JOHN R. YOUNG

The Scottish Parliament and the Monarchy in the Context of Absentee Monarchy and the Anglo-Scottish Dynastic Union, 1603-1707

I. Introduction

The 1603 Union of the Crowns marked a diplomatic, dynastic and political triumph for the Scottish royal family, the House of Stewart. James VI, King of Scotland, succeeded Elizabeth I as the monarch of England as James I of England. The Anglo-Scottish dynastic union came into existence, but Scotland and England remained independent kingdoms with their own respective institutional infrastructures. The mother of James VI, Mary, Queen of Scots, had a strong dynastic claim to succeed to the English throne instead of Elizabeth I and she remained a perennial thorn in the side of the English body politic until her execution in England in 1587. Her stubborn adherence to her devout personal Catholicism, her legitimate right to succeed to the English throne in the eyes of many English Catholics and Catholic Spain, and her perceived involvement in international Catholic plots to assassinate Elizabeth ultimately ensured that her removal as a political and dynastic threat could only be implemented by her execution. What took place in 1603, therefore, was a Stewart succession in England, but this was a Protestant male succession as opposed to a Catholic female succession.[1]

The 1603 dynastic union created the structural problem of a single monarch governing three separate kingdoms, Scotland, England and Ireland. Composite monarchies and the government of multiple kingdoms are issues that

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[1] R. Lockyer, *James VI & I*, London 1998; R.A. Mason, *Scots and Britons. Scottish Political Thought and the Union of 1603*, Cambridge 1994; B. Galloway, *The Union of England and Scotland 1603-8*, Edinburgh 1986; J. Wormald, *Mary Queen of Scots. A Study in Failure*, London 1988, are select examples of the literature on these topics.

have attracted the attention of historians of early modern British and Irish history and they have often analysed the British multiple kingdoms within a wider European comparative framework, as this was an important feature of the dynastic and territorial landscape of early modern Europe. From a Scottish perspective, the 1603 union led to the problem of absentee monarchy.[2] The Scottish court disappeared from Edinburgh, the monarch was now based in London and this became the focal point of influence. Upon his departure for England, James VI promised to return to Scotland once every three years, but he only did so once in 1617 prior to his death in 1625. The convening of Parliaments in Scotland could often coincide with return royal visits to the dynastic homeland. Charles I, who succeeded James in 1625, took eight years for a return journey home to Scotland for his coronation in 1633 and the convening of the 1633 Parliament. This was a parliament that was subjected to intense crown political management, a controversial legislative programme enacted in favour of the crown and the stifling of legitimate constitutional dissent. The political impact of the 1633 Parliament played an important role in the articulation of political and constitutional grievances that were to emerge with the Covenanting movement of the later 1630s and 1640s. Indeed, when Charles I returned to Scotland eight years later in 1641, the Scottish Parliament enacted a constitutional settlement that enhanced the powers of the Scottish Estates and weakened the royal prerogative in Scotland. With the execution of Charles I in 1649, as King of England and the man of blood deemed to be responsible for the English Civil War, the Scottish Parliament acknowledged the Prince of Wales as Charles II as King of Great Britain, France and Ireland, but he was to be a covenanted king of three covenanted kingdoms. With the abolition of the monarchy in England, the stance of the Scottish Parliament with its reassertion of monarchy on a British basis, threatened the strategic security of the Cromwellian regime and Scotland, like Ireland, was subjected to a Cromwellian conquest and occupation in 1650-1. Charles II had been forced to reluctantly agree to Covenanting terms and conditions in order to become King and after a process of detailed diplomatic negotiations at Breda, he came to Scotland and attended sessions of the Scottish Parliament and parliamentary committees in 1650-1, prior to leading an abortive invasion of England in the summer of 1651 where he was defeated at the Battle of Worcester on 3rd September.[3]

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[2] See, for example, Conrad Russell, 'Composite monarchies in early modern Europe. The British and Irish Example,' in: A. Grant / K.J. Stringer (ed.), *Uniting the Kingdom? The Making of British History*, London 1995, 133-46.

[3] The following works give a detailed coverage of the period: A.I. Macinnes, *Charles I and the Making of the Covenanting Movement 1625-1641*, Edinburgh 1991; A.I. Macinnes, *The British Revolution 1629-1660*, Basingstoke 2005; D. Stevenson, *The Scottish Revolution 1637-44*, Edinburgh 2003 edition; D. Stevenson, *Revolution and Counter-Revolution in Scotland 1644-51*, Edinburgh 2003 edition; J.R. Young, *The Scottish Parliament 1639-1661. A Political and Constitutional Analysis*, Edinburgh 1996; K.M. Brown / A.J. Mann (ed.), *Parliament and Politics in Scotland, 1567-1707. The History of the Scottish Parliament* II, Edinburgh 2005, 82-162.

Charles II had been crowned as King of Great Britain, France and Ireland at Scone in Perthshire on 1st January 1651. Not only was this the last coronation of a Scottish monarch to take place on Scottish soil, but Charles did not return to Scotland again and there were no further monarchical visits until that of George IV in 1822. James, Duke of York, the heir to the throne of Charles II came to Scotland in two separate visits as a result of the Exclusion Crisis of 1679-81 in England, where there were formal English parliamentary attempts to exclude James from the succession on account of his Catholicism. James was relatively popular and a mini-court existed with associated artistic patronage and culture in Edinburgh. Furthermore, a Parliament was held in 1681 and James was appointed as Royal Commissioner to that Parliament. Arguably, there was no Exclusion Crisis in Scotland and the 1681 Scottish Parliament acknowledged his rights of succession to the Scottish crown, irrespective of his Catholicism. When James became king in 1685 however, he did not attend the sessions of his one and only Parliament in Scotland in 1685 and 1686. The removal of James as King of Scotland at the Glorious Revolution in the British Isles resulted in William of Orange, King of England, succeeding to the Scottish throne with his wife Mary. Yet he did not attend the 1689 Convention of Estates, the political and constitutional forum that removed James and installed William, nor any of the ten sessions of the Parliament of 1689 to 1702, often referred to as the Williamite Parliament. This was largely due to his European war commitments and a general lack of interest in Scottish affairs. Furthermore, and perhaps symbolically, the Scottish coronation of William and Mary took place in Whitehall in May 1689 in London. This trend of absentee monarchy continued with his successor Queen Anne. As Princess Anne, she had visited Scotland in 1680-2 as part of the Duke of York's visits. When she became Queen however, there was no royal visit and she was not present at the 1702 parliamentary session (the final session of the Williamite parliament following William's death), nor at any of the sessions of the Parliament of 1703-7. Anne was fundamentally committed to the maintenance of her royal prerogative and she was fully in favour of an 'intire' union between her Scottish and English kingdoms. Furthermore, she played an interventionist role in the Anglo-Scottish treaty negotiations of 1706 that would ultimately result in the 1707 Act of Union that created a single Parliament of Great Britain in a union of incorporation and the sanctioning of the Hanoverian Succession in the aftermath of her death (this came into being in 1714).[4]

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[4] K.F. McAlister, *James VII and the conduct of Scottish politics, c. 1679-1686*, University of Strathclyde, unpublished PhD thesis, Glasgow 2003, 10-231; T. Harris, *Restoration. Charles II and His Kingdoms, 1660-1685*, London 2005, 136-205, 329-76; T. Harris, *Revolution. The Great Crisis of the British Monarchy, 1685-1720*, London 2006, 144-81, 364-421; Brown / Mann, *Parliament and Politics in Scotland*, 163-286; A.I. Macinnes, *Union and Empire. The Making of the United Kingdom in 1707*, Cambridge 2007, 274-5, 284, 292, 308-9; J. Prebble, *The King's Jaunt. George IV in Scotland, August 1822*, Edinburgh 1988.

The parliamentary standing committee known as the Lords of the Articles played an important role in the process of parliamentary business and it was particularly controversial in the periods of absentee monarchy under James VI and Charles I, in the respective Parliaments of 1621 and 1633. It has been traditionally viewed as a mechanism for ensuring that legislation was passed that was amenable to the crown, although this has been revised in recent years. The Parliaments of 1621 and 1633 may have witnessed the high point of the influence of the Articles in securing crown policies in the political management of Parliament, hence their abolition by the Covenanters as part of tne constitutional settlement of 1640-1, but their abolition may have signified a return to the rights of the Scottish Estates in the deliberative process of the Scottish Parliament. 1621 and 1633 may have been the exception rather than the norm within the wider perspective of the Scottish parliamentary experience. A complicated system of session committees (sitting during parliamentary sessions) and interval committees (sitting after parliamentary sessions or Parliaments) operated under the Covenanters and each estate had the right to elect its own members to parliamentary committees. The Lords of the Articles were reintroduced in the Restoration Settlement of 1661-3, before being finally abolished in the Revolution Settlement of 1689-90.[5]

II. The Scottish Parliament, the monarchy
and constitutional settlements

Three important constitutional settlements were enacted by the Scottish Parliament in the course of the seventeenth century that impacted on the powers of the Scottish monarchy. The first of these was the Covenanting constitutional settlement of 1640-1. The Covenanting movement emerged as a movement of opposition against the problems of absentee monarchy in general and the policies of Charles I in particular. The leadership of the movement was known as the Tables and it proceeded to take control of the Scottish Parliament. The Covenanting constitutional settlement of 1640-1 is probably the most powerful settlement that was ever enacted by the Scottish Parliament. It can be argued that in terms of the history of the pre-1707 Scottish Parliament and the constitutional heritage of the modern day Scottish Parliament that this settlement represents the high point of Scotland's constitutional heritage. The royal prerogative of Charles I was fundamentally weakened and the king was

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[5]   See Young, *The Scottish Parliament 1639-1661*, for a detailed study of these committees; John R. Young, 'The Scottish Parliament and the Covenanting heritage of constitutional reform,' in: A.I. Macinnes / J. Ohlmeyer (ed.), *The Stuart Kingdoms in the Seventeenth Century. Awkward Neighbours,* Dublin 2002, 226-50. For an important reassessment of the Articles, see A. Macdonald, 'Deliberative processes in the Scottish Parliament before 1639. Multicameralism and the Lords of the Articles,' in: *The Scottish Historical Review* 2002, 23-51.

personally forced to give his consent to a settlement that restricted his powers, an act of humiliation given his previous arrogant and condescending attitude to the Scottish Estates as evidenced in the politically managed Parliament of 1633. The Covenanting constitutional settlement secured parliamentary control over executive and judicial appointments. Regular parliaments were to be held in Scotland. This was enshrined in the 1640 Triennial Act which stated that Parliaments were to meet every three years. This was in marked contrast to the previous experience of only one Parliament under Charles I (1633) and a twelve year hiatus between Charles I's first Parliament and the final one of James VI in 1621. Furthermore, the Scottish Triennial Act provided a model for the English Triennial Act passed by the English Parliament in 1640. The demand for 'free' and regular Parliaments had been important constitutional demands, 'free' signifying Parliaments to be held without royal interference— in contrast to the negative experiences of 1621 and 1633. As a result of Charles I's failure to defeat the Covenanters militarily in the First Bishops' War of 1639, the 1639 Treaty of Berwick had acknowledged that a Parliament should be held in Scotland. Thereafter three parliamentary sessions were held between 1639 and 1641. Regular Parliaments were held in Scotland throughout the 1640s. The First Triennial Parliament of 1644-7 met over six sessions and the Second Triennial Parliament of 1648-51 met over eight sessions. In addition, there were Conventions of Estates in 1643 and 1644 and these were particularly important for securing Covenanting intervention in the English Civil War on the side of the English Parliament.

The 1640 parliamentary session witnessed the de facto abolition of the Lords of the Articles via the act choosing committees out of every estate. The Articles were deemed to be optional and not mandatory, but they ceased to exist under the Covenanters. Instead a sophisticated system of parliamentary committees emerged, based on session committees (that sat during parliamentary sessions) and interval committees (that sat between parliamentary sessions or between Parliaments). Session committees consisted of parliamentary members, but interval committees could include non-members, albeit they had to be Covenanters. The Estates elected their own members to committees. Covenanting parliamentary committees played an important role in the government of Scotland, as well as Covenanting intervention in England and Ireland. No High Commissioner, the king's representative, was present in the June 1640 parliamentary session, and the estates sat in defiance of royal authority. Given the absence of a High Commissioner, the estates proceeded to elect a President. Indeed, the Scottish Parliament had an elected President throughout the period of the Covenanting parliaments.[6]

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[6] Young, *The Scottish Parliament*, 1-296.

The second main constitutional settlement was that of the Restoration set-
tlement enacted in three parliamentary sessions between 1661 and 1663. This
settlement was enacted in the context of the restoration of the monarchy in the
British Isles after the period of Cromwellian rule. Following the conquest of
Scotland in 1650-1, Scotland (and Ireland) were incorporated into the Com-
monwealth and Protectorate under the 1654 Ordinance of Union (which later
became an act in 1657). With the collapse of the Cromwellian regime and the
return of Charles II at the Restoration, however, the union of incorporation
was abandoned and there was a return to the structure of the 1603 Anglo-
Scottish dynastic union. The Scottish Restoration settlement therefore dealt
with Charles II's kingdom of Scotland. The Scottish Parliament of 1661-3
was strongly Royalist in terms of its composition and political outlook. In es-
sence the Covenanting constitutional settlement was repealed, as were other
controversial proceedings and enactments of the Covenanting parliaments,
and the royal prerogative of the Stewart monarchy was restored in a willing
aristocratic alignment and rapprochement with the monarchy following over
two decades of the Covenanting troubles and Cromwellian rule. The constitu-
tional gains of the 1640s were surrendered. The Lords of the Articles were
reintroduced in 1661, albeit they did not return to their 1633 structure until
the 1663 parliamentary session. Crown control over legislative and judicial
appointments was restored. Members of parliament were required to take a
personal oath of allegiance to Charles II. The monarchy was given sole pow-
er over the calling and dissolving of parliaments. The clerical estate (arch-
bishops and bishops) were restored in the 1662 session. The Restoration set-
tlement returned Scotland constitutionally to 1633 and within a wider British
context, the monarchy regained more of its powers in Scotland than it did in
England. It can also be argued that the Scottish Restoration settlement dis-
played absolutist tendencies and it can be placed within a northern European
context of absolutism, given developments in Sweden and Denmark–Norway
in the 1660s.[7]

Absolutist tendencies were particularly enhanced in the later Restoration
Parliaments of 1681 and 1685. These focused around the figure of James,
Duke of York and Albany, later James VII and II from 1685 onwards. The
Exclusion Crisis of 1679-81 constituted an attempt to exclude York, the heir
to the throne, from future succession to the English crown due to his conver-
sion to Catholicism. This crisis was primarily, although not exclusively, an
English one, focused on the English Parliament. York was sent to Scotland in
order to remove him from the heat of the English crisis. In Scotland, John

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[7] Ibid., 304-330; J.R. Young, 'The Scottish Parliament in the Seventeenth Century. European
Perspectives,' in: A.I. Macinnes, T. Riss / F.G. Anderson (ed.), *Ships, Guns and Bibles in the North
Sea and the Baltic States, c. 1350-c.1700*, East Linton 2000, 139-72; G.H. MacIntosh, *The Scottish
Parliament under Charles II 1660-1685*, Edinburgh 2007, 1-35.

Maitland, Duke of Lauderdale had recently fallen from royal favour in the aftermath of a failed Covenanting Rising in 1679. The vacuum created by Lauderdale's political demise was filled by York. York's visits to and residence in Scotland between November 1679 and March 1682, apart from a seven month break in England, were remarkably successful in political terms. A court culture revolved around York's residence at Holyrood and he played an important role in promoting the arts and learning through his patronage. He also established a good working relationship with the Highland clans, an important reason in explaining why 28 clans came out to fight for him in the First Jacobite Rising in 1689. This marked an increase of seven clans in terms of the number of clans (21) that fought for Charles I in the Montrose Rebellion in Scotland in 1644-5. York was the royal commissioner to the 1681 Scottish Parliament, on behalf of his brother Charles II. Crucially, York secured his right of succession as future monarch of Scotland, irrespective of his Catholicism. This was acknowledged in the 1681 Hereditary Succession Act. The full title of the act was the act acknowledging and asserting the right of succession to the imperial crown of Scotland. This legislation embodied the concept of indefeasible hereditary succession to the Scottish crown. Accordingly, Scottish monarchs derived their power from God alone. Succession to the Scottish crown was based on degrees of proximity in blood. The Scottish succession could not be altered or suspended, without involving rebellion and civil war. Furthermore, no law or act of Parliament could alter the Scottish succession. The implications of the 1681 Hereditary Succession Act were profound. When one monarch died, the subjects of the kingdom of Scotland were legally obliged to obey the next successor. Thus, when Charles II died in the future, the Scots would be obliged to obey James VII as his successor. It was deemed to be high treason to deny the Scottish succession. Thus, denial of the rights of the succession of James as the rightful heir to the Scottish throne was equated with high treason. James, Duke of York and Albany, a Roman Catholic convert and heir to the throne, had constitutionally secured his succession rights in Scotland. The next monarch of Scotland would be a Roman Catholic and this had been established by law.

The 1681 Scottish Parliament was therefore a major political triumph for the Stewart monarchy. The key theme that can be identified is that of parliamentary loyalism. There was no parliamentary crisis in Scotland over the succession. There was no Exclusion Crisis in Scotland compared to England. Other legislation enacted in 1681 emphasised loyalty and monarchical powers. The 1681 Test Act imposed an oath on all officeholders in church and state. This oath required acknowledgement that the monarch was the only supreme governor of the realm, over all persons and in all causes ecclesiastical as well as civil. The 1681 Test Act therefore acknowledged the royal supremacy in church and state, based on the 1669 Act of Supremacy. This required that all officeholders renounced the National Covenant of 1638 and the Solemn

League and Covenant of 1643. Officeholders were required to promise that they would not take up arms against the king.[8]

Following the death of Charles II in 1685, James VII and II did indeed succeed to his British thrones. In Scotland the first and only Parliament of James VII met over two sessions in 1685 and 1686 respectively. The 1685 Parliament convened during the abortive Argyll rebellion launched from Amsterdam early in May 1685. Archibald Campbell, ninth Earl of Argyll, had been the most high profile opponent of the Test Act in the 1681 Parliament and he had been found guilty of high treason in 1682. In face of the Argyll rebellion, however, Scotland remained loyal to James VII and the rebellion itself was a catalogue of failures. The loyalism shown in the 1681 Parliament was continued in the 1685 parliamentary session. Not only was specific legislation enacted against the rebels, but the session also passed legislation that enhanced royal powers.[9] Parliamentary loyalism and Stewart absolutist tendencies were exemplified in the 1685 Excise Act. This act permanently annexed the excise to the Scottish crown for all time coming, not just for the lifetime of the king as had been the case with Charles II. Absolutist language and a powerful commitment to the monarchy can be detected within the preamble to the legislation. It stated that the people of Scotland had lived for 2000 years under a continuous line of hereditary monarchs. The people of Scotland owed their security and peace to the 'solid absolute authority wherewith ... the sacred race ... of Scotland's glorious kings ... were invested by the first and fundamental law of our monarchy'. The act further expressed revulsion towards those who advocated 'principles and positions' that were 'contrary or derogatory to the king's sacred, supreme, absolute power and authority'.[10] As Tim Harris has strongly argued recently, the 1685 Scottish parliamentary session had confirmed by parliamentary legislation that the Scottish monarchy was an absolute one.[11] Nevertheless, the 1686 parliamentary session in Scotland proved to be less loyal than its predecessor of 1685, despite common membership. Indeed, the 1686 session refused to adhere to the king's wishes in passing legislation for Roman Catholics in Scotland. The Scottish Parliament was the testing ground for this wider British policy, but the parliamentary loyalism of 1681 and 1685 had turned into parliamentary disloyalism.[12] Gordon Donaldson, the late Historiographer Royal in Scotland, argued that religious tolera-

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[8] MacIntosh, *The Scottish Parliament under Charles II*, 179-211; McAlister, *James VII and the conduct of Scottish politics, c. 1679 to c. 1686*, 10-136; Harris, *Charles II and His Kingdoms*, 329-376; A.I. MacInnes, *Clanship, Commerce and the House of Stuart, 1603-1788*, East Linton 1996, 99, 180.

[9] MacIntosh, *The Scottish Parliament under Charles II*, 204-5; McAlister, *James VII and the conduct of Scottish politics, c. 1679–c. 1686*, 193-256.

[10] W.C. Dickinson / G. Donaldson (ed.), *A Source Book of Scottish History* III, *1567-1707*, Edinburgh 1961 revised edition, 190-1.

[11] T. Harris, *Revolution. The Great Crisis of the British Monarchy 1685-1720*, London 2006, 69.

[12] Ibid., 158-63; Brown / Mann, *Parliament and Politics in Scotland*, 184-207.

tion for Roman Catholics was the only issue that could have brought James VII down in Scotland.[13] In January and February 1686 there were a series of anti-Catholic riots in Edinburgh, circa three months before the convening of the 1686 session and later anti-Catholic riots in Edinburgh in 1688 played a significant role in the collapse of James VII's Scottish regime. James VII's strategy of securing toleration via parliamentary legislation in 1686 had failed and he proceeded to use his royal prerogative to secure this objective via Declarations of Indulgence.[14]

This leads on to the third important constitutional settlement of the period, namely the revolutionary settlement of 1689-90 enacted in the 1689 Convention of Estates and the Scottish parliamentary sessions of 1689-90. The Revolution of 1689-90 in Scotland, as part of a wider British crisis and revolution, had a fundamentally different political tone from the absolutist tendencies of 1681 and 1685. Contractual monarchy was emphasised in the Scottish revolutionary settlement. James VII was removed as King of Scotland on the grounds that he had forfeited the Scottish crown. There was a contrast between the respective settlements in Scotland and England. In England, the Declaration of Rights stated that he had abdicated as James II, King of England, but in Scotland the Claim of Right stated that as James VII, King of Scotland, he had forfeited the crown. Therefore there is a contrast between English abdication and Scottish forfeiture. James was replaced by William of Orange and his wife Mary (the daughter of James) and in chronological terms William became King of England prior to becoming King of Scotland. It is clear that the Revolution in British terms was primarily an English event, although there was a separate and distinct revolution in Scotland and Ireland became the main military theatre of war.[15]

The 1689 Convention of Estates played a critical role in the Scottish revolutionary settlement. Conventions of Estates were similar to Parliaments, although they did not enjoy the full range of parliamentary powers. They were usually called for taxation purposes. The 1617 Convention of Estates, for example, was called to raise money to help finance James VI's first journey home to Scotland since the advent of the Union of the Crowns (he had promised to return every three years). Conventions of Estates had been held in 1665 and 1667 to raise money to help finance Charles II's wars against the Dutch (the funding of royal foreign policy) and the 1678 Convention of Estates was convened to raise money in order to suppress domestic religious radicalism in the form of the later Covenanters. Conventions of Estates could also be held in extraordinary circumstances. The leading example of this is the 1643 Con-

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[13] G. Donaldson, *Scotland. James V—James VII*, Edinburgh 1987 edition, 381.
[14] Harris, *Revolution. The Great Crisis of the British Monarchy, 1685-1720*, 144-81; McAlister, *James VII and the conduct of Scottish politics, c. 1679–c. 1686*, 257-318.
[15] Harris, *Revolution. The Great Crisis of the British Monarchy, 1685-1720*, 391-517.

vention, ostensibly called to discuss the funding of the Scottish Covenanting army in Ireland, but in reality it was the forum in which the Scottish Covenanting movement took the decision to intervene in the English Civil War on the side of the English Parliament. The 1643 Convention was therefore essentially political. The 1689 Convention of Estates adheres to this political model.[16] The 1689 Convention has been described as a 'revolutionary Convention'.[17] It was called and met under the authority of William of Orange, who at that point was not even King of England, despite the fact that James VII was still the King of Scotland. It was dominated by people who were pro-William (the pro-Williamite faction had successfully managed the elections) and the Williamites controlled the key committees of the Convention, notably the Committee for Settling the Government. It was this committee that formulated the 1689 Claim of Right, the key constitutional document of the Scottish revolutionary settlement.[18] The Claim of Right was a detailed document outlining the abuses of monarchical power in the reign of James VII in particular and in the post-1660 period in general. The Claim of Right stated that James VII had invaded the fundamental constitution of the kingdom, he had altered the constitution from a legal limited monarchy to an absolute and despotic power and he had subverted the Protestant religion and violated the laws and liberties of the nation. Therefore James VII had 'forefaulted the right to the Crown and the Throne is vacant'. The Claim of Right has an important role in Scotland's constitutional history and there was an implicit recognition that the office of monarchy was conditional obligations.[19] Within the wider context of the settlement, the political grouping known as 'The Club' played an important role in advocating constitutional reform, especially the abolition of the Lords of the Articles, and the re-establishment of a Presbyterian church. The reform programme of 'The Club' derived much of its ideas from the earlier Covenanting constitutional settlement. In 1690 the Lords of the Articles were abolished by the Scottish Parliament, never to be resurrected, and a Presbyterian Church of Scotland was also reintroduced after a somewhat protracted process. The clerical estate in Parliament was also abolished. The 1689 Convention of Estates was turned into a full Parliament by William and that Parliament thereafter met over ten sessions between 1689 and 1702.[20]

The long duration of the Williamite Parliament over ten sessions from 1689 to 1702 attracted criticism and by the end of the period there was particular criticism of Court interference in parliamentary affairs. The structural

[16] Young, *The Scottish Parliament in the seventeenth century. European perspectives*, 142-3.

[17] R.S. Rait, *The Parliaments of Scotland*, Glasgow 1924, 158.

[18] Ibid., 158-60; Brown / Mann (ed.), *Parliament and Politics in Scotland*, 208-44; Young, *The Scottish Parliament in the seventeenth century. European perspectives*, 146-8.

[19] Harris, *Revolution. The Great Crisis of the British Monarchy*, 391-409; Donaldson / Dickinson, *A Source Book of Scottish History* III, *1567-1707*, 200-7.

[20] Young, *The Scottish Parliament and the Covenanting heritage of constitutional reform*, 230-42.

problems of absentee monarchy and the dynastic union were compounded by specific criticism of William of Orange as King of Scotland. William was more interested in European warfare and strategic security than in Scotland, but he sought and expected Scottish money and manpower for participation in the Nine Years' War. Controversy also surrounded King William over his role in the 1692 Massacre of Glencoe in the Scottish Highlands by government forces. The key figure in the Massacre was Sir John Dalrymple of Stair, Secretary of State, but the king's role was perceived to be murky and there was a belief that William had sanctioned the Massacre. A formal enquiry into the Massacre was held. The 1695 parliamentary session deemed the Massacre to have been a barbarous murder, but William was absolved of any responsibility and blame was placed primarily on Stair. For many, however, the enquiry was essentially a political whitewash in absolving William of responsibility. Further controversy emerged with the Company of Scotland and its ill-fated Darien project in the isthmus of Panama. The High Commissioner in the 1695 parliamentary session, the Earl of Tweeddale, gave royal assent to legislation establishing the Company of Scotland for the establishment of overseas colonies, but William was furious with Tweeddale's behaviour and William stated that he had been ill-served in Scotland. Political lobbying on the part of the English East India Company and the Houses of Commons and Lords resulted in the perceived sabotaging of the project by William as King of England, despite the fact that royal approval had been given in the Scottish Parliament by William as King of Scotland. The politics of Darien made it clear that Scotland and Scottish interests were not a priority for William and they were bottom of the list compared to his European geopolitical interests as well as the political, economic and strategic interests of England. A growing opposition faction emerged in the Scottish parliamentary sessions of 1698 to 1701. The Country Party opposition organised the publication of pamphlets and petitions and addresses from the Scottish localities to Parliament. These pamphlets, addresses and petitions represented the outrage of the nation against the perceived sabotage of William, the English Parliament and the English East India Company. In terms of the language of protest, the sovereignty and independence of the kingdom of Scotland had been attacked, according to these petitions and addresses. The nature of the parliamentary opposition was so intense that Court managers had to work hard to ensure that parliamentary act was not passed against the king over the Darien issue. In terms of damage limitation, a parliamentary address was passed concerning Darien and the Company of Scotland on 17 January 1701. Even within this context, the political tone of the parliamentary address was severe.[21]

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[21] J.R. Young, 'The Scottish Parliament and the politics of empire. Parliament and the Darien Project, 1695-1707,' in: *Parliaments, Estates and Representation* 2007, 175-90. See K. Bowie, *Scottish Public Opinion and the Anglo-Scottish Union, 1699-1707*, Woodbridge 2007, for the activities

The parliamentary crisis was symptomatic of a larger and wider issue, namely that the Anglo-Scottish dynastic union was no longer working and needed reform. More generally, there was a growing crisis in Anglo-Scottish relations. Indeed, prior to his death in 1702 William was advocating the policy of a union of incorporation to solve the problem of governing Scotland. Political tension between the two kingdoms was exacerbated by a crisis of dynastic politics. The last surviving heir of Queen Anne, the Duke of Gloucester, died in 1700 and it was highly unlikely that Anne would have any more children given her age and health. Therefore the question of who would be Anne's successor was a potent one. Furthermore, the exiled James VII and II died in exile at St Germains in 1701. Louis XIV recognised his son as James VIII and III. In essence, therefore, France had recognised a Jacobite restoration in the British Isles and an overturning of the Glorious Revolution. French dynastic strategy was also linked to Europe with the recognition of a Bourbon succession in Spain. The English Act of Settlement of 1701 dealt with the dynastic issue on a British basis. It dealt with a future situation if Anne should die with no heirs. The Act of Settlement passed the succession to the House of Hanover, to the Protestant Sophia of Bohemia, Electress of Hanover, and her descendants. Sophia was the grand-daughter of James VI and I. The Stewart succession in England in 1603 therefore provided the solution to the dynastic crisis of the early eighteenth century. Yet the 1701 Act of Settlement was not without controversy for it unilaterally prescribed the Hanoverian Succession on a British basis, despite the fact that Scotland and England were independent kingdoms and the Parliament of Scotland had not been consulted. The political and constitutional arrogance of the English Parliament was resented in Scotland and the 1701 Act of Settlement caused further tension in Anglo-Scottish relations. Fears were now emerging over a possible War of the British Succession, tied in to the outbreak of the War of the Spanish Succession in 1702.[22]

Contemporaries were aware that the Anglo-Scottish dynastic union was no longer working. Several scenarios were possible; a reform of the existing dynastic union, a federal or confederal union could be the result of this; a full union with England (or another country such as the United Provinces of the Dutch Republic); or a complete break with the existing union. Given the dynastic situation, there was also the possibility of Jacobite restoration in Scotland. A new parliament was elected in Scotland in 1702 and it met over four sessions between 1703 and 1707. This was the last Parliament to meet in Scotland as the political resolution ultimately reached, albeit in controversial cir-

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of the Country Party; for Glencoe, see P. Hopkins, *Glencoe and the End of the Highland War*, Edinburgh 1998.

    [22] Macinnes, *Union and Empire*, 243-76; Whatley, *The Scots and the Union*, 184-223; J.R. Young, 'The Parliamentary Incorporating Union of 1707. Political Management, Anti-Unionism and Foreign Policy,' in: T.M. Devine / J.R. Young (ed.), *Eighteenth Century Scotland. New Perspectives*, East Linton 1999, 24-52.

cumstances, was a union of incorporation between England and Scotland. The parliamentary sessions of 1704 and 1704 witnessed tendencies of what can be termed constitutional nationalism. The 1703 Act anent Peace and War dealt with the issue of foreign policy. On the death of Queen Anne, the Scottish Parliament would have the sole right to decide the terms on which the kingdom of Scotland would be committed to or withdraw from European conflict. This was in marked contrast to the situation in both 1689 and 1702 whereby the kingdom of Scotland had declared war on France through the institution of the Privy Council. Parliamentary consent had not been sought for Scottish participation in the Nine Years War and the Spanish Succession War. The political implications of the Act anent Peace and War were important given the fact that Scotland could potentially withdraw from the Spanish Succession War as an independent kingdom at a future date. The 1704 Act of Security also dealt with a future situation in the aftermath of Anne's death. This act stated that Scotland would not accept the same succession as England unless the Scottish Parliament, Church of Scotland and Scottish commerce were guaranteed to be free from interference from the English ministry. Collectively, therefore, independent foreign and dynastic policies were being advocated for a future situation.[23]

Demands for a reworking of the Anglo-Scottish dynastic union in the early eighteenth century focused on the reform programme articulated by Andrew Fletcher of Saltoun. Fletcher was a member of the 1703-7 Parliament, representing the shire constituency of Haddington, an eastern constituency close to Edinburgh. Fletcher was particularly important in the parliamentary sessions of 1703-4, when he emerged as one of the leading advocates of constitutional reform. Fletcher was undoubtedly a partisan figure, and was regarded as such by his fellow parliamentarians. He was a maverick and political philosopher who stood head and shoulders above most of his contemporaries and he was a vocal critic of the structural problems caused by the dynastic union of 1603.[24] In a speech given to the Scottish Parliament on 28th May 1703, for example, Fletcher stated that:

> All our affairs since the Union of the Crowns have been managed by the advice
> of English ministers, and the principal offices of the kingdom filled with such men, as
> the court of England knew would be subservient to their designs: by which means they
> have had so visible an influence upon our whole administration, that we have from
> that time appeared to the rest of the world more like a conquered province than a free

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[23] K.M. Brown, 'Party Politics and Parliament. Scotland's Last Election and its Aftermath, 1702-3,' in: Brown / Mann (ed.), *Parliament and Politics in Scotland*, 245-286; Macinnes, *Union and Empire*, 172-276; Whatley, *The Scots and the Union*, 139-223; Young, *The Parliamentary Incorporating Union of 1707. Political Management, Anti-Unionism and Foreign Policy*, 24-52.

[24] See P.H. Scott, *Andrew Fletcher and the Treaty of Union*, Edinburgh 1992, for a detailed study of Fletcher; and J. Roberston (ed.), *Andrew Fletcher. Political Works*, Cambridge, 1997, for a study of Fletcher's writings.

independent people ... There is no way to free this country from a ruinous dependence
on the English Court, unless by placing the power of conferring offices and pensions
in the Parliament, so long as we shall have the same king with England.[25]

Therefore Fletcher sought to place 'limitations' on the monarchy in order
to free Scotland (in his opinion) 'from the influence of English councils and
ministers', while both countries shared the same monarch.[26] Fletcher's collec-
tive reform programme was known as the 'Limitations'. Recent research has
demonstrated how Fletcher was influenced by the reform programme of 'The
Club' in 1689-90 and especially the Covenanting constitutional settlement of
1640-1. Therefore the long-term significance of the settlement of 1640-1 is an
important part of Scotland's constitutional heritage. It provided an important
model of reform for the early eighteenth century and it was adapted by Fletch-
er for an early eighteenth century context. Twelve Limitations existed in total.
Collectively they sought to eliminate overt interference of the English ministry
in Scottish affairs, to eliminate corruption and bribery, and to redefine the
powers of the royal prerogative vis-à-vis the Scottish Estates with a rejuve-
nated Scottish Parliament at the heart of this process. The twelve Limitations
included the demand for annual Parliaments with elected Presidents (there had
been elected Presidents in the 1640s and the 1689 Convention), only nobles
and elected members were to have votes in Parliament, the monarch would be
required to approve all laws passed by Parliament and the elected President
was to be empowered to give the royal assent in the monarch's absence. An
elected Committee of Estates was to govern the country when the Parliament
was not in session (this drew on the precedent of the Committee of Estates
used as a provisional government under the Covenanters). Parliamentary con-
sent was to be required before the monarch could make peace or war. Parlia-
mentary control over all civil, judicial and military appointments and pensions
was demanded. No judges were to sit in Parliament. Parliamentary consent
was to be required for the use of a standing army. An armed militia was to be
created, consisting of all able-bodied men between the ages of 16 and 60. The
consent of Parliament would also be required for the issuing of pardons. If the
monarch broke any of these limitations and conditions of government, then
such a monarch was to be declared forfeit by the Estates.[27]

    Nevertheless, as events unfolded there was to be no implementation of
such a reform programme, although Fletcher's influence can be seen in the Act
anent Peace and War and the Act of Security. The solution to the ongoing
problems of the dynastic union took a different route. The 1705 parliamentary
session, in controversial circumstances, took the decision to appoint commis-
sioners to negotiate a treaty of union with commissioners of the English Par-

[25] Robertson (ed.), *Andrew Fletcher*, 132-3.
[26] Ibid., 141.
[27] Young, *The Scottish Parliament and the Covenanting heritage of constitutional reform*, 242-9.

liament. The most controversial issue here is that Parliament agreed that commissioners should be nominated by the Queen as opposed to being elected by the Estates. This meant that the Scottish negotiating commissioners were unrepresentative of Scottish parliamentary politics. Negotiations took place between 16th April and 22nd July 1706 and the negotiations resulted in a treaty consisting of 25 articles for a union of incorporation between the two kingdoms. The Scottish Parliament proceeded to approve the treaty in its final session between 3rd October and 25th March 1707, before being formally dissolved on 28th April. Thereafter the treaty proceeded quickly through the English Parliament. The Act of Union came into being on 1 May 1707. Focusing on the theme of parliamentarism and monarchy in small states, several important points can be highlighted. First, recent research has shown the key role played by Queen Anne in overseeing successful treaty negotiations and the passage of the treaty through the Scottish Parliament. From the outset of her reign, she was committed to an 'intire' union between her Scottish and English kingdoms and she had been outraged by the perceived attack on her royal prerogative in the 1703 and 1704 Scottish parliamentary sessions. Article 1 of the treaty articulated a union of incorporation and the creation of a single kingdom of Great Britain. Second, article 2 of the treaty dealt with the dynastic and monarchical issue that had plagued British politics since 1700. Article 2 therefore recognised and accepted the future Hanoverian Succession. The Scottish Parliament accepted the future transition from the House of Stuart to the House of Hanover as the British monarchy as part of the treaty and the union. In this respect, this can be interpreted as a triumph of the dynastic objectives outlined in the 1701 English Act of Settlement. Nevertheless, there would be dynastic challenges to this acceptance in sporadic Jacobite invasion scares and uprisings from 1708 onwards until the ultimate enforcement of the Hanoverian dynasty on the battlefield of Culloden Moor in 1746, and the rout of Jacobite forces by Hanoverian troops. Third, article 3 of the treaty dealt with the issue of Parliament in the new kingdom of Great Britain. The Scottish Parliament was abolished and a new Parliament of Great Britain was created. Scotland, as part of the larger state of Great Britain, was to be represented by 45 Members of Parliament in the House of Commons and 16 elected peers in the House of Lords. From a Scottish perspective, parliamentarism in a small state had now given way to incorporation and representation within a larger state of the British monarchy, the dynastic house of which changed from Stuart to Hanover in 1714.[28]

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[28] Macinnes, *Union and Empire*, 277-327; Whatley, *The Scots and the Union*, 224-392.