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To cite this article: Alastair J. Mann (2025) Political parties and the eclipse of the Scottish Privy Council, *Parliaments, Estates and Representation*, 45:1, 53-72, DOI: [10.1080/02606755.2025.2452823](https://doi.org/10.1080/02606755.2025.2452823)

To link to this article: <https://doi.org/10.1080/02606755.2025.2452823>



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Published online: 31 Jan 2025.



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Political parties and the eclipse of the Scottish Privy Council

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ABSTRACT

In 1708 the executive arm of Scottish pre-modern government, the Scottish Privy Council, was abolished, in a decision that disregarded the national interest. The competencies of this body were very wide. It engaged in policy formation and delivery, sometimes following decisions by the legislature, the Scottish Parliament, over a range of social, economic, religious, political, judicial and security concerns and did so, we must assume, back at least to the thirteenth century. There is little consideration of the circumstances of the abolition in the existing historiography, even though the Scottish Privy Council has something of a unique position. Given the more common arrangements found in European composite monarchies, such as in Catalonia where a viceroy located in Barcelona was kept separate from the decision-making council in Madrid, or the option of an independent provincial governor as in the French model, it is remarkable that the Scottish Privy Council was maintained in Edinburgh after the monarch moved to London in 1603. This article seeks to explain the successful campaign to eliminate the Council in the light of progressive moves in the early modern period towards a political culture dominated by party.

ARTICLE HISTORY

Received 24 August 2024

Accepted 4 January 2025

Competing political parties are essential to the healthy maintenance of liberal democracies. They are an antidote to the single party model that leaves the state strong and the people weak. In the British Isles of the seventeenth and early eighteenth centuries the arrival of parties arose out of religious, economic and social tensions but also from the increasing professionalization in the way parliamentary representatives conducted themselves and in how government activity was carried out. Debates over what constituted the national interest became a permanent feature, and political careers of principle and patriotism were common, although well into the eighteenth century and into the next that did not mean an end to self-interest clashing with self-interest and placemen opposing placemen. Also, early proto parties were capable of acting to the detriment of the common good, placing short term advantage over longer term consequences. The abolition of the Scottish Privy Council in 1708 appears such a case in point.¹

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¹The main texts on the Council's abolition are P.W.J. Riley, *The English Minsters and Scotland 1707–1727* (London, 1964), pp. 87–102 and G. Townend, "Rendering the Union more Complete": *The Squadrone Volante* and the Abolition of the

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From grievance to party

The advent of party politics in Scotland had a similar trajectory to that in England. Not in the least to denigrate Geoffrey Holmes's focus on the period from 1702 to 1714 as the first 'age of party' in Great Britain, the reign of Queen Anne, the germination of Scottish parties can be traced much earlier.² The common thread that increased political opposition, and in the first instance a party of opposition or 'Country Party' as it became known, was resentment at perceived arbitrary government and concentration of power. Who was to blame? Even in the reigns of James VI and I (r.1585–1625) and Charles I (r.1625–49) those who opposed the Scottish religious and political policies of both often failed to blame the monarch directly, and assumed bad counsel was the cause; such was the case with William Laud, Archbishop of Canterbury (1573–1645) and head of the Anglican Church of England, whose influence was behind the religious policies Charles I pursued for his northern kingdom. The revolution in Scotland against him of course pitted Episcopalians against Presbyterians and Royalist Cavaliers against Covenanters, yet to place such policies at the feet of specific Scottish ministers is less clear in the period from 1603 to 1639. If we take James's reign for example, George Hume, first Earl of Dunbar (d.1611) and Alexander Seton, first Earl of Dunfermline (1555–1622) were the main administrators, being treasurer and chancellor respectively, although neither was opposed by a strong parliamentary opposition. Presbyterians may have disliked Dunfermline, and he was in fact a closet Catholic, but he favoured keeping all clergy out of politics, whatever their denominational background. To suggest then in the first half of the seventeenth century that a sense of 'party' had arrived is somewhat optimistic, even though something of a court versus country clash characterized the Scottish Parliament of 1621.³ Later the Covenanter parliaments and government instituted a revolution in constitutional terms, invigorating the Scottish Parliament as never before, expanding the membership of elected shire members and, in what has been described as the appearance of a 'Scottish Commons', demonstrating how when shire and burgh members came together they were able to challenge the dominance of the

Scottish Privy Council', *Parliamentary History* 28, (2009), pp. 89–99. Other sources for the Scottish Privy Council are limited but the most important are A. Blakeway, 'The Privy Council of James V of Scotland, 1528–1542', *Historical Journal* 59, (2016), pp. 23–44; M. Godfrey, 'The College of Justice, Court of Session and Privy Council in Sixteenth Century Scotland, 1532–1603', in A.M. Godfrey and C.H. van Rhee (eds), *Central Courts in Early Modern Europe and the Americas* (Berlin, 2020), pp. 151–87; J. Goodare, *The Government of Scotland, 1560–1625* (Oxford, 2004), pp. 128–48; A. Kennedy, 'State Formation, Criminal Prosecution and the Privy Council in Restoration Scotland', *English Historical Review* 572, (2020), pp. 29–62; M.T. Chalmers, 'The King's Council, Patronage, and the Government of Scotland 1460–1513', (University of Aberdeen, PhD thesis, 1982); G.S. Macdonald, 'Black-Boxes, Flying Packets, and Espionage: The Information Trade and Scottish Governance, 1689–1691', *Parliaments, Estates & Representation* 40, (2020), pp. 269–89 and 'Bestowing Charity: War Widows and the Privy Council during the Williamite Revolution in Scotland (1688–91)', *Parliaments, Estates & Representation* 44, (2024), pp. 120–37; P.G.B. McNeill, 'The Jurisdiction of the Scottish Privy Council, 1532–1708', (University of Glasgow, PhD thesis, 1960); L. Rayner, 'The Tribulations of Everyday Government in Williamite Scotland', in S. Adams and J. Goodare (eds), *Scotland in the Age of Two Revolutions* (Woodbridge, 2014), pp. 193–210. For a general bibliography on the council see *Scottish Privy Council Records [SPCR]* at <https://spcr.ac.uk/>.

² As Riley and Hayton have pointed out G. Holmes' *British Politics in the Age of Queen Anne* (London, 1967 and later editions) reflects little on Scotland before 1707. D.W. Hayton, 'In No One's Shadow: British Politics in the Age of Anne and the Writing of the History of the House of Commons', in C. Jones (ed.), *British Politics in the Age of Holmes* (Oxford, 2009), pp. 9–10.

³ J. Goodare, 'The Scottish Parliament of 1621', *Historical Journal* 38, (1995), pp. 29–51; A.R. MacDonald, 'Consultation and Consent under James VI', *Historical Journal* 54, (2011), pp. 287–306; M. Lee Jr, 'King James's Popish Chancellor', in *The 'Inevitable' Union and Other Essays on Early Modern Scotland* (East Linton, 2003), pp. 145–7; and Lee, 'Charles I and the End of Conciliar Government in Scotland', in *The 'Inevitable' Union*, pp. 169–88.

nobility.⁴ Different wings of the Covenanting movement, some clerical and some secular, also emerged, particularly in the decade after 1641. Nonetheless, while the Covenanters provided some clues as to what was possible in terms of action at local level, and in initiating procedural structures within parliament that in the future would aid the deliberative process, no parliamentary opposition, or second party, evolved to challenge the government of the day. Ironically, it was the authoritarian nature of the Scottish Restoration settlement under Charles II (restored to the monarchy in 1660), reacting as it did against the Covenanting period, which created the circumstances in which such a party could emerge.

Through the English Restoration settlement Charles II was not able to completely revert back to the constitutional position of his father before the Covenanting Revolution, and some of the reforms of the Long Parliament in 1641 remained in place. In that sense although the Crown held considerable power, the English Parliament was ‘irrevocably altered by the upheavals of the Civil War’.⁵ The Restoration in Scotland was ostensibly more complete. In just over two years, from the king’s return in May 1660, the Scottish Privy Council, Scottish Parliament, judiciary and a re-fashioned Episcopacy, with admittedly less political influence, had been restored to their pre-revolutionary status. Nonetheless, a cultural shift had taken place in the Scottish Parliament – there were longer sessions, more resistance to rubber-stamping measures proposed by the reintroduced Lords of the Articles, the parliamentary management committee which was dispensed with by the Covenanters, and for voting purposes the batching of business became restricted to matters uncontroversial.⁶ Admittedly, while there was little immediate evidence of the kind of organized opposition which began to appear at Westminster from the very first day of the English Cavalier Parliament, a factionalism began to emerge in the course of the 1660s. This built on the representative legacy of the 1630s and 1640s but was a largely secular and constitutional parliamentarianism, less influenced by the overtly religious context of the previous two decades.

In spite of this creeping ‘reformism’ one of the highpoints of monarchical authority and absolutism in Scotland was the ‘Act asserting his majesty’s supremacy over all persons and in all causes ecclesiastical’ of 1669. This gave King Charles full and mostly unprecedented authority in all matters of religion.⁷ The passing of this act had been achieved by John Maitland, first Duke of Lauderdale (1616–1682), Scottish secretary since the Restoration and now High Commissioner representing the Crown in the second post-Restoration Parliament in the reign of Charles II. Lauderdale had been the dominant figure in Scottish politics in the 1660s and the 1669 session showed clearly his particular brand of parliamentary management. In the face of a weakly organized opposition, he threatened and cajoled the estates into agreeing to the Crown agenda, and so fostered ill-will amongst burgh members looking to protect commerce from duties, nobles looking to assert privilege, lawyers questioning legalities, and even bishops looking to preserve status. At the conclusion of the session he wrote to King Charles: ‘never was [a] king so absolute as you are in poor old

⁴J.R. Young, ‘The Scottish Parliament and the Covenanting Revolution: The Emergence of a Scottish Commons’, in Young (ed.), *Celtic Dimensions of the British Civil War* (Edinburgh, 1997), pp. 197–8.

⁵A.J. Mann, *James VII duke and king of Scots, 1633–1701* (Edinburgh, 2014), p. 76; T. Harris, *Restoration, Charles II and his Kingdoms, 1660–1685* (London, 2005), pp. 47–8.

⁶G. MacIntosh, *The Scottish Parliament under Charles II, 1660–1685* (Edinburgh, 2007), pp. 1–28; Harris, *Restoration*, 104–16; R. Hutton, *Charles II: King of England, Scotland and Ireland* (Oxford, 1989), pp. 166–213.

⁷K. Brown et al. (eds), *The Records of the Parliament of Scotland to 1707* (University of St Andrews, 2024), Records of the Parliaments of Scotland (rps.ac.uk) [RPS], 1669/10/13.

Scotland', and everything desired by king and commissioner had been achieved, including the supremacy act.⁸ As MacIntosh puts it:

the church and its bishops had been reined in, the appointment of the commissioners for the union negotiations been left to the King, and customs duties had been tightened up. All this was achieved despite the most vocal opposition in Parliament since the Restoration.⁹

Charles and Lauderdale's plan to explore parliamentary union between England and Scotland would be short lived and come to nothing, but it is noteworthy that every time union proposals were made the political temperature increased, as would occur in 1702–1703 and 1705–1706.

Resentment at Lauderdale's handling of Scottish affairs continued into the 1670s and rested on his bullying attitude and arrogance more than specific measures. In order for resentment to transform into something more politically tangible, a leader was required, and this appeared in the form of William Douglas, third Duke of Hamilton (1635–1694) who was persuaded to step forward by elite opposition members. Hamilton was one of those frustrated nobles who felt unappreciated financially and in terms of responsibilities.¹⁰ It was one of the great errors of the Restoration period not to involve Hamilton more closely in the government of the day. In addition, under his leadership, a number of controversial issues arose over which opposition views could be expressed. Finally, of course, Parliament was the theatre for such expressions and the Crown always retained power to summon and adjourn.

For the sessions of the Scottish Parliament in 1670, 1672 and 1673/74 and Convention of Estates of 1678 the main contentious issues related to taxation, commerce, security and religious dissent.¹¹ Agreeing taxation was an obvious pinch point for domestic politics, and for this reason Charles II's Restoration administrations looked to obtain taxation for two to three years to reduce the need to call parliaments over such matters. Hamilton and the opposition questioned the level of tax (or supply) required in 1670, in order to finance the union commissioners' activities in London, and it being a tax on land (the cess) it was particularly unpopular with the great landowners. In 1672 tax was required in the light of the third Anglo-Dutch War (1672–1674) and heated debate ensued over the amount of supply for adequate forces for the security of the kingdom, and in response to this any opposition to the amount sought was treated with disdain by Lauderdale. In 1673–1674 and 1678 taxation was required for the campaign against religious dissent and to prevent Presbyterian conventicles, or field meetings, which had spread to many lowland counties of Scotland.¹² After the tax level was agreed in 1678, Lauderdale set about removing those sheriffs who had voted against the precise level of taxation from being conveners of commissioners of supply (tax collectors) in their shires, and this included Hamilton. He was so outraged at this insult that he and a number of supporters walked out in protest.¹³ This also pushed some shire members into opposition.

⁸O. Airy (ed.), *The Lauderdale Papers*, 3 vols (London, 1884–85), vol. ii (1885), p. 164; R. Paterson, *King Lauderdale: The Corruption of Power* (Edinburgh, 2003), pp. 169–90; MacIntosh, *The Scottish Parliament*, pp. 75–104.

⁹MacIntosh, *The Scottish Parliament*, p. 98.

¹⁰R. Marshall, 'William Douglas, Third Duke of Hamilton', *ODND* <https://doi.org/10.1093/ref:odnb/7935>.

¹¹Paterson, *King Lauderdale*, pp. 191–211.

¹²MacIntosh, *The Scottish Parliament*, pp. 108–10, 118, 123, 167–9.

¹³National Records of Scotland (hereafter NRS), Edinburgh, Biel Muniments, GD5/1108, ff.43–5; British Library, London Additional MSS, 23242, f.79; RPS, A1678/6/17.

The royal burghs also became agitated over various issues in the 1670s. Firstly in 1672 Lauderdale delivered legislation to remove some of the monopoly privileges held by royal burghs in order that burghs of regality and barony (where the superior was a landed individual rather than the Crown) could enjoy some import and export rights to the advantage of their noble superiors. The measure was not intended as an attack on royal burghs but was perceived as such.¹⁴ During the 1673–1674 session the opposition protested at monopolies that Lauderdale had put into the hands of various loyalists and cronies; for example, the monopoly on salt given to Alexander Bruce, second Earl of Kincardine (1629–1681) which raised the prices for everyone.¹⁵ Outwith parliamentary sessions the interests of lawyers and burghs began to converge. In the summer of 1674, after the dissolution of parliament, protests by advocates arose who complained against Lauderdale's appointment of unqualified men to their ranks, what one contemporary called the promotion of 'so many Maitlands' in the Court of Session, Scotland's highest civil court. Also related was a test case in which it was recommended that decisions of the Court of Session might be appealed to Parliament to the displeasure of the advocates. But the advocates dispute became linked to a wider one between the burghs and the Crown. The latter had become alarmed at the number of lawyers who were representing burgh constituencies when technically they were not resident merchants within the bounds of these towns, and concern grew that these were individuals stirring up trouble for the government. In particular this resulted in a clash between the government and the Convention of Royal Burghs, the body that represented all such burghs, which found itself forced to pass new rules regarding elections.¹⁶ Also, throughout the 1670s there was a continuing and often bitter dispute between the Crown and Edinburgh Town Council on who should be elected Provost of Edinburgh, the individual who was effectively the leader of the burgh estate. It is easy to see how Lauderdale's policies led to recruits for the opposition.

The question of tactics used in parliament can also be seen as a measure of the 'party' nature of the opposition. As much as possible the Crown avoided elections for the different sessions of parliament from 1669 to 1674, and there were no new elections within the chamber to the Lords of the Articles, with replacements due to death being loyalists. As the 1670s progressed Lauderdale put more and more offices in the hands of family members and close confidants, which gave him more support from officers of state. He regularly used short adjournments to stifle debate when matters became too heated or difficult. He played one interest group against another and reported regularly to the King on the disloyalty of the opposition, which meant that when they visited court to press their case, they found the monarch unresponsive. In reaction to all this it is clear that by 1673 the opposition planned their parliamentary activities unlike any previous session. A level of coordination was reached, for when Hamilton demanded that grievances of the country be considered before the drafting of the traditional letter of reply to the King, two dozen or so members seconded his proposal.¹⁷ The last meeting

¹⁴RPS, 1672/6/13; George Mackenzie of Rosehaugh, *Memoirs of the Affairs of Scotland from the Restoration of King Charles II* (Edinburgh, 1821), pp. 226–7.

¹⁵Lauderdale Papers, vol. ii, p. 237; Mackenzie, *Memoirs*, pp. 241–6.

¹⁶Mackenzie, *Memoirs*, pp. 268, 276–7, 280–308; *Registers of the Privy Council of Scotland [RPCS]*, iii, 4, pp. 630–45; G. Burnet, *History of His Own Time*, 6 vols, (Oxford, 1833), vol. ii, pp. 55–6; MacIntosh, *The Scottish Parliament*, pp. 144–56.

¹⁷Lauderdale Papers, vol. ii, pp. 241–2; Mackenzie, *Memoirs*, p. 256.

of the estates managed by Lauderdale, the Convention of Estates of June 1678, was summoned for one issue, taxation for the suppression of religious dissent. As it was, a whole week was spent in heated debates over controverted (disputed) elections for shires and burghs, and even though the election was called at very short notice, and many individual elections had already taken place the previous winter in preparation for a likely new parliament, the opposition was now acting fully as a party organizing to expand the placing of opposition candidates in as many constituencies as possible. Over disputed elections Lauderdale and his ministers went on to exhibit extraordinary contradictions in decision-making while in almost every case ensuring the Crown's preferred candidates were approved. In his correspondence, the Commissioner could argue that he had been successful in thwarting the opposition and keeping their numbers small, perhaps only 30 or 35 members, or approximately 25 per cent of the House.¹⁸ However, the opposition was 'victorious' in the sense that in spite of the failure to stop or amend legislation, and to secure most opposition candidates, they had managed to expose the arbitrariness and questionable legality of much of Lauderdale's behaviour. Also, the opposition he faced was no longer merely a few frustrated nobles but stretched across three of the four estates in parliament with shire and burgh support as well as noble, although the bishops remained loyal to the Crown.

Is it a coincidence that almost simultaneously opposition parties arose in England and Scotland? Both took the opportunity to criticize the administration and not the King. We can query the extent of Hamilton's cooperation with English opposition leaders such as Anthony Ashley Cooper, first Earl of Shaftesbury (1621–1683), Lord Chancellor. He was dismissed in November 1673, his loyalty being doubted in the midst of wider hostility in England directed against the continuance of the Dutch war with the French alliance, and popular knowledge now of the Catholicism of Charles II's brother, James Duke of Albany and York (1633–1701). There is no firm evidence at this stage of close cooperation between Shaftesbury and Hamilton, yet moves in England to remove Lauderdale certainly gave encouragement to the Scottish opposition.¹⁹ Shaftesbury and his colleagues did what they could to support Hamilton's visits to court but with limited success. The handling of religious dissent in Scotland also worried English observers. The various indulgences being unsuccessful an official clampdown concluded with the introduction of the so-called Highland Host, a body of troops including Lowland militia as well as Highlanders, which in 1678 was quartered on the ecclesiastical dissidents of central and western Scotland. The arbitrary behaviour of these troops made them very unpopular, appalled Hamilton and his presbyterian-minded Duchess, and provided more ammunition in London and further calls for Lauderdale to be removed from power. The following year saw the armed insurrection of Covenanters culminating in the 1679 Battle of Bothwell Brig, and although this was suppressed the failure of Lauderdale's policy over religious dissent was clear. The arrival of the Duke of Albany in 1679, exiled to Scotland during the English Exclusion Crisis, that effort by the Westminster Parliament to exclude James from the succession on account of his Catholic faith, in effect began the end of Lauderdale's regime. Given that exclusion was never a popular

¹⁸MacIntosh, *The Scottish Parliament*, pp. 152–4, 157–66. See self-congratulatory letter Lauderdale imposed to send to the king which appalled the opposition – *RPS*, 1678/6/24.

¹⁹Harris, *Restoration*, pp. 167–70; MacIntosh, *The Scottish Parliament*, p. 171.

cause in Scotland we can see that party politics in the two kingdoms were not on an absolutely parallel course. One thing the two opposition groups both experienced however was removal from their respective privy councils as punishment for too much opposition. In particular, the result of opposition to Lauderdale in the Scottish Parliament saw the culling of certain disloyal members from the Privy Council in June 1674. While Hamilton remained on the Council many leading individuals of the new 'party' were removed, and Hamilton too went in 1676.²⁰ These sanctions merely emphasized the problems of domestic politics in Scotland being handled by Lauderdale and increased recruits for the opposition. Such also became part of oppositional political memory in future decades.

In the period from when James was an active Duke of Albany until he succeeded as King of Scots it was less easy in Scotland to 'criticise the administration and not the king'. The fact that no sessions of parliament occurred between September 1681 and April 1685 reduced the opportunities for opposition to be expressed on a party basis. Once king, notwithstanding his success after 1685 in persuading key ministers to convert to Rome, James never established a strong court party which would have stirred up a spirited and open opposition. Some of this colour went into Dutch exile following the failed Argyll and Monmouth rebellions in the summer of 1685, vain efforts to counter the succession of the Catholic James in Scotland and England respectively. Still, many of those left behind remained alarmed at James's religious policies, although his attempts at catholicizing in Scotland made little progress before he was removed at the Revolution. The fact that he introduced toleration for Catholics by proclamation (and took great pleasure in doing so) rather than by act of parliament, which was rejected by the Scottish Parliament in 1686, was a sign of weakness not of strength, as seen with some Protestant cavaliers and bishops rejecting James's approach. James fostered a sense of alienation as he ended pensions, military commissions and places on the Privy Council, and threatened further such action, in his failed attempt to get statutory toleration agreed in parliament.²¹ His other political error was his narrowing of the base of the Scottish administration. The appearance of a 'secret committee' in the Scottish Privy Council reflected James's style of government. Although Charles II removed some unruly councillors in the 1670s he never did so to the extent of dismissing large numbers of councillors who did not bend to Crown policy and sometimes not replacing them. Charles, under James's direction, nevertheless selected a hand-picked 'secret committee' in November 1683 and by doing so removed the right of the Privy Council to form its own central grouping.²² This destabilized the Council as seen when the final crisis broke in late 1688. And whereas Hamilton rejoined the Council in 1685 James refused to listen to his advice that he must offer the same reassurance to loyal Presbyterians as he did to loyal Catholics. Hamilton continued covert contacts with exiles but there was no platform or opportunity to openly lead a grouping of opposition as he had done in the 1670s. Challenging the King carried greater personal risk than challenging Lauderdale.

²⁰*RPCS*, iii, 4, pp. 186–9.

²¹Mann, *James VII*, pp. 155–69, 172–80.

²²*Calendar of State Papers Domestic, Charles II, 1683–4*, D.F.H. Blackburn and F. Birkley (eds), (London, 1938), pp. 111; *RPCS*, iii, 12, pp. 221, 237; John Lauder of Fountainhall, *Historical Notices of Scottish Affairs*, 2 vols (Edinburgh, 1848), vol. ii, pp. 723, 728; Mann *James VII*, 153; A.J. Mann, 'James VI, King of the Articles': Political Management and Parliamentary Failure', in K.M. Brown and A.J. Mann (eds), *Parliament and Politics in Scotland, 1567–1707: The History of the Scottish Parliament, volume 1* (Edinburgh, 2005), p. 200.

When the Revolution came in late 1688, and William of Orange took the thrones, a broad-based 'Williamite' party was quick to assert itself in Scotland with cavaliers and apologist for James excluded from government and Council, although they did fight a more intensive election campaign in 1689 than has sometimes been appreciated.²³ The priority for the new administration was to secure the new regime in political, constitutional and security terms. The method of achieving these aims through Parliament led to some debate amongst pro-revolutionaries and those out of power. Clashes with the Crown and the new government came from a parliamentary group known as 'the Club' who wished to deepen the revolution and not risk simply turning back the clock to the Restoration settlement of the 1660s. This was not a party but an amorphous association of allied Jacobites, Episcopalians and rogue Presbyterians, under the leadership of Sir James Montgomerie of Skelmorlie (c.1654–94), an ambitious Presbyterian. On discovering that William wished to maintain the status quo as much as possible, disillusioned pro-Revolution members of the 'Club' pressed for constitutional change, while 'Jacobite' associates, with the aim of restoring King James, supported any position that undermined the government. So, in spite of religious differences the 'Club' could unite in pressing for a constitutional revolution in the summer parliament of 1689, especially over the committee the Lords of the Articles. Hamilton, now High Commissioner to the Scottish Parliament, was forced to adjourn the session without achieving William's aims, yet in the next session the Articles were finally abolished, the 1669 'Act of Supremacy' repealed and Presbyterianism became again the established church form. In spite of all this, his ambitions for high office frustrated, Skelmorlie began a career as an inveterate Jacobite plotter and double agent who could not be trusted by either side.²⁴

The Williamite party continued in effective dominance for the next decade with no general election taking place between 1689 and August 1702, with only by-elections on death of burgh and shire members, and the Council membership mostly representing the same interest. Nevertheless, divisions arose over policy and the personal ambitions of political heavyweights. After the disbanding of the 'Club' the next sign of division came from two competing political factions which coalesced around the rival secretaries of state James Johnston (1655–1737) and John Dalrymple, Master, later first Earl, of Stair (1648–1707) who were commissioned together from 1692 to 1695. Before the 1693 session of parliament began the political landscape was split into opposing Dalrymple and Johnston camps. They were respectively Episcopalian and Presbyterian, but their cohorts were not especially driven by confessional differences. Rivalry and weak administration must however have been encouraged by the bizarre system in place by then in which they took command of Scottish affairs on alternate months. While Johnston set about introducing much-needed procedural reforms for parliament, Stair had to defend himself from criticism over his handling of the so-called Glencoe Massacre of February 1692. Dalrymple took the excuse that some clans had been slow to swear a new oath to William to enable a few dozen MacDonalds of Glencoe to be slaughtered by government forces.²⁵ This was a shocking event, a political scandal and a propaganda coup for opposition of all hues and was especially a recruiting sergeant for Jacobitism.

²³D.J. Patrick, 'Unconventional Procedure: Scottish Electoral Politics after the Revolution', in *Parliament and Politics in Scotland, 1567–1707*, pp. 208–44.

²⁴J. Halliday, 'The Club and the Revolution in Scotland, 1689–90', *Scottish Historical Review* 45, (1966), pp. 143–59; P.W.J. Riley, *King William and the Scottish Politicians* (Edinburgh, 1979), pp. 30–1, 39–41.

Johnston was able to eclipse his rival, yet the 1695 Glencoe investigation and report arranged by Parliament appeared something of a whitewash, there being some danger that the King himself would be blamed. The seeds were therefore sown for more organized opposition.

Three aspects were then to come together to explain the rise of a ‘Country Party’ in Scotland in the second half of the 1690s. Firstly, in 1695 the government conceded the establishment by Parliament of the Company of Scotland Trading to Africa and the Indies, a trading company to rival, it was hoped, the English East India Company and Royal African Company. King William was reluctant to grant this so wide were the powers given to the Scottish company, even suggesting that when his High Commissioner John Hay, first Marquis of Tweeddale (1625–1697) touched the sceptre to the act to signify royal assent he had overstepped his instructions.²⁶ However, it was to silence criticism over Glencoe that concessions had to be made, as well as to ensure that taxation was agreed. Not since the 1670s had the Scottish Parliament made such a strong case for concessions before agreeing to the level of tax. Secondly, the general state of the Scottish economy was in decline in the 1690s and from 1692 there had been what was called the ‘seven lean years’ of poor harvests and famine, with the winter of 1698–1699 being especially grim. Economic prospects being so poor the success of the Company of Scotland was seen as a welcome solution. The Company came up with the plan, on the suggestion of William Paterson, who helped create the Bank of England, to set up a trading centre at Darien on the isthmus of Panama, but this ‘Darien Scheme’ collapsed for a variety of reasons, including insufficient funds (even though Scots investors lost a quarter of Scotland’s liquid assets), the impracticality of sustaining a colony across the Atlantic on land claimed by the Spanish, and a lack of logistical help from King William and his colonial officers. The two expeditions in 1698 and 1700 ended in the deaths of over 2000 Scots. By 1700 news was arriving in Edinburgh of these disasters and there was near popular uprising – the English were blamed. As the Chancellor, Patrick Hume, first Earl of Marchmont (1641–1724), reported to the King ‘This nation in general is incredible set upon that undertakeing [and] many of all Ranks are particularly concerned in it’. In a Privy Council meeting in October 1699 where 43 were present, those supporting robust addresses to the king numbered 36. Anglo-Scottish economic tensions were amplified as oppositional views focused on Scottish ministers who it was felt were too inclined to follow their English equivalents and English trading and political interests.²⁷ The third aspect was change in the political leadership. The deaths of Hamilton (1694), William Douglas, first Duke of Queensberry (1695) and Tweeddale (1697) saw a new generation enter political prominence in the form of James Hamilton, fourth Duke of Hamilton (1658–1712), James Douglas,

²⁵A.J. Mann, ‘Inglorious Revolution: Administrative Muddle and Constitutional Change in the Scottish Parliament of William and Mary’, *Parliamentary History* 22, (2003), pp. 131–2, 140.

²⁶Riley, *Scottish Politicians*, pp. 98–102.

²⁷For quote NRS, Papers of the family of Hume of Polwarth, earls of Marchmont, GD158/964, ff. 139–41 (letter from Marchmont to the king, 24 October 1699); D. Watt, *The Price of Scotland: Darien, Union and the Wealth of Nations* (Edinburgh, 2007), pp. 23–9, 145–93; J.R. Young, ‘The Scottish Parliament and the Politics of Empire: Parliament and the Darien Project, 1695–1707’, in *Assemblées et parlements dans le monde, du moyen-âge à nos jours. Representative and parliamentary institutions in the world from the middle ages to the present* (Paris, 2010), pp. 768–804; K. Bowie, *Public Opinion in Early Modern Scotland c.1560–1707* (Cambridge, 2020), pp. 221–8.

second Duke of Queensberry (1662–1711), and John Hay, second Marquis of Tweeddale (1645–1713). How could all these interests be satisfied?

Although King William appointed John Murray, first Earl of Tullibardine (1660–1724) to be both Secretary and High Commissioner for the 1696 session of parliament, as part of what Patrick describes as ‘an ambitious attempt to incorporate representatives of almost all Scotland’s prominent noble families’, he resigned his secretaryship in 1698. Remarkably conflict arose over a single appointment. Tullibardine (later first Duke of Atholl) had his proposal to make Sir William Hamilton of Whitelaw, President of the Court of Session rejected by the King in favour of Sir Hugh Dalrymple of North Berwick. Whitelaw, representing the broad Hamilton interest, had come up against Dalrymple, supported by Queensberry and Archibald Campbell, ninth Earl and first Duke of Argyll (1658–1703). As a result, the elite split irretrievably into two factions in a much more serious breach than that of the Johnston and Dalrymple camps in the early 1690s. William’s plan had been to balance the interests of Queensberry (Episcopalian) and Argyll (Presbyterian) in what he miscalculated would be a less competitive administration. This disruption of the court interest of 1696 propelled the likes of Tullibardine, and the ‘new’ Tweeddale and Hamilton into political opposition in the parliamentary sessions of 1698 and 1700, even though the young Hamilton did not attend in 1698. When in that year a new Privy Council commission was appointed the likes of Tullibardine, Tweeddale and John Hamilton, second Lord Belhaven, were removed. Meanwhile, of the 45 by-elections for the 1698 and 1700 sessions of parliament the Country Party took no less than 20 seats of the 38 of those where the allegiance of individuals can be clearly established. Country Party victories were greatest in shire elections, and in greater numbers in both shire and burghs in 1700 than in 1698.²⁸ The Country Party had arrived in opposition to the Court Party at the very time that Anglo-Scottish tensions increased over Darien. Like Lauderdale, Queensberry was now seen as the main political target, as would be the case leading up to the Union of 1707.

In the last two years of William’s reign two other issues began to dominate political discourse: the succession and renewed efforts at parliamentary union with England. 1700 saw the death at the age of 11 of Princess Anne’s last and oldest surviving child William, Duke of Gloucester. King William’s heir, his sister-in-law, had had 18 pregnancies, five had survived to infancy, all had died. Something had to be done to secure the succession and the Protestant faith on Anne’s death. Therefore, the English Act of Settlement of 1701 was passed by the Westminster Parliament which declared the succession passing to Sophia, Electress of Hanover, (descended from Elizabeth, daughter of James VI and I) essentially falling to her son George I, who would become the first Hanoverian King of Great Britain. The Scots were sidelined in this process. When William died suddenly in March 1702 the succession issue became even more pressing. Also, before his death William revisited the prospect of parliamentary union, as Anglo-Scottish economic rivalry, political tensions, the new atmosphere of party politics and opinion in print spreading in the north were making Scotland harder to manage. From his own perspective these difficulties distracted from preparation to join the War of the Spanish Succession, which England and Scotland did in May 1702 after declaring war against the

²⁸D. Patrick, ‘People and Parliament in Scotland, 1689–1702’ (University of St Andrews, PhD thesis, 2002), pp. 195–9, 276–7; Riley, *Scottish Ministers*, pp. 125–40.

French. Unfortunately, after the English Parliament declared war, the Scottish Privy Council did the same. Outraged Scottish parliamentarians declared this unconstitutional. On Queen Anne's succession pressure to pay taxes for the war effort become ever more controversial in the Scottish Parliament, while the brief union negotiations in the winter of 1702–1703 were quickly abandoned over the Westminster parliament's unwillingness to give the Scots access to the colonial markets, or to recognize the rights of the Company of Scotland. On the Scottish side Tory electoral success in England in the summer of 1702 increased fears amongst revolution party Presbyterians that the Church of Scotland could be threatened by the Anglican Church of England, or as James Johnston put it 'end in the overthrow of Presbytery'.²⁹

The Duchess of Hamilton, the fourth Duke's mother, would learn to regret that in political acumen her son was not her husband. While undoubtedly by 1702 the leader of the Country Party he proved rather erratic, decisive one moment and hesitant the next. In the first session of parliament in Anne's reign, however, he acted in the former temper. The tradition, as Hamilton himself put it, was that according to the 'fundamental laws and constitution of this kingdom, all Parliaments do dissolve by the death of the king or queen' yet diehard revolution men like Marchmont, the Lord Chancellor, and the Crown headed by Queensberry, the High Commissioner, continued the revolution parliament with no general election.³⁰ This, plus the fact that the terms of the 'Act of Security' of 1696 were also broken (parliament failing to meet within 20 days of the death of the king or limiting business to the succession of Anne and securing Protestantism) led Hamilton to claim it was an illegal assembly, and storm out of the chamber with over 70 of his party. Hamilton's brothers Charles Douglas, second Earl of Selkirk (1663–1739) and John Douglas-Hamilton, first Earl of Ruglen (1665–1774) joined in this protest, the former being dismissed as Clerk Register as a result. All were excluded from the new Privy Council commission of 1703.³¹ Such commissions could be both a means to reach out for consensus and to punish those who strayed too far from the Crown agenda. As for Hamilton his first commission to a council was to that of Great Britain in 1710!

Queensberry's rump session of June 1702 was adjourned until August, but it became clear that avoiding an election was not practically feasible, and elections took place in late 1702 and early 1703 for the next session in May 1703. The revolution party had feared an election would see them finally lose their decade-long position of dominance and the Country Party certainly fought a successful election campaign, although more significantly the Crown faltered. In the context of so many political difficulties a minority government was created with roughly 90–100 Court Party supporters, and in opposition 60 Country Party members, under Hamilton, and a large grouping of 70 or so 'soft' Jacobites

²⁹For quote *Correspondence of George Baillie of Jervisiwood, 1702–1708* (Edinburgh, 1842), p. 3; T. Harris, *Revolution: The Great Crisis of the British Monarchy, 1685–1720* (London, 2006), pp. 494–7; D.L. Smith, *A History of the Modern British Isles: 1603–1707* (Oxford, 1998), p. 315; W. Ferguson, *Scotland's Relations with England: A Survey to 1707* (Edinburgh, 1994), pp. 201–2; A.I. Macinnes, *Union and Empire: The Making of the United Kingdom* (Cambridge, 2007), pp. 91–5.

³⁰D. Szechi (ed.), *Scotland's Ruine: Lockhart of Carnwath's 'Memoirs of the Union'*, (Aberdeen, 1995), pp. 12–14; Marshall, *ODNB*.

³¹*RPS*, 1702/6/3, M1702/6/7; D. Hume, *A Diary of the Proceedings in the Parliament and Privy Council of Scotland* (Edinburgh, 1828), pp. 82–3; *SPCR*, A1703/2/21; K.M. Brown, 'Party Politics and Parliament: Scotland's Last Election and Its Aftermath, 1702–3', in Brown and Mann (eds), *Parliament and Politics in Scotland, 1567–1707*, pp. 245–50. For various estimates of the number who left with Hamilton see Macinnes, *Union and Empire*, n.pp. 93.

or Cavaliers who favoured an open mind as to the future.³² This made the management of parliament by the King's ministers extremely challenging in the split session of 1703 and 1704. It led to awkward, and much debated, legislation being passed, notably the 'Act anent Peace and War' (1703) stating that parliament must retain the sovereign right to declare war, reflecting discontent with how the Scottish Privy Council did so in the summer of 1702, and the Act of Security (1704), given royal assent by Anne to secure much-needed taxation.³³ This second act declared that Scotland had the right to choose the succession to the crown of Scotland regardless of England. This was not rejection of a Hanoverian succession, supported by most, but of one which did not protect the sovereign interests of the Scottish Crown and Parliament. Thoughts of parliamentary union returned to the agenda and with that the future of the Privy Council came into view.

The end of the executive

The Anglo-Scottish parliamentary union of 1707 took place for a variety of reasons, and the historiography that considers this is extensive.³⁴ For Scots the main factors were its weak economy, the security of Protestantism, the succession to the throne of Scotland after the childless Queen Anne, and security from invasion by Jacobites aided by Catholic France. For England it was simpler: neutralizing political and security dangers from an increasingly unmanageable Scottish Parliament. Indeed, emerging out of the Scottish general election of 1702–1703 was a third parliamentary party, the New Party, which came into existence as a challenge to the traditional 'Old' Court and main opposition Country Party (confusedly sometimes called the Old Party), who had of course developed more distinct qualities since the 1660s. The New Party consisted of pro-revolution, Presbyterian and pro-Hanoverian members who were often erstwhile subscribers or directors of the Company of Scotland. To some extent they coalesced as a reaction to the alarming numbers of Cavaliers and frustration at the tactics of Hamilton and the Country Party. Matters would then turn on the various administrations before 1707.

In the winter of 1703–1704 Queensberry, who continued managing the government for the court, became embroiled in the so-called Scotch Plot where, on discovering a potential Jacobite plot and too believing of the intelligence provided by various plotters, he sought to implicate his senior political opponents. He was removed from power in 1704, and his place taken by one of the leaders of the New Party, Tweeddale, a man admired by Queen Anne for his straight talking. Tweeddale was tasked with getting the Scottish Parliament to agree to the succession being in the House of Hanover, in line with the English Parliament, but without parliamentary union. However, for lack of support, especially at elite level, other than his 20–25 party members, and tensions increasing between the two parliaments that could only be resolved by some kind of union, his administration collapsed in the spring of 1705. The problem for Tweeddale

³²Brown, 'Party Politics and Parliament', pp. 252–68, 272–4.

³³*SPCR*, A1702/5/14 (proclamation declaring war 30 May 1702); *RPS*, 1703/5/193 (war), 1704/7/68 (security); Brown, 'Party Politics and Parliament', pp. 278–82 (note especially the complex debate over the wording of the Act of Security in 1703); Macinnes, *Union and Empire*, pp. 129–30.

³⁴The best, detailed studies are C.A. Whatley, *The Scots and the Union: Then and Now* (Edinburgh, 2014) and Macinnes, *Union and Empire*, both *passim*.

and his administration was a policy of agreeing the succession while avoiding union was torpedoed by the so-called Aliens Act passed at Westminster. This measure was to counter the Scottish 'Act of Security' by threatening to treat Scots as aliens in England and banning the importation of their goods unless discussions took place over union and 'the succession to the Crown of Scotland be declared and settled by an Act of Parliament in Scotland in the same manner [as] the succession to the Crown of England is now settled by Act of Parliament in England'.³⁵ Also, the New Party's handling of the Worcester Affair (in April 1705), where a captain and two crew of an English ship were unjustly executed for piracy over a Darien scheme vessel, saw the Privy Council behaving weakly and helped end Tweeddale's term of office. Subsequently, after a brief interval with John Campbell, second Duke of Argyll (1680–1745) placed at the helm – who deliberately sidelined New Party members on the Council in spite of the reservations of the Chancellor James Ogilvy, first Earl of Seafield (1663–1730) – Queensberry, though disliked by the Queen, was invited back.³⁶ Thanks largely to Seafield he would eventually manage the parliament towards a positive vote for parliamentary union. As for Argyll's actions, as Riley puts it, they 'created bad blood which was not to fade until the 1730s'.³⁷ By 1705 the New Party had taken on the label *Squadron Volante*, Italian for flying squadron and named after a seventeenth-century group of independent cardinals in the Church of Rome, so labelled due to its regular changes of mind and position of equipoise between the two major parties. Indeed, when the Scottish Parliament voted over the final union treaty the *Squadron* were vital to the yes vote: in effect they held the balance of power.³⁸ Their support for the union arose from a number of interrelated reasons: as investors in the failed Darien scheme they desired the financial compensation the treaty offered; many had concerns about the international threat of Jacobitism; all hoped to increase the significance of their party in the new British Parliament, and since the fall of Tweeddale they had become disillusioned with how the court under Queensberry governed Scotland. They resented his control of the levers of patronage, something that might be remedied following Anglo-Scottish union.

On 6 November 1707, in her speech to the Lords and Commons of the first British Parliament, Queen Anne asked them to 'heartily endeavour to confirm and improve our present Union', the union of the parliaments of Scotland and England.³⁹ Thereafter in February 1708 the *Act for rendering the union of the Two kingdoms more intire and complete* was passed. It abolished the Scottish Privy Council which in some form or other would have been older than the Scottish Parliament, which dates from at least the 1230s. We might ask why such a universally significant executive institution was

³⁵G.E.M. Kynynmound, Earl of Minto (ed.), *Correspondence of George Baillie of Jerviswood, 1702–1708* (Edinburgh, 1842), pp. 22–3; J. Raithby (ed.), *The Statutes of the Realm*, vol. 8, (1702–07), (London, 1821), pp. 349–50; Whatley, *Scots and the Union*, pp. 210–14.

³⁶P. Hume Brown (ed.), *Letters Relating to Scotland in the Reign of Queen Anne* (Edinburgh, 1915), p. 27 (to Godolphin 11 April 1705), p. 31 (to Godolphin 17 April 1705), p. 50 (to Godolphin 9 June 1705); K. Bowie, 'Newspapers, The Early Modern Public Sphere and the 1704–5 Worcester Affair', in A. Benchimol, R. Brown and D. Shuttleton (eds), *Before Blackwood's: Scottish Journalism in the Age of Enlightenment* (London, 2015), pp. 9–20; C. Temple, *New Light on the Mysterious Tragedy of the Worcester 1704–5* (London, 1930).

³⁷P.W.J. Riley, 'The Structure of Scottish Politics and the Union of 1707', in T.I. Rae (ed.), *The Union of 1707: Its Impact on Scotland* (1974), p. 13.

³⁸For *Squadron* members see D.J. Patrick and C.A. Whatley, 'Persistence, Principle and Patriotism in the Making of the Union of 1707: The Revolution, Scottish Parliament and the "squadron volante"', *History* 92, (306), (2007), pp. 185–6. See also in general A. Murdoch, *Making the Union Work* (London, 2020), pp. 70, 86–7.

³⁹*Journal of the House of Lords: Volume 18, 1705–1709* (London, 1767–1830), pp. 333–4.

abolished at a time of economic, social, political and security anxiety.⁴⁰ It is often seen as merely a natural development of the parliamentary union. But the particular nature of the union process and their relationship to political circumstances in England help to explain the journey to February 1708.

After the Treaty of Union was passed in the Scottish Parliament in January 1707 one of the key immediate issues was agreeing representation in the new British parliament – within the treaty it was agreed there would be 16 representative Scottish peers for the House of Lords, elected by the Scottish lords, and 45 elected Scottish members for the House of Commons, with burgh constituencies grouped to distil down to this figure. However, the manner of choosing the 45 was controversial, and for the next three weeks there was feverish debate. It was eventually agreed, following a resolve submitted by Marchmont, the chief manager of the *Squadron* in parliament, that they would be chosen from members of the current parliament.⁴¹ Although Hamilton argued violently for fresh elections, and claimed that failure to do so would be ‘utterly subversive of the right of election competent to the barons and burghs of this kingdom’,⁴² the court and *Squadron* feared the wrath of an electorate that resented the Union and those who voted for it, while conversely the Country Party hoped to make up ground for having opposed union. Fear of an election was yet again a factor, and in the view of the *Squadron* George Baille of Jerviswood (1664–1728) ‘a representation from this parliament would better answer the ends of the Union than any could be got by an election in the country, which, considering the present ferment, might prove mostly Torie, if not Jacobite’.⁴³ In the end, the peers and MPs were selected in a process managed closely in favour of Court loyalists and *Squadron* members. The outcome was good for the *Squadron*. While they represented a mere 10 per cent of all those active and present in the session of 1706–1707, and 15 per cent of those who voted over the ratification of the treaty, they took 25 per cent of the Scottish seats in the House of Commons and, working from a preferred list provided by the Crown, three of the elected peers for the House of Lords, including their leader Tweeddale.⁴⁴

The Scottish Parliament was adjourned on 25 March 1707 never to convene until its new iteration of 1999. The Union came into existence on 1 May. At Westminster the 1706–1707 session closed on 24 April, and a proclamation was issued continuing the present parliament as the ‘first of Great Britain’.⁴⁵ This avoided a disastrous start to the marriage where a full election took place in England but not in Scotland. The Scottish members took up their seats in the new British Parliament in October, yet the moment the Scottish Parliament adjourned political manoeuvring began on how to bring Queen-sberry down, who conversely was a hero in England for achieving the Union.⁴⁶ The whole

⁴⁰For a summary of the significance of Privy council see A.J. Mann, ‘Government, Representation and the Privy Council in Pre-Modern Scotland’, in G. Karvunaki (ed.), *Pre-and Post-Napoleonic Europe Revolutions and Parliamentary Institutions. The Case of Greece on the Occasion of the Bicentenary Since the War of Independence (1821–2021). Proceedings of the 72th Conference of International Commission for the History of Representative and Parliamentary Institutions Athens, Greece 20–23 October 2021* (Athens, 2022), pp. 170–89. Open Access at <https://ichrpi.info/wp-content/uploads/2023/01/Congress-IHCP-NEW.pdf>.

⁴¹Hume, *Diary*, 196; *RPS*, 1706/10/259.

⁴²*RPS*, 1706/10/261.

⁴³*Correspondence of George Baillie of Jerviswood*, pp. 181–2.

⁴⁴*RPS*, 1706/10/293; 1706/10/307; Scotland’s Ruine’: *Lockhart of Carnwath’s Memoirs of the Union*, n.pp. 207–8.

⁴⁵*Journal of the House of Lords*: 18, p. 571 (15 April 1708).

⁴⁶Burnet, *History of His Own Time*, vol. 5, pp. 304–5.

summer was spent in discussions between Whig politicians in London and *Squadrone* members in Scotland on the best course, and top of the list was the liquidation of the Scottish Privy Council. Eight of the *Squadrone* had been members of the Council since 1704, so they had experience of how it operated under Queensberry. That summer the leaderships of the *Squadrone* and Whig lords, the so-called Junto, began regular communications.⁴⁷ One of the conduits for this and the objective of abolition was the self-promoting Scottish political fixer, diplomat and historian Alexander Cunningham who moved in Whig circles in London and advised the Junto on Scottish affairs. In his *Latin History of Great Britain from the Revolution in 1688 to the Accession of George the First*, the translation of which was published post-mortem in 1787, he claimed that summer to have:

contrived how to get the Privy Council of Scotland abolished, of which the duke of Queensberry was president, and this remnant of the ancient tyranny removed [and] formed a combination of some of the chief of the Scots, and consulted some of the English of both parties, and all those who were unacceptable, disgusted and incensed against the Queensberry faction.⁴⁸

His reasoning chimed with those of the *Squadrone* – to make the union more complete and to remove the ‘Court’ in Edinburgh, Queensberry’s powerbase. They also believed that removing the influence of Queensberry in Westminster would better secure Protestantism and the British Isles from the threat of Jacobitism.

What was the attitude of the Queen and her English ministers, however? There was clearly no intention to scrap the Edinburgh Council in the summer of 1707. Working through the Scottish secretaries, John Erskine, Earl of Mar (1675–1732) and Hugh Campbell, third Earl of Loudoun (1675–1731), new instructions were passed to the Privy Council. In April, on the same day the Council received directions to dissolve the Scottish Parliament, Anne wrote to it as ‘queen of Scotland’ authorizing it to act after 1 May, the day the Union began. Then on 20 May a new Privy Council commission was communicated by Mar, in order, in the words of his accompanying letter, that ‘publick affairs may not suffer through the want of a council’. Also, the commission was the largest ever, some 74 strong, including 14 of the *Squadrone*, when the normal size would be 40–60 members.⁴⁹ This seems like an attempt by the Crown to be as inclusive as possible of the various political and noble interests in the absence of a parliament, although not to the extent of including Hamilton and his supporters. There is additionally an argument, however, that the wording of the commission conveys a greater emphasis on law and order and less so on the traditional wide responsibilities suggested in previous commissions.⁵⁰ Meanwhile, continuity was enhanced as new commissions for the offices of state were confirmed in June, with Seafield remaining Chancellor and Queensberry becoming Keeper of the Privy Seal.⁵¹ A month later Mar wrote to these senior

⁴⁷NRS, Papers of Clerk family of Penicuik, GD18/3/3135/12, letter from John Clerk of Penicuik to Sir John Clerk (his father), 24 April 1707.

⁴⁸A. Cunningham, *History of Great Britain from the Revolution in 1688 to the Accession of George the First*, 2 vols (London, 1787), ii, pp. 70–71; J.S. Shaw, *The Political History of Eighteenth-Century Scotland* (Basingstoke, 1999), pp. 43–5.

⁴⁹SPCR, A1707/4/24; NRS, SP 4/26, Secretary of State warrant book, p. 290 (24 April 1707); SPCR, A1797/4/23; SP4/28, Secretary warrant book, p. 10 (21 May 1707, letter from Mar); pp.4-6 (20 May 1707, commission).

⁵⁰R. Tree, ‘*Jura Majestatis*, or the Rights of Sovereignty: The Privy Council and Government Administration in Scotland, 1689–1708’ (University of Stirling, PhD thesis, 2024), pp. 213–15. A draft of this was made in March by English Attorney General, Simon Harcourt, see TNA, PC1/2/62/1, 20 March 1707.

ministers relating the Queen's wish that they remain in Edinburgh to preserve the peace, counter anti-unionist sentiment and think on laws related to Scotland for the first British parliament to consider.⁵² These were not signs that there were plans for Scotland to be denuded of administrative leadership.

The particular circumstances of the government in Westminster nevertheless challenged any possibility of maintaining the status quo.⁵³ Sidney Godolphin, first Earl of Godolphin (1645–1712) was during this period Queen Anne's chief minister and Lord Treasurer, a key individual in a London government headed by John Churchill, first Duke of Marlborough (1650–1722), the famous military man who spent most of his time on the Continent fighting the French in the War of the Spanish Succession. Godolphin was an effective treasurer defeating corruption, improving tax collection, and introducing policies of borrowing to finance Marlborough's campaigns. Also, the Union was as much a success for Godolphin as it was for Queensberry. Godolphin's party-political circumstances seem straightforward – he was a moderate Tory and for the Crown at a time when more intensively Whig competed with Tory. But by 1707–1708 he was anxious to get support for the war and funding approved through parliament when Tory inclined ministers like Robert Harley, later first Earl of Oxford, (1661–1724) were running the Commons and competing for royal favour. Harley led a moderate Tory faction who like the *Squadron*, in Scotland and now in England, could carry the balance of power. And as Godolphin tried to balance Tory and Whig interests to push through Crown policy, the Whig Junto, that small group of Whig lords in the House of Lords – John, Lord Somers (1651–1716), Thomas Wharton, Earl, later first Marquis of Wharton (1648–1715), Charles Montagu, first Earl of Halifax (1661–1715), Edward Russell, first Earl of Orford (1652–1727) and Charles Spencer, third Earl of Sunderland (1675–1722), – made life difficult. In many ways, they were a party within a party as they moved between self-interested ambition to be in government and the philosophical beliefs of Whiggery, such as support for the war. When in 1707–1708 Marlborough had a couple of reverses and the allies struggled to make headway in Spain itself, it was becoming more difficult to push through finance for the war effort, and more important to get the likes of the *Squadron* on side. Beforehand Godolphin had taken little notice of administrative reforms suggested by the *Squadron*, but now things were different and the *Squadron* had managed to get the Whig Junto further interested in abolition of the Scottish Council as a means to embarrass Godolphin. This was all down to parliamentary arithmetic. The English general election of 1705 saw electoral stalemate as the Tories lost seats to the Whigs, and Anne herself was criticized for her wish to have a balanced administration, with some Whigs included, which saw her accused of abandoning the Tories, her 'natural' party.⁵⁴

On 29 November 1707, at a House of Commons Committee of the whole house considering 'rendering the union more complete' George Baillie of Jerviswood (1664–1738), an unswerving *Squadron* member and 'zealous promoter of reducing all to conformity

⁵¹NRS, SP4/28, Secretary warrant book, pp. 20–30 (20 June 1707).

⁵²NRS, SP4/28, Secretary warrant book, pp. 66–7 (29 July 1707).

⁵³For a good general summary of government in Anne's reign at this time see J. Hoppit, *A Land of Liberty? England 1689–1727* (Oxford, 2010), pp. 278–98. Also P. Jupp, *The Government of Britain, 1688–1848: The Executive, Parliament and the People* (London, 2006), pp. 13–14.

⁵⁴Hoppit, *Land of Liberty*, 29; Jupp, *The Government of Britain*, pp. 62–3.

with England', made the motion 'that for the future there shall be but one Council in Great Britain' and the extinguishing of the Scottish Council was placed on the agenda.⁵⁵ Debate intensified amongst Scottish MPs, and also some bemused English ones who became concerned that this measure might breach the Treaty of Union. Up until this point, according to Gilbert Burnet (1643–1715), once the British Parliament was joined there was much goodwill at Westminster for considering Scottish affairs, although now English MPs were perturbed.⁵⁶ They were especially concerned when it was proposed by John Haldane of Gleneagles to pass some law-and-order responsibilities of the Privy Council to enhanced Scottish justices of the peace in line with their English equivalent. These local officials had existed in Scotland since the 1580s yet without the power of their English counterparts.⁵⁷ The alarm for some MPs was the danger of undermining the heritable jurisdictions of the great landowners in Scotland which were specifically protected in article 20 of the treaty. The justices of the peace 'solution' was suggested in legal advice acquired by Marchmont for the *Squadron* before the committee met – it also recognized that article 20 could be a sticking point for some.⁵⁸ After all it was only in July 1707 that the Queen instructed the Scottish Privy Council to continue in its role of appointing justices of the peace.⁵⁹ However, those in favour of abolition argued that it was recognized within the treaty that the British Parliament would have the right to amend responsibilities if not eliminate jurisdictions. This echoed the vague wording in article 19 of the treaty that 'after union the Queen's Majesty ... May continue a Privy Council in Scotland ... Until the Parliament of Great Britain shall think fit to alter it'. Meanwhile, Crown ministers like Mar were exasperated and 'expressed fear for the union' if abolition took place.⁶⁰ As votes on resolutions confirmed one council, the enhanced justices of the peace, election writs being sent to sheriffs, and the introduction of circuit courts – plans to include reforming a Scottish militia on English lines were initially approved but migrated to a separate money bill – the Council looked doomed, and on 11 December a Commons committee was formed to draft the bill. This included five Scots, Baillie of Jerviswood, Haldane, John Cockburn of Ormiston and William Bennet of Grubbet for the *Squadron*, and Sir David Dalrymple for the Court. The English members were the Whigs Spencer Compton, Sir John Hawles and Sir Joseph Jekyll, as well as the Solicitor General Sir James Montague, and for the Tories Sir Thomas Hammer and the independent-minded John Aislabie.⁶¹ Clearly those in favour of abolition dominated the committee. Yet as the bill progressed in the Commons the most controversial issue became the date of abolition, and it was at this point, at the relative formality of the third reading, that Harley joined the abolitionists in the Commons, leading to a collapse in his relationship

⁵⁵Historical Manuscripts Commission. *Thirteenth Report, Appendix, Part VII. The Manuscripts of the Earl of Lonsdale* (London, 1893), pp. 117–18 (wrongly dated 1705!); J.P.R. James (ed.), *Letters Illustrative of the Reign of William III*, 3 vols (London, 1841), vol. iii, p. 286 (letter James Vernon to Charles Talbot, fifteenth Earl and first Duke of Shrewsbury, 6 December 1707).

⁵⁶Burnet, *History of His Own Time*, vol. 5, pp. 358–62.

⁵⁷*Letters Illustrative*, vol. iii, p. 295 (letter Vernon to Duke of Shrewsbury, 14 December 1707); Townend, 'Rendering the Union', pp. 94–5.

⁵⁸NRS, Marchmont Papers, GD158/952/1, 'Notes Concerning the wayes for keeping the peace in North Britain' (November 1707).

⁵⁹NRS, SP4/28, Secretary warrant book, pp. 52–5 (15 July 1707).

⁶⁰RPS, 1706/10/257; Riley, *The English Ministers*, p. 94.

⁶¹*Journals of The House of Commons* vol. 15 (1705–08), (London, 1803), p. 461 (11 December 1707).

with Godolphin. An attempt at third reading to delay to April 1709 was also defeated. The date of 1 May 1708 was therefore confirmed by 179 votes to 118. Although most Scottish MPs voted with the court, representing the interests of Queensberry, Argyll and Seafield, some English Whigs and many Tories, including some of Harley's 'High' Tories, carried the day.⁶²

Godolphin then made a vigorous effort to support the Council when debates began in the House of Lords but mainly with the intention of delaying abolition to 1 October. All along he felt the Scottish Privy Council, as then constituted, would serve the Court well in ensuring that Crown policies were supported. More significantly a general election was due to take place between 30 April and July and delaying abolition until after the election would enable a Queensberry dominated Council to manage elections in Scotland. In spite of failure to get the date moved to October at second reading, by 50 votes to 45 on 5 February, and a final attempt to claim that it breached the Treaty of Union at third reading on 7 February, the bill passed by seven votes, with James Graham, first Duke of Montrose (1682–1742), the last President of the Council, John Ker, first Duke of Roxburghe (1680–1741), Tweeddale and John Gordon, sixteenth Earl of Sutherland (1661–1733) voting yes with Junto support, and all the other Scottish lords voting no. This was clearly close and not the 'great majority' claimed by Cunningham. Despite this defeat 25 lords, including 11 Scots, signed a formal protest arguing insufficient time before abolition for the justices of the peace to prepare for their new responsibilities.⁶³ The bill passed into law on 13 February with the date of execution set at 1 May, exactly 12 months from the date of parliamentary union.⁶⁴ The coalition of the *Squadron* and the Junto had had their way.

These parliamentary activities had two additional contexts. Firstly, the Queen had been concerned that Presbyterians in Scotland might object to the abolition of a Council that had responsibility for protecting the Church of Scotland. Her own credibility as a protector of the established church was not improved by her support for Episcopalians, including asking her Scottish Council to do what they could to protect nonconformists and the issuing of pensions to Scottish bishops.⁶⁵ The Council had a vital role in resolving clerical disputes and was recognized as an essential court of appeal by ministers and the courts of Presbyterianism, from kirk sessions to General Assembly. Individual clergy expressed their concern. In December 1707 George Meldrum, minister at Banff, wrote to Seafield making the case for caution:

hearing the Parliament was like to abolish the Councell in Scotland or North Brittain, I judged it my duty to give your Lordship notice, that it is thought it may occasion both confusion and discontent for the Churches by intrusiones, and such like other disorders may increase, if there be not some provision of some other judicatory to whom application may be made for redresse in such cases.⁶⁶

⁶²*Commons Journal*, vol. xv, p. 512 (23 January 1707); Cunningham, *History* ii, p. 138; Riley, *English Ministers*, pp. 92–4; Townend, 'Rendering the Union', pp. 94–6.

⁶³*Historical Manuscripts Commission Report on the Manuscripts of the Earl of Mar and Kellie* (London, 1904), pp. 426–7 (letter Earl of Mar to James Erskine, Lord Grange, 5 February), p. 427 (letter Earl of Mar to Lord Grange, 10 February.); *Journal of the House of Lords: Volume 18*, pp. 450–51; *Letters Illustrative*, iii, pp. 341–2 (letter Vernon to Duke of Shrewsbury, 7 February 1708); Cunningham, *History* ii, p. 141.

⁶⁴*Commons Journal*, vol. xv, pp. 543 (13 February 1708); 6 Anne.c.40; Riley, *English Ministers*, p. 95; Townend, 'Rendering the Union', 97–8.

⁶⁵For example, for the bishops of Aberdeen, Murray and Dunblane in 1706. NRS, SP4/26, Secretary warrant book, 160 (4 October 1706).

⁶⁶J. Grant (ed.), *Seafield Correspondence from 1685 to 1708* (Edinburgh, 1912), pp. 436–7.

In late December 1707 Queen Anne instructed David Boyle, first Earl of Glasgow (1666–1733), her High Commissioner to the General Assembly, to write to the church commission meeting in Edinburgh that ‘she would doe hir outmost to have the counsell continued’ or some other commission to which they might apply, in the hope that they would appeal for the continuation of the Scottish Council. However, the commission decided to make no official appeal but not to prevent individuals from so doing. A similarly cautious approach was recommended by William Carstares (1649–1715), Principal of Edinburgh University, and Loudoun, one of the Scottish secretaries, as such an appeal would not be ‘proper’ for the commission of the Assembly.⁶⁷ So, the General Assembly remained neutral and only individual clergy petitioned Westminster: protests were muted.

The second context was security and the danger of Jacobite invasion. The bill to set up a Scottish militia on the same basis as that in England was abandoned as risky after, uniquely, the Queen refused to give it royal assent, at a time when intelligence suggested Jacobite invasion was planned. Many senior figures in Scotland thought that an invasion unlikely but on 25 February 1708 the Queen informed the Council that the latest intelligence confirmed invasion was imminent.⁶⁸ A sense of panic gripped the Council as it was clear that Scotland’s small military force was ill-prepared. Seafield reassured Carstares a few days before that sufficient men of war were on the seas to subdue the French fleet, although at the same time regretted that the Council was soon to go. The invasion attempt came in the second week of March and petered out into a skirmish at sea with no landing in Scotland. The Council then turned to mopping up the small number of Jacobite lairds in central Scotland, especially a group of Stirlingshire gentlemen, who had mustered together, and the Lord Advocate Sir James Steuart of Goodtress (1635–1713) arrested them but when their trial came in November was unable to prove them guilty of treason and was promptly dismissed after 17 years in office.⁶⁹ Contemporary views were negative yet it seems rather absurd to blame the Council for not managing well the brief insurrection and its aftermath given that it was shortly to cease to exist. Many of those seeking to save the Council, who argued that abolition so swiftly left no time for the new responsibilities of justice of the peace to be bedded in, had their worst fears confirmed. Abolition merely encouraged Jacobitism as did resentment at the new English treason law introduced into Scotland in 1708. Other Council responsibilities were distributed between the judges of Scotland’s Court of Session, a new Court of Exchequer established in 1707, a Commission of Chamberlainry and Trade formed in 1711, and the offices of the Scottish Secretary (although that disappeared in late 1716) and the Lord Advocate. And yet much did not happen or was ignored by the Westminster Parliament and a vacuum was created when Scotland could least afford it. As for the *Squadron* of 1707–1708, only two of their number were re-elected to the Commons in the general election of May 1708, including Baillie of Jerviswood. However, this small party continued to be an effective force until the 1750s, replacing some of its number in the Commons, although mostly led by the familiar small coterie of Scottish nobles,

⁶⁷NRS, Papers of the Graham Family, Dukes of Montrose, GD220/5/152/3 (letter Cockburn of Ormston to the Duke of Montrose, 24 January 1708); J. Maccormick (ed.), *State Papers and Letters addressed to William Carstares* (Edinburgh, 1774), pp. 770–72 (letter Earl of Loudoun to Carstares, 30 December 1707); Townend, ‘Rendering the Union’, p. 96.

⁶⁸NRS, SP4/28, Secretary warrant book, pp. 103–5 (25 February 1708); D. Szechi, *Britain’s Lost Revolution: Jacobite Scotland and the French Grand Strategy, 1701–8* (Manchester, 2015), p. 31.

⁶⁹*State Papers and Letters to Carstares*, pp. 766–7 (letter Seafield to Carstares, 21 February 1708); Szechi, *Britain’s Lost Revolution*, pp. 33–9, 52–4.

related by marriage and political frustration. Contemporaries gave the party much of the blame for both parliamentary union and the end of the Privy Council. But over the latter the Junto were just as guilty and just as self-serving. Following the election in 1708 the Whigs were the largest party, and although Godolphin did what he could to work within the new arithmetic he was soon overthrown. What this all proves is that Westminster politics was just as prone as the Scottish equivalent to electoral fear and struggling administrations. The Scottish political memory building since the Restoration had seen a rejection not merely of absolutism by monarchy but absolutism by government; a significant reaction to the authoritarianism and self-interest of ministers like Lauderdale and Queensberry. Meanwhile, the abolition of the Scottish Privy Council, rather than reforming it, was a classic case of unnecessary self-harm. So ended the 'collective executive power of the Scottish ministry'.⁷⁰ The outcome was hardly satisfactory. The unionist Sir John Clerk of Penicuik (1676–1755), a Scottish MP who attached himself to Queensberry's interest and voted accordingly against abolition, described this looking back two decades later:

by the taking away the Privy Council of Scotland there is very little of government to be seen amongst us. This complaint I am affray'd is too well founded, for tho' the peace of the country be in the hands of certain justices of the peace as in England, yet there are some shires in this country where they do not meet at all, and there are others where I am affray'd they meet to press one another either as justices of the peace or as commissioners of supply.⁷¹

This disconsolate testimony speaks volumes for the narrow and self-interested Scottish and English party motivations that delivered the abolition of the Scottish Privy Council.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Funding

The research for this article was made possible through a Research Project Grant [grant number RPG-2019-276] from the Leverhulme Trust.

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⁷⁰Riley, *Scottish Ministry*, p. 96.

⁷¹T.C. Smout (ed.), 'Sir John Clerk's Observations on the Present Circumstances of Scotland 1730', *Miscellany of the Scottish History Society X* (Edinburgh, 1965), p. 203.