

Government, Representation and the Privy Council in Pre-modern Scotland

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Abstract

In 2020 the universities of Stirling and Dundee in Scotland were the recipients of a Leverhulme Trust Research Project Grant to study the Scottish Privy Council in the period 1689 to 1708. The project aims to explore the records of this period with a view to creating a wide range of published outputs in social, economic, and political spheres and also to transcribe and display in an online platform the main records of the Council for use by historians and the general public in an important initiative in digital humanities. This article will review the significance of the Scottish Privy Council as an executive authority, consider certain unique and universal qualities within a wider European context, and also outline the main aims of the project, which is due to conclude, in spite of the simultaneous international pandemic, in 2024.

The Project

The Leverhulme Trust funded Scottish Privy Council Project (SPCP), a collaboration between the universities of Stirling and Dundee which commenced in 2020, is already shedding new light on an important national institution. In some ways the Scottish Privy Council is a unique body given its place in the pre-modern history of Scotland and how it contrasts with many similar institutions across the Europe of the sixteenth and seventeenth centuries. These factors, as well as matters of serendipity as we shall see, explain why such a significant research grant was awarded to the project, after many years of discussion and planning, and why efforts have been made to assemble a strong team of researchers and experts in institutional and governmental history. Therefore, this author (principal investigator, University of Stirling), along with the University of Dundee's Dr Alan MacDonald (co-investigator) and Dr Allan Kennedy (project manager), have been joined by research fellows Dr Laura Doak (Dundee) and Dr Clare Loughlin (Stirling) and PhD students Robbie Tree (Stirling) and Susanne Weston (Dundee). All are involved in intensive research into the history of the council, as well as playing key roles in delivering the digital humanities aspects of the SPCP.¹

The history of the Scottish Privy Council, in spite of its visible existence for at least 200 years before its abolition in 1708, is sometimes difficult to trace, the origins of the institution problematic in terms of surviving and coherent records, even though some foundational studies have appeared (McNeil 1960; Chalmers 1982; Godfrey 2001 and 2020; Goodare 2004; Rayner

¹ The project website is <https://privycouncil.stir.ac.uk/>

2014; Blakeway 2016; Kennedy 2020). Ironically, at a time when the surviving record is at its most expansive, the last two decades following the Revolution of 1689 have also seen a muted response by historiography caused by a lack of easily accessible published, printed or online, source material on the Council. Even many of the most respected historians of Scotland and the British Isles have been less than energetic in exploring the large Council manuscript volumes and miscellaneous papers during what was after all an extraordinary period of economic, social and political upheaval. The mission of the SPCP is to find some solutions to these shortcomings.

Privy Councils Old and ‘New’

Throughout history and throughout the globe kings, queens and emperors have gathered around themselves retinues of followers and advisers. Within these extended groups some key individuals were chosen as the vehicles for effective government, the chief priests, senior justices, trusted captains, and competent administrators of the realm. So it was that in premodern Western Christendom the foundations for councils were laid. How did Scotland experience such developments leading to the emergence of its own Privy Council and do these relate in any way to modern government?

Today the still existing Privy Council of the United Kingdom, first constituted in 1708, may seem like an ancient institution of limited significance. Even to those who are aware of it, it will be assumed to hold meetings with the monarch to agree minor ceremonial issues; harmless ‘secrets’. The Scottish Privy Council was sometimes called the “secret council” by contemporaries in the sixteenth and seventeenth centuries, a label also used to indicate an inner council within the larger council itself, just as King Philip II of Spain in the 1580s and 1590s had his secretive *junta de la noche* and wider *junta grande* (Gunn 2011, 119)² However, in spite of the apparent opacity of its deliberations, and relative insignificance compared to the Westminster Parliament where important and more transparent decisions are made, the Privy Council of the UK still has extensive and quite surprising prerogative powers (Rogers 2015, 225-311).³ It retains a judicial remit for crown dependencies like the Isle of Man, Jersey and Guernsey, and hears judicial appeals, mostly related to the death penalty, from those Commonwealth countries who have not abandoned a connection to the British constitution, even though such arrangements are a throwback to the British Empire. In spite of many Commonwealth countries developing their own appeal courts since the late 1940s, those continuing to look to the Privy Council number 30 and include Jamaica, Grenada, Gibraltar and Mauritius. One of its committees even oversees amendments to the statutes of the four ancient universities of Scotland, those of St Andrews, Glasgow, Aberdeen and Edinburgh. The UK Council has of course various Scottish members, including First Ministers past and present that head the devolved government of Scotland since the new Scottish Parliament first sat in 1999. Scotland’s Privy Council in the premodern period was appointed by royal commission at the start of a new reign and at various moments in-between when the monarch desired to appoint a new team (Goodare 2004, 128-48). Nowadays a new monarch does not automatically produce new councillors and individuals are usually appointed for life using the label ‘right

² Chalmers makes a distinction between the ‘daily council’ and a larger and more variably sized ‘secret council’ in his study of the king’s council in Scotland from 1460 to 1513 (Chalmers 1982, 16-103).

³ See also <https://privycouncil.independent.gov.uk>

honourable', unless persuaded to stand down or removed due to some scandal, such as in the case of John Profumo over the notorious Profumo affair in the early 1960s. Profumo was the Secretary of State for War in Harold Macmillan's Conservative government and had an extramarital affair with a certain Christine Keeler, a 19-year-old model. Profumo was found by police to have lied about the affair to the House of Commons while a security breach seemed possible as it transpired that Keeler simultaneously had a relationship with a Soviet naval attaché. The scandal helped bring about Macmillan's resignation in 1963 and electoral defeat for the Conservatives the following year (Heffer, 2017). Such cases are rare, however. In fact, there are in 2022 a remarkable 700 privy councillors of political, judicial, ecclesiastical and civil servant status. In premodern Scotland a commission would rarely stretch to over 35 strong, although it did reach 50 in the 1660s, with meetings often consisting of perhaps a dozen members, nine being the quorum. Today the Lord President of the Council, as of February 2022 the Conservative MP Mark Spencer, chairs meetings of the UK Council with generally half a dozen members present, who always meet at the discretion of the government of the day. However, the accession Council, which gathers on the death of a monarch, consists of all members and by tradition meets at St James's Palace in London. In theory all, though of course a selection from the 700, will assemble to witness the proclamation of succession for the new monarch, King Charles III, when he succeeds Queen Elizabeth II.

Privy councils became an important institutional feature in the development of premodern monarchy, government and administration throughout Europe. The English Privy Council, which of course also ceased to exist in 1708, traced its roots back to Norman times and so too does the Scottish equivalent. This was a process away from having a small coterie of clergymen and clerks who could read and write and administer to a more formalised bureaucratic machine. This bureaucracy, with its associated pensions and privileges, was an opportunity for individual preferment and crown patronage as the monarch expanded his or her *curia regis* of key advisors. These bureaucratic trends are reflected in the condition of the records of Council business. While from the middle of the fifteenth century Council records survive in fragmentary form as *Acta Dominorum Concilii*, from the creation in the 1530s of the College of Justice (known more commonly as the Court of Session, Scotland's highest civil court), which took over most of the judicial functions, we see the appearance of distinct registers of the Privy Council which run from 1545 to its abolition in 1708, although those records extant before 1545 are very significant (Blakeway 2016).

In Scotland the architecture of central administration was transformed in two main phases, although the relatively decentralised nature of society compared to England and the peripatetic behaviour of Scottish monarchy meant that a specifically nodal bureaucracy took longer to develop (Mann 2018). The first phase stemmed from a period of Anglo-Normanisation in the twelfth and thirteenth centuries, when the posts of sheriff and justiciar appeared but more significantly chancellor (chief minister) c.1123, clerk register (keeper of the records) 1280s and then later secretary of state (chief clerk) 1360s. A second phase of more centralizing administrative reform occurred in the Renaissance period of the fifteenth and sixteenth centuries, as new institutions took hold populated by increasing numbers of educated laymen. This is reflected in the establishment of courts of justice; merchant guilds in urban centres, ecclesiastical, baronial and in particular royal burghs; a greater representative engagement, both in a cultural sense and in actuality, by individual members of parliament and their respective estates in the Scottish Parliament; and by the growing band of professional

administrators, coming together to coalesce into a more formal council. The copying of administrative ideas from England and Continental Europe was evident but also by necessity some political heavyweights were co-opted. Treasurer (finance minister) 1420s, comptroller (administrator of the royal household) also 1420s, lord advocate (chief prosecutor) 1470s and the lord president of the court of session (head of the judiciary) 1530s, appear in this phase. In effect these were the officers of state who sat in the Scottish Parliament, as well as the core of those commissioned to the Privy Council. In the late mediaeval period, some of these individuals were recruited from the clergy but there was a move away from clerical appointees to such posts by the late sixteenth century, although in the reign of Charles I (1625-41) the archbishops of St Andrews and Glasgow were joined on the privy council by various bishops, and from the monarchical Restoration in 1660 under Charles II these two returned to be joined by a third cleric from 1678 to 1687 - John Paterson (1632-1708), bishop of Galloway, then of Edinburgh and finally himself archbishop of Glasgow. Paterson was an unusual case. When Bishop of Galloway he was allowed to reside in Edinburgh for want of appropriate accommodation in his own diocese and, being at hand, became one of the most regular Council attendees, chairing various subcommittees and particularly meetings of the Council's Committee of Public Affairs as it investigated cases of religious nonconformity and the activities of the radical wing of the Covenanting movement (Clarke 2004). Essentially episcopal clergy moved in and out of Privy Council membership as they moved in and out of the Scottish Parliament, until finally at the Revolution of 1688/9 they exited both completely. Meanwhile, some noble and honorific appointees without particular professional and administrative skills continued to be appointed to the council, although it should be remembered that such elites were supported by their own secretariats. It always remained important to keep political membership adequately strong and as inclusive as necessity allowed. One of the most significant political errors in Scotland's Restoration period was the failure to keep the most senior Scottish noble, William Douglas, 3rd Duke of Hamilton (1635-94), sufficiently within the Council. Doing so may have prevented his leadership of political opposition, a key factor in the move towards party politics as it gathered pace towards that Anglo-Scottish political crisis that culminated in the parliamentary Union with England in 1707. Those political, social and administrative changes that enhanced the evolution of nodal councils clearly also impacted on the parliaments of Europe, although some territorial entities developed councils but not representative assemblies, such as the duchy of Milan through its permanent privy council, or *Consiglio Segrato*, in the fourteenth and fifteenth centuries (Gentile 2018, 69-84).

'Uniqueness' of the Scottish Council

Renaissance ideas that encouraged as opportunities arose for individuals from aristocrats to the professional 'middling sort' to engage and represent - a manifestation of civic virtue as the Scottish political writer and parliamentarian Andrew Fletcher of Saltoun (1653- 1716) reflected on in his *An Account of a Conversation Concerning a Right Regulation of Governments* of 1703 - resulted in both monarchs and elites accepting the need for an executive body (Robertson 1997, 175-215). The catalyst for these opportunities came from a combination of economic and institutional development, such as the expansion in the numbers of burghs and markets from the fourteenth to seventeenth centuries, along with the proliferation of administrative record keeping. In the case of the Privy Council, however, the general

acceptance of the authority of the body was vitally important. It is reasonable to assume that this acceptance stemmed in part from Scotland's response to the beliefs of the Conciliar Movement of the fifteenth century, which inspired the Scottish historian and philosopher John Mair (1496-1550) to conclude that a council of cardinals should be the supreme authority over the Church of Rome. In his *In Mattheum ad litteram expositio* (1518) he concludes that "[a council] duly convened and representing the universal church, is superior to the pope", the issues being, what is to be done with a wayward pope and how do we define what is meant by 'the church' (Burns 1996, 52). The great western Schism in the Church of 1378-1417, which created first two and then three competing popes, led to the holding of three general councils of Pisa (1409), Constance (1414-18), and Basle (1431-49), and subsequent gatherings into the sixteenth century, with the purpose of healing division. In what may seem a typical break with England, Scotland supported the claims of the Avignon papacy while England preferred Rome, and Scotland's academics and writers, including Mair and his predecessor John Ireland (c.1440-95), drank in the ecclesiology of the university of Paris, where both studied and taught, that favoured the conciliarist side (Burns 1996, 32-3, 47-53). While the papacy eventually took back control, and although some princes such as Charles V, the Holy Roman Emperor, had a vested interest in having common cause with those opposing rule by 'king-in-committee', ideas about relying on a group of councillors continued to thrive in the secular world and sustained the legitimacy of such institutions, notwithstanding the Protestant Reformation in the likes of Scotland. As Wim Blockman states after Otto Hintze "the ecclesiastical model of conciliar representation was easily transferred to secular circumstances" (Blockmans 1998, 30). And put simply, as George Buchanan (1506-82) noted in his influential political tract *De Jure regni apud Scotus Dialogus* (1579) "As a general rule, a multitude of people is a better judge of all affairs than an individual. Individuals have certain portions of virtue which, when brought together form a single outstanding virtue" (Mason and Smith, 2004, 57). Buchanan was Scotland's greatest writer of the premodern period, and an outstanding Latinist, yet he was no democrat, and by 'the people' he did not of course mean the entire population but the commercial, landed, clerical and academic elite. What underpinned his views of parliamentary sovereignty applied in small scale to the Privy Council as an executive. Those who gathered in Council took decisions while the wider populace accepted them. The fact that the body could convene as a court obviously added to its position of legitimate authority.

After King James VI of Scotland became King James I of England, and the Union of the Crowns was joined in 1603, many politicians and political writers, including Andrew Fletcher, came to condemn this Union of two parliaments under one king. Even those who opposed the parliamentary union of 1707 were unhappy with the *status quo* and looked to find some way to take the constitutional settlement back to a 'golden age' before 1603. However, in one respect Scotland's political classes could not complain. Scotland's monarch moved to London but its Privy Council remained in Edinburgh. While Scottish business was carried out in England's capital with those Scots who happened to be present, sometimes with key English ministers present, and also a 'Scottish council' was briefly convened from 1661, there was no settled attempt to set up a Scottish privy council in London. As the Restoration settlements were being established in England and Scotland from 1660, a standing committee was set up in London to advise the king on Scottish affairs. This came into being in February 1661. This 'council' consisted of whichever Scottish privy councillors were present plus six Englishmen, including the two English secretaries of state and the English Chancellor the Earl of Clarendon (1609-74) who supported the formation of this body. It would be an exaggeration to say that

this represented English domination, and mostly the Scots outnumbered the English at these meetings, and it should not be forgotten that since 1603, Scots, generally also six in number, were commissioned to the English Privy Council. In fact, this Scottish London council was abandoned in 1663, a victim of the political eclipse of John Middleton, Earl of Middleton (c.1608-74), Charles II's High Commissioner based mostly in Scotland, who had suggested the committee to continue his bitter feud with John Maitland, earl and later duke of Lauderdale (1616-82), Scotland's Secretary of State, based in London. Lauderdale won this rivalry and the specific committee was abandoned (Paterson 2003, 133-68).

Given the more common arrangements found in European composite monarchies it is remarkable that the Scottish Privy Council was maintained in Edinburgh. More usually in such cases a viceroy would be sent north to act as the Westminster government's representative in Scotland and Scotland's representative at Westminster. The Spanish situation offers such an illustration. Catalonia had a viceroy located in Barcelona who was kept separate from the decision-making Council of Aragon in Madrid. A provincial governor, in the French manner, might also have been a possibility, acting as a 'petty king' in the name of the actual monarch. But as Goodare says, "Scotland's government by a unitary King-and-council prevented this", or at least made such a proposal anathema to the political community and parliament of Scotland (Goodare 2004, 141-3). Various factors before and after 1603 account for the Privy Council remaining in Scotland. These include, the very fact that James VI was Scottish and had enough confidence in the political class; that his failed attempt at a full union between England and Scotland in 1604-6 necessitated falling back on existing structures; thirdly, arrangements such as those made in 1589 whereby the Privy Council governed Scotland while the king was in Denmark agreeing his marriage to Princess Anna, pointed to future possibilities; and finally, the flexibility of business in London, where occasional Scottish matters could be considered in and around the English council, diluted ideas of having a strong and permanent Scottish Council based in the English capital. While this enabled the Council in Edinburgh to carry on its duties until 1708, this constitutional arrangement also gave considerable power to the Scottish Secretary in London, where he was the key conduit between council and monarch, a set up that had risks as well as advantages for Scottish affairs.

Self-interest and Institutional demise

Ultimately, the Scottish Privy Council ended with a whimper not a bang, a victim of party politics in Scotland with the excuse of the Council's failure to deal adequately with known plans for a Jacobite invasion, which eventually emerged in the form of a brief insurrection in support of an aborted French landing in March 1708 (Riley 1964, 87-102). In fact, opposition politicians in Scotland had pressed for the demise of the Council before this date as they viewed the body as a vehicle for the ruling Court party under James Douglas, 2nd duke of Queensberry (1662-1711), particularly when it came to the management of elections. The *Squadron Volante*, a third party in Scotland at the Union that was neither of the Court or of the Country and led by John Hay, the 2nd marquis of Tweeddale (1645-1713), believed that closer union with England would bring the end of the Queensberry ministry in Scotland, better secure both the Protestant succession and Scotland from the threat of Jacobitism, and also keep their party relevant. Action was required swiftly and before the general election of 1708 for which Queensberry could manage affairs so as to deliver new MPs who would be sympathetic to

retaining the *status quo*. Court attempts to tidy-up the Treaty of Union quickly turned to much more radical proposals that threatened defeat for the Westminster administration under Sidney Godolphin (1645-1712), lord high treasurer under Queen Anne. The position of the Council was weak in these circumstances. Unlike Scotland's other legal, educational and religious institutions preserved by the clauses of the Treaty of Union, the Council was affirmed in vague terms under article 19 of the Treaty –

...after the union the queen's majesty and her royal successors may continue a privy council in Scotland, for preserving of public peace and order, until the parliament of Great Britain shall think fit to alter it, or establish any other effectual method for that end.⁴

And so, aware of the pressures of Westminster parliamentary arithmetic and needing votes to continue the war effort during the War of the Spanish Succession (1701–14), an unwillingly Godolphin conceded the abolition of the Scottish Council on 1 May 1708, precisely twelve months since the commencement of the parliamentary Union. Last minute efforts by the Court failed in delaying the abolition until after the election in July that year. The bill therefore became law in February and the Privy Council of Great Britain was created which technically ended the English Council as well, although for the remainder of the century the 'new' body had very few Scottish members. Ironically, the lack of a central executive authority in Edinburgh, with access to local intelligence and the power to take swift action, merely encouraged Jacobitism, that movement to restore the Catholic line of the Stuart monarchy that brought about the famous rebellions of 1715 and 1745. Many who had voted for abolition conceded this point after the 1715 and the *Squadron* had acted out of self-interest not in the interests of security. In another twist, one the greatest opponents of abolition, fearing that the bill's provisions to introduce reformed justices of the peace to Scotland would infringe on the privileges of traditional heritable jurisdictions including his own, was John Campbell, 2nd duke of Argyll, the political and military force behind the countering of the Jacobite rebellion of 1715.

Business and significance

How do we assess the significance of the Scottish Privy Council? The Scottish Parliament (the legislature) met for periods of a month or perhaps three months or more, and in some years not at all, whereas the Council (the executive) convened on a daily and weekly basis, making it able to deal with long term policy matters but also immediate issues: it behaved somewhat like a modern-day cabinet, and its records are the nearest we have to cabinet papers from the premodern period in Scotland. The competencies of the Council were very wide and suggest a significant role in social, economic, religious and political spheres. In terms of research a rich mixture of themes is on offer through these categories, as is evident from the circumstances and events in the period of the Scottish Privy Council Project, from the Revolution of 1689 to 1708. It is an extraordinary period of social history and policy, for all of Scottish society but also for the individual, in areas such as the poor law, family, personal conduct, marriage, leisure, rights and freedoms and social welfare. In domestic and international economic policy, in the context of the prevailing belief in mercantilism, that is using tariffs to maximize exports

⁴ RPS, 1706/10/257

and minimize imports, we see the granting of monopolies and patents, the imposition of price controls, and import and export duties, and the levying of taxation, as well as responding to the creation in 1695 and subsequent near collapse of the Bank of Scotland, and the failed Darien scheme of 1698-1700, that final attempt to cure Scotland's economic woes by a costly and crippling plan to set up a trading colony at the Isthmus of Panama. In the same period politics and religion intersected each other and research themes include political management of elections and in the Scottish Parliament, the ebb and flow of Anglo-Scottish relations and national security; and in religion the reestablishment of Presbyterianism in 1690, and attempts by the crown to promote toleration of Episcopalians, while monitoring the activities of Jesuits and Catholic cells. The Council's relation to other national institutions – Parliament of course, but also the General Assembly of the Church of Scotland, the 'parliament' of the Scottish church established after the Scottish Reformation in 1560 and, after being dormant for a number of years reintroduced in 1690, and also presbyteries, urban councils and law courts, must be contextualised. The activities of the Parliament and Council were interwoven with the former devolving to the Council full authority over some matters, while the Council had responsibility to ensure that acts of parliament were adhered to on the ground.

This wide range of Council business is best illustrated by examples from the period in question. The Council considered appeals for help from individuals and groups. For example, two weeks after the Battle of Killiecrankie in late July 1689, at which the Jacobites were victorious but lost their commander John Graham, Viscount Dundee, seven widows, along with a badly wounded English soldier, petitioned the Council for assistance. The women were widows of English soldiers who had died as part of Colonel Hastings regiment which fought with the Williamite General Hugh MacKay against Dundee. They requested a fund to allow them and their children to return to England, and in the meantime money to maintain themselves "in their present starving condition". The Council instructed the receiver of His Majesty's crown rents and foreign excise to make a small payment to each to ease their circumstances. Additional groups of widows appealed in this manner after the battle and assisting other widows, especially of clergy, was regularly considered. Also, in a telling contrast, at the same session of the Council that relieved the English widows, the Viscountess of Dundee was granted protection for her family home and estate at Dudhope in Dundee following damage done by government troops in the aftermath of the battle (*RPCS* 1933, 3, 14, 42).⁵ On a much larger scale, and after a special committee of the Council reviewed the position from February 1693, a "proclamation anent beggars" was issued the following August, instructing all beggars to return to their own parishes and that heritors (landowners) be stented, that is taxed, to help the genuine poor. Existing measures to help the poor were restated. As years of national famine set in for the remainder of the 1690s, the so-called 'seven ill years' and the greatest national demographic disaster since the Black Death in the fourteenth century, councillors regularly concerned themselves with attempts to help a struggling population. In June 1699 matters were so serious that a "Proclamation for allowing the free transport of victual from shire to shire and the importation of foreign victual free of custom" was agreed and disseminated by the Council.⁶

Foreign policy and external affairs were also engaged with in differing scale. In April 1697 the Scottish community in Königsberg in Prussia, modern day Kaliningrad, petitioned the General Assembly, who in turn appealed to the Privy Council, to be allowed to begin a public and

⁵ NRS, PC1. 45, 199

⁶ NRS, PC1. 48, 605, 641-2; PC1. 49, 122-23; PC1.1.51, 578-80

voluntary collection in the parishes of Scotland to help them build a new church, permission for which had been given by the Duke of Brandenburg. This was duly granted by the Council. However, of much greater significance was the decision the Council made at the end of May 1702, between the death of King William in February and the summoning of a session of the Scottish Parliament in June, to declare war against France and Spain, and to take an unwilling Scotland into the recently begun War of the Spanish Succession.⁷ For many parliamentarians the Council had gone too far. Combined with the sense of grievance at English opposition to the Darien scheme, this led to anti-government electoral successes in the general election of 1702/3, creating a minority government, and helped build up resentment in the Scottish Parliament which culminated in an Act anent peace and War of 1703 (Brown 2005).⁸ This affirmed the parliament's right to assent to such action, and ultimately paved the way to the Anglo-Scottish political crisis leading to the political union with England. Faced with an increasingly unmanageable Edinburgh parliament this union was of course seen by Westminster as a solution to the 'Scottish problem' (Macinnes 2007; Whatley 2006).

Digital solutions

The SPCP has a second objective beyond researching the business of the Council, creating an online resource for students, researchers and the public. The relevant website is due to be launched in the summer of 2024. That leads us to consider the nature of the record with which the project needs to deal. Council business sessions and the subsequent manuscript registers held in the National Records of Scotland (NRS) in Edinburgh are in two series – Acta volumes, recording public business, such as law and order and public policy, and Decreta volumes, recording private business, ranging from financial assistance to widows, as we have noted, to the granting of commercial rights. The handling of book publishing illustrates clearly the two types of business – censorship being public and recorded in Acta, and copyright grants for printed books being private and recorded in Decreta (Mann 2000, 95-124; 163-191); such as, respectively, the arrest, imprisonment and banishment in 1700 of the printer James Watson, the younger, and author Hugh Paterson for producing provocative pro-Darien and pseudo-Jacobite material that conflated a range of political grievances, and the copyrights granted to the grammarian James Kirkwood in 1695 to publish his *Rhetoricae compendium* and his *Grammar*.⁹ However, there are times when public matters appear in the Decreta registers and private in the Acta and this shows the importance of interrogating both sets of records before coming to any conclusions.

While the research agenda of the project is set from 1689 and the political revolution that year, the detailed examination and editing of these manuscript records will span the years 1692 to 1708. Why the start date? This arises from pure serendipity. Between 1877 and 1970 printed volumes of the Council registers were published, merging the public and private material held in the NRS. However, no published editions exist for the years 1692 to 1708. Also serendipitous is that in the 1960s typescripts were made of the public registers and kept at the NRS with a view to printed publication covering from 1692 to 1708, an outcome prevented by lack of available funds to complete the series. This is one of several junctures where the online

⁷ NRS, PC. 1.52, 395-97

⁸ RPS, 1703/5/193

⁹ NRS, PC. 1, 52, 114-17; PC2. 26, 47v

resource *The Records of the Parliaments of Scotland to 1707 (RPS)* - <https://rps.ac.uk/>) will be used as a project template. The *Records of the Parliaments of Scotland (RPS)*, one of the most important online resources in the study of premodern Scottish history and an exemplar for digital humanities, was introduced at the 53rd congress of the International Commission for the History of Representative and Parliamentary Institutions held at Barcelona in 2003, and at which the methodologies of accumulating this online resource were outlined in detail (Mann et al, 2005; Marsden 2019). Using then *RPS* as a methodological mould, where the nineteenth century printed volumes of *The Acts of the Parliaments of Scotland* were scanned using optical character recognition (OCR) to create a master record, OCR scanning has been undertaken of these Privy Council transcripts to accelerate markedly the process of text capture. This way a foundation text has been created for the greater part of the record. Manuscript material not available in typescript form will be interpreted and transcribed from document images acquired from the NRS or other archives. Even though the 1960s may seem recent enough, some of the editorial amendments made in the typed transcription do not respect the original text in a manner that adheres to current editing standards and will be reversed before this first stage of the editing process is completed.

Editing the master text will not be easy and there is much to agree upon before the process is too far underway. This second stage of the editing process involves the ‘marking-up’ of the master text to form a new edition, and again following *RPS*, this stage will involve the removal of all abbreviations, the insertion of modern punctuation, the adding of editorial commentary where necessary, including using footnotes to explain editorial points, and where appropriate, the comparisons between multiple sources. The insertion of modern punctuation will result in a more readable and accessible version of the Council record. To aid this process further, the new edition will contain a new referencing system used for citation purposes. One of the most significant features of *RPS* is the creation of its parallel modernised translation of the parliamentary record, so this will be introduced for the new Privy Council edition—naturally increasing accessibility and readability to students, academics, and the general public. The translation is necessitated by the problems arising from searching a digital database with no standard spelling, orthographical precision being a product of the eighteenth century. In effect, the translation will provide a detailed, standardised index of the entire database enabling an almost infinite number of search terms by computer. Therefore, the other core aim of this project, to create a free-to-access online edition covering these years, will be achieved and at the same time enable the project team to explore various elements of policy and action by the Council in the reigns of William and Mary (1689-1702) and Queen Anne (1702-14).

Representation?

Clearly, the Scottish Privy Council was hardly a representative body in modern democratic terms, but could it be seen as having representing qualities for the period in question, or even in relation to the more geographically wide and numerically strong Scottish Parliament? We could of course ask the same for the current UK Privy Council made up as it is of largely the unelected or once-elected great and good. Considering premodern institutional representation merely in terms of parliament has been rightly challenged (Blockmans 1998, 29-64). The convention was that Scotland’s chancellor who presided over the Council, James Ogilvy, 1st Earl of Seafield and 4th Earl of Findlater (1664-1730), being the last chancellor of Scotland

(1705-8), although increasingly from 1620s a deputy presided under the title Lord President of the Council, the last being James Graham, 1st Duke and 4th Marquess of Montrose (1682-1742) (1706-7). The fact that these were nobles seems unpromising in representative terms. However, the full Privy Council contained non-noble as well as noble individuals, with some councillors from towns representing trade, commerce and urban life, and always the provost of Edinburgh; some clergy, as we have seen, in the shape of the archbishops of St Andrews and Glasgow, and various bishops, particularly in the reign of Charles I, before clergy were excluded after the revolution of 1689, in line with the separation of spheres between the civil and ecclesiastical authorities insisted upon by Presbyterians; and some councillors from the shires, often with legal training, along with senior army officers. All were part of a mixed attendance, even though the number that attended regular meetings could be small. Almost all were also members of parliament with the concerns of course which that status afforded. While members of the Privy Council were unified in the sense of crown loyalty, they clearly expressed political and social priorities within their individual classes, as nobles, as barons, as clergy, as merchants, as military men and as lawyers. All of these were men, of course, as well as owners of land and property, some greater than others, and as landowners as well as fathers and sons, were concerned to preserve those aspects of hereditary right and the maintenance of their social status in society, as well as exploring the prospects for advancement. The interests of individuals coexisted with those of interest groups. Occasionally the Council even disagreed with or prevaricated over royal instructions, such as not enforcing obedience to the agenda of Charles I over liturgical and religious policy, or in the avoidance of severe punishments for some deviants, such as Jacobite sympathisers in the final months of the Council's existence. Some even resigned or refused to attend out of protest. Those who were officers of state and were dismissed for a political misdemeanor found themselves thrown off the council. This occurred in 1686 when Sir George Mackenzie of Rosehaugh (1636-91), lord advocate, refused to accept James VII's plans to repeal the penal laws against Scottish Catholics and was dismissed (Mann 2014, 178; Lauder 1848, 2, 723). In June 1702 when the clerk register Charles Douglas, 2nd earl of Selkirk (1662-1739), walked out with 70 other members of the Scottish Parliament in support of the protest led by James Douglas, 4th duke for Hamilton (1658-1712), that the first session of parliament under the new Queen Anne was unconstitutionally convened, he too was soon replaced and lost his seat on the Council (Szechi 1995, 12-14).¹⁰ However, it is from the wide scope of the business of the Privy Council that we get a true sense of how the body responded to the needs of the people as well as the desires of their prince.

Conclusion

It is our fervent hope that a fulsome analysis of the work and business of the Scottish Privy Council will emerge from the research agendas of the SPCP team above. As a group our objective is to improve our understanding of the Council but also to better enable researchers that follow on after us. The lack of printed volumes of the Privy Council record has had a weakening impact on the quality of historical research on the last two decades of the Council's existence, and this is not merely a problem for students. The absence of an accessible published record has demonstrably retarded research into this period, to the extent that some major studies have barely looked at the record. This project should make more of us aware of these relatively untapped secrets.

¹⁰ *RPS*, 1702/6/3.

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