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Writing Scottish Parliamentary History, c.1500–1707

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In the 19th and 20th centuries, scholarship on the Scottish parliament was heavily informed by a narrative of 'failure', directed at explaining why its members voted it out of existence in 1707. Part of the problem was the tendency to see any deviation from the practices of the Westminster parliament as weakness. By reappraising parliament in terms of its utility to those who comprised its membership, notably the titled peerage and the monarch, historians have revealed its adaptability and inventiveness, especially in times of crisis. This essay considers how fresh approaches both to what constituted the parliamentary record and what can – and cannot – be found within it have exerted a transformative influence on our understanding of parliament's evolving role in Scottish political life. Although the Reformation crisis of 1560 and the accession of the ruling house of Stewart to the English throne in 1603 effected profound changes on parliamentary culture, this essay emphasises how parliament sustained its legitimacy and relevance, in part, by drawing on past practices and ideas. Historians have become more attentive in recent years to the means by which social groupings ordinarily excluded from formal parliamentary activity were nonetheless able to engage with, and influence, its proceedings. Gaps remain in our knowledge, however. Some periods have been more intensively studied than others, while certain aspects of parliamentary culture are understudied. The writing of Scottish parliamentary history will continue to offer rich possibilities in future.

Keywords: Covenanters; Cromwellian occupation; kingship; parties; print; Reformation; Restoration; Revolution; Scotland; speeches

1. Introduction

> By the Records of Parliament it appeared, that your Lordships, before the Union of the Crowns, had a commanding Share in all the Rights of Sovereignty. It was by You, under God, that our Kings did reign; and never did our Princes decree Justice, either without or against your Authority.

George Ridpath's *Historical Account* of the ancient rights of the Scottish parliament was aired in the crisis years leading up to the 1706 Treaty of Union between England and Scotland. Its effect was to conjure the centuries preceding 1603, when the Scottish king, James VI, acceded to the English crown, as a golden age. Prior to that time, the power of the sword, of the purse, and of appointing public offices had been held by parliament. By these means, 'our Ancestors preserv'd their Liberty, and left their Posterity free'. After 1603, the house of Stewart became an Anglicised dynasty and, corrupted by the court, subverted the Scottish constitution. The problem was not peculiar to Scotland. 'The last Age, or 17th Century, was by some call'd the *Age of Kings*, the meaning of which was, in plain *Scots*, an Age of

Tyrants' – as the examples of France, Denmark, Sweden, Bohemia, Hungary, and Naples could testify.[1]

Ridpath's version of Scottish constitutional history is contestable, but it flags several inter-related points relevant to the way in which Scottish parliamentary history has been written by modern scholars. As authors in a recent important survey of the topic have observed, the 'historical reputation' of the Scottish parliament has long been 'defined' by an incor-porating union concluded, on the English side, with a view to getting rid of a troublesome representative assembly that the government in London struggled to control.[2] It is only in the past few decades that historians have consciously sought to pull the Scottish parliament out of the shadow of its English/British counterpart and, in this respect, Ridpath prefig-ured how this might be done: by positioning the Scottish parliament as fairly typical of early modern European representative assemblies. The early modern era was, in Ridpath's phrase, an 'age of kings' and this reminds us that the Scottish parliament, like the majority of its counterparts, was a royal institution. Instead of pitting parliaments *against* rulers, as an older historiography once did, modern historians have sought to uncover a more nuanced and complicated relationship. Although an institution increasingly self-conscious about the dis-tinctiveness of its constitutional role, parliament, nonetheless, inclined towards co-operation with the monarch. Yet parliament's status sometimes required it to act *against* a ruler, from subtle modifications of legislation at one end of the spectrum, to endorsing acts of rebellion and even deposition at the other, in defence of the public good and the nation's interests.

Modern scholarship started from the premise that treatments of the Scottish parliament by previous generations of constitutional historians urgently needed revision. Previous gen-erations had tended to benchmark the Scottish against the English/British parliament, re-sulting in an essential misrepresentation of the former's nature and characteristics. Its short-comings, and eventual demise, could be explained by pegging differences from the En-glish/British model as weaknesses.[3] Contemporary accounts by the likes of Ridpath took a different approach, by comparing the Scottish parliament of their own epoch against its earlier self, but their broad conclusions served to reinforce scholarly narratives of 'decline'. This framework informed the research methodologies of scholars examining both the late medieval and early modern parliaments, albeit there were period-specific differences. For historians of the early 16th century, parliamentary decline was only to be expected, since monarchs throughout Europe, in thrall to notions of 'new monarchy' or 'renaissance king-ship', were dispensing with their representative assemblies as soon as they could don their new, closed-arch, imperial crowns.[4] From the later 16th century, 'decline' was hastened by the crystallisation of these ideas into an 'absolutist' theory of kingly power – articulated forcefully, albeit with limited originality, by James VI. Absolutist theory could more easily

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[1] [George Ridpath], *An Historical Account of the Antient Rights and Power of the Parliament of Scotland* ([Edinburgh], 1703), iv, vii, xiv.

[2] G.H. MacIntosh and R.J. Tanner, 'Balancing Acts: The Crown and Parliament', in *The History of the Scottish Parliament. Volume 3: Parliament in Context, 1235–1707*, ed. K.M. Brown and A.R. MacDonald (Edinburgh, 2010), 29.

[3] R.S. Rait, *The Parliaments of Scotland* (Glasgow, 1924). For a helpful overview of these tendencies, see William Ferguson, 'Introduction', in *The Scots and Parliament*, ed. Clyve Jones (Edinburgh, 1996), 1–10.

[4] For a summary of these arguments in a broader geographical context, see Steven Gunn, 'Politic History, New Monarchy and State Formation: Henry VII in European Perspective', *Historical Research*, lxxxii (2009), 382; Antonio Marongiu, *Medieval Parliaments* (1968), 235–7.

be put into practice after the removal of the dynasty to a richer neighbouring kingdom, whose leading figures regarded the Scottish constitution as intrinsically inferior to England's. Kings were perhaps not wholly to blame for behaving like kings, however, and parliament, or rather its second but dominant estate, the nobility, had to take its share of responsibility. William Ferguson, writing in the 1970s, acknowledged that the early 18th-century Scottish parliament was no 'mere provincial assembly', but saw in most of its members little evidence of an ideological commitment to the institution as the representative of the people. Parliament by this interpretation was an arena in which a faction-ridden nobility gave expression to its own political and economic interests.[5]

As this broad survey will show, the writing of Scottish parliamentary history has been transformed in recent decades. Historians no longer think in terms of a weak institution set on a trajectory towards failure, partly because the development of the field has generated a stronger appreciation of the wider political and institutional landscape in which parliament was a prominent feature. For some historians, the emphasis has been on parliament as an arena in which the dominance of the landed elite was sustained and given expression; a growing corpus of work has revealed the ways in which parliament might prove useful to urban communities; for others, it is parliament's integral role in the expansion and increasing complexity of government that has commanded attention.[6] Although coming from different, sometimes conflicting, perspectives, these approaches all involve positive reappraisals of the significance of parliament in Scottish political life. This corpus of work pre-dated, but was then boosted by, first, the advent of the new Scottish parliament in 1999 and, from 2007, the existence of an accessible, online, fully searchable edition of the Scottish parliamentary record. By properly referencing its sources, as well as including a wider range of material than had formerly been regarded as strictly 'parliamentary', the *Records of the Parliaments of Scotland* (hereafter cited as *RPS*) offered possibilities for developing a richer and more complex account of parliament as both 'institution and political event'.[7] Of importance here was the project's attentiveness to evidence of more informal gatherings of the estates, known as conventions, which could (sometimes) tax and legislate (at least temporarily) but lacked the authority of a full sitting of parliament. As a result of the project's remarkable labours, our understanding of how parliament functioned, what business it conducted, and how its remit changed over time has been greatly enriched.[8] Despite this renaissance, gaps remain in our understanding. The early 16th century is a problematic period when, as we shall see, historians have to contend with difficult, and sometimes incomplete, records; another is the 1690s, when the opposite problem, in which the record is almost overwhelmingly abundant, seems to prevail. Where more work remains to be done is on those aspects of

[5] William Ferguson, *Scotland's Relations with England: A Survey to 1707* (Edinburgh, 1977), chs 10–13 (quotation at p. 239).

[6] K.M. Brown, *Noble Power in Scotland from the Reformation to the Revolution* (Edinburgh, 2011), 155–67; A.R. MacDonald, *The Burghs and Parliament in Scotland c.1550–1651* (Aldershot, 2007); Julian Goodare, *State and Society in Early Modern Scotland* (Oxford, 1999); Julian Goodare, *The Government of Scotland, 1560–1625* (Oxford, 2004); Laura A.M. Stewart, *Rethinking the Scottish Revolution: Covenanted Scotland, 1637–1651* (Oxford, 2016).

[7] *Records of the Parliament of Scotland to 1707* [hereafter cited as *RPS*], available at https://www.rps.ac.uk (accessed 11 Oct. 2020). K.M. Brown, 'The Second Estate: Parliament and the Nobility', in *Hist. Scottish Parliament. Vol. 3*, ed. Brown and MacDonald, 92.

[8] Nevertheless, the edition is not perfect. For some infelicities, see Julian Goodare, 'Review: *The Records of the Parliaments of Scotland to 1707*', *Reviews in History* (no. 1942). DOI: 10.14296/RiH/2014/1942 (accessed 9 Apr. 2020).

the wider political culture to which the parliamentary record, at best, only alludes. In the second section of the essay, we shall attempt some reflections on this point. How did people find out about parliament's activities and in what ways did they seek to engage with them – if at all? Was it, as hinted at by one of the pioneering recent scholars on the pre-1707 parliament, 'remote from ordinary people's everyday experience'?[9]

2. *The Parliamentary Record*

The 16th-century Scottish parliament was a unicameral assembly, summoned and dissolved at the behest of the monarch. It was peripatetic, acquiring a permanent home, in Edinburgh, only in 1639, although it largely met in the capital during the 16th century. Debate and deliberation tended to occur, not exclusively in the main session where all parliamentary members were present, but across committees or gatherings of individual estates outwith the main session where nobody (so far as we know) took minutes. As in many other European polities, the Scottish parliament historically comprised the three estates of the realm: the clergy, the nobility, and the burgesses. They were deemed to be the representatives of society as a whole by virtue of holding their property and privileges directly from the crown. This structure was complicated by the 'Reformation Parliament' of 1560, despite the fact that this assembly was itself of only dubious legality.[10] First, the assembly provided an opportunity for the increasing assertiveness of the ancient but untitled baronage, often referred to as the gentry or lairds. Following an initial attempt to gain entry to parliament in 1560, in 1587 the status of the barons as a distinct estate was formalised by allowing them to sit as commissioners elected from among the heritors of the shires.[11] Second, after the 1560 Reformation, the clerical estate was heavily truncated. In a process that had begun well before 1560, ecclesiastical land was transferred into secular hands, with those who acquired the superiorities sitting as members of the noble, rather than clerical, estate. This essentially left Scotland's two archbishops and 11 (later 12) bishops as the remnant of the first estate. On two occasions – between the Covenanter Parliament of 1640 and the English occupation of 1651, when the Scottish parliament was abolished; and in the wake of the Revolution of 1688–90 – the clerical estate was outlawed, leaving the nobility, barons, and burgesses as the constituent elements of parliament.[12]

Each of these structural changes left its mark on a parliamentary record which, prior to the *RPS* edition, most scholars encountered via Thomas Thomson's *Acts of the Parliaments of Scotland*. This incorporated the state-owned material held in Register House in Edinburgh, and also looked to supplement the registers where they were wanting with material from other sources.[13] Although a remarkable achievement, remaining the foundation stone for

[9]Julian Goodare, 'Parliament and Politics', in *Hist. Scottish Parliament. Vol. 3*, ed. Brown and MacDonald, 272.

[10]P.G.B. McNeil, ' "Our Religion, Established Neither by Law Nor Parliament": Was the Reformation Legislation of 1560 Valid?', *Scottish Church History*, xxxv (2005), 68–89; K.M. Brown, 'The Reformation Parliament', in *The History of the Scottish Parliament. Volume 1: Parliament and Politics in Scotland, 1235–1560*, ed. K.M. Brown and Roland Tanner (Edinburgh, 2004), 203–31.

[11]Julian Goodare, 'The Admission of Lairds to the Scottish Parliament', *English Historical Review*, cxvi (2001), 1103–33.

[12]Julian Goodare, 'The Estates in the Scottish Parliament, 1286–1707', *Parliamentary History*, xv (1996), 11–32; Julian Goodare, 'Who Was the Scottish Parliament?', *Parliamentary History*, xiv (1995), 173–8.

[13]Julian Goodare, 'The Scottish Parliamentary Records, 1560–1603', *Historical Research*, lxxii (1999), 265–6.

Scottish constitutional scholarship for well over a century, Thomson's editorial techniques present problems for modern historians since he did not fully acknowledge the sources for parts of his edited text. Beyond this blending in his editorial practice, Thomson had also undertaken to reorganise and rebind the state-owned manuscript registers (now the PA2 series in the National Records of Scotland). These activities obscured the original shape of the record and imposed a misleading conception of order and uniformity onto what was, in fact, a varied manuscript record.[14] In other words, Thomson gave his readers the parliamentary record as he believed it ought to have been. This contrasted markedly with the approach taken by the person whose labours on the project to publish the records were supplanted by those of Thomson: William Robertson. Despite the failings that had prompted Thomson to argue for the suppression of Robertson's edition, the latter did at least give the reader valuable information about the records as they had existed in Register House at the start of the 19th century and as such it remains an important scholarly tool.[15]

Thomson's work had sought to reconstruct an 'official register', but the researches of modern scholars have increasingly revealed the problematic nature of the very concept. Many of the medieval records turned out to be copies which enjoyed no special 'official' status.[16] Materials for the period c.1538–48 were similarly made up of drafts for the first printed statutes, covering the adult parliaments of James V and printed in 1542, and incomplete notes belonging to the then clerk register, James Foulis of Colinton (*d*. 1549).[17] Even for the better documented later period, complexities abound. Julian Goodare has shown that the manuscripts extant between the Reformation and 1603 offer only very partial coverage of parliament's business. The 1563 parliament, for instance, is known to us only from its printed statutes, while older accounts of the 1568 parliament had been founded on two parallel fragments from the registers that Thomson, when compiling his volume, had silently combined into a single text.[18] Goodare's work, in particular, has been instrumental in opening up a range of sources to provide additional information, especially about attendance, where the registers fail. An important further development in modern scholarship was the more nuanced approach taken to the relationship between the manuscript records and the printed copies of statutes officially produced by the government. Efforts to codify the law and create a workable and relevant body of statutes culminated in the appearance of the *Actis and Constitutiounis* in 1566.[19] This, and subsequent printed editions, mean we can be reasonably confident that we know the contents of most, but certainly not all, statutes, from 1425 (when the *Actis*'s coverage began) onwards. On the down side, a record designed to inform its readership about statutes will tell us nothing about attendance, deliberative

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[14] For Thomson's archival practice, see Marinell Ash, *The Strange Death of Scottish History* (Edinburgh, 1980), 45–51; Richard Marsden, *Cosmo Innes and the Defence of Scotland's Past c. 1825–1875* (Farnham, 2014), 70.

[15] *The Parliamentary Records of Scotland in the General Register House 1240–1571*, ed. William Robertson (Edinburgh, 1804). The National Records of Scotland copy contains a facsimile of Thomson's letter of critique.

[16] For a summary of the status of the medieval material, see Keith Brown *et al*., 'Notes on the Sources for the Parliaments of Scotland, 1424–1466', available at https://www.rps.ac.uk (accessed 1 June 2020). This builds on Irene O'Brien, 'The Scottish Parliament in the Fifteenth and Sixteenth Centuries', University of Glasgow PhD, 1980, pp. 1–55.

[17] Amy Blakeway, 'Reassessing the Scottish Parliamentary Records, 1528–1548: Manuscript, Print, Bureaucracy and Royal Authority', *Parliamentary History* (forthcoming).

[18] Goodare, 'Scottish Parliamentary Records', 244–67.

[19] Goodare, *Government of Scotland*, 76–7, 82.

processes, the drafting of legislation, the passage of private (rather than public) acts, or parliament's business as a court of law. The last is an area in which further research is urgently required.

What historians might expect to find in a parliamentary register did not change very much over the late medieval and early modern periods. The registers were composed primarily of the main components of a sederunt for each day's proceedings, the names of those elected to the committees of parliament, including, crucially, the members of the drafting committee known as the Lords of the Articles, the texts of statutes, and a narration of any legal proceedings heard in parliament.[20] Even prior to the establishment of the college of justice in 1532, however, parliament was not taking the initiative to exercise its judicial functions and it seems to have been content to cede them to other courts, although a notable exception here was treason cases, and private acts did continue to offer a route for dispute resolution.[21] By the mid 16th century, then, the parliamentary register was predominantly a record of decisions on statutes made in the main chamber. It would have been compiled from minutes taken in those sessions, often in multiple series by multiple clerks. Sporadic evidence of this survives from 1545–6 and 1568. Fuller minutes exist for the parliaments of 1640, 1641, 1644, and 1650–1, and for the early 1660s, the 1670s, and the 1690s.[22] It is likely that minutes were often discarded after the register itself was compiled. The earliest reference to parliamentary minutes being 'read' to members, presumably to validate their accuracy, dates only from 1650 and is not mentioned again in the record until 1693.[23] In that year, a protocol was agreed that the minutes, which were signed off by the lord chancellor, should refer only to the acts and ordinances that had been passed by parliament, thereby leaving out debates on proposals that had failed.[24] Parliament also concluded that, from henceforth, the minutes would be published, revealing anxieties on the part of the government that, in the absence of official accounts, members were making their own notes and distributing them. Prohibitions on members making and distributing their own copies of the minutes were reinforced by an investigation into the 'hand wryte' of a set that had been seized by the government.[25] Exerting government control over what constituted the parliamentary record was not a new concern in the 17th century; 15th- and 16th-century officials had also sought to limit the production of potentially faulty manuscript copies of business and, later, to establish an authoritative public record of business.[26]

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[20] Goodare, 'Scottish Parliamentary Records', 245–6.

[21] Goodare, *Government of Scotland*, 71–3; A.M. Godfrey, 'Parliament and the Law', in *Hist. Scottish Parliament. Vol. 1*, ed. Brown and Tanner, 176; A.M. Godfrey, 'The Assumption of Jurisdiction: Parliament, the King's Council and the College of Justice in Sixteenth-Century Scotland', *Journal of Legal History*, xxii (2001), 21–36. For the earlier period, see A.R. Borthwick, '*Montrose* v. *Dundee* and the Jurisdiction of the Parliament and Council over Fee and Heritage in the Mid-Fifteenth Century', *Parliamentary History*, xv (1996), 33–53.

[22] Blakeway, 'Reassessing Scottish Parliamentary Records'; Goodare, 'Scottish Parliamentary Records', 258; A.R. MacDonald, 'Uncovering the Legislation Process in the Parliaments of James VI', *Historical Research*, lxxxiv (2011), 611–13. See *RPS*, 'Parliamentary Minutes'.

[23] *RPS*, M1650/5/1, 15 May 1650; 1693/4/31, 2 May 1693.

[24] *RPS*, M1693/4/5, 27 Apr. 1693.

[25] *RPS*, M1693/4/14, 17 May 1693.

[26] E.g., *RPS*, 1473/7/17; 1484/2/38; 1491/4/24; 1492/2/10 (accessed 1 June 2020); Blakeway, 'Reassessing Scottish Parliamentary Records'. For an instance of the type of problematic manuscript copy against which these efforts were directed: National Records of Scotland [hereafter cited as NRS], B58/16/2, ff. 42–3, misdates the

What actually counted as a parliamentary record was complicated in the Scottish case by the existence of a consultative body whose status for historians has been contested by its highly fluid composition, nomenclature, and recording practices. Known as a 'convention of estates', this type of extraparliamentary gathering has recently prompted considerable scholarly interest.[27] Unconstrained by the 40-day summons necessitated by parliament's status as a court of law, more malleable in its membership than a full parliament, yet empowered to tax and pass legislation, albeit by custom only temporarily, a convention was marked above all by its flexibility. But should conventions be regarded as strictly 'parliamentary'?

The record itself might suggest not. With the exception of three conventions held in 1598 and 1599 (when James VI was making plans to advance his claim to the English throne on the death of the ageing Elizabeth I) these meetings were recorded in the privy council's register from the early 16th century up to 1630.[28] The Covenanters made limited use of conventions. It is striking that two conventions only were convened in this decade. They sat in the summer of 1643 and again in early 1644 to conclude the Solemn League and Covenant with the English parliament, now at war with Charles I, and then raise an army to send into England. These conventions were recorded in a separate series, following on from the three held in the late 1590s, and preceding the three conventions held in the reign of Charles II (1665, 1667, and 1678).[29] The convention of March 1689, in which the crown of Scotland was offered to William of Orange and his wife, Mary, eldest daughter of James VII,[30] was the last ever held in Scotland. Its record resides with a voluminous collection of supplementary parliamentary papers.[31]

In terms of nomenclature, 15th-century Scots were familiar with bodies described as great or general councils. Their daughters of the early 16th century would have heard about 'conventions', while their grandsons in the later part of the century might have attended 'conventions of the three estates'. There is debate over whether this shift in terminology signified changing perceptions of what these meetings were empowered to do and the nature of the meetings themselves.[32] The late medieval practice of summoning all three estates, whatever the body was actually called, meant that the membership could, at least in theory, replicate parliament.[33] Early 16th-century 'conventions' looked very different – the invitation list was drawn up by the king and council and largely comprised the

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[26] (continued) foundation of the College of Justice; f. 48 collapses together statutes on fishing; f. 51 attributes acts in a council to parliament and misdates them: *RPS*, A1546/6/9 (accessed 10 July 2020).

[27] A.R. MacDonald, 'Consultation and Consent under James VI', *Historical Journal*, liv (2011), 287–306; Julian Goodare, 'The Scottish Convention of Estates of 1630', *Scottish Historical Review*, xciii (2014), 217–39; Goodare, *Government of Scotland*, 47–8; MacDonald, *Burghs and Parliament*, 135–7.

[28] NRS, PA/8/1: acts of conventions of estates; NRS, PC1, PC2; *Register of the Privy Council of Scotland*, ed. J.H. Burton *et al.* (49 vols, Edinburgh, 1877–1970).

[29] NRS, PA/8/1: acts of conventions of estates.

[30] *RPS*, 1689/3/108, 11 Apr. 1689.

[31] NRS, PA7/12, no. 50: supplementary parliamentary papers, 1684–9.

[32] R.K. Hannay, 'General Council and Convention of Estates', *Scottish Historical Review*, xx (1923), 102–3; O'Brien, 'Scottish Parliament', 154–8.

[33] Michael Brown, 'Kings, Guardians and Councils', in *The Politics of Counsel in England and Scotland, 1286–1707*, ed. Jacqueline Rose (Oxford, 2016), 52–3. But on de facto attendance as meetings were increasingly held in Edinburgh, see T.R. Chalmers, 'The King's Council, Patronage and the Governance of Scotland 1460–1513', University of Aberdeen PhD, 1982, p. 189.

nobility, leading clerics and, of course, councillors.[34] Lairds might also be in attendance, as in the convention summoned by the governor of the realm, James Hamilton, 2nd earl of Arran (later duke of Châtelherault) in June 1545.[35] Conventions proliferated in the long and volatile reign of James VI and attendance varied depending on circumstance. A convention of 1583 comprising 'the kingis majestie, with avise of his nobilitie and estaittes', designed to reassert the dominance of a faction around James Stewart, earl of Arran, saw no need to include any burgesses (or lairds). The convention of December 1598 looks more like a parliament-in-miniature, with the earls and lords representing the nobility, a bishop and two secular titulars (known as commendators) representing the clergy, four burgesses representing the burghs, plus a clutch of barons. Also in attendance was a discrete body of people, the officers of state, who would, in the early 17th century, become increasingly contentious figures as the crown tried to turn them into an estate that could be relied on to support its agenda.[36]

After the regal union of 1603, conventions became more problematic as the imperial dynasty sought to use them less as a supplement to, and more as a replacement for, meetings of parliament and general assembly. James VI and I's attempts to use conventions to secure a new tax in 1621, without having to deal with the opposition to controversial religious policies that would be aroused by holding a parliament, were rejected. This was a significant refusal, given that conventions had (more or less) happily granted taxes throughout the 16th century. James's son, Charles I, similarly turned to conventions in 1625 and 1630, not only to raise taxes, but also to advance his religious policies. (The general assembly of the church had not been called since 1618.) The king's delayed coronation as king of Scots, and a more ambitious legislative programme, required a parliament, however, and this was duly held in 1633. Similarly, in the Restoration era, conventions proved useful for the purposes of taxation. All three of Charles II's conventions were called for that primary purpose. This close association with taxation, recognised by contemporaries, might suggest that conventions were useful primarily to the monarch and his Scottish managers. Although Thomson thought that conventions were 'parliamentary' enough to include them in his volumes, Robert Rait essentially saw them as a 'rival' means by which kings could get their business done with less trouble to themselves.[37] A disparaging dismissal by the sometime lord advocate, Sir George Mackenzie of Rosehaugh (1636–91), did not help the reputation of conventions when they were appraised by later scholars.[38] Modern historians take a more nuanced approach. Although the 1583 example shows that conventions could become factional tools, they also acted as another important component in a highly inclusive culture of consultation and deliberation. This culture featured both formal bodies, notably the monarch's privy council, full parliament, the convention of royal burghs, and (from 1560) the general assembly of the church, and more informal sources of counsel, such as members

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[34]Hannay, 'General Council and Conventions of Estates'; Norman MacDougall, 'The Estates in Eclipse? Politics and Parliaments in the Reign of James IV', in *Hist. Scottish Parliament. Vol. 1*, ed. Brown and Tanner, 158; Norman MacDougall, *James IV* (East Linton, 1997), 191–2.

[35]*RPS*, A1545/6/1, 26 Jun. 1545. Note the translation provided by *RPS* erroneously designates Marie de Guise as 'Regent'; the Latin is '*Regina*' which means 'Queen'. The original MS has '*Regina*': NRS, PC1/1, f. 5.

[36]*RPS*, A1583/12/1–2, 7 Dec. 1583; 1598/12/1, 14 Dec. 1598. See MacDonald, 'Consultation and Consent', 287–306.

[37]Rait, *Parliaments of Scotland*, 127–64.

[38]Sir George MacKenzie of Rosehaugh, *Institutions of the Laws of Scotland* (Edinburgh, 1684), 21–3.

of the king's household and the court. While the more aggressive use of conventions by the government after 1603, and the ramping up of parliament's powers in the 1640s, contributed to the latter eclipsing the former by the later 17th century, it is clear that 'conventions' were neither mere ciphers of the crown nor rivals to parliament itself.[39]

Thus far we have been concerned with how scholars have approached the formal parliamentary record and the implications for constitutional historians of recent reappraisals of its range and content. Yet the record itself tells us very little about what happened in parliamentary sessions. A major issue here is that much parliamentary business was not, in fact, conducted by all members sitting together in the same place. One of the most fraught areas in Scottish constitutional scholarship has been the status of the preparatory committee known as the Lords of the Articles. Writing in the early 20th century, Rait argued that the Articles effectively served as a crown management committee, which was able to neuter parliament's independence by burying proposals unacceptable to the government before they could be publicly aired and drafting controversial legislation in ways that were more likely to head off overt opposition. This view has been largely rejected by modern scholarship.[40] Roland Tanner has demonstrated that the late 15th- and early 16th-century Articles were not simply 'yes men' of the crown. Indeed, the fact that the membership, representing all the estates, usually comprised some of the most powerful people in the land frequently gave the Articles the status to resist crown demands.[41] The researches of both Tanner, for the late medieval period, and Alan MacDonald for the early modern, have shown that even when the crown was able to secure a membership that was not obviously composed of troublemakers, the Articles could prove to be a robust defender of the interests of the propertied elite.[42] Nor should the Articles be thought of as a closed cabal that sequestered itself away from the rest of the parliamentary membership. Although the evidence is inevitably patchy, there are indications that the Articles were open to parliamentary members, who availed themselves of opportunities to make their views known to the people drafting legislation.[43]

If the importance of the Articles to parliamentary members as an effective manager of business has now been acknowledged, we are still left with the problem that very little evidence of their internal workings survives. Since the committee of the Articles does not appear to have kept formal records in the 16th and early 17th centuries – whether individual members kept notes has not yet come to light – much about the process of proposing and drafting statutes remains hidden. Two highly unusual lists of parliamentary Articles, dating from 1535 and 1568, have marginal notations that reveal some tantalising details of the journey from proposal to statute.[44] MacDonald has shown that more plentiful evidence of process survives from 1573 onwards in the PA6 and PA7 series of parliamentary warrants,

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[39] O'Brien, 'Scottish Parliament', 235–70; Julian Goodare, 'The Scottish Parliament and its Early Modern "rivals"', *Parliaments, Estates and Representation*, xxiv (2004), 147–72.

[40] Rait, *Parliaments of Scotland*, 8–9.

[41] Roland Tanner, 'The Lords of the Articles before 1540: A Reassessment', *Scottish Historical Review*, lxxix (2000), 196.

[42] Tanner, 'Lords of the Articles', 196; A.R. MacDonald, 'Deliberative Processes in Parliament c.1567–1639: Multicameralism and the Lords of the Articles', *Scottish Historical Review*, lxxxi (2002), 23–51.

[43] MacDonald, 'Deliberative Processes', 34, 41–4.

[44] Blakeway, 'Reassessing Scottish Parliamentary Records'; Goodare, 'Scottish Parliamentary Records'.

which seems somehow to have become the archival home for numerous draft statutes.[45] Significantly, the first mention of minutes for the Lords of the Articles comes in 1639, when a struggle between King Charles I and the Covenanter leadership over the status of parliament itself resulted in the dissolution of the session before it could convene in a full sitting of the House. We are fortunate, therefore, that the contentious nature of the deliberations in the Articles prompted the keeping of minutes, which became the foundation of the legislative agenda for the Covenanter-dominated parliament of 1640.[46] Very fragmentary minutes of the meetings of the Articles also survive for some of Charles II's parliaments.[47]

As parliament's membership and its business expanded, the informal deliberative processes that had been the hallmark of the late medieval period became increasingly difficult to sustain and more work had to be devolved to specialist committees. Late 15th-century parliaments had appointed committees to consider particular issues, as well as the Articles.[48] It was a sign of the changing nature of parliament's remit that committees for 'Falsing the Dooms', or 'causes and complaints' elected to deal with judicial business, no longer appeared in the register from the mid 16th century – the latter's business devolved to the court of session from 1532 onwards.[49] Committees proliferated in the Covenanter era, when the demands of war and the enhanced powers that parliament had accrued to itself by 1641 resulted in business unprecedented for both its volume and complexity. Combining the Covenanters' ideological commitment to bolstering parliament's constitutional status with the practicalities of managing so much paper resulted in greater formalisation of process. Arguably for the first time in its history, parliament under the Covenanters possessed the power to devolve its own authority to a governing committee that sat between sessions. The committee of estates evolved into an executive with an almost untrammelled remit. For all its problems, the committee offered a more muscular and inclusive form of governance than that provided at any time after 1603 by the king's privy council.[50] Later in the century, references to a widening range of committees are suggestive of growing demands that parliament take a more active role in economic affairs: there are references to a committee for trade in 1693, 1695, 1696, 1698, and 1700.[51] At the same time, the formation of committees to investigate controverted elections across the parliamentary sessions of the later 17th century point to the way in which a more divisive, even 'partisan', politics was generating greater volatility in local selection processes.[52]

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[45]A.R. MacDonald, 'Uncovering the Legislative Processes in the Parliaments of James VI', *Historical Research*, lxxxiv (2011), 601–17.

[46]*RPS*, C1639/8/1, 4 Sept. 1639; NRS, PA6/3: warrants of parliament, 1628–41. For a fuller discussion, see J.R. Young, *The Scottish Parliament, 1639–1661: A Political and Constitutional Analysis* (Edinburgh, 1996), ch. 1.

[47]E.g., NRS, PA7/22, no. 117: supplementary warrants and parliamentary papers, addenda (1669 and 1670); PA7/11, no. 96: supplementary warrants and parliamentary papers (1681).

[48]A.J. Mann, 'House Rules: Parliamentary Procedure', in *Hist. Scottish Parliament. Vol. 1*, ed. Brown and Tanner, 141–2.

[49]Godfrey, 'Parliament and the Law', 164–5.

[50]Young, *Scottish Parliament*; Stewart, *Rethinking*.

[51]*RPS*, C1693/4/19, 18 Apr. 1693; C1695/5/8, 9 May 1695; C1696/9/4, 8 Sept. 1696; 1698/7/21, 21 July 1698; 1700/5/34, 24 May 1700.

[52]E.g., *RPS*, 1669/10/7, 19 Oct. 1669; C1678/6/1, 26 June 1678; 1685/4/9, 23 Apr. 1685; 1689/3/6, 14 Mar. 1689; 1690/4/15, 29 Apr. 1690; C1693/4/1, 18 Apr. 1693; 1696/9/82, 1 Oct. 1696; 1698/7/21, 21 July 1698; 1700/5/34, 24 May 1700; 1700/10/25, 5 Nov. 1700.

If attentiveness to this increasingly elaborate committee work has given us a deeper understanding of what parliament did and how it operated, the record continues to pose considerable problems for historians interested in parliamentary culture. Argument and discussion, as we have seen already, tended to take place informally and this encouraged past generations of historians, aware of the rich debating culture manifested by the English/British parliament, to assume that no equivalent spirit was detectable in its Scottish counterpart – except, somewhat ironically, in its twilight hours. Although not entirely a misrepresentation, the scanty details of what was discussed and how debates were conducted, either in parliament or in extra-mural meetings, makes it difficult for historians to argue, in anything but the most general terms, that the older view needs to be revised.[53] There is very little mention of 'debates' in the parliamentary record until the Covenanter era and, even then, it is often unclear whether it was the separate meetings of the estates, or a discussion in the chamber, to which reference was being made. The latter appears to have occurred; a very rare surviving diary minutes a debate taking place 'in plane parliament' during a highly controversial session held in 1648.[54] The more rumbustious activity of the Covenanter era may have lain behind the direction, issued as part of the new orders of the House drafted in 1662, 'That in all debates of the house no persone offer to interrupt another, nor direct his discourse to any bot to the lord chancellour or president.'[55] Debate in some form remained a part of the parliamentary process throughout the Restoration era and became even more prominent after 1689. The record of the 1690s – even more so than that of the 1640s – is peppered with references to decisions being made after 'full', and sometimes 'long', debate. Indeed, the record itself could spark discussion in response to the practice of reading the minutes back to the House.[56]

As with our knowledge of debates, so the parliamentary record is similarly unforthcoming on the matter of speech-making. Speeches clearly were made before the House, especially at the opening of parliament. We know that James V '*exponit*' before parliament in 1532 that he and his progenitors had always 'bene maist obedient sonis to oure haly faderis the papis of Rome and the auctorite apostolik', but the speech survives only in a third-person summary.[57] After 1603, commissioners appointed by the king to lead proceedings in parliament made opening speeches that set out the government's agenda and instructed members in what the king expected of them. The first example of an official printed speech was that given by Charles I when he entered the Scottish parliament, now dominated by his enemies, the Covenanters, on 17 August 1641. The Covenanter era may have been important for developing parliament's oratorical culture. Requests for payment were made by the printer, Evan Tyler, for producing copies of the 'Chancellor's speeches' in 1646 (referring to John Campbell, earl of Loudoun), while a pamphlet published in England the following

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[53] Alastair Mann, in an important contribution on process, mentions the estates meeting separately to deliberate but does not discuss debating within the House itself: Mann, 'House Rules', 142–3.

[54] *RPS*, A1648/3/5, 17 Mar. 1648. For discussions of this diary, and a copy discovered by John Scally, see Stewart, *Rethinking*, 269 and n. 49; John Scally, 'The Rise and Fall of the Covenanter Parliaments, 1639 to 1651', in *The History of the Scottish Parliament. Volume 2: Parliament and Politics in Scotland, 1567–1707*, ed. K.M. Brown and A.J. Mann (Edinburgh, 2005), 138–62.

[55] *RPS*, 1662/5/6, 13 May 1662.

[56] *RPS*, 1700/10/180, 15 Jan. 1701. There are also references to a 'debate' on a particular act being followed with 'amendments', suggesting it was not mere rhetorical form, e.g., *RPS*, M1695/5/37, 17 July 1695.

[57] *RPS*, 1532/5 (accessed 25 May 2020).

year commended an 'excellent speech' made 'before the Estates' by the leading Covenanter politician, Archibald Campbell, marquess of Argyll.[58] Four speeches, apparently given by Argyll before parliament as he fought unsuccessfully to defend himself against charges of treason raised in 1661, were printed and published as a single compendium that year. Like Charles II's oration to the 1650 parliament, when he was resident, briefly and unhappily, in Scotland, Argyll's speeches exist in both manuscript and printed copies.[59] Two examples only of printed speeches by the king's commissioner date from the Restoration era (John Maitland, duke of Lauderdale, in 1669; Alexander Stewart, earl of Moray, in 1686). The practice of printing parliamentary speeches hardly became more common after 1689. Six speeches by presiding officers went into print between 1690 and 1700 (William Lindsay, earl of Crawford, and George, earl of Melville, both in 1690; John Murray, marquess of Atholl, in 1696; Patrick Hume, earl of Marchmont, in 1698 and 1700; James Douglas, duke of Queensberry, in 1700). Sermons before the House by clerics considered sympathetic to the government were also printed, especially when legislation on religious matters was likely to be contested, such as those by Hew Blair in 1661 and David Williamson in 1690.[60] Parliamentary speech-making came into its own during the course of the Union debates. Some went into print and generated further discussion.[61] What the source base makes it difficult for Scottish historians to investigate is the relationship between the words spoken, their performance in parliament, and audience reception. Where orations were copied down and circulated, either scribally, or in printed form, or both, the process from speech to text remains largely obscure.

Early modern politicians, including Ridpath, were arguably ahead of modern historians in their recognition of the need to understand a record that could be alarmingly ambiguous, and hence open to a variety of interpretations. When a parliament of dubious legality convened in June 1640, against the wishes of King Charles I, legislation was passed to 'exhibite and produce' the registers 'for the bettir cleiring and resolveing of all doubtis and difficulties which may aryse'.[62] Ridpath not only sought corroboration in the record for his own narrative of Scottish constitutional history, but also reminded his readers of the interpretative problems thrown up by what was missing. The loss of 'all the Glorious Monuments of our antient Liberty' on two occasions, at the hands of King Edward I and Oliver Cromwell, had served those who would have turned Scotland into an English province.[63] Silences can be eloquent, and in recent years scholars have become more alert both to the existence of material ignored by earlier generations as exogenous to 'the record' and to the significance of what went unrecorded. The consequences of a more inclusive approach to what constitutes parliamentary material is a renewed appreciation of the centrality of

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[58]NRS, PA15/2, p. 5; *The Lord Loudouns speech to the English commissioners at Edenburgh …* (1647).

[59]National Library of Scotland [hereafter cited as NLS], Wod.Qu.XXXV, nos v–viii, printed as *The Marquess of Argyll his Defences against the Grand Indytement of High Treason Exhibited against him by the Parliament of Scotland* (1661). For Charles II's oration, see NLS, Wod.Fo.XXIX, no. lv; *The Kings Majesties Speach, to the Parliament; Conveaned at Perth, the 25 of November, 1650* (Aberdeen, 1650).

[60]The speeches can be located under the relevant name and date in *English Short Title Catalogue*.

[61]P.H. Scott, *Andrew Fletcher and the Treaty of Union* (Edinburgh, 1992), 190–1. Examples are numerous: see W.R. McLeod and V.B. McLeod, *Anglo-Scottish Tracts, 1701–1714: A Descriptive Checklist* (Lawrence, KS, 1979).

[62]*RPS*, 1640/6/28, 'Act 13', 6 June 1640.

[63][Ridpath], *Historical Account*, vi. For the lost records, see Matthew Livingstone, *A Guide to the Public Records of Scotland deposited in H. M. General Register House Edinburgh* (Edinburgh, 1905), vii–xviii.

parliament to Scottish political life, especially in times of crisis and change. As one of the present authors has argued elsewhere, what an older generation of scholars perceived to be a 'lack' of complex institutional rules and procedures also favoured parliament's flexibility, adaptability, and responsiveness across the late medieval period.[64] If, once the royal dynasty had removed to London, that flexibility made the Scottish parliament vulnerable to aggressive attempts at management, this neither made it supine nor destined it to 'failure'. On the contrary, the profound questions concerning legitimacy, authority, and consent raised by the claims made to absolute power by successive Stuart kings arguably intensified the sense that parliament was something more potent in the collective imagination than a get-together of the propertied elite: parliament was the voice of the 'commonweal'; of the community of the realm; of the nation.

3. *Parliament and Politics 'Out-of-Doors'*

One of the most important historiographical developments in Scottish political history has been an increasing awareness that parliament existed within a wider culture of consultation, debate, and controversy, which involved many more people than the few hundred men (and the very occasional woman) who took part in, or witnessed, its formal proceedings. It is evident from a wide range of sources, such as diplomatic reports, chronicles, petitions, pamphlets, satires, and correspondence, that meetings of the estates stimulated discussion and provided a focus – as successive governments were only too well aware – for the scrutiny and criticism of royal policies, leading politicians, and even the monarch. Ironically, parliamentary legislation was also one of the key tools to suppress this discussion and the various acts on the crime of 'leasing making' have been among the best studied statutes of the period.[65] While, inevitably, it is impossible to know just how successful these efforts were, it is now clear that parliament contributed to a culture of debate and dissent, and that its meetings stimulated organised political action that could be highly creative. Moreover, this culture was becoming accessible to a widening cross-section of society across the later 16th and the 17th centuries. Some of this broader interest in parliament was stimulated by government publications, most notably the printing, distribution, and proclaiming of the summonses to parliament and legislation, which then provoked both comment and organisational activity. Parliament never became the epicentre of Scottish politics, except perhaps in transient moments; factors inhibiting this development included its dominance by the titled nobility, its limited electorate, a tradition of short sittings that never became

[64] For consideration of recent scholarly work on parliament's place within Scottish political and constitutional thought, see Laura A.M. Stewart, 'The Scottish Constitution before 1707', in *The Cambridge Constitutional History of the United Kingdom*, ed. Peter Cane and Harshan Kumarasingham (Cambridge, forthcoming, 2021).

[65] *RPS*, 1318/23; 1425/2/23; 1458/3/38; 1540/12/25; 1567/4/12; 1594/4/26 (accessed 2 June 2020). A.J. Mann, *The Scottish Book Trade 1500–1720* (East Linton, 2000), 162–91; A.J. Mann, 'A "Mongrel of Early Modern Copyright": Scotland in European Perspective', in *Privilege and Property: Essays on the History of Copyright*, ed. Ronan Deazley, Martin Kretschmer and Lionel Bently (Cambridge, 2010); A.J. Mann, ' "Some Property is Theft": Copyright Law and Illegal Activity in Early Modern Scotland', in *Against the Law: Crime, Sharp Practice and the Control of Print*, ed. Robin Myers, Michael Harris and Giles Mandelbrote (2004), 31–60; A.J. Mann, 'Scottish Copyright before the Statute of 1710', *Juridical Review* (2000), 11–25. For discussion of the attempt by Charles I's government to expand the definition of libel, see Laura A.M. Stewart, 'Petitioning in Early Seventeenth-Century Scotland, 1625–1651', *Parliaments, Estates and Representation*, xxxviii (2018), 307–22.

regularised (even in the 1640s), and the informality of its proceedings (which demanded less complicated and cumbersome lobbying techniques and record-keeping). Nonetheless, there is considerable scope for further research on how people interacted with parliament and on what terms.

Research on parliament's cultural significance has been stronger on the 17th century than the 16th, yet many of the ideas, tropes, and practices that were part of the embedding of the institution in public consciousness belonged to the period before 1603. David Lyndsay's *Satyre of the Three Estates*, drafted, developed and performed in various forms between 1540 and 1552, placed parliament at the heart of a sophisticated analysis of what constituted good governance and, in the process, extolled it as symbolic of the nation as a whole.[66] Of significance here is the central role afforded an 'everyman' character named John the Commonweal. Following his persuasive petitions for remedy of the people's grievances, the character Good Counsel orders the estates to 'gif him [John] place in our Parliament'.[67] In choosing parliament for his subject Lyndsay was far from innovative – imaginary 15th-century parliaments judged kings and selected their councillors; even God availed himself of the advice of the three estates of heaven![68] Vividly as such literary assemblies speak to the importance of parliament, they do not appear to have been inspired by, or circulated alongside, specific meetings. By the 1570s, however, this had changed and works such as *Ane Discours Tuiching the Estait Present in October Anno Domini 1571*, were clearly prompted by gatherings of representative bodies; similarly, *Ane Declaratioun of the Lordis Iust Quarell*, written to justify Queen Mary's deposition, expounded arguments being made in a general assembly that was in session as it was being written.[69] Although more work is urgently needed on parliament as a prompt to commentary, for now it seems safe to observe that the increase in meetings of the estates, including rival convenings, were closely related to the production of the biting polemic that appeared in the crisis years between 1567 and 1573, especially that associated with the Protestant author, Robert Sempill.[70] It is telling about the imagining of parliament as a body capable of resolving conflict and restoring unity that Sempill's material had an afterlife, referenced some 70 years later in a piece of polemic produced during another crisis moment, that of 1639, and with the explicit purpose of influencing the parliamentary agenda.[71]

[66]For a sample of the literature on the *Satyre*, see Clare Kellar, *Scotland, England and the Reformation* (Oxford, 2003), 69–70; Greg Walker, 'The Linlithgow Interlude and the Satire of the Three Estatis', *Medieval English Theatre*, xxxvii (2015), 41–2; Carol Eddington, *Court and Culture in Renaissance Scotland: Sir David Lindsay of the Mount* (Amherst, MA, 1994), 29, 49–50, 58. For its relevance to 17th-century political debate, see Stewart, *Rethinking*, 162–3.

[67]'Heir sal thay cleith Johne the Common-weil gorgeouslie, and set him down amang them, in the Parliament': Sir David Lindesay of the Mount, *Ane Satyre of the Thrie Estaits In Commendation of Vertew and Vituperation of Vyce* (Edinburgh, 1602), 127.

[68]Roland Tanner, 'Outside the Acts: Perceptions of the Scottish Parliament in Literary Sources before 1500', *Scottish Archives*, vi (2000), 57–70.

[69]Roger Mason, 'George Buchanan's Vernacular Polemics, 1570–1572', *Innes Review*, liv (2003), 65–7; Claire Webb, 'The "Gude Regent"? A Diplomatic Perspective upon the Earl of Moray, Mary, Queen of Scots and the Scottish Regency, 1567–1570', University of St Andrews PhD, 2008, p. 20.

[70]For Sempill, see Amy Blakeway, 'The Response to the Regent Moray's Assassination', *Scottish Historical Review*, lxxxviii (2009), 9–33; T.A. McElroy, 'Imagining the "Scottis Natioun": Populism and Propaganda in Scottish Satirical Broadsides', *Texas Studies in Literature and Language*, xlix (2007), 319–39.

[71]Laura A.M. Stewart, 'The Female Voice and the Gendering of Political Polemic in Early Modern Scotland', *Huntington Library Quarterly* (forthcoming, 2021).

Much of the contentiousness – and vibrancy – of Scotland's political culture in the century or so after the Reformation was generated by the lobbying activities of the heirs of Lyndsay's John the Commonweal, people who were hostile to the ecclesiastical establishment. Although it was a religious body called the general assembly that sought to direct the new church from 1560 onwards, the problematic nature of the 1560 parliament meant that parliamentary ratification in 1567 was necessary to secure the Protestant faith and enable the replacement of the old church with new structures.[72] A 'firm bond' between parliament and the Kirk was established in consequence that had few obvious precedents in the late 15th and early 16th centuries.[73] As divisions emerged from the 1570s over how the church should be governed and, crucially, whether the king's powers were supreme in the spiritual, as well as the temporal, sphere, parliament became a key battleground. For Presbyterians, who rejected the royal supremacy and government of the church by bishops, a major difficulty was James VI and I's successful campaign, begun before and continued after 1603, to strengthen the episcopate as the representatives of the clerical estate in parliament.[74] Although Presbyterians could count titled nobles, senior lawyers, leading Edinburgh burgesses and especially their wives among their number, it is evident that these circles included, and communicated with, people from across the country and from a relatively diverse cross-section of the social hierarchy. Recent historical work has more explicitly connected Presbyterian lobbying to meetings of the estates, by showing how the latter offered a focal point for the former. A range of extraparliamentary activities, such as conspicuous posting of material in public places and crowd activity, were deployed to create pressure for reform. This energy was channelled into parliament through the semi-formal practice of petitioning, by which means members with Presbyterian inclinations hoped to influence the legislative process from the 'inside'. It is evident that similar practices were revived by Presbyterians when parliament moved to settle the church in 1690.[75]

In the first half of the 17th century, these tactics failed to enable Presbyterians to secure their legislative agenda. They did achieve a different sort of success, in the sense that Presbyterian campaigns around meetings of the estates, although they were not very regular, helped to galvanise an increasingly well-organised movement. The cultural authority wielded by Presbyterians gave them the capability not only to mobilise people against the prayer book in 1637, but also, ultimately, to seize control of the institutions, including parliament, through which a new constitutional order could be established. It is, nonetheless, unsurprising that, once in power and having attained what they considered to be the perfect constitution, Presbyterians proved hostile to further debate. Petitioning parliament, once an engine of resistance to government policy, now became an important feature of Covenanter claims to legitimacy, enabling political leaders to show that they were good governors in the most traditional sense, by hearing the grievances of the subjects and remedying injustice.

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[72] McNeil, 'Our Religion'; Brown, 'Reformation Parliament'.

[73] Kirsty McAlister and Roland Tanner, 'The First Estate: Parliament and the Church', in *Hist. Scottish Parliament. Vol. 3*, ed. Brown and MacDonald, 47.

[74] The 'Black Acts', available at www.rps.ac.uk/trans/1584/5/8 (accessed 11 Oct. 2020), represented a high-water mark in this campaign: A.R. MacDonald, *The Jacobean Kirk, 1567–1625: Sovereignty, Polity and Liturgy* (Aldershot, 1998).

[75] Laura A.M. Stewart, ' "Brothers in Treuth": Propaganda, Public Opinion and the Perth Articles Debate in Scotland', in *James VI and I: Government, Authority and Ideas*, ed. Ralph Houlbrooke (Farnham, 2007), 151–68; Alasdair Raffe, *Scotland in Revolution, 1685–1690* (Edinburgh, 2018), ch. 6.

Yet parliament, especially now it convened in its own House in Edinburgh, continued to act as a focal point for political actions involving people ordinarily barred from formal politics. When the Covenanter elite divided in early 1648 over whether Scotland should support an attempt to restore Charles I to his British throne by force (known as the Engagement), petitions from shires and from presbyteries sought to influence the vote on whether to raise an army. James, 1st duke of Hamilton, Scotland's premier peer, was a controversial figure at this time for his championing of the Engagement. In the wake of assaults on leading politicians by groups of Edinburgh inhabitants, women prominent among them, Hamilton made a display of walking with his supporters, rather than riding in his coach, from his apartments at Holyrood to sittings in the parliament house.[76]

The ramifications for constitutional practice when Scotland's parliament was abolished during the Cromwellian occupation of the 1650s are not easy to discern. Recent scholarship has shown that, after Scotland was granted representation in the Westminster parliament under the terms of the Tender of Union (proclaimed in 1652), there was engagement with the Protectorate Parliaments held in 1654, 1656–7, and 1658. Although most of Scotland's representatives were Englishmen, they still had to be elected by the heritors of the shires, while a small minority of Scots also opted to put themselves forward.[77] The occupation, and the increasingly authoritarian regime headed in viceregal style by John Maitland, duke of Lauderdale, certainly confronted contemporaries with some hard truths about Scotland's claims to political autonomy. Yet it is less clear to modern scholars than it once was to their predecessors that the status of parliament was fatally undermined by these developments. Even the most aggressive absolutist rhetoric of the era did not deny that parliament had a place in the Scottish constitution. Lauderdale's ruthless attempts to manage parliament in the crown's (and his own) interest is not at odds with Clare Jackson's conviction that the 'Restoration political establishment' regarded parliament as 'an essential mechanism for the operation of legitimate monarchic government.'[78] It is worth pointing out, too, that the restoration of episcopacy in 1662 and the assertion of the royal supremacy in 1669 were both effected by parliamentary legislation (although the former was preceded by a proclamation of September 1661). As Mackenzie of Rosehaugh observed, acts of parliament could not unilaterally be repealed by the monarch, but only by 'subsequent Parliaments'.[79]

Parliament met ten times in the first 15 years after the Restoration. This was frequent enough to generate co-ordinated activity by politicians seeking to mobilise support for an oppositionist agenda that operated *within* generally accepted constitutional norms. The 1673 parliament, at which debates over excise taxes and corruption were to the fore, oc-casioned gatherings of Lauderdale's critics at Masterson's tavern and, in the circle around

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[76]Stewart, *Rethinking*, 296.

[77]Patrick Little, 'Scottish Representation in the Protectorate Parliaments: The Case of the Shires', *Parliamentary History*, xxxi (2012), 313–31; Patrick Little and D. L. Smith, *Parliaments and Politics during the Cromwellian Protectorate* (Cambridge, 2007). See also Laura A.M. Stewart, 'Cromwell and the Scots', in *Cromwell's Legacy*, ed. Jane Mills (Manchester, 2012), 178–9.

[78]Clare Jackson, *Restoration Scotland, 1660–1690: Royalist Politics, Religion and Ideas* (Woodbridge, 2003), 86. For an interesting assessment of how James VII regarded parliament, see A.J. Mann, 'James VII as Unionist and Nationalist: A Monarch's View of the Scottish Parliament', *Parliaments, Estates and Representation*, xxxiii (2013), 101–19.

[79]*RPS*, 1662/5/9, 27 May 1662; 1669/10/13, 16 Nov. 1669.

William Douglas, 3rd duke of Hamilton, we can see the emergence of a 'Country Party'.[80] Yet there were limits to the willingness of oppositionist politicians to resort to extraparliamentary activism as a means of influencing developments inside the chamber. Such figures, keen to maintain their distance from the Covenanters, Presbyterians, and field conventiclers who were prepared to use violence to achieve their ends, avoided overt appeals to popularity. Their reticence was reinforced by the physical presence during the winter of 1679–80, and again in the summer of 1681, of James, duke of York and heir to his brother's thrones, for whom Scotland was a refuge from the campaign in England to exclude him from the succession. Gillian MacIntosh's work has shown that, while the 1681 parliament 'granted all that had been demanded' of it by James, including his right to succeed to the throne and a highly controversial Test Act, to be imposed on all public officeholders, William Ferguson's description of it as 'tame' can no longer be sustained. The government achieved its ends, against complaints and criticisms, by stifling debate, rushing through bills, and intimidating those who voiced even moderate objections. No further sessions convened until 1686, by which time James had acceded as king. Parliament's capacity to act against royal wishes manifested itself with the rejection of the king's proposed act to relieve Scottish Catholics from the civil penalties imposed on them. This was the last time parliament sat before the revolutionary convention of March 1689. The fact that parliament had been called only four times in the previous 14 years speaks not only to the authoritarianism of the later Restoration regime, but also to the risks attendant on trying to bypass an institution that was perceived as integral to legitimate government. Instead of oppositionist agendas gaining a measure of expression within parliament, where they could be identified, addressed, and contained by the crown's managers, it was dispersed into the 'broader dissident opposition' that would seize on the opportunity of the landing on English soil of William of Orange to remake the Scottish constitution.[81]

If specialist studies have given us a richer and more positive account of the post-Restoration parliament's importance to Scottish political elites, there remains much work to be done on its wider sociocultural significance, its accessibility, and its relevance. Superficially at least, there appear to be notable differences between parliamentary culture before 1688 and after 1699. Pamphleteering, petitioning, and addressing, 'party' organisation, direct appeals to 'the people', and the mobilisation of crowds were not unknown in earlier decades, but they seem to have bloomed vigorously and all at once in the early 18th century.[82] To a very considerable extent, of course, the vibrancy of Scottish political culture at this time can be attributed to the simple fact that parliament was addressing the fundamental question of its own existence. It was the crisis in Anglo-Scottish relations that precipitated, in 1703, the first parliamentary elections to be staged in 13 years.[83] Yet some of the issues up for debate in parliament are, in themselves, suggestive of changing assumptions about its

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[80]Jackson, *Restoration Scotland*, 92.

[81]G.H. MacIntosh, *The Scottish Parliament under Charles II, 1660–1685* (Edinburgh, 2007), ch. 7 (quotations at pp. 202, 204); Ferguson, *Scotland's Relations with England*, 160. For the 'radically experimental' nature of James's rule, see Raffe, *Scotland in Revolution*.

[82]Karin Bowie, *Scottish Public Opinion and the Anglo-Scottish Union, 1699–1707* (Woodbridge, 2007).

[83]K.M. Brown, 'Party Politics and Parliament: Scotland's Last Election and its Aftermath, 1702–3', in *Hist. Scottish Parliament. Vol. 2*, ed. Brown and Mann, 208–44, 245–86; Nicola Cowmeadow, ' "Your Politick, Self Designing Sister": The Role of Katherine, First Duchess of Atholl in the Scottish Parliamentary Elections of 1702', *Parliaments, Estates and Representation*, xxxiii (2013), 1–19.

role and functions. The 1690s saw Scottish parliamentarians concerning themselves with trade and manufacturing, the attempt to establish a Scottish colony at Darien in Panama, and the erection of a public bank. It was under parliamentary auspices that a commission was set up in 1695, amid a public outcry, to investigate the murders carried out, under King William's orders, at Glencoe in the Highlands. The power of the commission was undermined by the fact that it adjudicated, not on the legality of the orders, but on whether the participants had exceeded them. Nonetheless, the episode offers insights into parliament's utility as the focal point of a multifaceted campaign, in which political factionalism within governmental circles intersected with print and 'public opinion'.[84]

Here the strange neglect of parliamentary (and governmental) politics in the turbulent 1690s requires remedy. Recently, a handful of specialist articles have tackled particular aspects of parliamentary activity,[85] but the only thorough study of parliament itself in this decade, by Edith Thomson, is now almost a century old. Thomson's work, although pioneering for its time, ascribed to the traditional 'decline' narrative by asserting that parliament, in the years leading up to the dissolution of August 1702, 'tarnished the ideals' embedded in the 1689 Claim of Right.[86] A different view is suggested in a recent article by Rachel Comunale, focusing on the debates surrounding the Darien debacle and the mounting anger at King William's lack of interest in Scotland's problems. She presents an institution with a strong sense of its purpose as the legitimate means by which the grievances of the people should be given expression. The ability of politicians to harness parliament in this way had become very dangerous to a Westminster-based government embroiled in European and transatlantic conflicts that might yet succeed in putting a French-backed Catholic, James VII, and later his son and heir, also James, on the British throne. In this and other recent studies, parliament is not without its weaknesses and problems, but they are less important to explanations, both of its longer-term political development and its ultimate demise, than the powerful collective sense of parliament as the voice of the nation. The Scottish parliament was shut down, quite simply, because it posed a threat to the security of a Protestant British state in competition for dominance over European transatlantic and colonial trade.[87]

4. *Conclusion*

This essay has attempted to delineate in very broad terms how a revival of scholarly interest in the records of the pre-1707 parliament, accompanied by a more integrated approach to what counts as parliamentary activity, has transformed our understanding of parliament's place in Scottish political culture. Our impression now is of a lively, busy, flexible, and adaptable institution of both great symbolic importance, especially in the expansive periods

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[84] For the inquiry, see Paul Hopkins, *Glencoe and the End of the Highland War* (Edinburgh, 1986).

[85] J.R. Young, 'The Scottish Parliament and the Politics of Empire: Parliament and the Darien Project, 1695–1707', *Parliaments, Estates and Representation*, xxvii (2007), 175–90; D.J. Patrick, 'Unconventional Procedure: Scottish Electoral Politics after the Revolution', in *Hist. Scottish Parliament. Vol. 2*, ed. Brown and Mann, 208–44; Jeffrey Stephen, 'Defending the Revolution: The Church of Scotland and the Scottish Parliament, 1689–95', *Scottish Historical Review*, lxxxix (2010), 19–53.

[86] E.E.B. Thomson, *The Parliament of Scotland, 1690–1702* (Oxford, 1926), 13.

[87] Rachel Comunale, " 'Ill Used by our Government": The Darien Venture, King William and the Development of Opposition Politics in Scotland, 1695–1701', *Scottish Historical Review*, xcviii (2019), 22–44.

of the 1640s and the early 18th century, and considerable practical utility to its membership. A significant historiographical development is the new emphasis on the vital role played by parliament in legitimating controversial political acts. Parliament was an important means by which new regimes sought to secure at least tacit recognition by the kingdom's leading subjects and begin restoring consensus politics.[88]

In place of a simplistic narrative of a representative institution struggling and failing to hold out against the 'absolutist' pretensions of the Stewart/Stuart dynasty, historians have proposed a more nuanced account of parliament's centrality to evolving debates on the fundamental nature of the Scottish constitution. During the early 16th century, the court of session assumed much of the legal jurisdiction previously exercised by the king's council and parliament, thereby facilitating its development into a body primarily concerned with legislation. James V's parliaments, especially that of 1540–1, registered the fracturing of European Christendom by legislating directly on the religious practices of the people. The Protestant Reformation, brought about by a rebellion against authority (albeit that of a regent rather than the ruler per se), was a parliamentary process. It was parliament that sanctioned Queen Mary's subsequent deposition and replacement by her infant son, James VI. The union of the crowns in 1603 enhanced the power and prestige of the monarch, while simultaneously reducing the status of the Scottish parliament to one of three representative assemblies with which the British dynasty had to contend. Charles I and James VII were not trying, as such, to get rid of parliament, but to control its proceedings more effectively in the service of the crown's agendas. Indeed, the British dynasty's 'absolutist' project, pursued more aggressively by the royal brothers, Charles II and James VII, in the wake of the challenges mounted by the Covenanters and the regicides, was underpinned by parliamentary legislation.[89] The move away from asking why parliament 'failed' to hold the monarchy to account has allowed scholars to develop a deeper analysis of the specific terms on which the country's leading figures were prepared to co-operate with the crown's legislative agenda at any given moment. Research into nascent 'party' politics and on the holding of elections suggests that securing elite consensus, although never to be taken as a given by any ruler, was becoming harder in the more openly and bitterly divided political world of the later 17th and early 18th centuries.

A more robust, assertive, and fractious institution than previous scholars imagined has emerged from recent studies. It operated within, and was influenced by, a volatile, disputatious, and increasingly fragmented political culture, fuelled in part by the greater availability and accessibility of print, but also characterised, especially in the second half of the 17th century, by religious polarisation and periodic acts of violence.[90] In the eyes of some religious and political groupings, notably those who continued to adhere to the Covenants and, after 1689, the more uncompromising of James VII's supporters, it was not parliamentary means that would secure their ends, but direct action. Yet it is perhaps significant that the radical Presbyterian, Alexander Shields, who preached at field conventicles and justified

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[88] MacDougall, 'Estates in Eclipse?'; MacDougall, *James IV*; Ken Emond, 'The Parliament of 1525', in *Hist. Scottish Parliament. Vol. 1*, ed. Brown and Tanner; Ken Emond, *The Minority of James V: Scotland and Europe, 1513–1528* (Edinburgh, 2019), 35–6, 246, 262; J.K. Cameron, *James V: The Personal Rule, 1528–1542* (East Linton, 1998), 38–42; Pamela Ritchie, 'Marie de Guise and the Three Estates 1554–1559', in *Hist. Scottish Parliament. Vol. 1*, ed. Brown and Tanner, 179–202; Amy Blakeway, *Regency in Sixteenth-Century Scotland* (Woodbridge, 2015).

[89] Laura Stewart is grateful to Alasdair Raffe for a reminder on this point.

[90] Alasdair Raffe, *The Culture of Controversy: Religious Arguments in Scotland, 1660–1714* (Woodbridge, 2012).

the 'rabblings' that saw episcopalian ministers ejected forcibly from their parishes in 1689, used print to try and influence debate in parliament.[91] Current work suggests that, while certain individuals operated in subcultures that appear distanced from Scotland's governing and representative institutions, they remained in the minority. Although the unique combination of the collapse of the Scottish colony at Darien and the debates on incorporating union stimulated a degree of popular engagement with parliamentary politics that was unprecedented, this activity was rooted in a longer history, in which a widening cross-section of Scottish society was reading and talking about parliament, increasingly knowledgeable about its business, and trying in various ways to influence its proceedings. It is well known that the political elite voted to extinguish the Scottish parliament in 1706 and absorb themselves into its Westminster counterpart against the wishes of large numbers of people who were not entitled to vote. Yet the fact that so many men and women were involved as never before in debates about parliament suggests, at the very least, that there is still more work to be done on the possibility that what constituted 'everyday experience' was informed – and changed – by an institution exerting a profound influence on the nature of public politics.

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[91]Raffe, *Culture of Controversy*, 224. Shields was reconciled to the Church of Scotland in 1690.