup>58</sup> There is no indication as to what, exactly, ‘materis concerning the commoune wele of the realme’ as envisaged by this statute comprised, although this body was evidently to address different concerns to the ‘private’ legal matters dealt with by the session. Potentially, the council’s business could have ranged from proclamations setting prices to, as occurred during the 1532–3 war, logistical arrangements for defence. The important point is that anything concerning commonwealth of Scotland, whether that meant the *bonum commune* of the people, the realm, or an active political community inhabiting the realm, was the crown’s responsibility, and a council was created to meet on a weekly basis to undertake this business. Moreover, since several of the councils of the period 1528–9 had also been given responsibility for the commonwealth, this marks a point of linguistic continuity with the earlier period, even if the word itself was acquiring new meanings. The word ‘advertising’ suggests the king would not be present at meetings but rather be informed of the council’s proceedings subsequently: this council was evidently to enjoy a measure of autonomy. It is tempting to connect the newly formed council with the ‘secrete counsall’ referred to by Margaret Tudor the following month, and, potentially more significantly, although also more speculatively, with the decline in governmental business in the joint council register from 1535 onwards.<sup>59</sup>

As with any piece of legislation, it is unclear from whence, exactly, this originated, how much support it enjoyed, and whether it was acted upon. However, the fact remains that in 1535 enough of the political community, plausibly including the monarch, were persuaded of the merits of the idea for the act to be approved. When parliament closed, the lords of the articles, the committee with responsibility for drafting legislation, were empowered to remain sitting, entrusted with full parliamentary power to ‘mak sic actis, statutis and

<sup>57</sup> K. M. Brown et al., eds., *The records of the parliaments of Scotland to 1707* (St Andrews, 2007–15) (RPS), 1535/46, [www.rps.ac.uk](http://www.rps.ac.uk), accessed 15 Oct. 2015.

<sup>58</sup> Roger Mason, *Kingship and the commonweal: political thought in Renaissance and Reformation Scotland* (East Linton, 1998), pp. 91–2; Roger Mason, ‘Kingship and commonweal: political thought and ideology in Renaissance Scotland’ (Ph.D. thesis, Edinburgh, 1983), pp. 67–74. For an overview of the term in the English context, see Glenn Burgess and Mark Knights, ‘Commonwealth: the social, cultural, and conceptual contexts of an early modern keyword’, *Historical Journal*, 54 (2011), pp. 659–87; and John Watts, “Common weal” and “commonwealth”: England’s monarchical republic in the making, c. 1450–1530’, in Andrea Gamberini, Jean-Philippe Genet, and Andrea Zorzi, eds., *The languages of political society: Western Europe, 14th–17th centuries* (Rome, 2001), pp. 147–63 at p. 149.

<sup>59</sup> Margaret to Henry VIII, 28 July 1535, BL Add. MS 32646, fo. 52r.

constitutionis for gude reule, justice and police to be had within the realme'.<sup>60</sup> In 1535, someone, perhaps James, perhaps someone else, was soliciting the political community to participate in governance through the structured framework of institutions. This cannot be dismissed as a moment of monarchical weakness: less than a year later, James would leave Scotland for nine months to visit France, an action which was only possible because he was confident enough in his governmental structures and personnel to leave the country in their hands.<sup>61</sup>

Nevertheless, it is unlikely that the act of June 1535 was advance planning for James's voyage to France in September 1536. The voyage appears to have been prompted by James's engagement to Marie de Bourbon, rather than, as he had anticipated, to a daughter of François I. The engagement was only settled in March 1536, well after the statute was passed. Moreover, the 1535 act bears no similarity to James's eventual appointment of six 'vicegerentes et locumtenientes' three days before he embarked.<sup>62</sup> In short, the timing of the act means that it is highly unlikely that its contents either anticipated or were influenced by James's voyage to France. Assessing the activities of these vicegerents, and how this related to conciliar activity during James's absence is, unfortunately, hindered by two factors. The first is the deeply vexing loss of the council register covering the period from August 1536 to November 1537, encompassing the entirety of James's absence.<sup>63</sup> Secondly, the fact that English diplomats and commentators sometimes used the words 'council' and 'regents' interchangeably obscures the nature of the body under discussion. For instance, in April 1537, the English dispatched Harry Ray, Berwick Pursuivant, to the 'regents' in Scotland.<sup>64</sup> However, Ray's instructions were earlier described as being to 'the counsaile' and on his return Ray explained that his ability to deliver letters to 'the regents of Scotlande' was inhibited by the absence of the 'counsaill' from Edinburgh.<sup>65</sup> On other occasions, however, 'regents' and 'counsaill' were distinguished.<sup>66</sup> James's group of equally powerful regents were plausibly either aided by, or functioning as though they could be mistaken for, a council, although the identity and remit of the members of the 'council' reportedly receiving messengers in James's absence, dispatching reports to James in France, and, perhaps, issuing proclamations to musters,

<sup>60</sup> RPS, 1535/4, [www.rps.ac.uk](http://www.rps.ac.uk), accessed 15 Oct. 2015.

<sup>61</sup> Cameron, *James V*, p. 133.

<sup>62</sup> W. K. Dixon, J. B. Paul, J. R. H. Stevenson, and J. M. Thomson, eds., *Registrum magni sigilli regum Scotorum: the Register of the Great Seal of Scotland* (11 vols., Edinburgh, 1882–1914), III, p. 1618.

<sup>63</sup> *ADCP*, p. 459.

<sup>64</sup> 'Instructions for Henry Ray', [6 Apr. 1537], BL Caligula B III, fo. 250r.

<sup>65</sup> Eure to Cromwell, 6 Apr. 1537, The National Archives (TNA) SP1/117, fo. 265r; Harry Ray, 'Answer to articles of instructions for repairing in Scotland', Apr. 1537, BL Add. MS 32646, fo. 102r.

<sup>66</sup> Sutehyll to Clifford, 16 Apr. 1537, TNA SP1/118, fo. 201r.

remains obscure.<sup>67</sup> Nevertheless, the extent of conciliar activity during James's absence should not be overstated: the low number of charters issued in this period suggests that government was 'merely ticking over during the king's absence', just as it did on other occasions when Scotland lacked a resident adult ruler.<sup>68</sup>

Although no register produced by the enigmatic 'counsale for the commonweal' remains extant, English diplomatic correspondence reveals that the Scottish council assumed an active role in Anglo-Scots diplomacy during the second half of James's personal rule. In May 1536, for instance, when James and Henry were discussing the possibility of a family reunion to be located in either York or Newcastle, James's letters declining his uncle's offers to meet cited conciliar opposition.<sup>69</sup> This might well have been a handy excuse; however, the fact remains that James considered the explanation would have been plausible. It is also worth noting that this evidence emerges from the English diplomatic archive: there is no evidence for any such discussion in the extant register. The same is true of each of the meetings discussed below. An unknown number of meetings undoubtedly passed unrecorded by the English and as such the Scottish council's known activities doubtless do not represent the full scale of its business. From 1540 onwards, however, increased English interest in and anxiety surrounding Scotland entailed more commentary on Scots' affairs, and at this juncture, the council once again enters our view.<sup>70</sup>

In January 1540, the English border official William Eure, the future first Baron Eure, received reports of an interlude played at Linlithgow.<sup>71</sup> This letter has received substantial attention as a source for James's attitude towards religious reform, and as a record of an early version of Sir David Lyndsay's play the *Satyre of the three estates*.<sup>72</sup> However, it also affords us a glimpse of James's council. Eure gathered his information during a meeting with 'twoe gentle men of the king of scotts counsaile' when he had enquired of them 'whate mynde the king and counsaile of Scotland was inclined unto concernyng the bisshope of Rome'. His main interlocutor, Thomas Bellenden, proceeded to describe an interlude which had been played before the king, queen, 'and the hole counsaile'. Such reports demonstrate English interest in the council, but afford little information about its remit. A clearer picture of the Scottish council emerges in April 1540, when Eure wrote to

<sup>67</sup> Sutehyll to Fitzwilliam, 4 Sept. 1536, TNA SP1/106, fo. 102r; Loucher to Cumberland, 6 Apr. 1537, TNA SP1/118, fo. 11v. The proclamation to muster is recorded in the later missive (fo. 11r) but who ordered it is unclear.

<sup>68</sup> Cameron, *James V*, p. 134; Blakeway, *Regency*, pp. 15, 45, 116, 188.

<sup>69</sup> James V to Henry VIII, 20 May 1536, TNA SP49/4, fo. 129v; Hotle, *Thorns and thistles*, pp. 91–3, 99.

<sup>70</sup> Hotle, *Thorns and thistles*, pp. 141–91.

<sup>71</sup> Eure to Cromwell, 26 Jan. 1540, BL Royal MS 7 C 16, fo. 137.

<sup>72</sup> Hotle, *Thorns and thistles*, p. 145; Thomas, *Princelie Majestie*, pp. 143–4; Carol Edington, *Court and culture in Renaissance Scotland: Sir David Lindsay of the Mount (1486–1555)* (East Linton, 1994), p. 50.

James V. James did not deign to reply himself; rather, Eure received a missive from the Scottish council.<sup>73</sup> This opened by gently chiding the English official, asking him to ‘consider’ the nature of his complaint, which was more properly directed towards James’s border officials than the monarch. Moreover, the council continued that ‘It hes plesit oure soueranis hienes to haue gevin unto us co[m]mande to attende apone sic complaints that sall happin to be addressit fra yow or u[th]eris your soueranis officiariis apoun the bordouris’ whilst James was ‘at solace or uthir besynes in fer partis of his realme’. In order that Eure’s business could be expedited in a timely manner, they suggested that ‘it will plese yow fray this fordwart to direct unto us resident in Ed[inbu]r[gh] your writings apone sicc mat[er]is as sall occure or may steire yow to complene’. Such delegation of correspondence with the English border warden to the council brought written interactions into line with protocol for in-person negotiations, which took place not between kings of Scots and English border wardens, but between officials or councillors from both countries, such as Bellenden and Eure. James’s unwillingness to respond in person was evidently not driven by an inability to communicate whilst outside Edinburgh, since on 26 April, the day before the council replied to Eure, James was at Falkland, where he issued letters directed to Danish officials requesting their assistance for two of his servants travelling overseas to procure hawks.<sup>74</sup>

In July 1541, another English official, Cuthbert Radclyff, made the same mistake of writing to James during his absence from Edinburgh, and the Scottish council was therefore constrained to explain a second time. Since James was away when Radclyff’s messenger arrived in Edinburgh, the council had forwarded the letter to the monarch unopened. James received the missive, but ignored it until his return to Edinburgh, when he simply instructed the council to reply. The rationale given for this roundabout method of correspondence, which caused significant delay, was ‘becaus it wer verray tedious upoun every complaint, his grace havand his wardanis and officiariis fornanents Inghland, and siclik his counsale maist commoun resident in this toun to be Impeschit [harassed, troubled] thairwith and maist speciale becaus his hienis is oftymes at his pastyme and solace’.<sup>75</sup>

James’s refusal to engage with English officials when he was not in Edinburgh emerges most clearly in an example from the last months of his reign. In the aftermath of the Scottish victory at Haddon Rigg in August 1542, Anglo-Scottish relations were tense.<sup>76</sup> In November, Thomas Trahern, Somerset

<sup>73</sup> Council of Scotland to Eure, 27 Apr. 1540, BL Royal MS 18 B VI, fo. 89r. Eure’s letter to James is not extant and is uncalendared: Hay, ed., *Letters of James V*; Brewer et al., eds., *Letters and papers*, xv.

<sup>74</sup> James V, letters commendatory for David Herald and Thomas Ramsay, 26 Apr. 1540, NRS GD149/264, fo. 149r.

<sup>75</sup> Council of Scotland to Radcliff, 24 July 1541, BL Add. MS. 32646, fo. 210r.

<sup>76</sup> Account of Haddon Rigg for Learmonth, [Aug. 1542], NRS SP13/31; James V to James Learmonth, 2 Sept. 1542, NRS SP13/32; Huntly to James Learmonth, 7 Sept. 1542, NRS SP13/33.



Herald, was murdered whilst returning to England through Scotland. The ‘moste cruell, moste pitefull and moste shamefull murder’ of an English herald in Scotland was a major diplomatic incident, which Edward Seymour, earl of Hertford, then briefly serving as warden of the marches, identified as ‘oon of the greatist dishonours that euer cam unto the Kinge and Raulme of Scotland’.<sup>77</sup> As such, the English authorities sought to discover as much as they could about the circumstances in which Somerset died. Somerset had been accompanied by Harry Ray, Berwick Pursuivant, who escaped from the murderers, and, on his safe return to England, was required to pen an account of events in Scotland.

At about eight o’clock in the morning of 14 November, Somerset and Berwick arrived in Edinburgh. They were brought before a group of people including James Stewart, earl of Moray, the king’s illegitimate half-brother and military lieutenant, Cardinal David Beaton, archbishop of St Andrews, and ‘dyvers othere of the counsaillors of Scotlande’.<sup>78</sup> Moray’s involvement is significant: he was not a senator of the College of Justice, so this meeting cannot be dismissed as a judicial session multi-tasking to meet an immediate challenge. It was a gathering of a different body. Somerset opened by explaining that they had brought letters from Norfolk, Henry VIII’s lieutenant, to James V. Beaton replied that James was hawking on other side of the Forth, but that ‘in what place or where he coulede not tell, shewing us that the king hadd left his counsaill there to receive and take all l[et]res that did come’.<sup>79</sup> The Englishmen handed over the letters, and Beaton ordered a Scottish herald to take them to lodgings. Eleven days later, on 25 November, Somerset and Berwick received a reply. This came not from James V, but Moray. The justice clerk, who delivered Moray’s letter, ‘said bicause ye be co[m]mon frome the king yo[u]r m[aste]rs louetenu[n]te the king o[u]r m[aste]rs louetenu[n]te hathe made a[un]swere agayne unto him’.<sup>80</sup> The point that only another sovereign’s letter merited a direct response from the King of Scots was reiterated when the Englishmen were given their reward of twenty crowns, assuming these were the most recent issue of crowns, known as the abbey crown, this was worth £20, to share between them. At this juncture it was explained ‘that it was the louetenu[n]ts reward, And that if we hadd co[m]men frome the king o[u]r m[aste]r we shulde haue hadd a bettir reward and an Aunswere agayn frome the king their m[aste]r’.<sup>81</sup> As a herald and thus the senior messenger, Somerset would presumably have taken the lion’s share of the money. Ray’s meticulous record of the amount of cash dispensed on this and other occasions was

<sup>77</sup> Hertford to the English council, 29 Nov. 1542, BL Add. MS 32648, fo. 16or.

<sup>78</sup> Harry Ray, ‘Account of the murder of Somerset Herald’, 14 Nov. 15[42], TNA SP49/5, fo. 104r.

<sup>79</sup> *Ibid.*, fo. 104r.

<sup>80</sup> *Ibid.*, fo. 104v.

<sup>81</sup> *Ibid.*, fo. 105r.

more than a healthy interest in the weight of his own purse.<sup>82</sup> Rewards to ambassadors and messengers functioned as a litmus test of Scottish amity towards England and reflected the esteem in which the author of a letter, rather than the bearer, was held.<sup>83</sup> Accordingly, Ray's rewards varied and he received the highest when he delivered letters from Henry VIII to James V, such as in May 1541, when he was permitted to travel beyond Edinburgh to Stirling and delivered his letters 'to the king of Scotts hymself'.<sup>84</sup> His reward was £11.<sup>85</sup>

James's decision to delegate to the council marks a striking point of contrast with practice earlier in his reign, when he wrote to English officials from Stirling, Linlithgow, and even as far north as Badenoch.<sup>86</sup> Moreover, although James wrote most of his letters in Edinburgh, until the end of his reign he continued to correspond with the pope, cardinals at Rome, and fellow monarchs such as Henry VIII, Francis I, and Christian of Denmark regardless of his location.<sup>87</sup> Whilst remembering that some of James's correspondence is doubtless lost, the extant letters nevertheless suggest that from the mid-1540 onwards, James consistently replied in person to foreign monarchs regardless of his location, but only personally responded to English officials when he was present in Edinburgh.<sup>88</sup> In practice, it is unclear how English officials were supposed to know where James was at a given moment, and it is tempting to suggest that the combination of uncertainty and likely delays was intended to force officials to re-direct their letters to the council on a permanent basis. Comparison with another country would clarify matters considerably; unfortunately, since there is no extant correspondence from foreign officials of a comparable status to the English border wardens addressed to James V, such an exercise is impossible.

All this suggests that the emerging conciliar responsibility for certain correspondence from 1540 onwards was about more than facilitating the lifestyle of a peripatetic monarch, accustomed to travelling for both business and 'pastyme'

<sup>82</sup> See also Harry Ray, 'Report on Scotland', [June 1541], BL Add. MS 32646, fo. 167r.

<sup>83</sup> Felicity Heal, 'Royal gifts and gift-exchange in sixteenth-century Anglo-Scottish politics', in Steve Boardman and Julian Goodare, eds., *Kings, lords and men in Scotland and Britain, 1300-1625* (Edinburgh, 2014), pp. 283-300, at pp. 286-7.

<sup>84</sup> Ray, 'Report on Scotland', [June 1541], BL Add. MS 32646, fo. 167r. Standard 44s payments: Thomas Dickson et al., eds., *Accounts of the lord high treasurer of Scotland (TA)* (13 vols., Edinburgh, 1878-1977), vii, pp. 309, 416, 431. For larger payments, see *TA*, vii, pp. 289, 308, 317, 323, 466. For Henry to James, see *TA*, vii, pp. 449, 482.

<sup>85</sup> *TA*, vii p. 449.

<sup>86</sup> James V to Wharton, 14 Feb. 1538, TNA SP1/129, fo. 41v; James V to Wharton, 11 Jan. 1540, TNA SP1/157, fo. 37v; James V to Norfolk, 8 Sept. 1537, TNA SP 1/124, fo. 196v.

<sup>87</sup> See for instance Aberdeen: James V to Henry VIII, 11 Oct. 1541, TNA SP49/5, fo. 58; Falkland: James V to Christian of Denmark, 5 Sept. 1541, BL Royal MS 18 B VI, fo. 127v; Stirling: James V to Paul III, 9 Apr. 1541, BL Royal MS 18 B VI, fo. 116r.

<sup>88</sup> James V to Thomas Wharton, 7 Feb. 1540, BL Royal MS 18 B VI, fo. 81r; James V to council at York, 7 Feb. 1540, BL Add. MS 32646, fo. 127r; James V to Norfolk, 12 Mar. 1541, TNA SP49/5, fo. 48r; James V to Eure, 21 July 1541, BL Add. MS 32646, fo. 180r; James V to Llandaff, [1541] BL Royal 18 B VI, fo. 129r.

alike. A further diplomatic concern was at stake, namely issues of status and hierarchy between James and his realm, and the English. Indeed, the fact that this practice only emerged in 1540, after Ralph Sadler's clumsy January embassy, suggests that James's behaviour was a response to broader diplomatic circumstances.<sup>89</sup> The extent to which Henry pursued an 'imperial' policy towards Scotland has been much debated.<sup>90</sup> Nevertheless, it is clear that Henry believed monarchs of England to be superior to the kings of Scots and sought to assert that fact, at least on a sporadic basis. James's behaviour in the foregoing examples suggests an attempt to force English officials to treat him with a greater degree of formality and respect without insulting or alienating Henry VIII. Given that in July 1542 the Scottish council could recall 'ane honest and gude writing send us be the counsale of York', perhaps it eventually enjoyed a measure of success.<sup>91</sup> None of this, however, precluded James's personal intervention. For instance, in July 1540, tensions relating to 'ane halk tane furth of the boundis of berwik' which had emerged at a border warden's meeting had grown and been passed to James's council during his absence in the Isles.<sup>92</sup> James deliberately jumped over officials on both sides of the border and wrote to Henry directly to prevent antagonism escalating.

Further glimpses of the council emerge in two letters it sent to English officials in the last months of James's reign. One, addressed to Rutland on 2 September 1542, explained that his request for the release of some recently captured English prisoners could not be countenanced 'onto the tyme our sader Souerane gett answer fra his darrest uncle'.<sup>93</sup> Again, the council was being used to bolster and affirm James's status by attempting to force Henry to reply. The second letter expressed James's 'hie disple[u]r' at the murder of Somerset Herald.<sup>94</sup> Despite the sensitivity needed to offer redress for the outrage of Somerset's murder in Scotland, it was the council who offered reassurance that the English culprits were incarcerated in Edinburgh Castle awaiting punishment.

These extant fair copies of the Scottish council's letters fail to reveal the details of council membership, since James's councillors did not sign letters individually. Rather, correspondence concluded with a variant on the phrase 'The chancellor and lords of council', possibly featuring the coda 'resident in Edinburgh' or 'in Edinburgh for the time'. Similarly, proclamations were

<sup>89</sup> Hotle, *Thorns and thistles*, pp. 146–8.

<sup>90</sup> Key contributions include D. M. Head, 'Henry VIII's Scottish policy: a reassessment', *Scottish Historical Review*, 61 (1982), pp. 1–24; Roger Mason, 'The Reformation and the origins of Anglo-British imperialism', in Roger Mason, ed., *Scots and Britons: Scottish political thought and the Union of 1603* (Cambridge, 1994), pp. 161–86; Merriman, *Rough wooings*; Claire Kellar, *Scotland, England and the Reformation, 1534–1561* (Oxford, 2003). Hotle, *Thorns and thistles*, pp. 157–84, surveys previous discussion.

<sup>91</sup> Scottish Council to Learmonth, 30 July [1542], NRS SP13/30/1.

<sup>92</sup> James V to Henry VIII, 29 July 1540, BL Add. MS 32646, fo. 130r.

<sup>93</sup> Scottish council to Rutland, 2 Sept. 1542, BL Add. MS 32647, fo. 104r.

<sup>94</sup> Scottish council to Eure, 28 Nov. 1542, TNA SP1/174, fo. 136r.

endorsed ‘Per dominos consilii’ and given under James’s signet.<sup>95</sup> Why this deeply frustrating practice was employed is unclear. During James V’s minority, a variant on the ‘lords of council’ formula was usual practice.<sup>96</sup> No correspondence penned by the Scottish council survives from Mary’s minority; only letters from her regents remain extant. In 1560, however, following the Reformation rebellion, the lords of the congregation who claimed status as the ‘privie’ or ‘secreit’ council each applied their signatures to letters.<sup>97</sup> In an English context, the appearance of sederunt lists and signatures in the Privy Council Register during royal minorities served to convey extra authority and create a record of consent to actions; conversely, such expedients were unnecessary during adult monarchical rule.<sup>98</sup> This forms a striking contrast to Scottish practice in the reign of James V. Eschewing signatures might imply a confidence in the authority of the council as a unit, rather than a reliance on the status of individual members; alternatively, the practice might simply have proved a practical solution to the problem of chasing down councillors to procure signatures after a clerk had produced a fair copy of a letter.

Beyond correspondence either sent or received by the Scottish council, a wider albeit more blurred view of its activities emerges from English references to additional council meetings and other now lost letters.<sup>99</sup> References to James’s ‘councillors’ or ‘lords of council’ are likely to refer to members of this body, although it is possible that on some occasions English officials erroneously applied these phrases to men who were in fact informal ‘counsellors’.<sup>100</sup> Tantalizingly, in August 1542 the president of the English council in the north

<sup>95</sup> Proclamation against ballads slandering Henry VIII, 5 Feb. 1539, BL Caligula B VII, fo. 247r.

<sup>96</sup> ‘Dominus Concilii’ to Margaret, 13 Oct. 1515, BL Caligula B VI, fo. 135r; ‘ane part of ye Regentis and Counsale of Scotlande’ to Dacre, 19 Nov. 1516, BL Cotton Caligula B VI, fo. 541r; ‘Secret counsale chosin be the Estat of the Realme’ to Henry VIII, 12 Mar. 1525, TNA SP49/3, fo. 4v. One example of a letter bearing signatures might be from the council although those who signed described themselves as ‘Chapellanis and Oratoris’: Moray, Beaton et al. to Margaret, 24 Nov. 15[23], BL Caligula B I, fo. 326r.

<sup>97</sup> Scottish council to Elizabeth, 22 Aug. 1560, TNA SP52/5, fo. 14; Scottish council to Elizabeth, 30 Aug. 1560, TNA SP52/5, fo. 63r.

<sup>98</sup> Jacqueline Vaughan, ‘Secretaries, statesmen and spies: the clerks of the Tudor privy council, c. 1540 – c. 1603’ (Ph.D. thesis, St Andrews, 2007), p. 56; Watts, *Henry VI*, pp. 126–7, 209.

<sup>99</sup> Henry to Westmorland & Cumberland, 20 May 1541, BL Add. MS 32646, fo. 165v; Ray, ‘Report on Scotland’, [June 1541], BL Add. MS 32646, fo. 167r; Eure to Henry VIII, 9 Feb. 1542, BL Add. MS 32637, fo. 19r; Rutland et al. to English council, 5 Sept. 1542, BL Add. MS 32647, fo. 100r; Angus to Norfolk, 2 Oct. 1542, BL Add. MS 32648, fo. 21r; Hertford et al. to English council, 1 Dec. 1542, BL Add. MS 32648, fo. 171r; Eure to Lisle, 4 Dec. 1542, BL Add. MS 32648, fo. 177r; Lisle to Henry VIII, 7 Dec. 1542, BL Add. MS 32648, fo. 184r. Notably, all these letters are in a collection which seemingly originated in the archives of the council in the north: J. Bain, ed., *Hamilton papers* (2 vols., Edinburgh, 1890), 1, p. ix.

<sup>100</sup> Eure, ‘Articles of the affairs & occurants of Scotland’, July 1541, BL Add. MS 32646, fo. 181r; Radcliffe to Fernherst, 26 Oct. 1541, BL Add. MS 32646, fo. 246r. See also Cameron, *James V*, pp. 293–4.

reported that ‘the Counsaill of Scotlande hathe commanded all Scottishe men from Edenburghe unto the borders...and hathe made proclamacion’ for further defensive measures.<sup>101</sup> No text survives, but if this report was accurate, it suggests that the Scottish council might on occasion act in its own name, as, indeed, Goodare noted the council had done in 1538 when it issued a proclamation against corrupt wines.<sup>102</sup> In any event, references to commands from the king *and* council imply that the council carried a measure of authority which somehow enhanced that of the monarch.<sup>103</sup> Similarly, a remark made by a Scottish prisoner to English officials in December 1542 that ‘the fault was not in theyre king nor in his cowncell’ that war had broken out with England potentially suggests a broader estimation amongst Scots that the council’s role was significant.<sup>104</sup>

The fact that the council was deputed to consider business whilst James was away from Edinburgh is worth reflecting on, since this might explain why it has remained hidden from view. It is well established that the Stewart monarchs remained peripatetic for much longer than the English Tudors, and that James V was a mobile monarch throughout his reign.<sup>105</sup> Moreover, like other Scottish rulers during absences overseas James habitually delegated power to groups of regents who plausibly functioned as a council.<sup>106</sup> Beaton’s conversation with Somerset Herald in November 1542 implied that James’s absences from the capital within Scotland were, just like his overseas jaunts, facilitated by an Edinburgh-based council. Although this group explained to visiting English messengers that they had been deputed to receive correspondence, it seems unlikely that the council’s sole purpose was to sit and wait for the odd messenger from south of the border: although gaps in the record means this suggestion has to remain speculative, it appears plausible that the council had a broader remit.

Associating a strong, peripatetic adult monarch with a council presents something of a historiographical juxtaposition. ‘Medieval’ monarchs are characterized as mobile, usually governing without much need for a council, and, when they travelled, taking their councils with them.<sup>107</sup> Static households and

<sup>101</sup> Landaff to English council, 14 Aug. 1542, BL Add. MS 32647, fo. 25r.

<sup>102</sup> Goodare, *Government of Scotland*, p. 129.

<sup>103</sup> Moray to Norfolk, 31 Oct. 1542, BL Add. MS 32648, fo. 118r.

<sup>104</sup> Lisle to Henry VIII, 21 Dec. 1542, BL Add. MS 32648, fo. 228r.

<sup>105</sup> Fiona Kisby, ‘Kingship and the royal itinerary: a study of the peripatetic household of the early Tudor kings, 1485–1547’, *Court Historian*, 4 (1999), pp. 29–39; Thomas, *Princelie Majestie*, pp. 50–4, 244–6. For the court settling in Edinburgh, see E. Patricia Dennison and Michael Lynch, ‘Crown, capital and metropolis: Edinburgh and Canongate: the rise of a capital and an urban court’, *Journal of Urban History*, 32 (2005), pp. 22–44, at p. 38; Amy Juhala, ‘An advantageous alliance: Edinburgh and the court of James VI’, in Julian Goodare and Alasdair A. MacDonald, eds., *Sixteenth-century Scotland: essays in honour of Michael Lynch* (Leiden, 2008), pp. 337–63, at p. 338.

<sup>106</sup> Cameron, *James V*, pp. 133–7. For John Stewart, duke of Albany, see Emond, ‘Minority of King James V’, pp. 167, 314; For James VI, see Goodare, *Government of Scotland*, p. 136. More broadly, see Blakeway, *Regency*, p. 45.

<sup>107</sup> Goodare, *Government of Scotland*, pp. 141–2.

reliance on councils as a normal part of adult monarchical rule, by contrast, feature prominently in accounts of 'early modern' princes, both in Scotland and England.<sup>108</sup> During the personal rule of James V, elements of both were deliberately combined: the council was ordered to stay in Edinburgh whilst James travelled elsewhere in Scotland. This leads to a broader point. Far from the council emerging as an alternative source of authority when the monarch was weak, James V chose to delegate to the council as a signal of his strength. Just as only a strong king could leave his realm for foreign travel, by insisting that English officials communicate with his council based in Edinburgh James demonstrated both his superior status to those officials and the trust and unity which existed between monarch and council.

### III

The foregoing discussion reveals an active council, albeit one viewed through the potentially distorting glass of English observation. Nevertheless, a number of significant questions about the nature of the council during James's personal rule remain unanswered. How often did it meet, and how often did the king attend? What were its usual duties, and in what circumstances could these be added to? How exclusive, or how flexible, was its membership? How did one achieve membership? Did new councillors take an oath, and, if so, what was that oath? Under what circumstances could membership be lost? Was the council analogous to the 'council for the commonweal' created by statute in 1535? The fact that the council writing to England between 1540 and 1542 used the chancellor's seal and that the council for the commonwealth had been appointed to aid the chancellor hints towards a connection.<sup>109</sup> Despite these unanswered questions, the fact remains that James V had selected a group of individuals to help him govern who were widely recognized in Scotland and in England as a privy or secret council. Moreover, this council was an important and effective tool in managing issues of status and precedence in Scotland's relations with England.

In December 1542, James V died unexpectedly, probably from dysentery. Famously, he was succeeded by his daughter, aged only six days old. Immediately after James V's death, a council emerged to govern Scotland. These councillors did not put their names to the letters they wrote, but they employed James's signet, presumably in an attempt to garner extra authority for their actions in the brief period before his heir apparent, James

<sup>108</sup> Kisby, 'Kingship and the royal itinerary', pp. 30–1.

<sup>109</sup> Chancellor and Scottish council to Radclyff, 24 July 1541, BL Add. MS 32646, fo. 210; chancellor and Scottish council to Rutland, 5 Sept. 1542, BL Add. MS 32647, fo. 104. No original items signed from the council without the chancellor remain extant. One letter from the 'Council of Scotland' rather than the 'Chancellor and council' survives in a near-contemporary copy, with no note made of any associated seals. It is unclear if the anomaly was in fact a mistake by the copyist: Scottish council to Eure, 27 Apr. 1540, BL Royal MS 18 B VI, fo. 89r.

Hamilton, earl of Arran, was inaugurated as governor.<sup>110</sup> The emergence of this council has traditionally been read as a classic example of the on–off, majority–minority, monarch–council switch being flicked. In the light of this reassessment of James’s council, this body too requires reconsideration. Given that James was already ruling with a council, who were accustomed to writing to England, perhaps this was not the sudden natural emergence of a new institution, but instead an experienced, established, and effective organ of governance demonstrating flexibility in the face of changing circumstances. For Mary’s new subjects, proclamations issued in the name of the lords of council may not have signalled rapid change, but rather have served as a powerful statement of continuity with governance as practised ‘normally’, by an adult male monarch enjoying the peak of his powers.

<sup>110</sup> Scottish council to Henry VIII, 21 Dec. 1542, BL Add. MS 32648, fo. 232r.