

**THE SCOTTISH PARLIAMENT AND THE POLITICS
OF EMPIRE : PARLIAMENT AND THE DARIEN PROJECT,
1695-1707**

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The 1689 Convention of Estates played a crucial role in the «Glorious Revolution» in Scotland, forfeiting James VII and replacing him with William of Orange and his wife Mary as King and Queen of Scotland. Conventions of Estates were usually convened for specific purposes, such as the granting of supply and taxation. The Conventions of 1665 and 1667, for example, were convened to provide financial support for Charles II's participation in the Second Anglo-Dutch War. Two important conventions were held for overtly political purposes in the seventeenth century, however. The 1643 Convention of Estates was the political body through which the Covenanting movement in Scotland took the decision to intervene in the English Civil War. A Convention of Estates was allowed to meet on 14 March 1689 as a result of the decision taken by William of Orange, now King of England, and Scottish politicians in Whitehall in early January 1689. A series of meetings was held in Whitehall between William and a group of up to 30 lords and 80 gentlemen. William was invited to take on the civil and military administration of Scotland until the meeting of a Convention of Estates in Edinburgh on 14 March. The Whitehall meetings also decided that this Convention was to deliberate and resolve on what was to be done for securing the Protestant religion and restoring the laws and liberties of the kingdom. The 1689 Convention has been described as «revolutionary», as James VII was still the legitimate King of Scotland. Two days after the opening of the Convention, the estates demonstrated their political resolve by passing an act stating that the meeting of the Convention was free and lawful and that it would continue to sit undissolved until the Protestant religion, the government, laws and liberties of the kingdom were secured. As the politics of the Convention unfolded, the supporters of William triumphed. James VII was constitutionally removed as King of Scotland and he was replaced by William and Mary, now the monarchs of England. William proceeded to turn the

Convention into a full Parliament, in response to the constitutional request of the Convention¹.

On 4 April 1689 the Convention provided reasons and voted in favour of declaring the Scottish throne vacant. One week later on 11 April the Convention approved The Declaration of the Estates of the Kingdom of Scotland containing the Claim of Right and the offer of the Crown to the King and Queen of England (William and Mary). The Scottish Claim of Right forfeited James VII as King of Scotland. A Proclamation was also approved declaring William and Mary, King and Queen of England, to be King and Queen of Scotland. Furthermore, an act was passed declaring that the Estates were to continue in the government of the country until the King and Queen of England accepted the Scottish crown. Thirteen Articles of Grievance were approved on 13 April. These demanded the redress of perceived political and constitutional abuses under Charles II and James VII. On 23 April an act was passed nominating commissioners to treat concerning a union with England (negotiations did not actually take place). Legislation was also passed on 24 April nominating commissioners to offer the Scottish crown to William and Mary in London. Three commissioners were appointed representing each of the three estates. Archibald Campbell, tenth Earl of Argyll represented the nobility, Sir James Montgomery of Skelmorlie (Ayrshire) represented the barons/shire commissioners, and Sir John Dalrymple of Stair (Stranraer) represented the burgesses. The commissioners were instructed to present the declaration of the estates and the articles of grievance for redress to William and Mary. In addition to administering the Scottish coronation oath to William and Mary, the commissioners were instructed to present an address for turning the

¹ T. Harris, *Revolution. The Great Crisis of the British Monarchy, 1685-1720* (London, 2006), p. 364-421 ; J. R. Young, «The Scottish Parliament and the Covenanting heritage of constitutional reform», in A.I. Macinnes & J. Ohlmeyer (eds.), *The Stuart Kingdoms in the Seventeenth Century. Awkward Neighbours* (Dublin, 2002), p. 230-242 ; J.R. Young, «The Scottish Parliament in the Seventeenth Century : European perspectives», in A.I. Macinnes, T. Riis & F.G. Pedersen (eds.), *Ships, Guns and Bibles in the North Sea and the Baltic States, c.1350-c.1700* (East Linton, 2000), p. 142-143. See R.S. Rait, *The Parliaments of Scotland* (Glasgow, 1924), p.158 on the « revolutionary » nature of the Convention. See D. Patrick, «Unconventional Procedure : Scottish Electoral Politics after the Revolution», in K.M. Brown & A.J. Mann (eds.), *The History of the Scottish Parliament. Volume 2. Parliament and Politics in Scotland 1567-1707* (Edinburgh, 2005), p. 208-244, for an authoritative analysis on the 1689 elections.

1689 Convention into a Parliament. The address of 24 April stated that it was the humble desire of the Scottish estates that the Convention should be turned into a Parliament in order to secure the further settling and securing of the Protestant religion and the government, laws and liberties of the kingdom and the redress of grievances. The Convention received correspondence from William on 24 May stating that he had agreed to this. This Parliament met in ten sessions between 1689 and 1702, with the first session meeting on 5 June 1689¹.

The fourth session of the Williamite parliament met between 18 April and 15 June 1693. An Act for Encouraging Foreign Trade was passed on 14 June towards the end of the session. This allowed for the establishment of joint-stock companies to trade with other parts of the world not involved in warfare with the monarchy. The East and West Indies were identified, as was Mediterranean trade and the African coast². The 1693 act had its legislative origins in the Committee of Trade, appointed on 21 April. This was one of the four standing committees that came to be established at the start of parliamentary sessions in the post-1690 period. The controversial Lords of the Articles were abolished on 8 May 1690 as part of the Revolution settlement in Scotland. By this legislation the estates were now free to choose and appoint whatever number of committees they liked. There was also to be equal representation of each estate on committees. Four standing committees came to be appointed on a regular basis in the sessions from 1693 onwards in the remaining sessions of the Williamite Parliament. In addition to the Committee of Trade, the three other standing committees were the Committee for the Security of the Kingdom, the Committee for Contraverted

¹ *The Acts of the Parliaments of Scotland* [hereafter *APS*], T. Thomson & C. Innes (eds.), (Edinburgh, 1814-75), IX, 1689-1695, p. 33-34, 38-41, 48-49, 60-61 ; Young, « The Scottish Parliament in the Seventeenth Century : European perspectives », p. 143 ; Young, « The Scottish Parliament and the Covenanting heritage of constitutional reform », p. 232-234. The dates of the sessions were 5 June-2 August 1689, 15 April-22 July 1690, 3 September-10 September 1690, 18 April-15 June 1693, 9 May-17 July 1695, 8 September-12 October 1696, 19 July-1 September 1698, 21 May-30 May 1700, 29 October 1700-1 February 1701, 9 June-30 June 1702. P.W.J. Riley, *King William and the Scottish Politicians* (Edinburgh, 1979) provides an overview of the parliamentary politics of this period. D. Patrick, « People and Parliament in Scotland 1689-1702 », (University of St Andrews, PhD, 2002) now constitutes the leading piece of research on this period.

² *APS*, IX, 1689-1695, p. 314-315 ; J. Prebble, *Darien. The Scottish Dream of Empire* (Edinburgh, 2000 edition), p.16 ; D. Watt, *The Price of Scotland. Darien, Union and the Wealth of Nations* (Edinburgh, 2007), p. 26-27.

Elections and the Committee for the Address (it composed Parliament's reply to a letter from the monarch that was read to the assembled estates at the start of the session)¹. On 21 April a motion was given for the establishment of specific committees for elections, settling the government, and for trade. The following day, the High Commissioner to Parliament, William, third Duke of Hamilton, presented a «Memoriall» to Parliament that outlined specific overtures. These dealt with the threat of foreign invasion, the defence of the country and the funding of the armed forces, in the context of the ongoing Nine Years » War. A committee was therefore to be appointed to consider these issues. This led to the establishment of the Committee for the Security of the Kingdom. These overtures also included the proposal that committee be established for making and receiving proposals for the advancement and security of trade and for bringing in acts for that purpose. The trade committee was appointed on 22 April and it consisted of seven members per estate (nobles, barons/shire commissioners, and burgh commissioners). This was in accordance with the 1690 principle of equal numbers of each estate on committees. The trade committee dealt with different economic issues throughout the session. On 25 April, for example, the committee reported on the curing and packing of herring and salmon (fishing was one of the most important sectors of the Scottish economy). On 25 May the committee reported on legislation for improving the trade of linen cloth (again this was a key sector of the Scottish economy). An Act for Encouraging Foreign Trade was read on 13 June. After some amendments it was voted on and approved. It received royal sanction the following day on 14 June when High Commissioner Hamilton touched the act with the sceptre².

The direct legislative origins of the Darien project came in the following parliamentary session of 9 May to 17 July 1695. The Act for a Company Trading to Africa and the Indies was passed on 26 June and this led to the formation of the Company of Scotland, the business organisation that later initiated plans for a Scottish colony in Panama. The main issue in Scottish politics at this time was that of the notorious 1692 Massacre of Glencoe in the Scottish Highlands. As a

¹ *APS*, IX, 1689-1695, p. 113, 249, 314-315, appendix, p. 71 ; C.S. Terry, *The Scottish Parliament. Its Constitution and Procedure 1603-1707* (Aberdeen, 1905), p. 117-118, 123 ; Rait, *The Parliaments of Scotland*, p. 386-393 ; E.E.B. Thomson, *The Parliament of Scotland, 1690-1702* (Oxford, 1929), p. 69-70. Thomson's study of this Parliament is inadequate.

² *APS*, IX, 1689-1695, p. 249, 314-315, appendix, p. 71-91.

result of the uproar over the massacre of thirty-eight members of the MacDonald clan in the early hours of 13 February 1692 (with many more perishing in freezing conditions) at the hands of an army regiment consisting of members of Clan Campbell, an enquiry was ordered into the massacre to investigate why the massacre had taken place. This focused on the roles played by King William, Sir John Dalrymple of Stair, Secretary of State, John Campbell, first Earl of Breadalbane, other members of the political and military establishment in Scotland, and rank and file soldiers involved in the massacre. The enquiry was presented to the 1695 parliamentary session for discussion. The role of King William in the massacre was dubious. Secretary of State Stair was identified as the main culprit, albeit his fall from political favour was short-lived and he later played an important role in the 1707 Treaty of Union. King William was absolved of any responsibility in the enquiry, although some historians have deemed this to be a political whitewash¹.

This provides the backdrop to the 1695 parliamentary session. As an absentee monarch, King William was represented in Parliament by the High Commissioner (William never once came to Scotland as king). The High Commissioner to the 1695 session was John Hay, second Earl and first Marquis of Tweeddale. At the opening of the parliamentary session, High Commissioner Tweeddale gave a speech to the assembled estates. Part of his speech dealt with the issue of colonies and this was to become controversial at a later date. Tweeddale informed the estates :

And if you find, it will tend to the Advancement of Trade, that an Act be passed

for the Encouragement of such as shall Acquire and Establish a Plantation in

Africa or America, or any other part of the World, where Plantations may be

Lawfully acquired : His Majesty is willing to Declare, that He will grant to the

Subjects of this Kingdom, in Favours of those Plantations, such Rights and

¹ *Ibid.*, IX, 1689-1695, p. 377-381 ; A.I. Macinnes. *Clanship, Commerce and the House of Stuart, 1603-1788* (East Linton, 1996), p. 203 ; P. Hopkins, *Glencoe and the End of the Highland War* (Edinburgh, 1998, revised reprint), p. 308-350.

Priviledges as He doth grant in like cases to the Subjects of His other Dominions¹.

From the perspective of the Scottish Parliament, therefore, what appeared to being offered was the Scottish equivalent of the English East India Company, the African Company and English companies trading with the American colonies. This would also suggest a body similar to the Dutch East India Company. The 1695 act was closely modelled on its 1693 predecessor². In common with the 1693 act having its origins in the trade committee of the 1693 session, the 1695 act had its origins in the 1695 trade committee.

A Committee for Trade was appointed on 14 May 1695, along with the main standing committees. The 1695 trade committee consisted of seven members of each estate (in common with the 1693 committee). There was limited common membership between the two committees. Two nobles and up to five burgesses were appointed to both committees. John Hamilton, second Lord Belhaven, and Alexander Montgomerie, eighth Earl of Eglinton were the two nobles. Four of the seven burgess members on the 1695 committee had been included on the earlier committee of 1693. These were James Fletcher (Dundee), John Anderson (Glasgow), William Erkin (Culross), Hugh Brown (Inverary) and John Muir (Ayr). Common membership was therefore stronger among the burgesses than the other two estates³.

A draft act for encouraging trade was in existence by 12 June 1695, when it was read and remitted to the trade committee. The act was intended to put the provisions of the 1693 act into effect. The trade committee presented the act for encouraging a company for foreign trade on 21 June. The act was read again and approved, but what was still required was the list of persons to be inserted in the act as members of the company. This was remitted back to the trade committee make adjustments in order that they could be approved in Parliament. This task had been completed by the trade committee by 26 June. The list of persons to be included in the act was read, voted

¹ *APS*, IX, 1689-1695, appendix, p. 95-96.

² Prebble, *Darien*, p. 15-16 ; Watt, *The Price of Scotland*, p. 25-29.

³ *APS*, IX, 1689-1695, p. 351-352, appendix, page 72. The burgh constituencies of Ayr and Peebles were each represented by two individuals identified as John Muir. The index to the parliamentary records indicates that it was the John Muir who represented the burgh of Ayr who was included on the trade committees, as opposed to the John Muir who represented the burgh of Peebles. See *ibid.*, p. 238-240, 347-389, 351-352, appendix, p.72, index, p.31.

and approved. It was ordered that these names were to be inserted in the act and thereafter the Act for a Company Trading to Africa and the Indies was approved by Parliament and touched with the sceptre by Tweeddale (thereby giving the act legality). Twenty promoters were named in the act. Other investors who subscribed within 12 months of 1 August 1695 plus the 20 named promoters would collectively form «one body incorporate, and a free incorporation, with perpetual Succession, by the name of the Company of Scotland trading to Affrica and the Indies». Only one noble was listed as a promoter. This was Lord Belhaven and as noted he above he had sat on the two trade committees of 1693 and 1695. Two of the promoters who were lairds, Sir John Maxwell of Pollock (Renfrewshire) and Sir John Swintoun of that ilk (Berwickshire), had been members of the 1693 trade committee¹.

The first Court of Directors of the Company of Scotland was elected by the company shareholders on 12 May 1696. Membership included two nobles, 15 lairds and eight merchants. Links can be established between the first Court of Directors and the respective trade committees of 1693 and 1695. Both noble directors, Belhaven and David Ruthven, second Lord Ruthven, had been members of the 1695 committee (Belhaven had also been a member of the 1693 committee). Furthermore, four of the seven lairds on the 1695 trade committee were Court Directors. These were James Pringle of Torwoodlee (Selkirkshire), Sir Francis Scott of Thirlestane (Selkirkshire), Sir John Swinton of that ilk (Berwickshire) and Sir John Home of Blackadder (Berwickshire). One of the other Directors, Sir John Maxwell of Pollock (Renfrewshire), had been a member of the 1693 trade committee. Lord Belhaven, Sir John Swinton of that ilk and Sir John Maxwell of Pollock, as Court Directors in 1696, had been members of the 1693 committee. Seven of the 15 lairds who were Court Directors owned estates within a close geographical range, namely the Scottish Borders. Indeed, four of the seven lairds on the 1695 trade committee represented constituencies in the Borders (Selkirkshire and Berwickshire)².

Under the terms of the 1695 act, the Company for Scotland trading to Africa and the Indies was to have a wide range of powers.

¹ *APS*, IX, 1689-1695, p. 377-381, appendix, p. 72, 104, 106, 107 ; Watt, *The Price of Scotland*, p. 27-28.

² Watt, *The Price of Scotland*, p. 65-69, 263-264 ; *APS*, IX, pp, 351-352, appendix, p.72.

The Company was established as a corporate body as a joint stock company. The Company had the right to plant colonies, build cities, towns and forts in uninhabited places. The consent of native peoples was to be required. The Company could arm colonies for defensive purposes and make peace and commercial treaties with other powers. The Company was not allowed to trade with ports and other places that were in hostility with King William. Furthermore, the Company was not to claim land or territory under the possession of any other European sovereign, prince or state. The Crown was to pay reparations to the Company for any losses inflicted by foreign powers. The Company was to enjoy a monopoly on trade to Asia, Africa and America for 31 years. There were also to be exemptions from taxes, customs, cesses, supplies and other duties for 21 years. The capital for the Company was to be raised by public subscription and at least 50 % of the capital was to be held by Scots within Scotland¹. High Commissioner Tweeddale approved the act, but King William was furious and Tweeddale was dismissed from office². From the king's perspective the act had been passed against his wishes, but from the perspective of the Scottish Parliament the act was legal and permission had indeed been given. Thus, from Parliament's perspective the act establishing the Company of Scotland was legal. This would prove to be a major issue in Scottish parliamentary politics.

Attempts to raise subscriptions for the Company of Scotland in English and continental European financial markets were perceived to have been sabotaged due to the lobbying of the English East India Company and the Houses of Commons in Lords in England and the activities of Sir Paul Rycout, the English resident at Hamburg. These activities ensured that the subscriptions for the company were raised within Scotland. The geographical choice of Darien for the Company of Scotland was the brainchild of William Paterson (1658-1719), a Scot who was closely involved with the foundation of the Bank of England in 1694. Two expeditions left Scotland in 1698 and 1699. The first expedition left from Leith on the east coast of Scotland in July 1698 and was declared a colony of the Company of Scotland in December 1698. This expedition was later abandoned in June 1699. A second expedition left from the River Clyde on the west coast of

¹ *APS*, IX, 1689-1695, appendix, p. 95-96 ; Prebble, *Darien*, p. 15, 21-28 ; Watt, *The Price of Scotland*, p. 26-29.

² Riley, *King William and the Scottish Politicians*, p. 98-102.

Scotland in August 1699. The colony was re-established but was forced to surrender in Spain in 1700. James Vernon, English Secretary of State, instructed the governors of England's colonies in the Americas that no aid was to be given to the Scottish colonists and expeditions. For King William the political and economic interests of his southern kingdom of England and Spanish interests in the Americas were to take priority over the attempt to establish a Scottish colony at Darien. William did not want to alienate Spain in terms of European power politics the growing crisis over the Spanish succession¹.

The Darien project and its failure had an impact on domestic Scottish parliamentary politics. Darien galvanised parliamentary politics along Court versus Country lines. The Country Party opposition was particularly active in securing petitions and addresses in favour of Darien and the Company of Scotland from 1698 onwards. Indeed, the Country Party was especially active in the Scottish localities in securing petitions. Three national addresses and two rounds of local addresses were organised by the Country Party between 1699 and 1701, for example. It was also proactive in the production of pamphlets attacking the Court and advancing arguments in defence of Darien. This has recently been identified as representing « new precedents for populist politics in Scotlan² ». The Council-General (the ruling body) of the Company of Scotland petitioned the 1698 parliamentary session. Its petition represented a retrospective overview of the state of the project to the current point in time. The petition attacked the activities of the English Parliament and Sir Paul Rycout in sabotaging the project. Such sabotage was deemed to be an attack on « the honour and independency of this nation » and an attack on « the authority and credit of this parliament ». The petition concluded by asking the High Commissioner and the parliament to vindicate the Company's reputation abroad by supporting the parliamentary legislation and letters patent that had established the Company. The « Honour of the Nation » was much concerned and

¹ See Prebble, *Darien. The Scottish Dream of Empire*, Watt, *The Price of Scotland*, and C. Whatley, *The Scots and the Union* (Edinburgh, 2006), p. 166-175.

² K. Bowie, « Scottish Public Opinion and the Making of the Union of 1707 », (University of Glasgow, PhD thesis, two volumes, 2004), volume one, p.45. Dr Bowie's groundbreaking thesis examines these developments in detail. An important contribution to these developments has also been made by D. Patrick in « People and Parliament in Scotland 1689-1702 », (University of St Andrews, PhD, 2002).

parliament was urged to take « effectual measures » not only for repairing the losses and damages sustained through « unwarrantable treatment », but also for « preventing the like for the future¹ ».

Tension over Darien and an impending crisis in the existing Anglo-Scottish dynastic union continued in the later parliamentary sessions of the Williamite parliament. The eighth session met briefly from 29 to 30 May 1700. It had to be adjourned by the High Commissioner, James Douglas, second duke of Queensberry, in the face of increased parliamentary hostility. A petition from the sheriffdom of East of East Lothian was presented on 28 May by the barons representing that constituency (Haddington) and petitions were also presented from the shires of Roxburgh, Lanark, Stirling and Perth, and the burghs of Haddington, Coupar and Dunbar. These all sought that « effectual methods may be taken for asserting and vindicating the Company's right to the Colony of Caledonia ». On 28 May a motion was introduced asserting that the colony of Caledonia was a « legal and rightful settlement » in terms of the 1695 act, that Parliament would maintain and support the same and that an act be brought in for these purposes. Two days later the session was adjourned on 30 May². In addition, there was a formal parliamentary protest against the adjournment of the May 1700 session, containing language that harked barked to the Covenanting movement of the late 1630s and 1640s. Indeed, crown officials in Scotland were wary of a repeat of 1641 when Charles I's royal prerogative had been weakened in Scotland³.

Controversy over Darien continued in the next parliamentary session of 29 October 1700 to 1 February 1701. At the start of the

¹ *APS*, X, 1696-1701, appendix, p. 19-20. The petition was first presented on 23 July and then remitted to the Committee for the Security of the Kingdom on 3 August. This committee consisted of nine members per estate. Robert Kerr, fourth Earl of Lothian, had been a member of the 1693 trade committee. David Boyle of Kelburn (Bute) and Sir John Maxwell of Pollock (Renfrewshire) had also been members of the 1693 trade committee. There were also membership links for the shire commissioners with the 1695 trade committee. Sir John Home of Blackadder (Berwick) and William Mure of Rowallan (Ayrshire) were members of the 1698 Committee for the Security of the Kingdom and the 1695 trade committee. There was no common membership for the burgesses between the 1698 security committee and the trade committees of 1693 and 1695 (*Ibid.*, 1689-1695, p. 351-352, appendix p.72 ; 1696-1701, p. 122, 126, 123, 132, 135).

² *APS*, X, 1696-1701, p. 193-195.

³ W. Ferguson, *Scotland 1689 to the Present* (Edinburgh, 1968), p. 32-34 ; Bowie, « Scottish Public Opinion and the Making of the Union of 1707 », p. 43, 193.

session on 29 October 1700, the Chancellor of Scotland, Patrick Hume, first earl of Marchmont, gave a speech to parliament in which he outlined the positive attributes of King William and explained why the king could not and would not support the colony. In terms of international politics, for example, « it would infallibly disturb the general Peace of Christendome, and bring inevitably upon this Kingdom a heavy war . wherein we could expect no assistance. This is very evident, for the power of the Spanish Monarchy, and those concerned in the Support of it, would be united against us, and we in all appearance left to our own strength, without expectation of any Assistants¹ ». This related to the wider context of the growing Spanish Succession crisis which would later resulted in warfare between 1702 and 1713. Spanish interests in the Americas were to take priority over the Scottish colony. The increase in tension in Anglo-Scottish relations in terms of the contemporary media was reflected in the Scottish Parliament's order of 16 November 1700 for the burning of three anti-Darien pamphlets at Edinburgh cross².

The issue of Darien came to a head in January 1701. Addresses flooded in to Parliament. Addresses for the defence of the colony were presented on 9 January. These addresses emanated from the Scottish localities, although they had been instigated by the Country party opposition. Eighteen addresses in total were presented and eight of these addresses (44 %) were based on a previous address from East Lothian that had been presented to the May 1700 session³. These addresses came from the heritors of Midlothian, the stewartry of Orkney, nine shires and seven burghs. A geographical spread was apparent. The nine shire addresses emanated from the south-west, west, Highlands, north-east and the east of the country. Burgh address came primarily from Fife in the east, but also included the north-east, the Highlands and the west. The western address was from the « Inhabitants of the City of Glasgow ». All of the addresses to parliamentary contained the signatures of those agreed with the addresses » sentiments⁴. The Glasgow address was composed without the support of the town council, but the address included 474 signatures. This represented the largest number of signatures for

¹ *APS*, X, 1696-1701, appendix, p. 44-5.

² Bowie, « Scottish Public Opinion and the Making of the Union », p. 58 ; *APS*, IX, 1689-1695, p. 241, appendix, p.51.

³ Bowie, « Scottish Public Opinion and the Making of the Union », p. 67, 193-4 ; *APS*, XI, 1702-1707, p. 242, appendix, p. 75-87.

⁴ *APS*, XI, 1702-1707, p. 242, appendix, p. 75-87.

any of the addresses¹. Addresses were presented from both the shire of Fife and some Fife burghs. Inverness-shire and the burgh of Inverness in the Highlands also addressed. The addresses were not restricted to complaints over Darien. They also voiced concerns about the economic condition of the country in the aftermath of the Nine Years » War (1688-97) and the maintenance of the armed forces in Scotland².

Darien continued to dominate parliamentary affairs in January 1701. The Council-General of the Company of Scotland wanted Parliament to take measures for asserting and vindicating the rights of the Company of Scotland, to seek reparations from Spain for damage to the colony and for preventing future encroachments³. Five days later, on 14 January, the issue came to a head over whether a formal act or address would be passed by Parliament for the defence of Darien and the Company of Scotland. Successful management by crown officials ensured that a vote was passed by 108 to 84 votes for an address to the king as opposed to an act. A parliamentary address was thereafter approved by 101 to 61 votes on 17 January. The parliamentary address of 17th January 1701 provided a retrospective overview of Darien. It attacked English intervention and Spanish aggression. The colony of Caledonia was deemed to be rightful and legal as per the parliamentary legislation of 1695⁴. English and Spanish intervention was deemed to be an encroachment on the «undoubted independency and sovereignty of this your majesties ancient crown and kingdom⁵ ». The address therefore emphasised the perceived encroachment on the independency and sovereignty of Scotland, the attack on the rights of the Scottish crown and it wanted King William to seek reparations from Spain. Nevertheless, the ability of the Court to manage the issue and prevent a formal act being passed can be interpreted as a victory for the Court against the Country party. The parliamentary session ended on 1 February 1701. Crucially, supply was secured for the continuation of the armed forces⁶.

¹ *Ibid.*, XI, 1702-1707, appendix, p. 84-6 ; Bowie, « Scottish Public Opinion and the Making of the Union of 1707 », p.67.

² *APS*, XI, appendix, p. 242, p. 75-87. Patrick, « People and Parliament in Scotland 1689-1702 », p.286.

³ *APS*, XI, 1702-1707, p. 242-5, appendix, p. 87-88 ; Patrick, « People and Parliament in Scotland 1689-1702 », p. 286-289.

⁴ *APS*, XI, 1702-1707, p. 245-250, appendix, p. 89-90.

⁵ *Ibid.*, p. 250.

⁶ Patrick, « People and Parliament in Scotland 1689-1702 », p. 288-292.

Prior to his accidental death in 1702, King William was strongly advocating a closer union between Scotland and England. The new monarch, Queen Anne, continued this theme and was a committed enthusiast for an « entire » union between her Scottish and English kingdoms. She recommended union in her letter to the 1702 parliamentary session (9-30 June 1702), the final session of the parliament that had met since 1689. The English Parliament had already passed an act allowing the Queen to appoint commissioners to treat for union. According, the Queen expected the Scottish Parliament to do « what is necessary » on their part for this. She informed Parliament that « We shall contribute our utmost endeavours towards the accomplishment thereof, and shall esteem it our happiness to establish the nation upon so sure a foundation¹ ». The respective speeches of James Douglas, second Duke of Queensberry, the High Commissioner to Parliament, and Patrick Hume, first Earl of Marchmont, the Chancellor of Scotland, reiterated the benefits of union to the assembled estates. In the words of High Commissioner Queensberry, for example, « There is nothing can contribute more to the interest of the Protestant Religion, and the security of the present Constitution of the Government, than an Union betwixt the two kingdoms of Scotland and England² ». The Queen's letter to Parliament did not mention Darien and the Company of Scotland, but this was dealt with in a separate letter considered by Parliament on 11 June. This dealt with the Address that had been presented to King William from the 1701 session³.

In this letter it is clear that the repercussions from Darien had now become embroiled in the union issue. Queen Anne stated that it was her « firm purpose and resolution » to maintain Scottish sovereignty and independence against « all invasions and encroachments whatsoever ». Furthermore, the rights, prerogatives and liberties of the Scottish and English crowns were to be treated with equal tenderness. Both kingdoms were to be governed according to their respective laws and liberties and « all occasions of misunderstanding or differences » between them were to be avoided. In order to achieve this end, however, the Queen stated that the establishment of « an intire Union betwixt the two Kingdoms upon an

¹ *APS*, XI, 1702-1707, p. 11-12 ; B.C. Brown (ed.), *The Letters and Diplomatic Instructions of Queen Anne* (London, 1968 edition), p. 88-90.

² *APS*, XI, 1702-1707, appendix, p. 1-3.

³ *Ibid.*, XI, 1702-1707, p. 13-14.

equal and just foundation » was the best way forward. The English Parliament had shown « good inclinations » towards a union and accordingly Queen Anne expected that the Scottish Parliament would do nothing to « obstruct such a design ». The remainder of the Queen's letter dealt with specific issues. The taking of Scottish subjects from Scottish ships by their English counterparts for maritime service had been prohibited by King William. Now Queen Anne informed the Parliament that orders had been given for the full protection of Scottish subjects on this issue and for the encouragement of commerce between the two nations. The last section of Queen Anne's letter dealt with Darien. « We do heartily regrave the great losses and disappointment which the Company trading to Affrica and the Indies have sustained in carrying on and prosecuting their Designs in Settling of a Colony in America », Parliament was informed. This had been a « great prejudice and loss to the whole kingdom ». Crucially, the Queen proceeded to inform Parliament that she would « cheerfully concur in any thing that can reasonably be proposed for their reparation and assistance nor shall they want our countenance and protection in all their just designs and concerns ». She stated that « we shall ever endeavour to promote the trade not only of that Company but of the whole Nation And shall do every thing that is in our power for the welfare and prosperity of our people¹ ». In light of what was to happen in the future, this statement concerning the Company of Scotland was quite remarkable.

Parliament passed legislation on 25 June 1702 allowing the Queen to appoint commissioners to treat for a Union with England². Commissioners were appointed and negotiations duly took place between 18 November 1702 and 3 February 1703. These negotiations proved abortive, however, and a key stumbling block in the negotiations was financial compensation for the Company of Scotland. Free trade with England and the English plantations was agreed. Difficulties arose over taxation and the payment of an equivalent to Scotland as compensation to offset financial burdens that union would bring (only a union of incorporation was discussed). The negotiations ended over the issue of the Company of Scotland³. On

¹ *Ibid.*

² *Ibid.*, XI, 1702-1707, p. 26-7. The legislation had been prepared by the Committee for Security of the Kingdom [*Ibid.*, XI, (1702-1707), p. 13-14, 19, 25.

³ W. Ferguson, *Scotland's Relations with England : A Survey to 1707* (Edinburgh, 1977), p. 202.

30 January 1703 the Scottish negotiators demanded recognition of the rights of the Company. Failing this, they wanted an agreement to « purchase their right at the public expense¹ ». No agreement could be reached and the issue killed the negotiations. The negotiations were adjourned on 3 February to 4 October 1703, but no resumption took place².

A new Parliament was elected in 1703 and the last Scottish Parliament met over four sessions between 1703 and 1707³. The main objective of Queen Anne and her advisers was to secure the Hanoverian succession in Scotland, but the Queen also maintained her commitment to securing an « entire » union between her Scottish and English kingdoms. The 1703 and 1704 sessions adopted a distinctly constitutionally nationalist tone, however. Parliament asserted its rights over foreign policy (the Act anent Peace and War of 16 September 1703) and dynastic policy (the Act of Security of the Kingdom of 5 August 1704). In addition, there were demands for constitutional reform and restrictions on the royal prerogative of any future monarch, irrespective of who he or she may be. These applied to a future situation should Queen Anne die without any heirs (as seemed increasingly likely)⁴. Legislation in favour of the Company of Scotland was passed in the 1703 session. An Act in favour of the Company trading to Africa and the Indies was passed on 16 September. The 1695 act establishing the Company was ratified, approved and confirmed, as was all other legislation in favour of the Company. Queen Anne had considered the many obstructions, losses and disappointments that had faced the Company in « the prosecution

¹ *APS*, XI, 1702-1707, appendix, p.161. Quoted in Ferguson, *Scotland's Relations with England*, p. 202.

² *APS*, XI, 1702-1707, appendix, p. 145-161.

³ *Ibid.*, XI, 1702-1707, p. 1-205. See K.M. Brown, « Party Politics and Parliament : Scotland's Last Election and its Aftermath, 1702-3 », in K.M. Brown & A.J. Mann (eds.), *The History of the Scottish Parliament. Volume 2. Parliament and Politics in Scotland 1567-1707* (Edinburgh, 2005), p. 245-286, for the parliamentary elections to the new Parliament.

⁴ Brown (ed.), *The Letters and Diplomatic Instructions of Queen Anne*, p. 119-120, 138-141, 145-147, 160-164 ; *APS*, XI, 1702-1707, p. 107, 136-137, 213-214, 236-238, 295, appendix, p. 70, 86-87. See J. Robertson (ed.), *Andrew Fletcher. Political Works* (Cambridge, 1997) for Fletcher's political philosophy, speeches and constitutional reform programme. Whatley, *The Scots and the Union*, provides the best overview and analysis of these events.

of their lawfull endeavours for advanceing the interest of so Nationall a Concern¹ ».

Failure to secure the Hanoverian succession and the emergence of Scottish constitutional truculence in the face of important dynastic issues and participation in the War of the Spanish Succession, resulted in the English Aliens Act of 1705. A deadline of 25 December 1705 was given whereby all Scots not domiciled in England would be treated as aliens and their important trade in black cattle, sheep, linen and coal would be barred from English markets, unless the Scottish Parliament had either accepted the Hanoverian succession or had began the process of treating for union. The 1705 Scottish parliamentary session proceeded on 21 September to pass an Act for a Treaty with England. On 1 September the Scottish Parliament had controversially voted in favour of Queen Anne appointing the negotiating commissioners, as opposed to Parliament itself. On 4 September, however, Parliament approved an Address to presented to the Queen stating that Scottish commissioners for a treaty, appointed by the Queen, would not commence any treaty until clauses in the Aliens Act regarding the Scots as aliens were repealed².

Treaty negotiations took place between 16 April and 22 July 1706 and a draft treaty of 25 articles was agreed on³. A crucial article in terms of the Darien issue was Article XV, « the Equivalent » which included compensation for Darien investors. The Equivalent amounted to £398, 085 and 10 shillings sterling. The main purposes of the Equivalent were to repay public debts (backdated civil and military salary arrears), compensation for Darien and compensation for private persons who would lose out from the reduction in Scottish coin and the adjustment to English currency (this was one of the provisions of the treaty). In addition, the Equivalent was to be used to encourage the promotion of fishing and other manufactures and improvements for the good of the new United Kingdom. With specific regard to the Company of Scotland, the private rights of the Company were to be purchased and the Company of Scotland was to be abolished. Interest at 5 % per annum was added. Therefore a total of £219, 094 was to be repaid, consisting of £153, 448 of the Company's £400, 000 stock that had been called up, plus the interest. Individual investors would get

¹ *APS*, XI, 1702-1707, p. 77, 109, appendix, p. 28, 36.

² *Ibid.*, XI, 1702-1707, p. 213-214, 236-238, 295, appendix, p. 70, 86-87 ; Whatley, *The Scots and the Union*, p. 213-214.

³ *APS*, XI, 1702-1707, appendix, p. 162-205.

their investment back, plus 5 % per annum¹. Within the wider context of the treaty, freedom of trade was granted with England and her colonies. The Scots thereafter proceeded to significantly participate in the British Empire in the following centuries. No less than 15 of the 25 articles of the treaty (60 %) dealt with economic issues, but the key political issues focused on the creation of single kingdom of Great Britain, the sanctioning of the Hanoverian Succession, and the representation of the United Kingdom of Great Britain in a single Parliament of Great Britain².

The negotiated Treaty of Union was presented first to the Scottish Parliament for ratification. The treaty did not proceed simultaneously through the Scottish and English Parliaments. The articles of the treaty were debated and voted on individually as the treaty passed through the Scottish Parliament and the treaty as a whole was ratified on 16 January 1707. Religion had been excluded from the negotiations, but legislation was passed by the Scottish Parliament ensuring a Presbyterian Church of Scotland to be a fundamental and essential condition of the Union in all time coming. The Act for Securing the Protestant Religion and Presbyterian Church Government was also ratified on 16 January 1707³. The 1706 session opened on 3 October and later that month on 23 October a committee was appointed to examine the calculation of the Equivalent. Additional members were appointed to the committee on 28 November. The factional composition of this committee is important as it was dominated by the Squadrone Volante, the political faction whose 25 votes ultimately secured the treaty of union in the Scottish Parliament. Squadrone membership amounted to 60 % of the committee. Of the 15 committee members, 13 (87 %) later voted in favour of Article XV⁴. This is also of interest as many Squadrone members had been investors in the Company of Scotland⁵. Parliament

¹ Whatley, *The Scots and the Union*, p. 254-255 ; Watt, *The Price of Scotland*, 241 ; *APS*, XI, 1702-1707, appendix, p. 201-5, lists the articles of the treaty. The figures listed are those of Whatley.

² *APS*, XI, appendix, p. 201-205.

³ *Ibid.*, XI, 1702-1707, p. 402-403.

⁴ *Ibid.*, XI, 1702-1707, p. 308-9, 338, 372-376. Article XV was twice read on 19 October. A debate arose over the calculation of the Equivalent and it was decided to appoint a committee on 22 October. Initial membership was named the next day.

⁵ See Whatley, *The Scots and the Union*, p. 244-245, 248-251, 298, for a political rehabilitation of the Squadrone based on recent research. An analysis of the Squadrone as a faction and its voting behaviour is listed in *Ibid.*, p. 388-390.

considered Article XV in some detail throughout December 1706, once the committee had reported back on 7 December. Parliament also received reports from James Gregory, Professor of Mathematics at Edinburgh University and Thomas Bower, Professor of Mathematics at Aberdeen University, on the calculation of the Equivalent. On 7 December the calculation of the Equivalent was deemed to be « just », « exact » and « well founded¹ ». Specific clauses of Article XV were debated and considered. The first clause of the article was approved on 7 December and the second, third, fourth, and sixth clauses were approved on 26 December. The fifth clause was deleted as it was covered by Article XVIII of the treaty². Further debate took place on the seventh clause of Article XIV. This was concerned with the actual uses of £398, 085 and 10 shillings. Once these had been resolved, Article XIV (with minor amendments) was approved by 112 votes to 54 votes (a majority of 58) on 30 December 1706³. On 31 January 1707, fifteen days after ratifying the treaty, the Scottish Parliament voted by 86 votes to 26 votes (a majority of 60) that the Scottish negotiators of 1706 were to have their expenses paid out of the Equivalent. Each nobleman was to receive £12,000 Scots and each of the other commissioners was to receive £6000 Scots. The 1702 treaty negotiators had not been paid expenses. It was also approved that they too should be paid out of the Equivalent. Each noble was to receive £500 sterling (£6000 Scots), each baron was to receive £300 sterling (£3600 Scots) and each burgess £200 sterling (£2400 Scots)⁴.

The accounts of the Company of Scotland were considered during February and March. On 10 March, for example, Parliament voted that disposers of the Equivalent should pay the proprietors of the Company as opposed to persons appointed by the Council General of the Company. Other issues related to the Company directors drawing up exact lists of debts by 1 May 1707 (when the Union was to come into being)⁵. On 19 March Parliament ordered that the exemplification under the Great Seal of England of the Act of the English Parliament for the Act of Union of the Two Kingdoms of England and Scotland be recorded. Two days later, on 25 March, the

¹ *Ibid.*, XI, 1702-1707, p. 350.

² *Ibid.*, XI, 1702-1707, p. 350-354, 369.

³ *Ibid.*, 1702-1707, p. 372-376 ; Watt, *The Price of Scotland*, p. 236-237.

⁴ *APS*, XI, 1702-1707, p. 421-423.

⁵ *Ibid.*, XI, 1702-1707, p. 434, 436, 439-442, 445, 458-459.

Act concerning the Payment of the Sums out of the Equivalent to the African Company (i.e. the Company of Scotland) was passed, as was an Act concerning the Public Debts¹. The order of payment from the Equivalent was laid out in the latter act. The beneficiaries of the Equivalent were listed. The shareholders and creditors of the Company of Scotland were to receive 58.5 %. This represented the largest group of beneficiaries. It has also been estimated that circa 3000 shareholders of the Company of Scotland expected to benefit financially out of the Equivalent. In the words of the leading expert on the financial history of the Company of Scotland, « The Equivalent provided a mechanism for extending the direct short-term financial benefits of Union to a relatively large number of individuals² ».

Thereafter an Act of Adjournment was passed on 25 March and Parliament was to reconvene on 22 April. In fact this did not happen and, somewhat ironically, some of the final legislation passed by the Scottish Parliament in 1707 prior to the commencement of the Union on 1 May was concerned with compensation for the Company of Scotland and the failed Darien project³. The initial legislation of the 1695 parliamentary session had now turned full circle. The Company of Scotland was abolished and compensation was received. This did not mark the end of Scottish colonial endeavours, however, although these would be conducted with great success in the post-1707 period within the context of the United Kingdom of Great Britain and the growth of the British Empire⁴.

¹ *Ibid.*, XI, 1702-1707, 487-90.

² Watt, *The Price of Scotland*, pp, 233-234. A further 1500 people were expected to benefit from the military and civil lists, giving a total of around 4500 people (*Ibid*).

³ The Scottish Parliament was formally dissolved by proclamation of the Privy Council on 28 April 1707. See Ferguson, *Scotland's Relations with England*, p. 266.

⁴See T.M. Devine, *Scotland's Empire* (London, 2003).