

## The Treaty of Union, 1707<sup>1</sup>

When James VI of Scotland also became sovereign of England as James I in 1603 he made an unsuccessful attempt at establishing closer links between his two countries. Over a century later, in the 1650s, Oliver Cromwell forced a union on England and Scotland but it was an unpopular arrangement imposed on a reluctant Scottish population.<sup>2</sup> Towards the end of the reign of William III, who died in 1702, it became apparent that the two separate kingdoms needed to enter into a more comprehensive partnership as the only solution to the problems of the Anglo-Scottish relationship. William III, however, never succeeded in effecting the Union during his reign, the king's reputation in Scotland having plummeted in the late seventeenth century, particularly following the Glencoe massacre (1692) and the Darien disaster (1698-99). Ultimately, the more comprehensive partnership was worked out during the reign of Queen Anne. "We shall esteem it as the greatest glory of our reign" was the queen's message to the Scottish Parliament on 3 October 1706.<sup>3</sup> By the time Anne came to the throne (1702) her last surviving child (William, duke of Gloucester) had died in 1700, and the Westminster parliament had already passed the *Act of Settlement* (1701) by which the succession to the English crown after Anne was settled upon the granddaughter of James VI and I, Sophia and her husband George, Elector of Hanover, and their issue. Sophia, however, died in 1714 not long before Queen Anne, nevertheless, the German-speaking George was crowned king of Great Britain.

The Scottish parliament was not consulted on the question of the succession, possibly because of the fact that there were fifty-two Stewarts/Stuarts<sup>4</sup> closer to the throne. Perhaps because of the great unpopularity of William III in 1701, perhaps because of a feeling that now was the time to sever the union of the crowns, the Scottish parliament did not pass any legislation agreeing to the descendants of Sophia as the sovereigns of Scotland in succession to Queen Anne. It seems reasonably clear also that the Scottish parliament felt slighted by the English *Statute of Succession* and that

<sup>1</sup> An earlier version of this paper was delivered to the Sydney Society for Scottish History on 19 December 1996.

<sup>2</sup> Cromwell's army finally defeated the Scots in 1651 and the first union of Scotland and England was formally proclaimed in April 1654. This was dissolved after the Restoration of Charles II to the thrones of Scotland and England in 1660.

<sup>3</sup> Queen Anne (1702-1714) who was the last Stewart/Stuart monarch of Scotland and England, was the second daughter of James VII and II's first marriage to Anne Hyde.

<sup>4</sup> Both forms are correct but in the last 20 or 30 years Scottish historians have resolutely returned to the original Scottish spelling of *Stewart*. *Stuart*, of course, is the French spelling deriving from the 1420s and the Hundred Years War and the subsequent donations by Charles VII of French duchies and counties to Scots and, the most enduring, the lordship of Aubigny to 'Jean Stuart de Darnle' [Sir John Stewart of Darnley] in 1423. From that time the English have always used the French form.

there had been no consultation with the Scottish parliament prior to the English statute being passed. In May 1702 the War of the Spanish Succession, in which France was the principal protagonist, broke out and lasted until 1713. This was an expensive and demanding war thoroughly inconvenient to Scottish trade, but the Scottish parliament and Scottish Privy Council were not consulted about it. England and France were ranged against each other, but the French were, at least nominally during that period, backing the exiled Stuarts and, accordingly, the risk of a dynastic separation of England and Scotland became a matter of major political importance.

The Scottish parliament was different from the contemporary English parliament at Westminster. The Scottish institution had no vigorous tradition of parliamentary independence although only shortly before its final meeting, it had begun to have a somewhat more democratic character. By the beginning of the eighteenth century, however, the single chamber Scottish parliament could be described broadly as follows. It comprised the peers who by 1707 numbered 154, a number almost equal to the members of the English House of Lords at that time. There were sixty-six representatives of the burghs by 1707 and there were also representatives of the counties. The peers by 1707 included many who owed their appointment to the recent favour of the crown. The sixty-six representatives of the burghs were all appointed by the local town councils not elected by the townspeople. Although the representatives of the counties were elected it was not by a universal suffrage but one with a property qualification and in most of the counties the sheriffs had considerable influence on the election and they in turn were crown appointments. There had been a Scottish tradition that the drafting of legislation was carried out by the Committee of Articles, or the Lords of the Articles, and that the parliament assembled in the first instance merely to elect the Lords of the Articles and then reassembled either to agree or disagree to the legislation drafted by the Committee of Articles. It was only from 1690 that all proposed legislation was discussed at every stage by the whole assembly. The parliament was therefore unusually dominated by the crown and was scarcely representative of general public opinion within Scotland.

During the first year of Queen Anne's reign (1702-3) further efforts were made to negotiate some closer Anglo-Scottish relationship or some sort of union but at that time the stumbling block was the unenthusiastic approach of the English commissioners. The Scottish delegation to those discussions was led by the strongly pro-union James Douglas, 2nd Duke of Queensbury (1662-1711), who acceded to the title in 1695. The negotiations finally broke off in January 1703, but these negotiations had made clear what the basic essential requirements of each side were. From the English point of view the essential was an incorporation of the two parliaments with a majority control to the English. From the Scottish side the essential requirement was freedom of trade not only with England but with the English colonies. Some other details had also been worked out before the negotiations were broken off.

The opening of the English and colonial markets to the Scots was a highly attractive proposition. Scotland was excluded from all trade with the English colonies. No goods could be landed in Scotland from the plantations unless they had been first landed in England, and paid duty there, and even then they might not be brought in a Scottish vessel. The trade with England itself was at the same time severely hampered.<sup>5</sup> Any Treaty of Union would have to be acceptable to the men represented in parliament. To the Scottish gentry and town merchants trade was of paramount importance. To the landowners, trade and having access to markets other than in Scotland, provided a prospect of financial advantage. The merchants of course were nervous about any changes in existing patterns but they also wanted to expand trade. The small merchants and craftsmen of the burghs ran some risk from English trade and manufacturers; probably the English market was less significant to the burgesses than to landowners because most of the trade with England did not originate in the burghs. Even though the small merchants had concerns, within most merchant groups there were men with close business associates settled in England, and therefore they were anxious not to impede trade with England. Perhaps, more importantly, there were men who hoped to gain a share of trade in the American colonies or to be able to join the trade of the East India Company.

The clearest opposition to the union at this stage was probably from the church. The Presbyterian Kirk of Scotland saw amalgamation of the Scottish and English parliaments as a threat because the bishops of the Church of England sat in the House of Lords, which meant that bishops were built into the English political system; an anathema to the Kirk in Scotland where bishops had been abolished. The Presbyterian Kirk saw the Church of England as dangerous because it allowed itself to be influenced and/or controlled by the central institutions of crown and parliament. It was inherently an embarrassment to the Presbyterian Kirk to accept a recognition that churches could be different and that bishops were an accepted part of the English state and church on the other side of the border. The strength of the hatred and distrust of the episcopacy by the Presbyterian Kirk arose in part from the suppressive efforts of James VII and II both as king and as Duke of York during the reign of Charles II, in support of the episcopacy which had been re-established in Scotland with the Restoration of the Stewart/Stuart monarchy in 1660. There was a converse reciprocal feeling, no doubt, the other way on the English side. The history of English incursions into Scotland and Scottish incursions into England strongly suggested that a union might lead to an endeavour by English authorities to subvert the pure Presbyterian character of the Scottish Kirk. The Scottish incursions into England in 1640, 1643 and following years 1648 and 1651 had been aimed at trying to abolish bishops in England. The Kirk had no formal representation in the Scottish

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<sup>5</sup> W.E.H. Lecky, *History of England in the 18th Century* (London, 1883), Vol.II, p. 35 ff.

parliament but it was the body most easily able to raise protest through inflammatory preaching. Accordingly, the views of the Kirk had to be given prime attention by the parliamentarians. However, for the people holding office and in power in Scotland trade was more important than religion.

Ultimately, the strong underlying factor in discussions about union also must have been a conscious desire to ensure peace with England for the future. The possibility that there might be different crowns in England and Scotland at some time in the future inevitably raised the potential of war, or at least very considerable strife, between England and Scotland. Inevitably the crown of each country would make claims to the crown of the other, and inevitably differences of trade and foreign policy would lead to tensions. A complete union was for both England and Scotland a strong move to mutual security and the only long term way of ensuring peace. However, relations between the Scottish parliament and Queen Anne steadily deteriorated between 1703 and 1705; the Scottish MPs having asserted their independence. But the pattern of legislation in Scotland and England from 1703 provided a strong impetus towards the Treaty of Union.

The great majority of members of the Scottish parliament that assembled in 1703 were vehement Presbyterians who bitterly resented the policy of England and the Queen's High Church of England tendencies. They began with an act securing the Presbyterian Kirk in Scotland and even made it high treason to impugn, either by writing, speaking or acting, any article of the claim of rights which asserted the evil of episcopacy; the necessity was for a Presbyterian establishment.<sup>6</sup> A bill for the toleration of Episcopalians<sup>7</sup> was brought forward but the opposition was so strong the promoters did not venture to press it. Next they passed *The Act Anent Peace and War* (1703). In that Act the Scottish parliament asserted its right, following the death of Queen Anne, to an independent foreign policy free of English control. The Act provided that the sovereign in Scotland should not have the right of declaring war without the consent of the Scottish parliament. This Act was essentially an angry gesture against the English *Act of Settlement* [of the succession], and the result of indignation at the way that Scotland had been unwillingly and disadvantageously dragged into England's continental wars. The War of the Spanish Succession was very unpopular in Scotland and indeed a dissatisfaction with England's involvement in continental strife dated back at least as far as the Cromwellian union of the 1650s. James Douglas, 2nd Duke of Queensbury, was the Royal Commissioner in Scotland whose assent to the Act was required to make it law but he was now placed in a difficult position; particularly as the Scottish parliament was making noises that it might not vote supply, which would leave the government in Scotland without funds.

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<sup>6</sup> *Ibid.*, p. 52.

<sup>7</sup> *Episcopal Church*: governed by bishops, the accepted form in the Latin and Greek communions, the Church of England and some other less important denominations.

Furthermore, there were already moves towards the *Act of Security*. Accordingly, Queensbury was reluctantly advised by his political mentors in London to accept the Scottish *Act Anent Peace and War*. The passage of that Act, and the way in which the Royal Commissioner of Scotland was politically forced into accepting it, was another factor in convincing English politicians of the need for the Treaty of Union, resulting in a change of attitude of the English delegation's attitude from 1702. An important Scottish figure in the moves towards the Treaty of Union was the Duke of Queensbury who had served as the Royal Commissioner in Scotland under William III and continued the same office during Queen Anne's reign. In that capacity during the reign of William III he had been entrusted with damping down the anti-English feelings over the Company of Scotland and the Darien disaster<sup>8</sup> and, as a result of his support of the Treaty of Union, he was given the nickname of 'The Union Duke'.

The opposition to Queen Anne and her government in Scotland was made up of a number of quite different forces. Opposition parties are always less stable than government parties because an opposition lacks the material advantages of power and profits available from public office, which can hold together the government party even in spite of internal animosities. There was the pro-Jacobite Cavalier faction and the group known as the Country party which was the haven for all the dissident elements in Scottish politics. *The Act Anent Peace and War* was the first part of what became referred to as the parliamentary crisis in Scotland of 1703-04 triggered by the disregard of Scottish opinion over the English *Act of Settlement*. The second part was the Scottish *Act of Security*. It was passed in the same sitting of 1703 as the *Act Anent Peace and War*, but it was not assented to at that time by Queensbury, the Royal Commissioner. It provided that the Scottish parliament would nominate the successor of Queen Anne in Scotland and that the successor should be Protestant and descended from the Scottish royal family. It further provided that unless there was legislation guaranteeing the independence of the Scottish assembly, a reduction of the royal prerogative in Scotland, and certain trading rights were assured; Queen Anne's successor would not be the descendants of Sophia and her husband, George, Elector of Hanover. When the Scottish parliament passed the *Act of Security* the Royal Commissioner, Queensbury, refused to assent to the bill, even though he had been effectively forced into assenting to the *Act Anent Peace and War*.

The last days of the Scottish parliament of 1703 were very alarming to the crown and to the government in London. A bill was introduced to the Scottish parliament by Patrick Hume, 1st Earl of Marchmont, to secure the

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<sup>8</sup> *Darien Scheme*: The Company of Scotland Trading to Africa and the Indies was set up in 1695, with the power to establish colonies; one of its projects was a settlement on the isthmus of Darien on the East coast of America, and the first expedition went out in 1698, to be followed by a second and a third; disaster ensued because of the climate, hostility of the Spaniards and the refusal of the English government to give assistance.

succession of the House of Hanover. It was met by an outburst of furious derision. The Scottish parliament even refused to allow any record of it to remain on their books. An attempt to bring in a bill of supply to provide funds for Scottish expenses was treated with scarcely less scorn. For nearly two hours debate was rendered inaudible by fierce cries of 'Liberty!' and 'No subsidy!' The English government and the Scottish Privy Council were placed in such difficulties that, even though they were dependent upon the duties paid on importation of French wine, they had to agree to a measure to remove restrictions on the importation of French wine into Scotland, at a time when war was raging between England and France — this was known as the *Wine Act* which was passed in the closing stages of the Scottish parliament of 1703.<sup>9</sup> Feelings were so high that the Queen's Commissioner, the Duke of Queensbury, feared for his life and needed the protection of soldiers. Queensbury did not get his supply in the parliament of 1703 and while he refused assent to the *Bill of Security* there was no chance of him being awarded supply. Parliament was prorogued. When it was reassembled in 1704 the crown appointed a new commissioner. Between the proroguing of the parliament of 1703 and the assembly of the parliament of 1704 various other gestures were made to try to soften some of the leaders of the crown's opposition. John Murray, Marquis of Athol, even though he was Lord Privy Seal for Scotland, had been prominent in the opposition, was created a duke in 1703. The Order of the Thistle was revived and bestowed on various powerful noblemen.<sup>10</sup>

John Hay, 2nd Marquis of Tweeddale (1645-1713), now replaced Queensbury as the Royal Commissioner at a time when there were rumours of Jacobite plots and some unrest. By that time the European war and the uncertainty of the European situation made it imperative that the Scottish parliament voted the necessary money for supply, particularly for the upkeep of the military force permanently based in Scotland. In opening the parliamentary session of 1704 Tweeddale urged in the strongest terms the absolute necessity of settling the question of the succession immediately. James Douglas, 4th Duke of Hamilton (1658-1712), began the opposition by moving that 'this parliament could not proceed to name a successor to the crown until the Scots had a previous treaty with England in relation to commerce and other concerns'.<sup>11</sup> The *Act of Security* was again passed with little modification and this time it was tacked to a bill for the payment of the army — that is to say the crown had to consent to both or neither. The leading politicians openly declared their determination to refuse to vote funds for the payment of the troops until the bill was passed. War between England and France was raging. An invasion might occur at any time and there was

<sup>9</sup> Lecky, *History of England*, p. 53.

<sup>10</sup> For an excellent account of all the political wheeling and dealing from 1703 to 1707 see, W Ferguson, 'The Making of the Treaty of Union of 1707', *Scottish Historical Review*, Vol XLIII (1964), p. 89.

<sup>11</sup> Lecky, *History of England*, p. 54.

also a strong Jacobite party in the Scottish parliament. Another party, guided by Sir Andrew Fletcher, Lord of Saltoun (1653-1716), was almost republican and was anxious to reduce the prerogative of the crown to little more than a shadow, and to make Scotland virtually independent of England.<sup>12</sup> The resentment of the people at English commercial jealousy blazed fierce and high and manifested itself by alarming demonstrations.<sup>13</sup> The English feared that if the royal assent was refused an invading army from France might be unresisted, and the French might even find the Scottish parliament and people on its side. Eventually in August 1704, Tweeddale accepted the *Act of Security*. That meant that there loomed immediately the prospect of a different crown in Scotland from the crown in England and the return of separate independent sovereign kingdoms.

The Marquis of Tweeddale had been appointed a member of the Scottish Privy Council in the reign of William III. Initially he had been a notable member of the opposition or Country party but he was chosen as Royal Commissioner in July 1704, having entered into an understanding with the Westminster government that he and his followers, who became known as the New party, would help to resolve the political *impasse* between England and Scotland created by the *Act of Security* and the *English Alien Act*. However, he was not able to persuade either his faction or the opposition to agree to any reduction of the provisions of the *Act of Security* and in August 1704 he reluctantly had to accept it. Even though he had not succeeded in the task he had been given by the English of ensuring the Hanoverian succession in Scotland, he was still regarded favourably by the English government. He had, in fact, a great reputation on all sides for honesty. It was only his weakness in handling of the 'Worcester' affair in 1705 that led to him being replaced as Royal Commissioner in Scotland.

The opponents of the crown having forced through the Scottish parliament the *Act Anent Peace and War* against Queensbury's wishes and, despite all the crown's efforts the *Act of Security*, 'The Union Duke' tried to incriminate his rivals, the anti-English party, in a Jacobite conspiracy. In particular he directed his attention, unsuccessful as it turned out, to the Duke of Hamilton, James Ogilvy, 4th earl of Findlater and 1st earl of Seafield (1664-1730) and Tweeddale. Queensbury's failure led to his political eclipse in 1706 but Queen Anne and her ministers had little alternative in Scotland other than to bring 'The Union Duke', and his henchman, John Erskine, 11th Earl of Mar (1675-1732),<sup>14</sup> back into political prominence to pilot the

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<sup>12</sup> Fletcher published his, *State of the Controversy betwixt United and Separate Parliaments*, in 1706; reprinted in *United and Separate Parliaments*, ed., P.H. Scott, Saltire Pamphlets, No. 3 (Edinburgh, 1982).

<sup>13</sup> Lecky, *History of England*, p. 54.

<sup>14</sup> Called "Bobbing John" from his facility in changing sides; Secretary of State 1705 and commissioner for Union 1706; prepared to welcome George I in 1714, but when he was repulsed he planned a rebellion; raised a standard for "James VIII" on the Braes of Mar 1715;

arrangements for the union through their final stages. Queensbury's support for the union might be explained on the basis that his success in that mission could only strengthen his influence and position in the Scottish political scene, but there were also sound political reasons which could be advanced in favour of the Act of Union.

The reaction from the English parliament to the two Scottish Acts was very much one calculated to try to force the Scots into revoking the *Act of Security* and, if possible, the *Act Anent Peace and War*. In the English parliament a vote of censure was moved against the government for having permitted the Royal Commissioner, Tweeddale, to assent to the Scottish *Act of Security*. In order to try to moderate the proceedings the Queen herself attended the debate in parliament. With the support of John Churchill, Duke of Marlborough, the vote of censure failed but it was then clear that if the disruption of the kingdom was to be averted the Scots had to be conceded free trade. The English however were resolved that it should be conceded only at the price of union. Seldom, however, was there less real feeling of solidarity and co-operation between England and Scotland than there was at that time. For example, the House of Lords passed resolutions asking the Queen to fortify Newcastle, Tynemouth, Carlyle and Hull, presumably against the Scots. They also required Her Majesty to call out the militia in the northern counties and to send troops to the Anglo-Scottish border. In February 1705 the English parliament passed the *Alien Act* and Anglo-Scottish relations were plunged into a very critical phase, which made it very important for both England and Scotland that negotiations for some form of union should succeed. The substance of the *Alien Act* was that if the Scottish parliament did not repeal the *Act of Security*, and if the Hanoverian succession was not accepted in Scotland, or if steps were not taken towards some union between England and Scotland by Christmas 1705, Anglo-Scottish trade would be suspended. Furthermore, it was provided that all Scots, except those who were settled residents in England, or were serving in Her Majesty's forces, should be held as aliens; that the introduction of Scottish cattle, coal and linen into England, and of English horses or arms into Scotland, should be absolutely forbidden; and that all Scottish vessels trading with France should be captured.<sup>15</sup> The effects of those measures would have been economically fatal for Scotland and from that time on, like it or not, union was inevitable. The initial Scottish response was one of angry defiance. Scotland would have been very gravely prejudiced economically at that time by a suspension of Anglo-Scottish trade. Effectively, Scotland would have been placed in quarantine, the only alternative being to return to their 'Auld Alliance' and join with France and become, as in previous times, England's enemy.

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raised to Jacobite dukedom; singularly inept as a leader; after the tactically drawn battle of Sheriffmuir he retreated and slipped off to France; later abandoned Jacobitism', G. Donaldson and R.S. Morpeth, *Dictionary of Scottish History* (Edinburgh, 1977).

<sup>15</sup> Lecky, *History of England*, p. 55.



That anger in Scotland in 1705 is perhaps best illustrated by what is usually referred to as the *Worcester* affair, which was aligned with the Darien disaster, the latter having left deep scars in Scotland. Something like one-sixth of the available funds of Scotland may have been lost in that one venture.<sup>16</sup> It had led to widespread dislike of the English which the *Alien Act* had, in turn, further provoked. In 1704 the East India Company (which the Company of Scotland was meant to rival or duplicate) had seized the sole remaining vessel belonging to the Company of Scotland, the *Annandale*. This seizure had contributed to the serious deterioration in Anglo-Scottish relations. Therefore, in August 1704, when the English ship the *Worcester* put into the Firth of Forth before joining a London-bound convoy, there was an opportunity for Scottish retaliation. The ship was seized and the *Worcester's* captain and crew were accused of complicity in the piratical activities which had caused the loss of the *Speedy Return* another merchantman owned by the Company of Scotland. There was, in fact, a total lack of any evidence incriminating the captain and the crew of the *Worcester*, but in March 1705, in the anti-English atmosphere then prevailing in Scotland, the captain and his crew were found guilty by the Scottish Court of Admiralty. It was suggested at the time that the dominant reason was that the forfeiture of the ship and cargo would provide some funds for the stockholders of the Company of Scotland. In fact it was sold for £2,823 pounds sterling which went to the stockholders.<sup>17</sup> The unfortunate captain, Thomas Green, was hanged on Leith sands, and soon after so were his mate and gunner. Later evidence suggests that Green may have had dealings with pirates, but he had never encountered a Scottish vessel.<sup>18</sup> Such was the anti-English feeling at the time that evidence did not matter. According to a contemporary ballad:

Of all the pirates I've heard or seen,  
The basest and bloodiest is Captain Green.

It seems to have been a clear case of judicial murder. The Scottish Privy Council, faced with growing anti-English hysteria in Scotland, permitted the hangings to proceed notwithstanding a reprieve granted by the Queen. The impetuous stock holders of the Company of Scotland were prominent of course in the expression of anti-English sentiments.

Notwithstanding these individual outbursts of anger, it was clear that in 1705 Scotland was faced with economic warfare with England which,

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<sup>16</sup> 'The impetus behind the act of 1695 for a "Company of Scotland Trading to Africa and the Indies" came from the court; the act itself was drafted by the Lord Advocate. Its origins lay with a more general act passed in 1693 "for Encouraging of Foreign Trade", which extended to trading ventures the privileges already enjoyed by companies engaged in manufactures,' M. Lynch, *Scotland: A New History* (London, 1991), revised 2nd edition (London, 1992), pp. 307-08.

<sup>17</sup> W. Ferguson, *Scotland: 1689 to the Present* (Edinburgh, 1990), p. 45.

<sup>18</sup> See, Temple, *New Light on the Tragedy of the 'Worcester', 1704-5*.

inevitably, would seriously damage Scotland. By July 1705, Tweeddale, the Royal Commissioner, had been replaced by John Campbell, 2nd Duke of Argyll (1678-1743), who was then only twenty-seven years old and in the early stages of his career, and the Duke of Queensbury who returned to the Scottish government as the Lord Privy Seal. The Queen was most reluctant to have him back, but she was eventually persuaded by the urging of the Duke of Argyll and her chief Minister, Sidney, Earl of Godolphin. The Queen's reluctance is reflected in her remark that 'it grates my soul to take a man [Queensbury] into my service that has not only betrayed me but tricked me several times, one that has been obnoxious to his own countrymen these many years and one that I can never be convinced can be of any use'.<sup>19</sup> The Scottish parliament agreed by September 1705 to the holding of discussion with England about some Treaty of Union. The group that had achieved this result was the so-called Court party, led by magnates such as the Earls of Mar and Seafield and supported by the group (referred to as the New party) that followed the Marquis of Tweeddale. Nonetheless, the Scottish parliament remained strong in its anti-English feeling and in its gestures towards independence, and in 1705 passed bills providing that on Queen Anne's death the offices of state and the judges of the Supreme Court should be elected by parliament, not appointed by the crown, and that the Scottish ambassador should be present at every treaty made by the sovereign of the two kingdoms with a foreign power and that the Scottish parliament should become triennial. None of these bills, however, received royal assent.<sup>20</sup>

The chances of a successful outcome of these discussions about union was greatly improved when the Duke of Hamilton, who was at that time supposedly the leader of the opposition and anti-English or Country party, suggested that the Queen should nominate the Scottish commissioners for these discussions. This was conditional upon the English parliament repealing the *Alien Act* which was done. The Duke of Hamilton had been the acknowledged leader of the Country party between 1702 and 1707. His proposal that Queen Anne should select the commissioners remains somewhat of a mystery. In January 1707, at the vital stages of the negotiations when his support was required for the proposal, to withdraw from the assembly all the members of the opposition so as to present problems in passing the Act of Union, he wavered at the last moment and did not give the necessary lead. He may have been under government pressure because of some secret dealings he had had with the Jacobites, but essentially his position and vacillation had the effect of weakening any successful protest against the union within Scotland. At one crucial stage for example he took no action, claiming to have a severe toothache. He was rewarded for his support in 1711 by being created Duke of Brandon, an English title, which his successors still enjoy, but the endeavour

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<sup>19</sup> G. Davies, 'Letters from Queen Anne to Godolphin', *Scottish Historical Review*, XIX, pp. 191-92.

<sup>20</sup> Lecky, *History of England*, p. 56.

by the House of Lords to refuse him the right to a hereditary seat in the Lords as an English peer, led to his endeavours to repeal the Act of Union. The following year, however, he was killed in a duel with Lord Mohun. It is not clear why the supposed leader of the opposition should have proposed the measure to have the Queen nominate the negotiators, a measure so obviously helpful to the success of negotiations for the union. Nevertheless, the proposal was accepted by the Scottish parliament quite quickly at a very sparsely attended session.

Another factor that should be considered were the prominent English agents working in Scotland to promote the Treaty of Union, among whom were the famous novelist, Daniel Defoe (1661-1731), who wrote a large number of pamphlets in support of the Union, laying great emphasis on the commercial advantages to Scotland, and William Paterson, one of the promoters of the Company of Scotland and the Darien disaster, and also, incidentally, the founder of the Bank of England. Daniel Defoe's involvement is interesting. He had been a particularly outspoken independent political force as a pamphleteer and publisher of a political journal, but as a result of a fine and then imprisonment in debtor's prison, he had eventually been persuaded to become a pensioner of the government. In August or September 1706, Defoe was sent to Edinburgh by the English government, kissing the Queen's hand on his appointment. His duties were to act as a secret agent with the party favourable to the union. He published six essays, entitled: *Towards Removing National Prejudices*, to support the union both in England and Scotland. He was consulted by various committees on many questions of trade and at one time was in some danger from a hostile mob. He stayed in Scotland throughout 1707 perhaps partly also to avoid his creditors in London. Defoe was one of the most prominent and powerful pamphleteers and journalists of his time, and in 1709 he published a *History of the Union Between England and Scotland*. Paterson, who was born in 1658 at Skipmyre near Dumfries, also published an able pamphlet in favour of the union of England and Scotland. He played an important part in the framing of the articles of the treaty relating to trade and finance. He was also employed, with Bower and Gregory, in the calculation of the *Equivalent*<sup>21</sup> for which work he received £200. He went to Scotland in 1706 and remained there until the end of the negotiations, waiting upon ministers, explaining the treaty and endeavouring to smooth away difficulties. One of the last acts of the Scottish parliament on 25 March 1707 was to recommend him to Queen Anne 'for his good service'. Although the people of Dumfries had suffered much from the failure of Paterson's creation, the Darien Scheme, and had been violently opposed to the union, they returned Paterson with William Johnstoun to the first united parliament. He was, however, unseated on a technicality.

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<sup>21</sup> The Anglo-Scottish Treaty of Union (1707) specified that there was to be a payment of £398,000, referred to as the *Equivalent*, to be paid by England to Scotland.

An anxious government at Westminster sent £20,000 sterling to ease the path to union which was distributed by the Scottish Treasurer — David, Lord Boyle, created earl of Glasgow in 1703.<sup>22</sup> Queensbury received £12,000 of that for arrears owing to him for his remuneration for acting as Royal Commissioner but the distribution of the rest is a little obscure. Probably most of it was in fact back pay. The Queen nominated commissioners, mainly Queensbury and his associates who were all strongly pro-union, although one anti-unionist was included — George Lockhart of Carnwarth. The English commissioners were also solidly pro-Union. The negotiations began on 16 April and by 25 April 1706 the basic agreement had been reached but detailed negotiations went on for some further weeks. The two groups of commissioners met separately and communicated only in writing. By 23 July 1706 the twenty-five Articles of Union had been agreed and the two sides had agreed to the terms of the treaty.<sup>23</sup> The principle features of the Treaty of Union were:

- 1) Scottish acceptance of the Hanoverian succession.
- 2) The amalgamation of the two parliaments with Scottish representation of forty-five members of the House of Commons and sixteen elected peers in the House of Lords.
- 3) The position of the Scottish Privy Council was postponed until a united parliament reached a decision. In fact it was abolished in 1708.
- 4) There was to be complete freedom of trade between England and Scotland.
- 5) Scotland was to have access to the English colonies for trade purposes.
- 6) Currency was to be standardised as were also weights and measures.
- 7) There was to be a payment of £398,000 referred to as the *Equivalent* to be paid by England. Partly it was to pay the small Scottish national debt which was mainly arrears of salary for office holders, it was to compensate for some losses on the assimilation of the coinage, and partly it was to be compensation for the losses in the Darien disaster and also to compensate Scotland for its future share of the obligation of the English national debt.
- 8) The Scottish legal system was to remain unchanged (as it is to this day).
- 9) There was a ceiling placed on land tax in Scotland, and there was an exemption from some taxes for a period.

The Scottish parliament considered the twenty-five articles of the treaty progressively between 4 November 1706 and 16 January 1707 and passed the lot. The Earl of Mar was the political manager, but even the Queen's Royal Commissioner, the Duke of Argyll, had to be persuaded — he would not even

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<sup>22</sup> Ferguson, *Scotland: 1689 to the Present*, p. 49.

<sup>23</sup> *Ibid.*, pp. 47-48.

return from campaigning in Flanders until he was promoted to the rank of Major-General, and even then Campbell support required other deals<sup>24</sup> There was obviously a great deal of realism in the final decision to pass the Treaty of Union.

The debate in the Scottish parliament was opened with a speech by Seton of Pitmedden who asserted that ‘this nation, being poor, and without force to protect its commerce, cannot reap great advantage by it, till it partake of the trade and protection of some powerful neighbour nation.’ That probably expressed succinctly the economic questions which in the long run were the real basis of the union. Opposing the proposal Lord Belhaven said that, ‘none can destroy Scotland, save Scotland's self. ... If we unite we want neither men nor sufficiency of all manner of things’.<sup>25</sup> Lord Belhaven's patriotic statement and plea for Scotland to stick together perhaps has to be discounted when it is remembered that in the famine which affected Scotland so badly in 1698 Lord Belhaven and the other heritors of the parish of Spott refused to fulfil their obligations for relief and let the tenantry starve. As the debate went on there were riots in Glasgow and a near riot in Edinburgh. There were petitions. There were addresses. There were hostile sermons. Generally throughout Scotland the union was thoroughly unpopular. The only significant further concession was the act guaranteeing the position of the Kirk of Scotland. That measure had proved necessary because of the influential opposition of the Kirk to the Treaty of Union unless its position was protected. It was passed on the same day as the approval by 115 votes to eighty-three of the first article. The Scottish parliament therefore was dissolved for the last time on 25 April 1707 and the Act of Union came into force in both countries on 1 May 1707. The Earl of Seafield is reputed to have said: ‘Noo, there's an end to an auld sang’.

The division and disagreements within the opposition Country party made the task of the Court party all that much easier. The Country party was essentially a disparate collection of frustrated place seekers, Jacobites, Presbyterians, Episcopalians, discontented Darien investors and a small sprinkling of radical parliamentarians like Fletcher of Saltoun. A forceful and well organised party in favour of union had no really effective opposition. Economic considerations were obviously foremost. Benefits were expected in the cattle trade, the fishing and linen industries, but the opening up of not only English markets but of Empire markets had a big impact. It was essentially from then on that the Scots became prominent in Empire trade, the business and banking enterprises of the Empire and the civil service and administration of the Empire. Apart from those trade benefits, Scotland also had a gun at its head in the form of the *Alien Act*. As John Ker, 5th Earl of Roxburghe, said in a letter to Baillie 28 November 1705 anticipating the favourable vote. ‘The

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<sup>24</sup> *Ibid.*, p. 49.

<sup>25</sup> R. Mitchison, *Lordship to Patronage: Scotland 1603-1745* (London, 1983), p. 135.

motives will be, trade with most, Hanover with some, ease and security with others'.<sup>26</sup> It was Roxburghe who effectively steered the twenty-five votes of the New party to support the Union. To show how important trade was, Article IV which conferred freedom of trade had only nineteen votes cast against it. But finally the overall treaty was ratified by 110 votes to sixty-seven on 16 January 1707.<sup>27</sup>

The Duke of Queensbury seemed to be the man placed in the position to distribute money to gain influence for support of the Treaty of Union. After the passage of the treaty Queen Anne rewarded him with a second dukedom, that of Dover. That meant of course that he had a seat in the House of Lords without having to be one of the elected peers from Scotland. The rewards to some of the great magnates of Scotland who worked so hard to bring about the Treaty of Union are also reasonably apparent. Roxburghe and James Graham, 4th Marquis of Montrose, were made Scottish dukes. John Campbell, 2nd Duke of Argyll who was appointed as Royal Commissioner to parliament in 1705, certainly lost nothing personally by his support of the Treaty of Union. There were direct financial benefits and he also received the English dukedom of Greenwich. He was also successful in obtaining a peerage for his brother, Archibald Campbell (1682-1761), who became the Earl of Islay, which was a matter of considerable political manoeuvring as he had originally wanted to be earl of Dundee, but this gave offence to the Grahams.<sup>28</sup> The Duke of Argyll ultimately became a field marshal in the British army in 1746 having been one of the outstanding military commanders of his time. By the time of his death he was significantly in political control of half of the constituencies in Scotland. But just as there were rewards for those magnates who had supported the union, so there was some retaliation against the more outspoken opponents who could now be safely attacked. Thus, when the *Act of Habeas Corpus* was suspended in 1708, for reasons of the Jacobite expedition and the scare in government which the expedition produced, the government availed themselves of the power to arrest many of their leading opponents in Scotland, including John Hamilton, 2nd Lord of Belhaven (1656-1708), and Sir Andrew Fletcher, Lord of Saltoun, both of whom were actually taken under custody to London.

Those opposing the Union did not give up immediately. 'Defoe, who was now living in Scotland, tells how those who hated the Union spoke and acted about the *Equivalent*. The money not being paid in Scotland on the very day of the incorporation of the two countries, the first talk was — the English have cheated us, and will never pay; this was their intention all along. Then a rumour was spread that by the non-payment the Union was dissolved;

<sup>26</sup> *Correspondence of George Baillie of Jerviswood, 1702-1708*, Bannantyne Club, Vol., 72 (Edinburgh, 1842), p. 138.

<sup>27</sup> *Acts of the Parliaments of Scotland, 1124-1707*, 12 Vols, (eds) T. Thomson & C. Innes, Edinburgh (1814-1875), Vol. XI, pp. 404-06.

<sup>28</sup> Ferguson, 'Treaty of Union of 1707', p. 108.

and there was a discourse of some gentlemen who came up to the Cross of Edinburgh, and protested, in the name of the whole Scots nation, that the conditions of the treaty not being complied with, and the terms performed, the whole was void.<sup>29</sup>

At length, in August 1708, the money came in twelve wagons, guarded by a party of Scots dragoons, and was taken directly to the Castle. Then those who had formerly been loudest in denouncing the English for not forwarding the money, became furious because of its arrival. They hooted at the train as it moved along the street, cursing the soldiers who guarded it, and even the horses which drew it. One person of high station called out that those who brought that money deserved to be cut to pieces. The excitement increased so much before the money was secured in the Castle, that the mob pelted the carters and horses on their return into the streets, and several of the former were much hurt.

It was soon discovered that, after all, only £100,000 of the money was in specie, the rest being in Exchequer bills, which the Bank of England had ignorantly supposed to be welcome in all parts of Her Majesty's dominions. This gave rise to new clamours. It was said the English had tricked them by sending paper instead of money. Bills, only payable 400 miles off, and which, if lost or burned, would be irrecoverable, were a pretty price for the obligation Scotland had come under to pay English taxes. The impossibility of satisfying or pleasing a defeated party was never better exemplified.<sup>30</sup>

The immediate effect of the Act of Union, however, was to free up Scottish trade and bring Scotland to a period of economic prosperity which it had not previously enjoyed.<sup>31</sup> But the economic news was not all good. The Union brought the legal importation of wine from France to an end, since the *Wine Act* had been enacted with the independent kingdom of Scotland before the Union. The export of wool from Scotland also had to cease in conformity with the English law which then prohibited the export of wool except in a manufactured state.<sup>32</sup> However, to the ordinary citizen the change from having a separate Scottish government and parliament to the Union did not make much difference. As Professor Mitchison says:

Eighteenth-century Britain, in which Scotland was now an integral part, was a country where government kept a low profile. The

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<sup>29</sup> *Chambers Domestic Annals of Scotland* (Edinburgh, 1874), Vol III, p. 328.

<sup>30</sup> *Ibid*, p. 329.

<sup>31</sup> See, Lecky, *History of England*, p. 57, ff.

<sup>32</sup> *Chambers Domestic Annals of Scotland*, III, p. 336.

function of ministers was foreign policy, not home affairs. The latter were left to local landowners in one or other capacity and to burgh councils. ... The changed position of Scotland therefore did not much impinge on her ordinary citizens, many of whom did not come within the scope of central institutions even in matters of law and order.<sup>33</sup>

Malcolm D. Broun, QC  
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<sup>33</sup> Mitchison, *Lordship to Patronage: Scotland 1603-1745*, p. 136.