

James VII and the Conduct of
Scottish Politics
c.1679 to c.1686

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ABSTRACT

This thesis provides a detailed examination of the impact of James VII, both as Duke of York and King, on Scottish politics between c.1679 and c.1686. This start date has been chosen because, as a result of the Exclusion Crisis in England, Charles II sent his brother and heir, James, Duke of York, to Scotland in November 1679. The thesis ends with a thorough investigation of the final session of James VII's Scottish Parliament, in which his notion of toleration for Roman Catholics was rejected as unpalatable. Between c.1679 and c.1686, James had a managerial role over the government of Scotland, not least of all as a result of his prolonged residence in Edinburgh which lasted, with the exception of a seven month period back in England, from November 1679 until March 1682. In the subsequent years James remained closely involved with the government of Scotland largely as a result of the political reshuffle he oversaw immediately prior to his final departure.

The themes examined in this thesis include the role of James in relation to a number of significant Scottish political concerns. These include the militia and Highland policies, as well as the enforcement of the 1681 Test Act and pacification of disorder, particularly from the remnant Covenanters. The 1681 Parliament, in which James was High Commissioner, is analysed in detail, as are the 1685 and 1686 sessions of the Parliament James held as King. The threat posed by the 1685 Argyll rebellion is also investigated, as is the political factionalism of the period.

A substantial amount of primary and secondary sources have been used during the research for this thesis. The primary material includes both printed and manuscript sources, much of which has been previously neglected. This includes contemporary pamphlet literature and correspondence, as well as Supplementary Parliamentary Papers.

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Abbreviations and Conventions

<i>APS</i>	<i>Acts of the Parliament of Scotland</i> , T. Thomson (ed), volumes VII and VIII, (Edinburgh, 1814-1820)
Adv MS	Advocates Manuscripts held at the National Library of Scotland
BL	British Library
<i>CHR</i>	Catholic Historical Review
<i>CSPD</i>	<i>Calendar of State Papers Domestic, January 1st 1679-May 1687</i> , 9 volumes, F.H. Blackburne Daniell, Francis Bickely and E.H. Timings (eds), (London, 1915-1964)
<i>EHR</i>	English Historical Review
GD	Gifts and Deposits held at the National Register of Archives in Edinburgh
GUL	Glasgow University Library
<i>HJ</i>	Historical Journal
HMC	Historical Manuscripts Commission
<i>HT</i>	History Today
<i>IR</i>	The Innes Review
NAS	National Archives of Scotland, formerly the Scottish Records Office

NLS	National Library of Scotland
NRA	National Register of Archives
<i>PH</i>	Parliamentary History
<i>RPCS</i>	<i>Register of the Privy Council of Scotland</i> , P. Hume Brown and H. Paton (eds), third series, volumes VI-XIII, (Edinburgh, 1914-32)
<i>SCHS</i>	Scottish Church History Society
<i>SHR</i>	Scottish Historical Review

Dates: According to Scottish convention, the new year is taken from 1 January, not 25 March, as was the English custom.

Money: The merk was valued at two-thirds of the Scots pound (£). The ratio of Scots to English pounds was 1:12.

Quotations: Original spelling and punctuation has been retained in all quotations. All abbreviations have been extended and are identifiable from the square brackets.

CHAPTER 1

Introduction

Historiography

It can be said with conviction that James VII of Scotland and II of England has been the victim of partial histories written by biased historians, included in which number are Gilbert Burnet, Robert Wodrow and Thomas Babington Macauley, to name three of the most prominent.¹ Although each of their works are illuminating and informative, all must be read with care and awareness of the prejudice of the authors. In a trend which essentially began with Burnet in the early eighteenth century, James was persistently portrayed as a religious zealot, both incompetent as a ruler and cruel as an individual. By the beginning of the twentieth century the accepted, overwhelmingly negative, view of James had altered little, Mathieson stating in 1902 that James was a true son of Charles I: "More truthful and much less humane, he was equally obstinate, unimaginative, and narrow; he had the same love of power for its own sake, and the same devotion to a fixed religious idea."²

Only when Malcolm V. Hay's account of James was published in 1938³ was there an alternative provided to the existing perception. In delivering a scathing attack on the historiography of James thus far, Hay can take credit for beginning the revisionist interpretation of James VII and II. Following on from Hay's example, F.C. Turner also rejected the established consensus and provided the scholar with a noteworthy and fulsome biography of James II.⁴ In 1977 two further biographies of James were published, one by Maurice Ashley and another by John Miller,⁵ both of

¹ *Bishop Burnet's History of His Own Time from the Restoration of King Charles II to the Conclusion of the Peace of Utrecht in the Reign of Queen Anne*, volume ii, (London, 1815); Wodrow, R., *The History of the Sufferings of the Church of Scotland*, 4 volumes (Glasgow, 1829); Macauley, T.B., *The History of England from the Accession of James II*, volumes i and ii (London, 1849).

² Mathieson, W.L., *Politics and Religion in Scotland 1550-1695*, volume 2 (Glasgow, 1902), 314-5.

³ Hay, M.V., *The Enigma of James II* (London, 1938), 1-33.

⁴ Turner F.C., *James II* (London, 1948).

⁵ Ashley, M., *James II* (London, 1977); Miller, J., *James II. A Study in Kingship* (England 1977).

which challenged previous interpretations of James and greatly added to the relatively slight secondary accounts of him. In more recent years, Michael Mullet, Nicholas Fellows, John Callow and William Speck⁶ have also contributed to the study of James II, each providing welcome additions and revisions to existing material.

Though these histories do, to varying degrees, include some analysis of James in Scotland, the overwhelming priority for each has been England's experience of James. This is perhaps understandable given the fact that for the most part James resided in England. Although care has been taken by the above-mentioned twentieth-century writers to avoid subordinating Scotland to a mere footnote in English history, the enduring tendency of examining James from an anglocentric perspective has perpetuated the neglect of a detailed study of James VII from a Scottish angle.

This is a shortfall which even those specifically concerned with Scottish history have thus far not adequately corrected. With the exception of detailed consideration of the remnant Covenanters, the early to mid-1680s remain to a large extent undiscovered in terms of their political focus, a sound indication that the decade has hitherto been regarded as somewhat of a lull between the Restoration and the Revolution of 1688-90. One scholar who has attempted to reverse the trend in studying James from a predominantly English perspective is K.M. Colquhoun, whose PhD thesis centred on the Scottish experience of James between 1679 and 1689.⁷ Incorporated in this study are numerous factors relating to Scotland in the 1680s but it is by no means exhaustive, neither in terms of the sources used nor the material included insofar as the impact of James on Scottish politics is concerned. The most significant omissions by Colquhoun with regards to the sources used in her thesis are the minutes of the Lords of the Articles and Parliament of 1681, preserved in the Supplementary Parliamentary Papers at the National Archives of Scotland. Indeed,

⁶ Mullet, M., *James II and English Politics 1678-1688* (London, 1994); Fellows, N., *Charles II and James II* (London, 1998); Callow, J., *The Making of King James II: The Formative Years of A Fallen King* (Gloucestershire, 2000); Speck, W.A., *James II Profiles in Power* (London, 2002).

⁷ Colquhoun, K.M. "Issue of the Late Civil Wars": James, duke of York and the government of Scotland, 1679-1689", (University of Illinois, PhD thesis, 1993).

no assessment of the 1681 Parliament is complete without detailed reference to these manuscripts. Colquhoun's research also neglected the plentiful contemporary pamphlet literature which adds an additional dimension to any study of 1680s Scotland. It can also be said that Colquhoun's treatment of the Moray Muniments was not sufficiently thorough, with several consequential documents being overlooked by her. With regards to content, Colquhoun covered a broad range of topics, though in many respects this led to the marginalisation of more weighty matters, such as the actual impact of James on Scotland. In fact, the role of James, both as Duke of York and King, is a rather slighted theme of her thesis, with the focus tending to slip away from James's government to more general accounts of the situation in Scotland. Additional deficiencies include the rather sketchy treatment of the problems posed by the Highlands and the militia, both of which were areas of particular concern to James. Moreover, there is merely cursory investigation into the apparatus of the Scottish political system, with no detailed examination of the committee structure in either the Privy Council or the Parliaments, regardless of the fact that it afforded considerable power to certain individuals.

In addition to Colquhoun's work, there has been some commendable recent research into the government of Scotland in the Restoration era, embodying analyses of the last of Charles II's Parliaments, that which James attended as High Commissioner in 1681. The first, written by Ronnie Lee,⁸ offers the contention that the administration of James in Scotland was not markedly different from that of John Maitland, second Earl and first Duke of Lauderdale. Lee argues that James continued Lauderdale's absolutism through his similar reliance on the militia and his refusal to entertain opposition either in Parliament or in the form of conventicles. Lee's interpretation of the 1681 Parliament was that there was a policy of non-resistance by the members, who were there merely to ratify the proposals of the Lords of the Articles.⁹ Nonetheless, Lee's examination of the 1681 Parliament was not particularly intensive, the focus of his thesis having been on the tenure of Lauderdale, rather than that of James.

⁸ Lee, R. "Government and Politics in Scotland, 1661-1681", (University of Glasgow, PhD thesis, 1995).

⁹ *Ibid*, 280.

A more recent and much more substantial inspection of the 1681 Parliament was undertaken by Gillian MacIntosh as part of her doctoral study of Restoration Parliaments between 1660 and 1681.¹⁰ MacIntosh has laudably made use of the minutes of both the Parliament and the Lords of the Articles and has as such provided a worthy contribution to the study of the 1681 Scottish Parliament, particularly with regards to the debates in Parliament. One area which MacIntosh has not adequately explored, however, relates to the committees. She has provided neither an analysis of the membership nor of the function of the parliamentary committees, and as such has unjustifiably underplayed their role in the Scottish Parliament in general and in 1681 in particular. Additionally, her failure to look at the draft act for the security of the Protestant religion, as recorded by Sir John Lauder of Fountainhall, has led to a number of misconceptions on her part about several overtures presented to Parliament with a view to securing Protestantism. These are redressed in Chapter 2 of this current thesis.

Despite these recent inroads, James VII and Scotland in the 1680s, interrelated and inextricable topics, remain vastly under-researched and neglected subjects of academic study. As such, there remains abundant opportunity, and significant requirement, for further investigation into the impact of James on Scotland.

The Scope of this Thesis

This aim of this thesis is to provide an analysis of the impact of James on Scottish politics. Though referred to by his royal designation in the title of the thesis, his influence as both Duke of York and King is assessed. Owing to the vast amount of sources which exist, it has been necessary to identify parameters within which this thesis should concentrate. The years c.1679 to c.1686 have been selected for more intimate investigation. The arrival of James in Edinburgh on 24 November 1679 is a natural starting point for an analysis which encompasses the impact of James on the Scottish political arena. His arrival began a unique period in seventeenth-century Scottish history; the residence in Edinburgh of the heir to the throne, and his active

¹⁰MacIntosh, G.H., "The Scottish Parliament in the Restoration Era, 1660-1681", (University of St Andrews PhD thesis, 2002).

participation in the government of the nation, was a welcome oasis in a century of absentee monarchy. James's first visit to Scotland ended when he left on 17 February 1680. Between 26 October 1680 and March 1682 James was once more resident in Scotland, briefly returning for the final time in May 1682 to collect his family and tidy up the Scottish administration by making several alterations to the governing personnel. This largely chronological examination of the major political issues which affected Scotland, and how they were dealt with by the administration, will end with James's proposed toleration, a measure the 1686 Parliament vociferously rejected and which was ultimately instituted by royal prerogative. Although the thesis formally ends with an analysis of the 1686 Parliament, the Epilogue continues the theme of toleration to the point at which Catholics and Presbyterians alike, with the exception of field conventiclers, were allowed to worship freely as a result of a series of proclamations by James, who used the royal prerogative to achieve what the Scottish Parliament refused to implement.

As well as constraints on the duration under investigation, it has also been essential to set strict boundaries regarding the factors under scrutiny. It is certainly not the intention to provide a biography of James, even for the identified time period, c.1679-c.1686. Nor is the incorporation of such matters as James's involvement in the colonies, or the cultural and economic impact of his tenure in Scotland within the remit of this thesis. Instead, the overwhelming focus of this thesis is on Scottish politics, with which James was inextricably linked by virtue of his residence and subsequent involvement as Duke of York, and his role as King from February 1685. It is not merely the purpose to outline the main political issues of the time, instead it is the intention to display how these were dealt with by the government. Whilst the political reaction of both the Privy Council and the Parliaments to particular situations is of overriding concern to this thesis, of great importance is also the identification of the driving forces within Scottish politics. Vying for predominance within the elite was especially ruthless during the period, resulting in the gradual diminishment of the relatively broad spectrum of personnel favoured by James when he first presided in Scotland, and these power struggles will naturally also be given due consideration.

With the arrival of James, Duke of York, in November 1679, Scottish politics had a new dimension. Lauderdale, who had for two decades ruled Scotland as a pseudo monarch, had lately experienced stinging attacks on his methodology and governance.¹¹ Among the numerous accusations levelled at Lauderdale were that he ruled by ‘private considerations’ and unscrupulous means.¹² The English House of Commons openly championed the Scots’ grievances and petitioned Charles II for Lauderdale’s removal in order to take “away the privat jealousies dissatisfactions and feares amongst your good subjects”.¹³ Lauderdale’s slackening grasp on Scotland was compounded by his residence in England for the entire duration of James’s visit to Scotland. This was undoubtedly by design rather than neglect, for Lauderdale resigned as Secretary of State shortly thereafter, in September 1680. Combined with the death of John Leslie, seventh Earl and first Duke of Rothes, High Chancellor of Scotland, immediately prior to the opening of the 1681 Parliament, James was able to ease into the role of regent of Scotland unchallenged.¹⁴

A number of issues faced James; some of these were legacies from Lauderdale’s administration; some were new. Remnants from the Lauderdale era included the problems surrounding the Highlands and the militia as well as those associated with the nonconforming Presbyterians, particularly the Cameronians, who remained opposed to the established Episcopal church and continued their Covenanting activities despite governmental decrees designed to prevent such behaviour. Politically, there were also new matters for James to contend with

¹¹NLS Wod Fol XXXIII (xviii), Account of a Debate between Hamilton and Lauderdale, 8 July 1679, f26; *The Commons Address Against the Duke of Lauderdale, Presented to His Majesty, May 9 1679*, (London, 1679); NLS Wod Fol XXXI (cxiv), House of Commons petition against Lauderdale, 11 May 1679, f338; *Some Particular Matter of Fact Relating to the Administration of Affairs in Scotland under the Duke of Lauderdale Humbly Offered to His Majesties Consideration in Obedience to His Royal Commands* (Edinburgh, 1679); *Some farther Matter of Fact Relating to the Administration of Affairs in Scotland under the Duke of Lauderdale Humbly Offered to His Majesties Consideration in Obedience to His Royal Commands. (That the Duke of Lauderdale was concerned in the Desine of Bringing in of Popery and Arbitrary Government, may appear by these following Particulars.)* (London, 1679).

¹²*Some Particular Matter of Fact*, 1-4.

¹³NLS Wod Fol XXXI (cxiv), f338.

¹⁴Callow, *The Making of James II*, 286.

between 1679 and 1686. Primarily, there was a Parliament held in Scotland between 28 July and 17 September 1681. There was also the enforcement of the 1681 Test Act, the Argyll rebellion and James VII's Parliaments, the first session of which sat between 23 April and 16 June 1685, and the second session, in which the Court intended to introduce legislative toleration for Roman Catholics, sat from 29 April to 15 June 1686. Additionally, there was the intense power struggle among the elite Scottish politicians. The committee structure within Parliament and the Privy Council was of enduring significance under the leadership of James, and as such merits examination in terms of membership and remits.

A considerable amount of primary source material has been used in compiling this thesis, a significant portion of which has hitherto been under-used. The National Archives of Scotland is home to a voluminous and exceptional collection known as Gifts and Deposits. Of particular note are the Hamilton Muniments and the Breadalbane Muniments, both of which have been comprehensively used whilst investigating Scottish politics in the 1680s. Also in the National Archives of Scotland are Supplementary Parliamentary Papers (PA7) which include infinitely enlightening minutes for both the Parliament and the Lords of the Articles.

At the National Library of Scotland, the Wodrow and Rosebery collections, of historical documents and pamphlets respectively, have also been exhaustively surveyed for hitherto unexposed material relating to the Scottish political situation between 1679 and 1686. Pertinent material has also been extracted from the Advocates Manuscripts, not least from the collection of Sir John Lauder of Fountainhall, a prominent and respected contemporary lawyer and member of Parliament.

The Moray Muniments held in the private collection of the present Earl of Moray contains several exceptionally illuminating documents. Of particular regard are letters from John Drummond, Viscount and later first Earl of Melfort, one of the Secretaries of State for Scotland, to Alexander Stewart, fifth Earl of Moray, his fellow Secretary and High Commissioner to the 1686 Parliament.

The Situation Prior to November 1679

James, who was later to become James VII of Scotland and James II of England, Ireland and Wales, was born in 1633, the year that his father Charles I first visited Scotland as monarch, having succeeded James VI and I in 1625. When James was only 15 years old Charles I was executed at the scaffold outside Whitehall and throughout the subsequent decade the exiled royal family lived in Holland. After his brother had been formally recognised as King Charles II, James spent his young adult years without much controversy. He was appointed Lord High Admiral of the Sea and eventually earned himself much respect for his bravery and skill as a naval commander. He married Anne Hyde, the daughter of Edward, first Earl of Clarendon, and it was she who chose to become Catholic before James. Although it was not publicly pronounced, so many rumours circulated about her conversion that Clarendon actually wrote to James stating,

I need not tell the ill consequence that such a mutation would be attended with, in reference to your R. H. and even to the King himself, whose greatest security (under God) is in the affection and Duty of his Protestant Subjects. I do most humbly beseech your R.H. by your authority to rescue her from bringing a Mischief upon you and her self, that can never be repaired.¹⁵

James was to pay no heed to his father-in-law's prophetic warning and, in converting to Catholicism in the late 1660s, made a decision which was to radically alter the course of the rest of his life. It eventually become public knowledge in 1673 that James, Duke of York and heir to the thrones of Scotland, England and Ireland, had converted to Catholicism after he resigned from his offices rather than adhere to the obligations of the English Test Act.¹⁶ A few years later, James's choice of religion was to pose a significant problem. There erupted fears in England that the government and throne of the nation would be irreparably damaged if they were to fall under the influence of a Catholic.

¹⁵*Two Letters Written by the Right Honourable Edward, Earl of Clarendon, late Lord High Chancellor of England: One to His Royal Highness the Duke of York: The other to the Duchess, Occasioned by Her embracing the Roman Catholick Religion*, [London, n.d]

¹⁶Miller, J., 'Catholic officers in the later Stuart army', *EHR*, lxxxviii, (1973), 36.

After the Titus Oates plot in England in 1678 it became increasingly difficult for James to live there. The alleged plot was to assassinate Charles II and, though it transpired that it was all in fact lies, the plot forced people to consider the real implications of Charles's death. With no legitimate son to take his place as monarch, Charles would consequently be replaced on the throne by his brother, a Roman Catholic. Thus began the Exclusion campaign in England.¹⁷ Led by the Whigs in Parliament there began a systematic campaign against Catholics in general and the Duke of York in particular. A speech in the House of Commons in May 1679 summed up widespread fears: "it will be utterly impossible to secure the Protestant religion under a Popish successor, unless you do totally disable him to inherit these Protestant countries."¹⁸

The prospect of Parliament succeeding in altering the true line of succession and diminishing the powers of the Crown was a source of much angst for the King. Though a Parliament was called to meet in England on 7 October 1679, he prorogued it eight times before it finally met on 21 October 1680. Charles could simply not permit a Parliament to continue to debate on the Exclusion for fear of altering the status of the Crown indefinitely. In order to shift the focus from James, Charles engineered a plan to remove James from London whilst the English Parliament sat. After initially being inclined to send James further afield, Charles was finally persuaded to allow his brother to spend his exile in Scotland. James's only consolation was that his expulsion from England would be a short one, for Charles promised that he would be back in England in January of 1680.

¹⁷For some examples of works on the Exclusion Crisis, see, Miller, *James II*, Chapter 6; Mullet, *James II*, Chapters 1 and 2; Speck, *James II*, 25-32; Tarlton, C.D., 'The Exclusion Controversy, Pamphleteering, and Locke's *Two Treatises*', *HJ*, xxiv (1), (1981).

¹⁸*A Speech in the House of Commons, Upon Reading a Bill against the Duke of York, May 1679*, (London, 1679), 2.

CHAPTER 2

The impact of James, Duke of York, on Scottish politics;

November 1679 - July 1681

Introduction

Between 24 November 1679 and 17 February 1680 James was resident in Edinburgh. Although he had no official political role, he was not prepared to view his stay as a mere holiday. With the consent of Charles II, James launched into full and active involvement in Scottish politics, the main vessel through which he stamped his authority on the country being the Privy Council. By the time James returned to England, he had succeeded in permanently altering the character of the government of Scotland. Those Councillors whom he had welcomed back into government, after a period of absence from central political life as a result of their opposition to Lauderdale,¹ remained active participants when James left. Though Lauderdale retained his role as Secretary of State until September 1680, the returnees to the Council were aware of the fact that this position was increasingly nominal, and that real power had latterly shifted to James. Although they did not know that James would return to Scotland later that year, his influence was discernible even during his residence in England, perhaps most perceptibly through the addition of three new Councillors, Balcarras, Roxburgh and Argyll's son, Lord Lorne. When James arrived back in Scotland, on 26 October 1680, he continued to exert his influence and guide policy through control of the Privy Council. During James's second visit to Scotland, Charles bestowed the formal role of High Commissioner to the Scottish Parliament on his brother. Whereas the following Chapter will examine James's role in the 1681 Parliament, this present Chapter will focus on the impact of James on Scottish politics between November 1679 and July 1681.

¹ Hutton, R., *Charles the Second, King of England, Scotland and Ireland* (Oxford, 1989), 387.

The Return of a Stewart

After it had been decided by Charles that James should spend his political exile in Scotland, the Duke elected to travel north by land. This can be attributed to the fact that his wife, Mary of Modena, had suffered greatly in the sea crossing from Flanders to England.² Their journey, which began on 27 October 1679, was a rather stately affair by virtue of the accompaniment of troops of horse. It was anticipated that the royal party, which included John Murray, second Duke and first Marquess of Atholl, and his wife, would be greeted in the places in which they rested with warmth and generosity. For the most part, these expectations were fulfilled, though the journey got off to a quite inauspicious start when James Cecil, seventeenth Earl of Salisbury displayed lukewarm interest in James and his entourage, and absented himself from meeting the heir to the throne. Although Salisbury sent his son in his place, he had made no arrangements for the entertainment of the royal party.³ Additionally, James had such a disappointing time at York, the city from which he took his title, that he asked Charles II to send the city fathers an official reprimand. There can be no doubt that the reason behind such unenthusiastic greetings can be attributed to the fact that some people simply refused to pander to a Roman Catholic: this was certainly the case in York, where the numerous followers of Anthony Ashley Cooper, first Earl of Shaftesbury, were conspicuously absent from attending James.⁴ Nonetheless, notable figures who suitably entertained James included Robert Bruce, first Earl of Ailesbury, William Stanley, eighteenth Earl of Derby, Thomas Wentworth, first Earl of Strafford, and Henry Cavendish, third Duke of Newcastle. James also gratefully accepted the lavish entertainment provided by Nathaniel Crewe, Bishop of Durham, before embarking on the final stretch to the Scottish border.⁵

² Clarke, J.S., *The Life of James the Second, King of England &c. collected out of memoirs writ of his own hand*, volume i, (London, 1816), 573; Turner, F.C., *James II* (London, 1648), 171.

³ Turner, *James II*, 171; Miller, J., *James II; A Study in Kingship* (England 1977), 101.

⁴ Turner, *James II*, 172.

⁵ Miller, *James II*, 101; Turner, *James II*, 172.

On 16 October 1679 the Privy Council⁶ heard that Scotland was to play host to James and immediately wrote to all absent Councillors informing them of the imminent visit of James and the resolution that the Council was to meet him at the border.⁷ Keen to ensure his “entrie and reception be w[i]t[h] th[a]t respect and honor due to his dignitie”,⁸ they ordered that all Councillors go to Edinburgh to await news of the expected time of arrival of James, and from there to travel together to the border. The Councillors were also instructed to alert other noblemen who lived in their area so that they too could welcome the Duke of York. Likewise informed of James’s impending arrival were the sheriffs of Edinburgh, Haddington, Linlithgow and Berwick. A first letter asked them to announce the coming of James throughout their districts. A second, of 13 November 1679, asked the sheriffs of Edinburgh, Linlithgow, Berwick, Roxburgh, Selkirk and Peebles to summon the noblemen, gentlemen and heritors within their shires to convene at the Links of Leith on 17 November to meet the Council then travel to the border to meet James.⁹

The efforts of the Council were rewarded by the fact that the reception of James in Scotland was very well attended. Upon his arrival at the border the vast majority of the Scottish Privy Council, accompanied by 2000 nobility and gentry and the King’s troop of horse, met him.¹⁰ One notable absentee from the convention which assembled to meet James was John Campbell of Glenorchy, Earl of Caithness, who, as a Privy Councillor, had been expressly told by Rothes that he was expected to fulfil his duty to the King’s brother by forming part of the reception party.¹¹ Also

⁶ Present at this meeting were Rothes, Moray, Archbishop of St Andrews, Bishop of Edinburgh, Ardross, Sir Thomas Wallace of Craigie (Justice-Clerk), Sir George Mackenzie of Tarbat, Charles Maitland of Halton (Treasurer-Depute), and Sir George Mackenzie of Rosehaugh (Lord Advocate), *Register of the Privy Council of Scotland*, third series, volume vi, Hume-Brown, P., (ed) (Edinburgh, 1914), 330.

⁷ *RPCS*, vi, 331-2; NAS GD 112/39/129/5, Breadalbane Papers, letter from the Duke of Rothes on behalf of the Privy Council to the Earl of Caithness, 16 October 1679; NAS GD 16/41/594, Papers of the Earls of Airlie, letter from the Privy Council to the Earl of Airlie, 16 October 1679; Wodrow, R., *The History of the Sufferings of the Church of Scotland from the Restoration to the Revolution*, volume iii, (Glasgow, 1829), 174.

⁸ NAS GD 16/41/594.

⁹ *RPCS*, vi, 332, 338; Wodrow, *Sufferings*, iii, 174.

¹⁰ Turner, *James II*, 173.

¹¹ Hopkins, P., *Glencoe and the End of the Highland War* (Edinburgh, 1998), 68;

missing were the members of the Court of Session. Sir James Dalrymple of Stair, President of the Court of Session, refused to allow the Court to adjourn to meet James at the border on the grounds that the Court had been instituted by the King and Parliament and thus could not be discharged without their consent.¹² When Stair later waited on James at Holyroodhouse, he did little to enhance the Duke's inevitably undistinguished opinion of him. Stair addressed James in a rather tactless speech: although he stated that it was an honour for a member of the royal family to have returned to Scotland, he tempered this by declaring that Scotland was the best place for James to be at that particular time given that the country was entirely Protestant.¹³

As the Duke of York travelled towards Edinburgh from the border he was greeted with enthusiasm and warmth.¹⁴ He finally reached Edinburgh on 24 November, to be met by Sir James Dick of Priestfield, the Lord Provost, as well as the bailies. "The canons of the Castle went off for a considerable time, and bonfires were made throughout all the town and the ringing of bells continued until ten o'clock at night."¹⁵ "In his entry to the King's house at Holyrudhouse", James was escorted by all the Edinburgh militia on the orders of the Council.¹⁶ Indeed, there were so many attendants at the arrival of James in Edinburgh, that there was considerable confusion with regard to lodgings.¹⁷

How much of the celebrations were due to James's personal popularity is questionable; it seems more likely that his presence was celebrated because it signified the return of a Stewart to Scotland.¹⁸ In terms of the general political atmosphere, which had recently witnessed the attempted exclusion of James in England, the royalist revival in Scotland was all the more profound. It can be

NAS GD 112/39/129/5.

¹²Mackay, A.J.G., (ed) *Memoir of Sir James Dalrymple of Stair, President of the Court of Session in Scotland* (Edinburgh, 1873), 141.

¹³*Ibid*, 141.

¹⁴Airy, O., *The Lauderdale Papers*, volume iii, (Camden Society, 1884-5), James to Lauderdale, 24 November 1679, 184.

¹⁵Turner, *James II*, 173; Hay M.V., *The Enigma of James II* (Glasgow, 1938), 13.

¹⁶*RPCS*, vi, 343.

¹⁷NAS GD 406/1/7018, Papers of the Dukes of Hamilton, Duke of Hamilton to the Earl of Arran, Holyroodhouse, 25 November 1679.

¹⁸Turner, *James II*, 173.

confidently asserted that it was by design rather than ignorance that the prevailing tendency in Scotland was to dismiss the notion that James was present merely as a result of necessitated political exile, and preferred instead to treat his visit as more of an honoured diplomatic venture. This approach served a dual purpose: firstly, their own morale was boosted through the notion that Scotland remained important enough in the scheme of 'British' politics to warrant the prolonged stay of the heir to the throne; and, secondly, the status and reputation of Scotland would be amplified as a result of them affording James gratifying respite from the sustained opposition he endured in England.

The Controversy Surrounding the Oath of Allegiance

An early hurdle for James came in the form of contention over whether he could sit in the Scottish Privy Council without first taking the Oath of Allegiance. James had told Charles II that he would find it pleasing to sit in the Council since he had always been named in it. However, he refused to take the usually mandatory Oath of Allegiance, which was incompatible with his personal Catholicism, despite being repeatedly urged to do so by prominent men such as Lauderdale, James Graham, third Marquess of Montrose and Charles himself.¹⁹

There was a small but significant contingent in Scotland which opposed James being allowed to sit on the Privy Council without taking the Oath. On 6 November 1679 five prominent figures in the Scottish administration, wrote to the Secretary of State in the hope that he would influence Charles and coax him into accepting that James could not be excepted from the Oath.²⁰ The five men were the Duke of Rothes, the Earl of Moray, Archibald Campbell, ninth Earl of Argyll, Charles Maitland of Halton, who was the Treasurer-Depute and Lauderdale's brother, and Sir George Mackenzie of Rosehaugh, the Lord Advocate. Within this group, there was strong loyalty to Lauderdale from Argyll, Moray and Halton, who had each benefited markedly from Lauderdale's administration.²¹ Although both

¹⁹Clarke, *The Life of James II*, i, 275-6; Airy, *The Lauderdale Papers*, iii, Lauderdale to James, 18 November 1679, 182-3.

²⁰Airy, *The Lauderdale Papers*, iii, Some of the Privy Council to Lauderdale, 6 November 1679, 181-2.

²¹Patrick, J., 'The origins of the opposition to Lauderdale in the Scottish Parliament

Rothés and Rosehaugh had some history of opposing Lauderdale, both ultimately reconciled themselves to him out of political expediency, the latter strenuously defending his regime in 1679.²² As such, it could be argued that their allegiance to the Secretary made them hostile to the perceived usurpation of his pre-eminent position in Scottish politics by James, and thus motivated them to be particularly officious about the need for James to take the Oath. This argument, however, does not fully consider the relationship between Rothés and Lauderdale. Although Rothés took care to treat Lauderdale well in order to maintain his position in Scottish politics,²³ it can be confidently asserted that relations were never so good between them that Rothés would have opposed James on Lauderdale's account. In addition, each of the men who wrote to Lauderdale were, with the exception of Argyll, all present at Council on 16 October when preparations were made by the nine attending Councillors to ensure James was magnificently greeted at his entry into Scotland.²⁴ Moray, Halton, Rosehaugh and Rothés were thus party to ensuring that James was given a momentous welcome, a fact which does not indicate that they were unhappy with the arising political situation of James being present in Scotland in Lauderdale's absence. As such, the determination that James should take the Oath was certainly caused by reasons other than general disinclination towards James occasioned by enduring allegiance to Lauderdale. Instead, the overriding factor in compelling them to argue that James should take the Oath likely stemmed from their desire to establish definite parameters within which James should begin his governance of Scotland; namely within the confines of existing laws, which should not be laid aside simply because he was heir to the throne.

Their arguments alluded to the enduring matter of the King's prerogative, suggesting that it would be contrary to the law for the King alone to waive an established statute simply for the benefit of his brother. On the grounds that it was

of 1673', *SHR*, liii, (1974), 6, 10, 16, 17; Hutton, *Charles II*, 310, 374.

²²Ibid, 2, 8, 16, 19; Middleton, D., *The Life of Charles 2nd Earl of Middleton 1650-1719* (London, 1957), 58; Linklater, M. and Hesketh, C., *For King and Conscience, John Graham of Claverhouse, Viscount Dundee (1648-1689)* (London, 1989), 63.

²³Patrick, 'The origins of the opposition', 2, 3; Hutton, *Charles II*, 350.

²⁴*RPCS*, vi, 330.

embodied in legislation that the Oath was compulsory prior to sitting in the Council, they moved that it could not be dispensed with simply by a letter from the monarch, an argument corroborated by a leading lawyer of the day, Sir John Lauder of Fountainhall.²⁵ It was argued that the statute was a contract between the King and his people and that if it was laid aside for James then it would breed jealousies and fears, which they expressed concern about with regards to the impact this may have on James. Further, no-one would be able to “think themselves secure by any Limitation to be put upon the successor whilst they saw that none could bind the subject.”²⁶

Lauderdale took their arguments on board and leant directly on James to take the Oath. He volunteered that the Scottish Oath bound much less than the Oath of Allegiance in England, which James had taken whilst in the House of Lords. Furthermore, Lauderdale stated that if James “shall not think fit to take it, I dare not presume to advise yo[u]r sitting in the Councell” because this, Lauderdale felt, would offer his enemies much ammunition against him.²⁷ James replied to Lauderdale on 24 November 1679 quoting several converse arguments. Primarily, he expressed his surprise at the fact that the matter had neither been raised whilst he sat in the Scots Council at Hampden Court, nor during the whole time that he had been Lord Admiral of Scotland. In essence, James had held Scottish offices without having taken the Oath, so saw no reason to change the procedure at this stage. James also stated that he greatly differed in opinion from Lauderdale regarding the latter’s conviction that, if James failed to take the Oath, he should not sit in the Council. James argued, “that should I not sitt there, my enemys would take very great advantage against me, and attaque me by ways they never thought on before, should they be encouraged by this precedent.”²⁸ Although James does not indicate precisely who he viewed as his enemies, his sentiments show not only that he was acutely

²⁵Airy, *The Lauderdale Papers*, iii, Some of the Privy Council to Lauderdale, 6 November 1679, 181-2; Lang, A., *Sir George Mackenzie of Rosehaugh, His Life and Times 1636(?) - 1691* (London, 1909), 185; *Historical Notices of Scottish Affairs by Sir John Lauder of Fountainhall* (Edinburgh, 1848), 247.

²⁶Airy, *The Lauderdale Papers*, iii, Some of the Privy Council to Lauderdale, 6 November 1679, 181-2.

²⁷Ibid, Lauderdale to James, 18 November 1679, 182-3.

²⁸Ibid, James to Lauderdale, 24 November 1679, 184.

aware that he was not universally supported in Scotland, but also that he had no intention whatsoever of taking the Oath. He asserted that he did not see himself as being bound by it, and though he did not embellish his contention with the Oath itself, it is clear that he would not be persuaded otherwise. This was despite Charles II supporting Lauderdale's argument that James should take the Oath because he had taken the English equivalent. The King actually advised James, "not to boggle at one since he had taken the other".²⁹ James, however, thought that this notion was rendered impotent because of the vastly different circumstances between the two; the Scottish Oath, he argued, was developed with the 'fanatics' of the late rebellion in mind, and thus did not apply to him.³⁰

In his letter to Lauderdale dated Edinburgh 24 November 1679, James stated that, as he had suitably justified himself in this matter, he hoped that a letter would be sent by Charles II to the Scottish Council which excepted him from the obligation to take the Oath. For this purpose he had taken the liberty of instructing the Lord Advocate, Sir George Mackenzie of Rosehaugh, to draft such a letter for Charles to sign and send back to Scotland. Mackenzie's immediate reaction must have been to balk at this because he was one of the men who put his name to the letter to Lauderdale which contested the right of James to sit in the Council without the Oath.

As it happened, James won this initial dispute because Charles duly sent the desired letter to Scotland. It can be seen from this incident that, although in a position of insecurity which in England bordered on perilous, James was adamant that he would not be forced into compromising his religious principles and beliefs. He would rather have incurred the displeasure of his brother and others than sign an oath in which he did not believe. Despite several commentators, such as Paul Hopkins and John Willcock, believing that many of James's policies were borne from his predilection towards stubbornness and superiority,³¹ it can be suggested that some contemporaries would have supported James in this instance, seeing his

²⁹Clarke, *The Life of James II*, i, 577.

³⁰Ibid; Airy, *The Lauderdale Papers*, iii, 184; Miller, *James II*, 101.

³¹Hopkins, *Glencoe*, 84; Argyll's biographer, John Willcock sees James's refusal to take the Oath as him assuming superiority to the law, *A Scots Earl in Covenanting Times: Being the Life and Times of Archibald 9th Earl of Argyll 1629-1685*, (Edinburgh, 1907), 242.

decision not to take the Oath as sensible. In an age where a man's word unconditionally bound him, many people would have taken offence if James had taken the Oath despite his personal repulsion towards it, which would inevitably have led to them recoiling from him as being a hypocrite.³² In fact, his determination to stand by his principles would in all probability have fostered respect for James in some quarters. Despite such a controversial beginning, the decision of the King was simply accepted: James was to join the Privy Council free from any obligation to take the Oath. Having adjourned to await the pronouncement of the King, the Council thus reconvened on 4 December 1679 with James being admitted without having to take the Oath that was inconsistent with his Catholic beliefs.³³

The Privy Council

Hence by the latter part of 1679 the heir to the throne was personally present at the meetings of the Scottish Council. This innovation was welcomed not only because it was perceived as being in some way corrective of the loss caused by the regal union of 1603, it would also have been embraced by those who felt they had lost out under Lauderdale's factionalism. The allocation of offices by Lauderdale had been governed very much by who his friends were at the time: those who were out of favour, like Hamilton and John Hay, second Earl of Tweeddale, would have recognised James as a new guiding force in Scottish politics and would have been hopeful of being brought back into the fold by him. The Privy Council³⁴ wrote to Charles on 11 December thanking him for sending James to Scotland, saying that

³²A similar argument, that James would have been viewed as insincere if he had acquiesced, was voiced by Fountainhall when James was later condemned for absenting himself from attending the Protestant service at the time of the 1681 Parliament, *Historical Selections From the Manuscripts of Sir John Lauder of Fountainhall, one of the Senators of the College of Justice, Historical Observations, 1680-1686* (Edinburgh, 1837), 46.

³³*RPCS*, vi, 344; Airy, *The Lauderdale Papers*, iii, James to Lauderdale, 4 December 1679, 186; Wodrow, *Sufferings*, iii, 175; Clarke, *The Life of James II*, i, 578.

³⁴Other than James, there were 31 Councillors present at the sitting of Council on 11 December, *RPCS*, vi, 345. Included in this number were the five men (Rothes, Moray, Argyll, Halton and Mackenzie) who wrote to Lauderdale about the need for James to take the Oath. The fact that they were involved in sending the letter of thanks to Charles further suggests that they were not opposed to James *per se*, and wanted him to take the Oath for reasons other than general objection to him.

“nothing would have rejoiced us so much, in your necessary Absence, as the Happiness of having your Royal Brother amongst us, who have not for many years seen any of the Royal Family amongst us in this your antient Kingdom.”³⁵

On this first visit to Scotland, James had no official capacity. He remained in Scotland at the pleasure of Charles II and used this visit to get to know the workings of the politics of the country. Despite his lack of formal remit, his status as brother of the King and the heir to the throne coupled with the absence of Lauderdale, who was resident in England, meant that James was immediately instituted as the foremost member of the Council. The natural tendency within Scottish politics to place heavy emphasis on the traditional pattern of social deference dictated that it was James who became the guiding force of the Council instead of the Duke of Rothes who, as Chancellor, would normally have had such a role. The reappearance of the Marquess of Atholl, the Lord Privy Seal, as a regular attendee of meetings signified a further alteration in the proceedings of the Council. Atholl had accompanied James in his journey from London, and thereafter played an active role in Scottish politics. An early indication of his institution at the centre of political life came on 9 December 1679, when he was named President of the Council as a result of the Chancellor’s absence.³⁶ When Rothes had formerly been absent, the role of President had fallen to Moray.³⁷ In light of the fact that Moray was also present on 9 December, the arrival of James and Atholl signified the effective end to the appointment of Moray as President of the Council.³⁸ The task of presiding, however, would have been more of a nominal matter when James was present. Although the President would have chaired the Council meetings, it was undoubtedly James who managed overall policy.

Throughout his first stay the Privy Council sat sixteen times, with James present at each meeting.³⁹ The sederunt data available from the *Register of the Privy*

³⁵*RPCS*, vi, 345; Jones, D. (ed), *The Life of James II, Late King of England, Containing an Account of his Birth, Education, Religion, and Enterprises, both at Home and Abroad, in Peace and War, while in Private and Publick Capacity, till his Dethronement* (London, 1702), 26.

³⁶*RPCS*, vi, 345.

³⁷*Ibid*, 230, 231, 233.

³⁸*Ibid*, 345.

³⁹*Ibid*, 344-99.

Council of Scotland shows that the presence of James was a huge motivation in terms of affecting the attendance of the Councillors. Whereas members of the Council were obliged to attend meetings many factors, ranging from other commitments to apathy and from geography to poor health, disrupted regular attendance. However, James's appearance seemed to act as an incentive to Councillors who in other circumstances would likely have failed to attend the Council. Those who began their more regular attendance at the council meetings when James was present included, as well as Atholl, Argyll, William Cochrane, first Earl of Dundonald, James Drummond, fourth Earl of Perth, Sir Richard Maitland of Gogar and Tarbat.⁴⁰ For Atholl and Perth, James's presence signified the arrival of a new focus in Scottish politics which encouraged them to come out of the self-imposed exile from the Council that they had each begun when they split with Lauderdale after the Highland Host.⁴¹ Clearly they had wanted to distance themselves from the controversial scheme which exploited tensions between Highlanders and Lowlanders, and which ultimately contributed to the arming of conventiclers and the clash at Bothwell Bridge.⁴² Whatever their personal reasons, many Councillors resumed more regular attendance at Council meetings. At the final meeting of the Council before the arrival of James there was a total of twenty-one attendees. At the first at which he was present there were thirty-six Councillors as well as the Duke himself.⁴³ Indeed, of the sixteen sittings of the Council during the first visit of James to Scotland, the average attendance was twenty-seven.⁴⁴ Certainly it can be suggested that the desire to ingratiate themselves to the heir to the throne was a large factor in inducing their more frequent appearances, but it can also be suggested that James's eagerness to reintroduce to the

⁴⁰Ibid, 181-339, 344-93; Buckroyd, J., *Church and State in Scotland 1661-1681* (Edinburgh, 1980), 133.

⁴¹Buckroyd, *Church and State in Scotland*, 133; Hutton, *Charles II*, 387.

⁴²Macinnes, A.I., *Clanship, Commerce and the House of Stuart 1603-1788* (East Linton, 1996), 134; Macinnes, A.I., 'Repression and Conciliation: The Highland Dimension 1660-1688', in *The Scottish Historical Review*, Vol LXV, 2, No. 180, October 1986, 185.

⁴³*RPCS*, vi, 344-93.

⁴⁴Ibid.

political arena those who had drifted away under the leadership of Lauderdale contributed to the rise in attendance.

James must have been acutely aware of the fact that he was, in coming to Scotland, very much stepping into Lauderdale's domain. Though Lauderdale may have been of the opinion that James would strengthen his hold over the country by favouring his cabal,⁴⁵ he was to be disappointed by the desire of James to side with no particular faction or political group. James's intention is possible best illustrated by his own words: "I live here as cautiously as I can, and am very careful to give offence to none and to have no partialities, and preach to them laying aside all private animosities and securing the King his own way."⁴⁶

Evidence of James's inclusive policy throughout the duration of his first visit to Scotland is that he took care to ensure that there was a broad range of men put onto the committees that were created in the period. Sixteen men were placed on the Committee to Consider the Rates of Drinking Beer and Ale, which was created on the 11 December 1679. These were Atholl, Argyll, Erroll, Marishall, Mar, Moray, Perth, Linlithgow, Strathmore, Dundonald, Stair, Maitland of Halton, Mackenzie of Rosehaugh, Tarbat, Sir James Foulis of Collington and Sir George Kinnaird.⁴⁷ Others who enjoyed the privilege of committee membership included the Justice-Clerk, who was on the Committee Anent the Militia;⁴⁸ Montrose, who was on both the Committee for the Preservation of Forests and Game and the Committee Anent the Peace of the Highlands;⁴⁹ the Lord Register, Sir Thomas Murray of Glendook, who was on the Committee to Consider the Condition of the Chancery Office;⁵⁰ and Queensberry, Airley, Lorne and Sir George Monro who were all part of the Committee Anent the Peace of the Highlands.⁵¹ Though James relied more heavily on some than others, including Argyll who was on four of the six committees

⁴⁵Hutton, *Charles II*, 387.

⁴⁶Turner, *James II*, 174; Ashley, M., *James II* (London, 1977), 130; Miller, 107; Clarke, *The Life of James II*, i, 580.

⁴⁷*RPCS*, vi, 349.

⁴⁸*Ibid*, 352.

⁴⁹*Ibid*, 354.

⁵⁰*Ibid*, 372.

⁵¹*Ibid*, 393.

created in the period and Atholl who was on three of them,⁵² the naming of at least twenty-three individuals as committee members shows that James did attempt to include a broad cross-section of men in the decision-making process.

Although Lee is correct in his assertion that there was no great alteration in personnel in the Council after Lauderdale's demise,⁵³ the return of existing Councillors who had hitherto absented themselves from meetings under Lauderdale's control was significant and served to broaden the Council without the necessity of elevating more individuals to Councillor status. It is not the case that James sought to create an anti-Lauderdale faction, because he did not exclude the Secretary's allies from participation in Scottish politics, but it is certainly true that he wanted to avoid exclusively using affiliates of Lauderdale in favour of expanding the pool of men actively involved in governing Scotland.⁵⁴

The Highlands

One area on which the Council focused considerable attention under the guidance of James was the Highlands. Highlanders and Lowlanders had traditionally been acutely aware of the differences between them: their dress, their religion, their social structure and their language all served to distinguish one from the other.⁵⁵ Moreover, the Highlanders were seen by Lowlanders as being backward, aggressive and primitive. These traditional prejudices were so enduring that the Lowlanders continued to vilify the Highlands as an area where anarchy was typical even though the tendency for the clans to 'resort to arms' actually diminished in the run up to the Restoration.⁵⁶ Allan Macinnes has argued that "the denigration of the Highlands as an area of endemic lawlessness amounted to the deliberate creation of a climate of disorder by venal, grasping and crude politicians to justify not only their resort to the

⁵²Argyll was on the Committee to Consider the rates of Drinking Beer and Ale, the Committee for the Preservation of Forests and Game, the Committee Anent the Militia and the Committee Anent the Peace of the Highlands. With the exception of the Committee Anent the Peace of the Highlands, Atholl was on each of these.

⁵³ Lee, R. "Government and Politics in Scotland, 1661-1681", (University of Glasgow, PhD thesis, 1995), 92.

⁵⁴Hutton, *Charles II*, 387.

⁵⁵Hopkins, *Glencoe*, 11.

⁵⁶Macinnes, 'Repression and Conciliation', 168.

military option but their retention of power in Scotland.”⁵⁷ Although the government’s general treatment of the Highlands in the Restoration era can thus be recognised as objectionable, significant problems associated with the Highlands continued to exist. As a consequence, during James’s first visit to Scotland it became rapidly apparent that accomplishing greater stability in the Highlands was an overriding concern of his.

Perhaps the main area of dispute in the late 1670s in the Highlands concerned the Campbells and their enemies.⁵⁸ The furious fighting between Argyll on the one side, and the Macleans on the other, served to draw various others into a battle which was both expensive and extremely disruptive. Backed by Lauderdale, Argyll began in 1674 to attempt to recuperate money loaned by his family to other leading men in the Highlands. By a series of questionable manoeuvres, Argyll managed to get his leading debtor, Sir John Maclean of Duart, sued in his own court for both public and private debts. Maclean contested this decision but his action was deemed to be an act of rebellion against the Crown, because of the fact that Argyll’s court was also a royal court.⁵⁹ Argyll thus received from the Privy Council in 1674 a commission of fire and sword which allowed him to undertake to evict the Macleans from the isles of Mull and Tiree, as well as the mainland area of Morvern.⁶⁰ In 1679 this commission was renewed and it was in its name that Argyll still fought the Macleans, causing much turbulence in parts of western Scotland.

Another problem towards the late 1670s was the development of serious contention between the Earl of Caithness and George Sinclair. When the former Earl of Caithness had died, his heir was a minor, George Sinclair. John Campbell of Glenorchy meanwhile, as leading creditor to the late earl, managed to purloin the Caithness lands before embarking on a mission, with the aid of the Duchess of Lauderdale, to get Sinclair barred from assuming the title of Earl of Caithness in favour of himself.⁶¹ Subsequent developments led to Charles issuing a proclamation which forbade Sinclair from using the title, and in June 1677 Glenorchy was made

⁵⁷Ibid.

⁵⁸Hopkins, *Glencoe*, 39-71.

⁵⁹Macinnes, ‘Repression and Conciliation’, 187.

⁶⁰Ibid.

⁶¹Hopkins, *Glencoe*, 61.

Earl of Caithness in payment of the debts due to him by the late Earl. Consequently, George Sinclair had been locked in struggle with Caithness over the issue of the usurpation of his rightful title. Invasions and counter-invasions into the lands of Caithness proved to be an enduring and extremely disruptive force in Scotland.

Under the direction of James it was to the matter of securing peace in the Highlands which the Privy Council applied much of its energy. The intention was to allow the belligerent parties the opportunity to express their arguments in front of the Duke of York who could thus make more informed decisions regarding the matter, something for which both Argyll and Maitland take credit as the inspiration. Argyll wrote, "I found it fitt for me as well as for the peace of the Highlands in gen[era]ll that his H[ighnes]s should heare maters before him", and after discussing the issue with James, found him "very just to me and willing to doe me reasone".⁶² Maitland also claimed that he, "had a great hand in the affaire".⁶³ Regardless of who actually devised the plan, James must have favoured it because on 29 December the Chancellor wrote to, amongst others, Caithness, Sinclair, Lord Macdonald, the lairds of McKintosh, Lochzell, Slaitt, McLeod, Brolais, Torloisk, Grant, McKinnon and Ardgower to command them to attend a meeting in Edinburgh.⁶⁴ In a letter to Caithness the Earl of Moray stated that the Council, "thought fitt that all persons of qualey Noblemen and Gentlemen that ar Chiffly Conserved in the Highlands be cald hither".⁶⁵ All such men were thus summoned to Edinburgh by the 29 January 1680 with a view to securing the peace in the Highlands.

In the letter of 29 December to Caithness, Rothes conveyed that the Council was resolved to hear all pretensions anyone might have which may disrupt the peace and quiet of the Highlands. Thus he ordered Caithness, "to attend his Royall Highnes and the Councill to that effect and to bring any paper or instructions you have for cleireing yo[u]r clames".⁶⁶ This correspondence tells Caithness to arrive in Edinburgh before 29 January, and at the very latest before 12 February. Caithness

⁶²NAS GD 112/39/129/11, Argyll to Caithness, 29 December 1679.

⁶³NAS GD 112/39/129/13, Maitland to Caithness, 30 December 1679.

⁶⁴*RPCS*, vi, 371.

⁶⁵NAS GD 112/39/129/10, Moray to Caithness, Edinburgh 29 December 1679.

⁶⁶NAS GD 112/39/129/8, Rothes to Caithness, 29 December 1679; NAS GD 112/39/129/9, Rothes to Caithness, 29 December 1679.

was also told that both he and Sinclair had been granted protections from any civil or criminal actions, and all debts, until the final day of March 1680. In the meantime Caithness was barred from exercising any commissions granted by the Council to him. Rothes then wrote to Caithness on at least two more occasions to inform him that “the duik intends to hear all persons himself that are concerned in the heighlands” which seems to suggest that he regarded the matter with some urgency and was adamant that Caithness should attend.⁶⁷ In this he was not alone because Maitland too urged Caithness to attend the meeting and resolve his problems with Sinclair, “befor Caithnes turne Mull.”⁶⁸

On 31 January 1680 James wrote to Lauderdale, having just heard that Charles had recalled him to England, with news that the Highlanders were on their way to Edinburgh, stating that he hoped they would be there soon, “for I would faine make some progresse in that affaire before I go.”⁶⁹ In fact, Sinclair failed to show at the meeting of the Highlanders in Edinburgh so little was achieved in the way of resolution between Caithness and himself.⁷⁰

Nonetheless, the matter of increased stability in the Highlands remained an overriding concern for James. On the final day that James was present at the meeting of the Council before he returned to England, he gave a speech in which he urged the Scottish Councillors to work towards the promotion of his brother’s service, to strive towards ensuring the peace of the kingdom, using moderation to achieve this end, and to prevent the abuse of the law by disallowing personal protections from debt.⁷¹ James reinforced his desire to have the Highlands steadied. He assured the Council that he would make a proposal to Charles II about settling the differences between Argyll and the Macleans. When James was back in England, Charles would additionally be asked to approve the proposal to establish a commission to divide the Highlands into four districts, each to be governed by one of

⁶⁷*RPCS*, vi, 376-77; This letter from Rothes to Caithness is held at the NAS as part of the Breadalbane Collection, but it has mistakenly been catalogued as being dated 6 December 1679, NAS GD 112/39/129/7; NAS GD 112/39/129/12, Rothes to Caithness, 30 December 1679.

⁶⁸NAS GD 112/39/129/13.

⁶⁹Airy, *The Lauderdale Papers*, iii, James to Lauderdale, 31 January 1680, 190-1.

⁷⁰Hopkins, *Glencoe*, 69.

⁷¹*RPCS*, vi, 393.

four Highland magnates. The chosen four were the Marquess of Atholl, the Earl of Argyll, Kenneth Mackenzie, fourth Earl of Seaforth and George Gordon, fourth Marquess of Huntly and later first Duke of Gordon.⁷²

Under this proposal the two independent companies that were currently employed to maintain order would be disbanded in favour of vesting authority in Atholl, Argyll, Seaforth and Huntly: in return for an annual fee, they would preserve order and justice in their allocated area. They would be held accountable for crimes committed on their land and would be compelled to regain stolen goods within 40 days or make recompense themselves. Atholl, Argyll, Seaforth and Huntly would also have power to hold justice courts in their area of jurisdiction, create such members of the courts as were necessary for their functioning, call witnesses and assizes as they deemed fit and generally work towards bringing “to justice all thieves, sorners and broken men.”⁷³ Before sentencing landed men they were obliged to inform the Privy Council.⁷⁴ Though this seemed like a good alternative to the existing situation, there were some contemporary objections, not least from Charles Erskine, fifth Earl of Mar, who was concerned about his interests in the Highlands being eroded under this system. Fountainhall also expressed his reservation about the proposal by saying that the magnates would not be very accessible to the victims on their lands.⁷⁵ Moreover, there was unease about the fact that a Roman Catholic, Huntly, was being offered so much power. Such sentiments were in part responsible for Charles’s later decision, which reached the Privy Council on 11 March 1680, that the lands originally assigned to Huntly under this scheme were to be divided between himself and Moray on the ostensible grounds that they were too large for one man to reasonably manage.⁷⁶ On the following day the news arrived that the commissions of the five overlords of the Highlands were to begin on 1 May, for the period of one year. As it transpired, the subdivision of the

⁷²*RPCS*, vi, 392, 393-8; Hopkins, *Glencoe*, 69; In James’s *Memoirs*, the suggestion to divide the Highlands into four districts is credited as being made in the immediate aftermath of the Parliament of 1681, Clarke, *The Life of James II*, i, 706.

⁷³*RPCS*, vi, 394-6.

⁷⁴*Ibid*; Hopkins, *Glencoe*, 69.

⁷⁵Hopkins, *Glencoe*, 69; Fountainhall’s *Notices*, 261.

⁷⁶*RPCS*, vi, 428-9; Hopkins, *Glencoe*, 69.

Highlands into districts was postponed beyond the intended date of inception in favour of continuing the two existing Highland companies until the affairs in Mull and Caithness were settled, a development which can be directly attributed to the influence of Lauderdale.⁷⁷ The plans to reorder the Highlands by way of magnate control were thus slowly quashed in favour of the status quo, eventually being superseded altogether by Argyll's forfeiture in late 1681.⁷⁸

Whilst James remained in Scotland, solutions to the Highland problem remained academic, the most concrete step being the appointment of a Committee Anent the Peace of the Highlands on 15 February 1680. Upon this Committee were the Officers of State, Montrose, Argyll, Mar, Queensberry, Airley, Lorne, the President of the Session, Tarbat, Haddo and Sir George Monro, who were ordered by James to consider how the law may receive effective execution in the Highlands, "without which ...the King is not entirely King of the whole kingdome."⁷⁹

The Militia

As well as the peace and security of the Highlands, the Council, under the influence of James, was also very much concerned with the issues surrounding the militia. On 8 December James wrote to Lauderdale with news that he found everyone in Scotland wanted "nothing more then a rule to go by" in terms of the organisation of the militia.⁸⁰ James also said that he thought that the order of command and the form of training used by the militias of Charles, "aught to be the same in all his three kingdoms."⁸¹ Just three days after James wrote this letter, the Council received via Lauderdale information about how Charles wanted his forces to be drilled. It was the desire of the King, "to have one method established for the exercising of his forces in all his dominions".⁸²

⁷⁷NAS GD 112/39/132/1, Sir Andrew Forrester at Windsor Castle to [Caithness], 3 July 1680; Hopkins, *Glencoe*, 70; *RPCS*, vi, 490; Fountainhall's *Notices*, 267.

⁷⁸Macinnes, 'Repression and Conciliation', 189.

⁷⁹*RPCS*, vi, 393.

⁸⁰Airy, *The Lauderdale Papers*, iii, James to Lauderdale, Edinburgh 8 December 1679, 186-7.

⁸¹*Ibid.*

⁸²*RPCS*, vi, 346.

On 16 December 1679 the Council received another letter from Charles. In this he expressed his desire that the new model of the militia be instituted as quickly as possible. Additionally, he requested that the Council send him a list of those men they thought fit to be majors and lieutenants. Thus the Marquess of Atholl, the Earls of Argyll and Dundonald, Stair, Sir Thomas Wallace of Craigie and Lord Collington were added to the Committee Anent the Militia.⁸³ Having been appointed on 11 November the previous year, Moray, Linlithgow, the Lord Treasurer-Depute, the Lord Register, the Lord Advocate, Tarbat and Maitland of Gogar were already on this committee. After the Council had received the King's letter, James wrote to Lauderdale that "once what his Ma[jesty] has ordered here concerning the Militia is settled, the westerne men will be very gentel".⁸⁴

Two days later the updated version of the Committee reported to the Council the specifics of the organisation of the new model of the militia based on the demands of the King.⁸⁵ They confirmed that it was Charles's intention that, instead of 22,000 troops that only had sporadic training, the new militia was to comprise standing forces of 5000 foot and 500 horse, which were henceforth to be under constant pay, and who were to receive regular equipment and training.⁸⁶ The salaries of the 5500 men were to be paid for by the Treasury, and Charles II was to be liable for any extra training that was required, the cost of the new model being cheaper than that of the old because of the fact that it was to have no captains, only lieutenants.⁸⁷ The Committee also deemed the number of men to come from each shire to be equal and fair. Hence, during James's first visit, specific terms were established with regards to the remodelling of the Scottish militia.

The Impact of James

As already mentioned, James received word on 31 January that he was required back at Court. James and Mary then departed for London by sea on 17

⁸³Ibid, 352.

⁸⁴Airy, *The Lauderdale Papers*, iii, James to Lauderdale, Edinburgh, 16 December 1679, 187.

⁸⁵*RPCS*, vi, 354.

⁸⁶Ibid, 354-5; Fountainhall's *Notices*, 247-8.

⁸⁷*RPCS*, vi, 355; Fountainhall's *Notices*, 247-8.

February, such mode chosen to avoid similar disappointment and embarrassment to that they felt during their northbound journey. It has been said by Lee that James's residence in Scotland was an 'intrusion' during which "he was exclusively concerned with his own interests".⁸⁸ This is a view which is both unjust and unfounded.

Contrary to Lee's contention, James was not simply out to secure his own concerns; his brother in particular and the monarchy in general ranked highly in his priorities. James had genuine concerns about the welfare of Scotland as his efforts in relation to the factionalism within Scottish politics, the Highlands and the militia adequately display. Both John Miller and John Willcock⁸⁹ say that James's first visit to Scotland was tarnished by the attempt of some students to burn an effigy of the pope on Christmas Day 1679. Willcock's sources for this information, however, all refer to the students' actions of the following year. Miller's assertion is based on a contemporary source⁹⁰ though the absence of any additional material to corroborate the assertion that the incident occurred in 1679 points to the possibility that the source in fact refers to the episode on Christmas Day 1680. As such, it seems that James's first visit to Scotland was without popular opposition despite his Roman Catholicism.

Indeed, contemporary sources outline the actual success of James's first visit, the end of which was to the regret of many people.⁹¹ Despite initial concerns over the issue of the Oath, James seems to have won over much of the ruling body during his first visit to Scotland. The Privy Council in particular wrote to Charles, saying that, "The remembrance of having been under your Royal Family above two thousand years...of having received from their bounty the lands wee possess; Hath been very much refresh'd and renew'd by having your Royall Brother among us". They also assured Charles that, "with our hearts, our lives and our fortunes wee will maintaine your sacred Majestie and your loyall successours in the ordinary degrees

⁸⁸Lee, "Government and Politics in Scotland", 277, 278.

⁸⁹Miller, J, *Popery and Politics in England 1660-1695* (Cambridge 1673), 186; Willcock, *A Scots Earl*, 245.

⁹⁰*The Scots' Demonstration of their Abhorrence of Popery*, published in 1680, as referred to in Miller, *Popery and Politics*, 186.

⁹¹*RPCS*, vi, 393; NAS GD 406/1/10600, Anne, Duchess of Hamilton to Mary, Duchess of York, 2 March 1680; Hay, *The Enigma of James II*, 14; Turner, *James II*, 175.

of succession according to their unalterable right of blood.”⁹² Though it can be suggested that the sentiments of the Council were little more than a customary act of civility in such circumstances,⁹³ similar expressions were voiced by others. The governing elite had been impressed by James’s style of leadership. Rosehaugh, the Lord Advocate, who had been one of the men to question the right of James to sit in the Council without the Oath of Allegiance, wrote that “wee ow really much to his being heer, for our enimies dare not now own their complaints against the Councell nor doe any differences appear amongst our selvs.”⁹⁴ As a mark of respect the Duke was presented with a burges ticket to Glasgow by the Provost of the city, John Bell. James himself said about his departure that it was not to be without an element of regret, “having at his reception and since his comeing here mett with all the kindnes and civility [as] could be expected both from the nobility and gentry, and particularly from the Councill.”⁹⁵ Having left England in such unsavoury circumstances and in the knowledge that so many leading Englishmen opposed him, James was so pleased with the Scottish politicians’ acceptance of him that he assured them that he would acquaint Charles with the fact that, “he had in Scotland both a loyall nobilitie and gentry, and a Councill and his other judicatures filled with able and loyall persons”.⁹⁶

The Absence of James: 17 February - 26 October 1680

The impetus behind the formulation of new policies between February and October 1680 can not only be traced directly to Lauderdale, who remained Secretary until September 1680, but can also be directly attributed to James. Lauderdale’s role was upheld particularly by Rosehaugh, Halton and Lieutenant-General Thomas

⁹²*RPCS*, vi, 399- 400; Airy, *The Lauderdale Papers*, iii, 192-4.

⁹³Willcock, *A Scots Earl*, 244.

⁹⁴Airy, *The Lauderdale Papers*, iii, Sir George Mackenzie to Lauderdale, [February 1680], 191; Ouston, H., ‘York in Edinburgh: James VII and the Patronage of Learning in Scotland, 1679-1688’ in Dwyer, J., Mason, R. and Murdoch, A., (eds) *New Perspectives on the Politics and Culture of Early Modern Scotland* (Edinburgh, 1982), 134; Hopkins, *Glencoe*, 83.

⁹⁵*RPCS*, vi, 381-2.

⁹⁶*Ibid.*

Dalziel, who kept him informed of developments in Scotland.⁹⁷ Additionally, Lauderdale's advice continued to be sought by the King and the Secret Committee, which consisted of Rothes, Argyll, William Douglas, third Earl of Queensberry, and John Paterson, Bishop of Edinburgh.⁹⁸ As such, the Secretary's influence continued to be felt: the aforementioned decision to postpone, in July 1680, the establishment of districts in the Highlands can be ascribed to Lauderdale.⁹⁹ Nonetheless, Lauderdale was an increasingly sick man whose political grasp was manifestly in decline.¹⁰⁰ Conversely, the influence of James, even when resident in England, should not be underestimated: it was he who had recent firsthand experience of Scotland, and who had ready access to the King. Having received information from Scotland which indicated that field conventicles were on the increase, in late April James requested that Lauderdale meet Charles and himself in order to discuss relevant options for dealing with this problem.¹⁰¹ Shortly thereafter, considerable aspects of the Indulgence were revoked, as shall be discussed later in this Chapter. That James did not exclude Lauderdale from the decision making process clearly shows that he was not attempting to entirely supplant Lauderdale at the pinnacle of Scottish politics, and continued to respect his position as Secretary. At the same time, it is unmistakable that James intended to maintain the integral role in Scottish affairs that he had already carved out for himself.

When James departed, the task of presiding at the Privy Council reverted once more to Chancellor Rothes. In the absence of Rothes, the role of president of the Council fell to Atholl. In turn, the non-attendance of both Atholl and Rothes left the Treasurer-Depute, Charles Maitland of Halton, in charge of routine Council proceedings.¹⁰² It can be said that the departure of James had a rather negative effect on the attendance of Councillors at the meetings of the Privy Council. From 17 February to 23 October there were 45 meetings of the Privy Council, the average

⁹⁷Airy, *The Lauderdale Papers*, iii, 195-8, 198-9.

⁹⁸Ibid, 205-8; Hutton, *Charles II*, 388.

⁹⁹Hopkins, *Glencoe*, 70.

¹⁰⁰Hutton, *Charles II*, 388.

¹⁰¹Airy, *The Lauderdale Papers*, iii, James to Lauderdale, 24 April 1680, 198.

¹⁰²RPCS, vi, 399-565.

number of Councillors attending each being 19.¹⁰³ This shows a marked fall from the average of 27 when James was there to act as an incentive to Councillors to attend. This is especially true when one accounts for the fact that there were three new additions to the Council in the period between James's visits. On 3 June Colin Lindsay, third Earl of Balcarras was admitted, followed on 6 July by Robert Kerr, third Earl of Roxburgh and, on 5 October, Argyll's son, Lord Lorne.¹⁰⁴ Other developments in the Scottish political elite included Queensberry being made Lord Justice-General in place of Tarbat in June 1680 and Rothes being granted a dukedom on 6 July.¹⁰⁵ It can be reasonably assumed that James effectuated many of these alterations with a view to creating a greater support base for himself in Scotland. A further change was necessitated more by circumstance than design: Sir Thomas Wallace of Craigie was replaced as Justice-Clerk, after his death on 28 March, by Richard Maitland of Gogar, who assumed his new position on 8 April 1680.¹⁰⁶

The problems in the Highlands raged on in James's absence to the extent that the area was as much in need of settling when he returned in October 1680 as when he had left it in February. As has already been noted, the proposed date for the commencement of the scheme to divide the Highlands into areas of magnate control, 1 May 1680, passed without any concrete moves having being made to install the nobles as guardians of the Highlands. Consequently, the Council, in an effort to satisfy the instructions of James when he left in February, began to tend towards favouring the formation of committees in the struggle to discover a solution to the problems posed by the unsettled Highlands. On 15 June 1680 the Council formulated a new Committee Anent the Peace of the Highlands, with the remit to discuss the Highland problem. This committee was made up of George Keith, eighth Earl of Marischal, the Bishop of Edinburgh, the Lords Treasurer-Depute (Charles Maitland of Halton), Advocate (Sir George Mackenzie of Rosehaugh), Justice-Clerk

¹⁰³Ibid.

¹⁰⁴Ibid, 464, 488, 552. Though only admitted to the Council in October 1680, Lord Lorne had played a role in political affairs by being on the Committee Anent the Peace of the Highlands, *ibid*, 393.

¹⁰⁵Ibid, 266; Sir James Balfour Paul (ed), *The Scots Peerage*, vii, (Edinburgh, 1904), 138.

¹⁰⁶*RPCS*, vi, 460; *Fountainhall's Notices*, 263.

(Richard Maitland of Gogar) and Justice-General (Queensberry), Sir George Gordon of Haddo and John Drummond of Lundin.¹⁰⁷ Two days later it was remitted to the Earls of Atholl, Marischal and Dundonald, and Sir George Mackenzie of Tarbat, Sir George Monro and Haddo to consider the present condition of the Highlands.¹⁰⁸

Until 8 July 1680, it can be reasonably supposed that the consensus in Scotland was that the plan to divide the Highlands into five areas of magnate control, as devised by the Council under the guidance of James, would be implemented. On 8 July, however, the Council received a letter from Charles in which it was stated that until the troubles in Mull were settled, the existing two Highland companies were not to be disbanded and all former laws for suppressing Highland disorders were to be enforced. It was thus deferred to the Officers of State, the Earls of Montrose, Mar and Queensberry, and the Lords President of the Session, Tarbat, Haddo and Sir George Monro to consider this letter. Primarily their role was to discover what acts needed to be put into effect in order to carry out the King's wishes.¹⁰⁹

There was, however, one substantial improvement made in terms of the disruptions caused by the Earl of Argyll and the Macleans. Their dispute continued throughout the first half of 1680; in April Argyll sent Colonel Menzies to Tiree, and during the summer went himself to Mull.¹¹⁰ In contrast to the troubles in Caithness, however, a solution to those posed by Argyll and the Macleans was finally reached, in July 1680. This was when Charles agreed to buy lands worth £300 per annum, to add to the £200 per year agreed by Argyll, to grant Sir John Maclean an estate in Tiree.¹¹¹ Though this scheme never came into effect as planned, it did offer respite at the time from the problem that had for so long disturbed the peace of the Highlands.

¹⁰⁷Ibid, 466.

¹⁰⁸Ibid, 472.

¹⁰⁹Ibid, 493.

¹¹⁰NAS GD 112/39/130/9, Argyll to Caithness, 26 April 1680; NAS GD 112/39/131/4, Argyll to Caithness, 24 May 1680; Hopkins, *Glencoe*, 70; Lang, *Sir George Mackenzie of Rosehaugh*, 212-5.

¹¹¹Hopkins, *Glencoe*, 69-70; Lang, *Sir George Mackenzie of Rosehaugh*, 213.

Other matters were not so smoothly dealt with. On 4 March the Privy Council issued a proclamation against the lawless men who had robbed tenants on the Earl of Caithness's lands, the matter between him and Sinclair remaining unresolved because of the latter choosing to miss the meeting of the Highlanders in Edinburgh in favour of demolishing three of the Earl's houses and castles.¹¹² By the 17 June the matter was so far from being under control that Charles II expressed to the Council his desire that one of the Highland Companies be sent into the lands of Caithness to restore order and suppress the rioters there. Despite some protestations that it was unfair of Charles to give military assistance to the Earl of Caithness in a time of peace and that this merely equated to the granting of a commission of fire and sword against those who had not even been declared rebels, the Council fulfilled the wishes of the King by issuing instructions for the military to assist the Earl in settling the peace in his lands.¹¹³ By September the Council was forced to voice its concern to Caithness about the number of persons being killed in the execution of his commission which essentially seemed to be adding to disorders rather than quelling them. On the basis of a petition by Sinclair about the oppression that was being carried out by Caithness in the name of his commission, both parties were ordered to appear before the Council in Edinburgh.¹¹⁴

Enduring disputes remained unresolved and outright fighting continued in the Highlands. Despite much deliberation and discussion, the various committees and commissions failed to make much headway in securing the peace of the area and many disruptions were in practice largely unmitigated. Indeed, when James returned to Scotland the abiding search for an answer to problems posed by the Highlands was as necessary as ever.

The Remnant Covenanters

On top of the persisting complications in the Highlands, Scotland was disrupted by the increasing activities of the Covenanters, and it was between these

¹¹²*RPCS*, vi, 414; Hopkins, *Glencoe*, 69.

¹¹³*RPCS*, vi, 468; Airy, *The Lauderdale Papers*, iii, Bishop Paterson to Lauderdale, Edinburgh 17 June 1680, 201; Hopkins, *Glencoe*, 70.

¹¹⁴*RPCS*, vi, 544-7.

two issues that the Council oscillated, spending most of its time searching for solutions to the matters. By June 1679 the rebellion of the Covenanters threatened the stability of Scotland to such an extent that it was deemed necessary to deploy an English force to Scotland to assist in crushing the rising. This force was under the command of James Scott, Duke of Monmouth, Charles II's illegitimate son. The friction between the Covenanters and the government exploded a few days after Monmouth had arrived in Edinburgh, and culminated in the Battle of Bothwell Bridge, which took place on 22 June 1679. The conciliatory nature of the governmental victory, a major feature of which was that an Indulgence was granted to allow notable concessions to moderate Presbyterians, can largely be attributed to Monmouth.¹¹⁵ Thereafter, house conventicles tended to replace field conventicling and, to all intents and purposes, the more radical Covenanter movement seemed to be in marked decline. This trend was reversed in October 1679 by the return of Richard Cameron from Holland, where he had been ordained in the Scots Kirk in Rotterdam.¹¹⁶ In stark contrast to moderate Presbyterians, Cameron was an avowed enemy of Charles II, believing that he had lost the right to the throne when he had ordered the Covenants to be burnt.¹¹⁷ Together with the persistence of the notorious Covenanter, Donald Cargill, Cameron was to instil new impetus into the revolutionary Covenanting movement. Cameron was rapidly recognised as the natural leader of the Covenanters, who thereafter became known as Cameronians, even after the death of Cameron himself.

Gradually, increasing amounts of Council time was spent noting and deliberating on conventicles, the geographical spread of such meetings being fairly vast, ranging from East Lothian to Inverkeithing to Ross.¹¹⁸ On 12 March the Council appointed a Committee for Public Affairs, with power to suppress conventicles and other disorders. On this Committee were the Archbishop of St Andrews, the Earls of Atholl and Moray, the Bishop of Edinburgh, and the Lords

¹¹⁵Cowan, I.B., *The Scottish Covenanters 1660-1688* (London, 1976), 99.

¹¹⁶*Ibid*, 104.

¹¹⁷Paterson, R.C., *A Land Afflicted: Scotland and the Covenanter Wars 1638-1690* (Edinburgh, 1998), 265; Walsh, J., *History of the Catholic Church in Scotland from the Introduction to the Present Time* (Glasgow, 1874), 464.

¹¹⁸*RPCS*, vi, 414, 426, 447, 493.

Elphinstone, Treasurer-Depute, Register, Advocate, Tarbat and Richard Maitland, On the same day the Council additionally ordered troops to be quartered at the Canongate in Edinburgh as a precautionary measure in case any conventicles were held in the surrounding area.¹¹⁹ On 8 April a list of all categories of person regarded as an enemy of the King was published by the Council. This list included those who had participated in the late rebellion either in person or by way of donations of men or money, those who had not yet taken the bond, or who had broken the conditions of it, those who had borne arms at conventicles or resisted arrest after being found at one, and all assassins, especially those guilty of the murder of Archbishop Sharp.¹²⁰ Clearly, the consensus in the Council was that conventicles posed serious threats to the stability of Scotland: in essence, religious dissent was never far removed from political unrest.

This was certainly a view shared by James. Although he was at this stage resident in England, James received word from Scotland that field conventicles were on the increase. Accordingly, on 24 April 1680 he wrote to Lauderdale requesting that, his health permitting, he go to Whitehall in order to help resolve the issue.¹²¹ The urgency of the situation was explained by James: “the field conventicles encrease which generally have been the fore runners of a rebellion”.¹²² Hutton has attributed the increasing austerity towards dissent to a group of leading Scottish Councillors, of which only the Bishop of Edinburgh is named, who attended the King at Whitehall in April 1680 and convinced him that the Indulgence of 1679 only provided greater opportunity for rebellion.¹²³ Although Ian Cowan has asserted that the decision to curtail the concessions to Presbyterians directly stemmed from a petition by the Scottish Bishops, in particular Alexander Burnet, Archbishop of St Andrews,¹²⁴ the role of James in mitigating the Indulgence should not be underestimated. It was, after all, James who had summoned the meeting at

¹¹⁹Ibid, 429. The Committee for Public Affairs will be discussed in more depth in Chapter 5.

¹²⁰Ibid, 435-6.

¹²¹Airy, *The Lauderdale Papers*, iii, James to Lauderdale, 24 April 1680, 198.

¹²²Ibid.

¹²³Hutton, *Charles II*, 388.

¹²⁴Cowan, *The Scottish Covenanters*, 107.

Whitehall, and who had expressed the powerful notion that conventicles were likely to lead to outright rebellion. Such sentiments evidently prevailed because, shortly after the meeting at Whitehall, crucial aspects of the Indulgence of 1679 were revoked. In May 1680, house conventicles were banned and tough restrictions were placed on dissenting ministers, who were henceforth prohibited to meet either in presbyteries or within a twelve mile radius of Edinburgh.¹²⁵

On 3 June government troops were involved in a skirmish with two men defined by the Council's proclamation in April as enemies of the King. Near Queensferry, the troops clashed with the Covenanters Donald Cargill and Henry Hall, the latter being fatally wounded in the altercation. Cargill was placed under arrest but later escaped, something which was facilitated by the actions of a group of four women.¹²⁶ The troops did manage, however, to keep hold of Cargill's papers, one of which they found to be a new Covenant, which was later christened the Queensferry Paper. This document essentially challenged the right of the Stewarts to rule in Scotland and bound all signatories to uphold the freedom of the Presbyterian Church which was to be liberated from state control by the overthrowing of the Crown.¹²⁷

The concerns of the Council regarding this paper were compounded by the events of 22 June 1680, the anniversary of the Battle of Bothwell Bridge. Cameron and a group of 20 men rode into the town of Sanquhar near Dumfries and nailed a new Declaration to the market cross. Being later known as the Sanquhar Declaration this document declared that those who subscribed it, "disown Charles Stuart, who hath been Reigning, or rather (we may say) Tyrannizing on the Throne of Scotland."¹²⁸ It went on to disown James as, "a profest papist, as repugnant to our

¹²⁵Fountainhall's *Notices*, 265; Cowan, *The Scottish Covenanters*, 107; Hutton, *Charles II*, 388.

¹²⁶Fountainhall's *Notices*, 265.

¹²⁷*A True and Exact Copy of a Treasonable and Bloody Paper Called the Fanaticks New Covenant* (London, 1680), 3-9; Wodrow, *Sufferings*, iii, 207-212; Cowan, *The Scottish Covenanters*, 105; Stevenson, D., *The Covenanters: The National Covenant and Scotland* (The Saltire Society, 1688), 65; Macpherson, H., *The Covenanters Under Persecution. A Study of their Religious and Ethical Thought* (Edinburgh, 1923), 34; Paterson, *A Land Afflicted*, 267.

¹²⁸*The Declaration and Testimony of the True-Presbyterian, Anti-Prelatick, and Anti-Erastian Persecuted Party in Scotland*, given at Sanquhar, 22 June 1680,

Principles and Vows to the most High God” as well as protesting against his succession.

This act of bravado earned for Cameron and his closest associates a notoriety that established them as the main enemies of the government as well as justifying the new direction taken by the Council to stamp out all forms of dissent in Scotland. The Council issued rewards for the capture of the offenders, dead or alive, to the tune of 5000 merks for Cameron, 3000 merks for Richard Cameron’s brother, Michael, as well as Donald Cargill and Thomas Douglas, and 1000 merks for each of their followers. In contrast to the conciliatory policy of the Indulgence of the previous year, the summer of 1680 witnessed increasingly harsh methods of quashing dissent.¹²⁹ Letters were sent by the Council to various shires ordering the sheriffs to do their utmost to apprehend the traitors and government forces were instructed to begin a vigorous manhunt for them.¹³⁰ By the end of June 1680 there was a marked increase in the tendency of the Council to use force as a method of controlling nonconformity in Scotland. The Council also took the step of ordering the publication of the Sanquar Declaration so that loyal subjects could, “have a just abhorrence of the principles and practices of those villains”.¹³¹

After weeks of aggressive manhunts by the government forces, the troops finally met up with the rebels on 22 July at Aird’s Moss. The Cameronians suffered heavily with the loss of both Richard and Michael Cameron on the day, and the capture and subsequent execution of Hackston of Rathillet, commander of the Cameronian forces and assassin of Archbishop Sharp.¹³² The only figure of note remaining in the Covenanting movement was thus Donald Cargill. Undaunted by the

(London, 1680), 10; Paterson, *A Land Afflicted*, 267.

¹²⁹It has been asserted that the persecution carried out by government forces in the name of discovering rebels was far more extreme than was necessary, Wodrow, *Sufferings*, iii, 217-221.

¹³⁰*RPCS*, vi, 481; NAS GD 406/1/9173, Atholl on behalf of the Privy Council to the Duke of Hamilton, 1 July 1680; NAS GD 16/51/28, depositions against a Covenanting preacher, Alexander Heastie, 28 August 1680; NAS GD 16/51/30, 4 items from Lord Ross to Airlie about the hunting down of Covenanters; BL Add 22548, f90.

¹³¹*RPCS*, vi, 495; Paterson, *A Land Afflicted*, 268.

¹³²*RPCS*, vi, 507; Cowan, *The Scottish Covenanters*, 105; Paterson, *A Land Afflicted*, 268; Donaldson, G., *Scotland; James V- James VII* (Edinburgh, 1998), 371.

fate of his allies he continued to defy the orders of the government by holding field conventicles. In one held at Torwood the month before James returned to Scotland he excommunicated and delivered up to Satan Charles II and the Duke of York, as well as the Dukes of Rothes, Monmouth and Lauderdale, Sir George Mackenzie of Rosehaugh and General Dalziel.¹³³ Cargill continued to evade capture, despite the fine on his head being upped to 5000 merks,¹³⁴ and was to remain free for almost another year.

Nonetheless, by the time that James returned to Scotland in late October 1680, the explosion of radical Covenanting activities that had been witnessed in his absence had considerably died down. Certainly this was partly due to the demise of prominent Cameronians, including Richard Cameron himself, but it can also be attributed to the advice of the Secret Committee, which consisted of Rothes, Argyll, Queensberry and the Bishop of Edinburgh. They recommended that Lauderdale should procure from Charles II an extension of the indemnity by which rebels were pardoned of their crimes in return for taking a bond of assurance to the King and government, advice which shows that they did not simply intend to destroy all who had defied the authorities. The Secret Committee argued that those who had not already taken advantage of the indemnity due to ignorance should, notwithstanding the prescribed time having elapsed, be given a further opportunity to take the bond. Their motivation behind this scheme was to prevent “some of the late rebels from running into desperat courses”.¹³⁵ Accordingly, a Proclamation of Indemnity was issued on 7 October 1680 which allowed until 1 March 1681 to take the bond.¹³⁶

The Return of James

In October 1680, “it was again discoursed that the Duke of Yorke was to depart before the meeting of the [English] Parliament, some say to obey the King, others to avoid the violence of both Houses.”¹³⁷ When news arrived in Scotland that

¹³³Paterson, *A Land Afflicted*, 269.

¹³⁴*RPCS*, vi, 586.

¹³⁵Airy, *The Lauderdale Papers*, iii, the Secret Committee to Lauderdale, 13 August 1680, 202-4.

¹³⁶*RPCS*, vi, 560-1.

¹³⁷Browning, A., *Memoirs of Sir John Reresby. The Complete Text and a Selection*

James was again going to reside in Edinburgh, the Council wrote to all Councillors south of Aberdeen commanding them to attend his reception.¹³⁸ During this visit James was specifically required to work towards militia reform in Scotland and to use his influence to effect the peace of the nation.¹³⁹

After arriving at Leith on 26 October, James joined the Privy Council on 2 November. Again it can be seen that his presence was an incentive to some Councillors to attend the meetings of the Council. The average attendance over the course of the 58 meetings of the Council held between the return of James to Scotland and the opening of the 1681 Scottish Parliament on 28 July was 23.¹⁴⁰ Over the course of this period there were three new appointments to the Council. The Earl of Linlithgow's son, Lord Livingston, was admitted on 24 February 1681 and then, immediately before the opening of the Parliament, the Earl of Dumfries and the Earl of Ancrum were admitted, on 19 and 26 July respectively.¹⁴¹ On 4 January John Drummond of Lundin, brother of the Earl of Perth was appointed Master of the Artillery by way of a patent from Charles, and on the same day that Livingston was created a Councillor, Sir Robert Nairn was elevated to Lord Nairn. One of the more significant alterations came on the first day that James was again present at the Council. Following the retirement of Lauderdale in September, official news arrived in Scotland that his friend the Earl of Moray had been made the sole Secretary of State.¹⁴² The last meeting of the Council at which Moray had been present took place on 8 April 1680,¹⁴³ after which he had gone to live in England. That he continued to reside at the Court in London after his appointment as Secretary again left James as the outright and unchallenged focus of Scottish politics.

Due to the fact that Charles recognised that only 'small progress' had been made in terms of instituting the new model of the militia, one of the ostensible

from his Letters (Glasgow, 1936), 201.

¹³⁸*RPCS*, vi, 565.

¹³⁹*Ibid*; Turner, *James II*, 182; Callow, *The Making of James II*, 286; Lee, "Government and Politics in Scotland", 279.

¹⁴⁰*RPCS*, vi, 566 - vii, 162.

¹⁴¹*RPCS*, vii, 39, 161, 175.

¹⁴²*RPCS*, vi, 569; Airy, *The Lauderdale Papers*, iii, Thomas Murray to Lauderdale, 25 September 1680, 210; Hutton, *Charles II*, 388.

¹⁴³*RPCS*, vi, 423.

reasons he gave Rothes for sending James to Scotland once again was that his brother could thus work towards the 'better dispatch of that affair'.¹⁴⁴ Some steps had in fact been taken during James's absence with regards to implementing the new model of the militia. At the end on June the majors of foot and the lieutenants of foot and horse of the new model of the militia were ordered to rendezvous with General Dalziel to receive their official commissions.¹⁴⁵ Also, at the end of July, the officers of the new model of the militia were issued with a set of sixteen instructions about their new role. These included orders to ensure their men were properly trained, exercised, equipped and dressed. Lists were to be kept of their men's names and dates of birth, and the 'best qualified' were to be chosen to become sergeants.¹⁴⁶ Nonetheless, the martial innovations were not universally welcomed: notable opposition emanated from the shires of Stirling and Haddington, as well as the Earl of Perth.¹⁴⁷ The Secret Council also harboured a serious concern about the new model of the militia: other than by disbanding the two Highland companies, they could see no way to fund the new army.¹⁴⁸ Lee has asserted that James's second stay in Scotland was not a total success on the grounds that proposals for the 'new model' militia were dropped and in March 1681 troops were required to rendezvous in the normal way.¹⁴⁹ This is an overly harsh indictment of James. The Scottish military in fact continued to be of significant concern for him: the main reason for the lack of immediate results was not that James neglected martial issues, but rather the enduring dearth of sufficient funds to support the changes. James did in fact go on to successfully confront this problem by securing additional taxation from the 1681 Parliament to maintain the army.

¹⁴⁴Ibid, 565.

¹⁴⁵Ibid, 478.

¹⁴⁶Ibid, 511-2.

¹⁴⁷NAS GD 124/13/18, Papers of the Earls of Mar and Kellie, 29 July 1680, Stirlingshire council minutes; Airy, *The Lauderdale Papers*, iii, the Secret Council to the Duke of Lauderdale, 4 September 1680, 206-8; NAS GD 406/1/9207, Perth to Hamilton, 12 September 1680; NAS GD 406/1/9210, Perth to Hamilton, [28 December 1681]; *RPCS*, vi, 575-6.

¹⁴⁸Airy, *The Lauderdale Papers*, iii, 206-8.

¹⁴⁹Lee, "Government and Politics in Scotland", 279.

That James was acutely aware of the financial difficulties of Scotland is obvious. Shortly after his return to Scotland he displayed that he readily adhered to the prevailing mercantilist ideology and focused on improving the somewhat dire economic situation by guiding the Council in instituting remedial measures. These included establishing a Commission in early December to prevent the importation of Irish victual, cattle and horses.¹⁵⁰ On 27 Jan 1681 a Committee was created to consider the decay of trade and scarcity of money. On this were the Lords of the Treasury, the President of the Session, Register and Advocate, as well as Collington, Tarbat and Haddo.¹⁵¹ Particular attention in the campaign to improve Scotland's finances was conferred on the importation of certain items. Numerous goods, including luxury items such as silver and gold thread and lace as well as foreign-made gloves, boots and shoes, were accordingly prohibited. All illegally imported items were to be burnt.¹⁵² Specifically at the request of James, the Committee of Trade also considered the matter of unnecessary extravagance at baptisms, marriages and burials with a view to restraining wasteful expenditure.¹⁵³ On 9 June 1681, a new Committee of Trade was appointed, on which were placed the Officers of State, the Lords of the Treasury, Stair, Collington, Tarbat, Haddo and Lundin.¹⁵⁴ Shortly thereafter, the Council ordered the burning of cloth imported from London contrary to the former proclamation proscribing the same.¹⁵⁵ During his second visit to Scotland, the improvement of the economy was clearly imperative to James, an attitude which he was to carry into the 1681 Parliament, and beyond.

Popular Protest

On James's second visit to Scotland, there occurred some instances of popular anti-Catholicism. The first of these took place on 26 December 1680, being Christmas Day because the 25th had fallen on the Sabbath.¹⁵⁶ On this day some

¹⁵⁰*RPCS*, vi, 594-7.

¹⁵¹*RPCS*, vii, 25.

¹⁵²*Ibid*, 45-6, 97-105.

¹⁵³*RPCS*, vii, 110.

¹⁵⁴*Ibid*, 126-7.

¹⁵⁵*Ibid*, 150.

¹⁵⁶*Fountainhall's Selections*, 18.

students from the College of Edinburgh attempted to execute their plan to burn an effigy of the pope in the streets of the capital. Having heard about their design beforehand, the authorities had ordered troops stationed on the outskirts of the city to proceed to the centre so that they could prevent the students from effectuating their plan. Nonetheless the boys from the College managed to evade the troops and took their effigy to the High Street, where they, “first clodded the picture with dirt, and then set fyre to the powder within the trunk of his body”.¹⁵⁷ Despite one of the boys involved dismissing their actions as being a childish and trivial act which had been blown out of all proportion, some others, including many in the government, saw it as tantamount to being, “no less than some formed Combination, or Plot”.¹⁵⁸ Such sentiments were compounded by the fact that many of the students, along with some merchants and traders, wore blue ribbons in their hats on which the words ‘No pope’, ‘No priest’, ‘No Bishop’ and ‘No athiest’ were written.¹⁵⁹ The significance behind the ribbons of blue was that God had directed Moses to order the Israelites to wear such adornments to remind themselves of the commandments of the Lord and thus forever obey them.¹⁶⁰ Although some people felt that the action of the students was directed against Catholicism in general, others were incredulous at the thought that it was “ane inhospitall affront, designed to the Duke of York”.¹⁶¹

Anger felt about these disturbances was compounded by the fact that the house of the Provost of Edinburgh, Sir James Dick of Priestfield, was burnt on 11 January 1681. Given that it was he who had first heard of the design to burn the effigy of the pope, and that there had been reports that the students had threatened to commit such an act, it is of little surprise that they were accused of the crime.¹⁶² After a somewhat flawed investigation into the burning of the house, the Council took a rather stern stance against the students, issuing the order for the College to be

¹⁵⁷Ibid.

¹⁵⁸*A Modest Apology for the Students of Edenburgh Burning a Pope, Humbly Rescuing the Actors from the Imputation of Disloyalty and Rebellion, with which they were charged in a letter* (February, 1681), 3-4.

¹⁵⁹Fountainhall’s *Selections*, 19.

¹⁶⁰Ibid; Holy Bible, Numbers 15:38.

¹⁶¹Fountainhall’s *Selections*, 18-19.

¹⁶²*A Modest Apology*, 4, 10; Fountainhall’s *Selections*, 25; Walsh, *History of the Catholic Church in Scotland*, 465.

closed to everyone other than students of Divinity and forbidding those involved in the tumults from entering the city of Edinburgh within a period of fourteen months.¹⁶³ Though the College was reopened in the following month, immediate reactions to the measures of the Council caused many to question their handling of the matter. Fountainhall rather cuttingly asked, “Shall the succeeding generation be starved of good learning, because in a Protestant countrie the children in mockerie brunt the Pope?”¹⁶⁴ One of the students involved in the riot of 26 December expressed his inclination that it was James who was behind the Council’s severity. He declared that the Scots had “a Successour, who is resolved to look upon peoples professing their detestation of Popery to be a Crime equal to Rebellion: And every publick owning of the Protestant religion to be an intollerable affront to his Person.”¹⁶⁵ Whether or not the students’ riot had been intended to express their dislike of Catholicism in general or James in particular, it can certainly be seen that, on account of his religion, James did not enjoy universal popularity in Scotland.

In a further incident, on 5 May 1681, five women threw stones and other projectiles at James’s carriage as he sat in it. The women, who were in the tolbooth in the Canongate for owning Cargill’s “traitorous positiones”, were punished by the Council by being removed from the tolbooth and put in the Correction House where they were forced to work spinning and carding. Moreover, they were to be whipped every morning and night and to be fed only bread and water.¹⁶⁶ Though this incident was relatively minor, it too points to the fact that James was not welcomed by everyone in Scotland. Nonetheless, James continued to enjoy the crucial and sustained support of the vast majority of those involved in governing Scotland, and

¹⁶³*RPCS*, vii, 3, 13, 23; GD157/1641, *A Proclamation Offering a Reward and Indemnity to such as shall discover the burning of Priestfield, 13 January 1681* (Edinburgh, 1681); GD157/1641, *A Proclamation Concerning the Students in the College of Edinburgh, 20 January 1681* (Edinburgh, 1681); Fountainhall’s *Notices*, 281.

¹⁶⁴Fountainhall’s *Selections*, 26.

¹⁶⁵*A Modest Apology*, 18.

¹⁶⁶*RPCS*, vii, 120; Fountainhall notes an incident where some women were severely thrashed for throwing trash at James’s coach on 23 June 1681. This may be the same incident, because there is no record of such an occurrence on this date in the records of the Council, Fountainhall’s *Notices*, 300.

continued to work harmoniously with them to solve the issues which plagued Scotland.

The Continued Battle Against Dissent

Given that many of the disturbances in the Highlands were not much closer to being resolved than when James had left Scotland eight months earlier, the Council remained somewhat concerned about the matter of stability in that region. After demanding on 3 September that Caithness and Sinclair convene in Edinburgh with the intention of settling their disputes, the Council had waited until the arrival of James before nominating a committee to examine the witnesses called to give evidence in the affair.¹⁶⁷ Onto this committee were placed George Livingston, third Earl of Linlithgow, Perth, Balcarras, the Bishop of Edinburgh, the Treasurer-Depute, the Lord Register, the Lord Advocate, the Justice-Clerk, Collington, Sir Andrew Ramsay of Abbotshall and Haddo. On 9 December license was granted to both Sinclair and Caithness to pursue each other in front of the Council.¹⁶⁸

In January it was decided that Caithness had no right to garrison Sinclair's house without warrant from the Council and a process for treason was begun against him, though nothing was to come of this, largely because of the efforts of Rosehaugh.¹⁶⁹ Indeed, the issue between Sinclair and Caithness regarding the right to the Earldom of Caithness was to linger on for many months: finally, on 15 July 1681, the Council received a letter from the King which gave Sinclair the right to sit in the approaching Parliament as the Earl of Caithness, and later restored his rightful lands to him.¹⁷⁰ Despite these developments, Glenorchy was not left with nothing. He was granted a new title, that of Earl of Breadalbane, thus allowing him to sit in the Parliament by virtue of his continued status as member of the nobility.

Regarding the various other disruptions in the Highlands, the Council wrote to Charles and Moray in March 1681 to voice their approval of James's plan to raise two neutral companies of men, to add to that of Mar, with a view to securing the

¹⁶⁷*RPCS*, vi, 572; *Fountainhall's Notices*, 276.

¹⁶⁸*Ibid*, vi, 597; Hopkins, *Glencoe*, 84.

¹⁶⁹*RPCS*, vii, 6-7, 10-13; Hopkins, *Glencoe*, 84; *Fountainhall's Notices*, 276.

¹⁷⁰*RPCS*, vii, 160; *Fountainhall's Notices*, 302; Hopkins, *Glencoe*, 84.

Highlands from thieves and robberies. They also issued a proclamation to the effect that certain landlords, chieftains and heads of families were to appear before the Council in Edinburgh on the second Thursday of each July in order to take a bond which obliged them to uphold the peace.¹⁷¹ Such measures were sanctioned by Charles on 6 April and, given that there had been a form of mediation in the conflict between Argyll and the Macleans, it seemed that inroads were at last being made in terms of promoting generic peace in the Highlands. Nonetheless, the measures instituted by the authorities proved to be of little immediate effect, with policing and enforcement of the government's policies being conspicuously impotent.¹⁷² Additionally, the two companies were not in fact sent to the Highlands until after the 1681 Parliament.

The other serious concern of the Council during the period before the meeting of the Parliament in July 1681 was the continued search for and trials of Covenanters. Military commissions were granted to officers, including John Graham of Claverhouse and Adam Urquhart of Meldrum, which empowered them to hold courts in which to try rebels. Many of these officers gained nasty reputations as a consequence of the brutality that was employed whilst hunting down Covenanters: Claverhouse became known as Bloody Clavers and a complaint was made to the Council about the methods employed by Meldrum.¹⁷³ The trials of the most infamous Covenanters remained the prerogative of the Privy Council, who had the power to use torture to extract confessions and information from prisoners. It was largely because of this that James gained the rather ugly and undeserved reputation bestowed on him by some historians as being a lover of torture.¹⁷⁴ Although James advocated the harsh treatment of those he regarded as extremists, whose actions were politically disruptive, he actually displayed notable leniency to other nonconformists.¹⁷⁵ The Lord Advocate, Rosehaugh, recognised this at the time,

¹⁷¹*RPCS*, vii, 65, 76.

¹⁷²Callow, J., *The Making of King James II: The Formative Years of A Fallen King* (England, 2000), 289.

¹⁷³*RPCS*, vi, 606-14; Mackay, *Memoir of Sir James Dalrymple*, 142.

¹⁷⁴See Hay, *The Enigma of James II*, xvi, 1-8; Turner, *James II*, 186-7.

¹⁷⁵*RPCS*, vii, 123; Miller, *James II*, 107; Cowan, *The Scottish Covenanters*, 106; Hay, *The Enigma of James II*, 17-18; Speck, W.A., *James II Profiles in Power* (London, 2002), 28-9; Ashley, *James II*, 137; Turner, *James II*, 185-6; Walsh,

claiming that, “No man was executed who would say God Bless the King, or acknowledge his authority”.¹⁷⁶ Even Burnet recognised that James attempted to avoid executions by offering reprieves in return for acknowledging the King’s authority.¹⁷⁷ Under James’s direction, clemency was certainly favoured over swift retribution, an example being the recommendation of mercy given to John Murray after he expressed repentance for rejecting Charles’s authority.¹⁷⁸

Shortly after the return of James, the Council turned their attentions to the trials of, amongst others, James Skeen, Archibald Stewart and John Spreull. On 13 November it was ordained that Linlithgow, Perth, Ross, the Treasurer-Depute, the Advocate, the Justice-Clerk and Dalziel were to examine the prisoners: if they remained unsatisfied with their answers, they were authorised to employ torture.¹⁷⁹ On 15 November a new commission was issued by the Council: Argyll, Linlithgow, Perth, Queensberry, Ross, the Treasurer-Depute, the Lord Register, the Lord Advocate, the Justice-Clerk, Collington, Daziel and Haddo were instructed to further interrogate the prisoners. Again, in order to make them answer specific questions set by the Council, torture was to be used if necessary.¹⁸⁰ The questions were designed to elicit such information as whether or not they were present at Bothwell Bridge, Torwood, or other similar events, and to discover if they owned or disowned the King’s authority. Further to be demanded of them was the whereabouts of Cargill, whether or not there was a plot to murder the King and subvert the government, and who their correspondents were, at home and abroad.¹⁸¹

History of the Catholic Church in Scotland, 464.

¹⁷⁶Hay, *The Enigma of James II*, 17.

¹⁷⁷Bishop Burnet’s *History of His Own Time from the Restoration of King Charles II to the Conclusion of the Peace of Utrecht in the Reign of Queen Anne*, volume ii, (London, 1815), 147;

¹⁷⁸*RPCS*, vii, 121.

¹⁷⁹*RPCS*, vi, 573.

¹⁸⁰*Ibid*, 574.

¹⁸¹*Ibid*; *A True and Impartial Account of the Examinations and Confessions of several Execrable Conspirators Against the King and his Government in Scotland. Together with the Proclamation Issued upon that Occasion by the Lords of His Majesties Privy Council of that Kingdom* (London, 1681), 1-13.

The prisoners were tortured by means of The Boot, which resulted in various confessions being gleaned from them.¹⁸² James Skeen upheld that he thought it was lawful to kill the King in order to protect the Covenant, something for which the Council rewarded him with a warrant for his execution.¹⁸³ Skeen was joined in being condemned to death by two others, Archibald Stewart and John Potter who had been involved in Aird's Moss and the signing of a bond which renounced the King respectively.¹⁸⁴ Skeen's execution was postponed to allow him time to confer with pious men and consider the implications of his words, but he chose to adhere to his former confession and was subsequently executed with Stewart and Potter on 1 December.¹⁸⁵ Immediately prior to Skeen's execution, he was visited by Sir John Lauder of Fountainhall who found him to be settled, composed and assured of salvation. Part of the reason for this may have been that he had recently received a letter designed to give him resolution from Donald Cargill. Cargill assured Skeen by saying, "valient Champion you die not as a fool, tho the apostate, unfaithfull and lukewarme ministers and professors of this generation thinke so, and say so, they shall be traitors and most part die foolls."¹⁸⁶ Fountainhall wrote that many men were somewhat unsettled by the notion of execution on the basis of opinions alone, himself deeming it a "popish maxime", though he was reconciled with the idea in the knowledge that Skeen's beliefs were designed to subvert the monarchy and the government and were thus treasonous.¹⁸⁷

The Councillors followed these notorious trials by keeping the pressure applied in terms of the search for Cargill and others who conspired against Charles and his government. They published a Proclamation in which they outlined how, despite their leniency in issuing the Indulgence, many Covenanters like Donald

¹⁸²*RPCS*, vi, 574, 582; *A True and Impartial Account*, 1-13; Fountainhall's *Selections*, 8; Mackay, *Memoir of Sir James Dalrymple*, 143.

¹⁸³*RPCS*, vi, 586, 589; *A True and Impartial Account*, 1-13; NLS Wodrow Quarto XXVII, Papers and Testimony of Skeen, November 1680; Fountainhall's *Selections*, 8-9.

¹⁸⁴Fountainhall's *Selections*, 10.

¹⁸⁵*RPCS*, vi, 589; Fountainhall's *Selections*, 9-10.

¹⁸⁶Fountainhall's *Selections*, 10-11; NLS Wod Oct IX ff122-3, Letter from Cargill to Skeen who suffered martyrdom in Edinburgh 1680.

¹⁸⁷Fountainhall's *Selections*, 11.

Cargill had continued to commit evils acts such as treason and murder. The Proclamation went on to command all subjects to do their utmost to discover such persons, saying that if any should be killed by magistrates or others in the course of their attempted apprehension, no prosecutions would ensue.¹⁸⁸ The reward for the capture of Cargill was also raised and in December General Dalziel was ordered to arrest everyone the Advocate listed as witnesses in the trial of rebels.

Throughout 1681 the Council continued to be involved in the pursuing of Covenanters and the trial of prisoners.¹⁸⁹ None, however, were as notorious as the proceedings of the previous year. In fact, as the year progressed, there were several letters sent to Moray and Charles which recommended mercy to certain men.¹⁹⁰ It certainly remained the case that, under James, minor offences were treated with leniency, whilst more 'fanatical' crimes were very harshly punished. Immediately prior to the 1681 Parliament, the notorious and evasive Cargill was eventually captured. The Council wasted no time in issuing a process of treason and forfeiture against him before decreeing that he was to be executed on 27 July, the final dealing with the Covenanters before the commencement of the Parliament.¹⁹¹

Conclusion

The impact of James, Duke of York on Scotland between November 1679 and the meeting of the Parliament in July 1681 was massive. His residency in Edinburgh was welcomed by the Scottish elite as being indicative of the glorious return of a Stewart, and once the matter of his acceptance onto the Council regardless of the Oath of Allegiance was settled, he established himself as an integral and regular attendant at that body. The effects of his inclusive approach to the government of Scotland were immediately palpable and succeeded in encouraging broader participation in the administration of the nation. Under the guidance of James during his first visit to Scotland, the Highlands and the militia quickly emerged as priorities for the Council. Clearly, the country's stability was an

¹⁸⁸RPCS, vi, 585-6; *A True and Impartial Account of the Examinations and Confessions*.

¹⁸⁹RPCS, vii, 13, 18, 28, 30, 34, 93, 109, 137.

¹⁹⁰Ibid, 121.

¹⁹¹Ibid, 162; Fountainhall's *Notices*, 305; Fountainhall's *Selections*, 45.

overriding concern for the Duke of York, who recognised that radical measures were required to ensure prolonged peace in Scotland.

Even during his absence, between February and October 1680, Scotland continued to experience the enduring influence of the Duke of York. The men whom James had encouraged back into Scottish politics continued in their active participation even after he left. Unfortunately, the potency of James was not entirely positive. As can be seen from his role in convening the meeting at Whitehall, which resulted in the revocation of substantial parts of the Indulgence, James remained heavily responsible for driving Scottish policy even whilst he was resident in England.

When James returned to Scotland in October 1680 he once again championed the interrelated issues of military reform and Highland stability. Having seen the postponement of his earlier recommendation that 'divide and rule' be employed in the Highlands, he innovated new ways to control the area. The favoured methods encompassed both coercion, through the intended installation of a military presence in the Highlands, and conciliation, through co-operation with the leading clansmen. In addition, James's second visit saw him actively working towards the suppression of religious dissent which slipped into the realms of political opposition, the most notable of which came from the committed Covenanters, the Cameronians.

CHAPTER 3

James, Duke of York, and the 1681 Scottish Parliament

Introduction

Some of the traditional perspectives of the 1681 Scottish Parliament have dwelt on the fact that it was a body which was rather obsequious to the Crown. John Miller stated that James had no difficulty in pushing through the measures he desired, a statement supported by Ashley, who claimed that the Parliament was packed with members friendly to the government.¹ Ferguson later supplemented these sentiments by describing the 1681 Parliament as “tame”,² a view very much adhered to by Lee, who claimed that despite a debate on the Test there was a policy of nonresistance in the Parliament,³ and Birkeland, who termed it “slavish”.⁴ Colquhoun asserted that the Parliament was, “unusually subservient to royal interests,” though does acknowledge that there were some debates, a point formerly made by Rait.⁵

In 1901 Rait declared that, “between 1660 and 1689 the Scottish Parliament was once more the merest instrument for official sanction”, though he later admitted that in the case of the Parliament of 1681 there was evidence of increased opposition, attributing this to events which had occurred in both England and Scotland immediately prior to the Parliament.⁶ In this observation Rait made a very important point: evidence of opposition can be found, rather than in the legislation of the 1681 Parliament, in the debates which took place. Judgements which claim the

¹ Miller, J., *James II; A Study in Kingship* (England, 1977), 108; Ashley, M., *James II* (London, 1977), 138.

² Ferguson, W., *Scotland's Relations with England; A Survey to 1707* (Edinburgh, 1994), 160.

³ Lee, R. “Government and Politics in Scotland, 1661-1681”, (University of Glasgow, PhD thesis, 1995), 280.

⁴ Birkeland, M., “Politics and Society in Glasgow c.1680-c.1740”, (University of Glasgow, PhD thesis, 1999), 19.

⁵ Colquhoun, K.M. “‘Issue of the Late Civill Wars’: James, duke of York and the government of Scotland, 1679-1689”, (University of Illinois, PhD thesis, 1993), 147; Rait, R.S., *The Parliaments of Scotland* (Glasgow, 1924), 86.

⁶ Rait, R.S., *The Scottish Parliament before the Union of the Crowns* (Glasgow, 1901), 107; Rait, *The Parliaments of Scotland*, 85-6.

Parliament was wholly deferential to the government simply do not allow appropriate significance to the numerous objections made during the course of the parliamentary session. Additionally, it should be noted that some measures forwarded by the Lords of the Articles were, although of lesser significance, actually rejected by the “plurality of voices of the Parliament.”⁷ In fact, “the opposition, during the sittings of this Parliament, was conducted with much keenness and vigour, but the Government were, in general, supported by a majority of from thirty to forty votes.”⁸

James as High Commissioner

As mentioned in the previous Chapter, in order to institute necessary alterations within the Scottish military, additional funds were desperately required. This was one reason why “many of the chief [unnamed] men in Scotland” advised James that it would be for “the King’s service and his advantage” to call a Parliament.⁹ Accordingly, James acquainted his brother with their sentiments, and nominated himself for the role of King’s Commissioner on the grounds that he was already in Scotland and that it would be unfit for anyone else to assume the role in his presence.¹⁰ Subsequently, the King ordered Moray, as Secretary of State for Scotland, to send James a commission which would make him, to contemporary observers, ‘Viceroy of Scotland’.¹¹

Reminiscent of the dissent over James sitting in the Privy Council without the Oath of Allegiance, there was some contention in Scotland over the legality of James accepting the position of High Commissioner to Parliament without taking the oaths

⁷ Fountainhall’s *Notices*, 321.

⁸ *Letters Illustrative of Public Affairs in Scotland, Addressed by Contemporary Statesmen to George, Earl of Aberdeen, Lord High Chancellor of Scotland, 1681 to 1684*, Dunn, J., (ed) (The Spalding Club, Aberdeen, 1851), xxviii; Fountainhall’s *Notices*, 327; Rait, *The Parliaments of Scotland*, 87.

⁹ *The Life of James II King of England, &c, Collected out of Memoirs Writ of His Own Hand*, volume i, Clarke, J.S. (ed), (London, 1816), 683; *RPCS*, vii, 148-9; Hutton, R., *Charles the Second, King of England, Scotland and Ireland* (Oxford, 1989), 412.

¹⁰ Clarke, *The Life of James II*, i, 683.

¹¹ *Calendar of State Papers Domestic, 1680-1681*, F.H. Blackburn Daniell (ed), (London, 1921) 322; *RPCS*, vii, 148-9.

and receiving the sacrament according to the Church of England.¹² In fact, the Duke of Hamilton was asked by a body of about forty (unnamed) men to lead the opposition to the appointment of James as High Commissioner to the Scottish Parliament.¹³ Burnet reasoned that Hamilton's refusal stemmed from his awareness of the negative experience of political ostracisation and indeed the futility of being in a minority opposition,¹⁴ though in fact Hamilton did resist the Court over a number of other measures. The rationale for his unwillingness to lead such a large opposition to James's Commission may in fact have been based on political expediency: apparently James offered to have Hamilton readmitted to the Privy Council, out of which he had been ejected by Lauderdale. It is indicated in James's *Memoirs* that although Hamilton at first declined this proposal, after sounding out the general consensus on the matter he became more enamoured with the Duke's suggestion, finally obtaining his readmittance to the Council upon the departure of James from Scotland in May 1682.¹⁵

Despite the private discussions of the forty-strong 'factious partie', no formal objection to James being named as High Commissioner was forwarded in the Parliament; it was found that the statute made in the first Parliament of James VI, which precluded those who did not conform to the established religion from assuming offices, did not, in fact, extend to the position of Commissioner.¹⁶ Further, an investigation by the lawyers of Edinburgh into the legality of James accepting the position returned the verdict that the Privy Council in Scotland could not interfere with the Commission given to him as it had been issued in England under the Privy Seal.¹⁷ Nonetheless, Fountainhall records that exception was taken (again, by

¹²*CSPD* (1680-1681), 322.

¹³Clarke, *The Life of James II*, i, 684; *Bishop Burnet's History of His Own Time from the Restoration of King Charles II to the Conclusion of the Peace of Utrecht in the Reign of Queen Anne*, volume ii, (London, 1815), 148.

¹⁴Burnet, *History of His Own Time*, ii, 148; Colquhoun, "Issue of the Late Civill Wars", 116.

¹⁵Clarke, *The Life of James II*, i, 684; *RPCS*, vii, 415.

¹⁶Clarke, *The Life of James II*, i, 684; Burnet, *History of His Own Time*, ii, 148; Fountainhall's *Selections*, 46; Rait, *The Parliaments of Scotland*, 86; Ouston, H., 'From Thames to Tweed Departed: The Court of James, Duke of York in Scotland 1679-82', in Cruickshanks, E., *The Stuart Courts* (Gloucestershire, 2000), 276.

¹⁷*CSPD* (1680-1681), 322.

unnamed persons) when James continued to absent himself from Protestant services after his admittance as Commissioner to the Scottish Parliament. This was on the grounds that, as Commissioner, James effectively represented the King, who was the head of the Protestant Church, and thus should have put his duty ahead of his private principles. It was generally held, however, that James was actually wiser not to alter his habits because this would have fostered the opinion that he was a hypocrite.¹⁸

As High Commissioner, James displayed an eager desire to operate in a way that would best serve the Crown. On 23 June he wrote to Lauderdale, who had of course been the last High Commissioner to the Scottish Parliament, asking for the old Duke's advice. By virtue of Lauderdale having held the position many times, James felt comfortable tapping into his wisdom about matters such as what the usual manner was for choosing a president in the event of the Chancellor's absence. This was to prove an especially astute enquiry in light of the fact that the Duke of Rothes actually died two days prior to the opening of the Parliament which thus sat without a Chancellor. James was also particularly keen to find out from Lauderdale about previous private instructions so that he would be in a better position to propose a draft of the same to Charles for the Parliament of 1681.¹⁹

As far as the reply from Lauderdale was concerned, he informed James that his experience had taught him to pay particular attention to the management of parliamentary elections. Lauderdale added that he hoped James would not need such a precaution "seing it may in reason be thought impossible there should be any opposition made or stormes raised against such things as yow shall in yo[u]r wisdome propose."²⁰ Lauderdale additionally assured James that Rothes would be of use to him with regards to managing the Parliament: in essence, Lauderdale suggested that James regard Rothes as chief government whip. The former Secretary also notified James that he had never dealt with a situation in which the Chancellor was absent from Parliament, and that the best advice he could give was for James to consult the Scottish lawyers to find out if there had ever been a precedent set on the

¹⁸Fountainhall's *Selections*, 46-7; Rait, *The Parliaments of Scotland*, 86.

¹⁹Airy, *The Lauderdale Papers*, iii, James to Lauderdale, 23 June 1681, 223.

²⁰Ibid, Lauderdale to James, 4 July 1681, 223-4; Turner, *James II*, 187; Lee, "Government and Politics in Scotland, 1661-1681", 280.

matter. Failing the existence of an established law, Lauderdale advised James to ask the lawyers to send their opinions to the Secretary and King so that they could decide on the issue.²¹

On 4 July 1681 James was sent eight specific instructions with regards to the King's wishes about the proceedings of the Scottish Parliament. The principle instruction was based on Charles II's objective of preserving the rights and privileges of the Church. In order to do this it was said that fanatical schisms had to be extinguished and the persons, offices and revenues of the Bishops were to be protected. Secondly, the King asked that the royal prerogative and the succession be vigorously asserted. The third order given to James indicated the concern of the elite about religious dissent in that it again stated that measures were to be taken to allow for the suppression of fanaticism and conventicles. The next directive to James was that to ensure the current supply, as granted by the 1678 Convention, was extended in order to further fund the army. The King's fifth instruction allowed for the adjournment of Parliament from time to time. The following command was that the interests of the Royal Burghs should be promoted and that only residents and 'traffickers' may represent them. The penultimate direction of Charles to his brother empowered James to knight whomever he chose and the final request was that he secured the private rights and properties of subjects in relation to one another.²²

These instructions were supplemented two weeks later when Charles issued James with the additional order "to give particular countenance and encouragement to all who shall serve us faithfully and zealously in the ensuing Parliament and give us information of such members as shall be remiss or oppose our service therein."²³ Further, James was secretly instructed to declare anyone he wished a rebel and break up conferences of men of whom he did not approve, as well as to preserve the ancient power and rights of the Articles.²⁴

²¹Airy, *The Lauderdale Papers*, iii, Lauderdale to James, 4 July 1681, 224.

²²CSPD (1680-1681), 343.

²³Ibid, 363.

²⁴BL Add 11252, f8; Hutton, *Charles II*, 412.

Preparations for the Parliament

The two month period immediately preceding the Parliament saw various concrete preparations being made for the sitting of that body. On 14 June the Privy Council ordered that all sheriffs publish the proclamation which announced that a Parliament would be held on 28 July. This was followed two days later with a declaration demanding that a national fast take place on 29 June (or 6 July in remote areas). The purpose of this fast was to show repentance to God for “permitting many who have departed from the communion of this national Church to give themselves over to embrace and believe sad, blasphemous, sanguinary and treasonable delusions”, God’s anger at this having evidently been felt through the presence of “a long, scorching and threatning drought”.²⁵ Though undoubtedly written with the Covenanters in mind, at least in part, the implicit attack on the Catholics was hard to miss. It is most revealing that James was absent from the Council on the day that the proclamation for the fast was announced.²⁶ The decision was also made that new elections were required and, in accordance with the wishes of Charles, the royal burghs were given the order to obey their own regulation and elect none other than residents and traders to represent them.²⁷

These steps were supplemented on 7 July when the command was given by the Privy Council for raising the Court of Session so that the Parliament could meet in Parliament House.²⁸ Further, as outlined in the previous Chapter, the controversy surrounding the title of Earl of Caithness was cleared up. John Campbell of Glenorchy had been awarded the title of Caithness in 1677 in lieu of debts due to him by the late Earl of Caithness. A lengthy feud then ensued between Glenorchy and George Sinclair, the grandson and legal heir of the late Earl of Caithness. Finally, on 15 July 1681 the Privy Council sent a letter to Charles asking that he consider the claim of Sinclair, with the result that he was allowed to assume the title

²⁵*RPCS*, vii, 132.

²⁶*Ibid.*

²⁷*CSPD* (1680-1681), 355; Wodrow, R., *The History of the Sufferings of the Church of Scotland from the Restoration to the Revolution*, volume iii, (Glasgow, 1829), 287.

²⁸*RPCS*, vii, 159.

of Caithness and sit in the Parliament as such.²⁹ Evidently the Earl of Moray had played a large role in persuading Charles, who was unwilling to grant double titles, to opt for this amendment. In a letter to the new Earl of Caithness he stated, "I assure you it cost me a price."³⁰ Glenorchy was compensated for the loss of the title of Caithness by the gift of that of Breadalbane, thus allowing him to also sit in the 1681 Parliament. Additional last minute alterations in personnel saw the advancement of the Earls of Dumfries and Ancrum to the status of Privy Councillors just days before the opening of the Parliament.³¹

A matter of particular regard for James was the opening ceremony, or Riding of the Parliament. Although this can be attributed to the characteristic enthusiasm with which he embraced his role as Commissioner, it is also likely that James's concern was partly derived from a personal wish to demonstrate his prestige to the wider political world. A grand and flawless opening ceremony would provide symbolic proof, particularly to the exclusionists in England, that James commanded a powerful position by virtue of the substantial support he enjoyed from the Scottish political elite. On 21 July, at the request of James, it was remitted to the Officers of State and Lords of the Treasury to consider the order of precedence at the Riding of the Parliament so that the likelihood of arguments over the issue would be kept to a minimum.³² It was their advice that the established format, that the procession should mirror the order of the rolls of Parliament, should be heeded. Having accepted the advice of the Committee, James and the Council then issued, on 25 July, detailed instructions about the ceremony.³³

²⁹Ibid, 160, 184-5; Fountainhall's *Notices*, 302; Hopkins, *Glencoe*, 84.

³⁰NAS GD 112/39/133/3, Moray to Caithness anent his new title, 13 August 1681.

³¹*RPCS*, vii, 161-2.

³²Ibid, 162.

³³NLS, Rosebury Collection of Pamphlets, Ry 1.1.48, Scottish Tracts, *An Act by his Royal Highness, His Majesties High Commissioner, and the Lords of the Privy Council, Establishing the Order of the Ryding &c. at the opening of the ensuing Parliament, and several Circumstances relating thereto, conform to the ancient practice of the Kingdom of Scotland, appointed to be Recorded in the Books of Privy Council, and the Lyons Books, at Edinburgh, July 25 1681* (Edinburgh, 1681); NAS GD 157/1674, Scott of Harden Papers, another copy of the Act; *RPCS*, vii, 162; Turner, *James II*, 188.

The act was incredibly specific and dealt with every aspect of the procession of the commissioners of the shires and burghs, the nobles, the clergy, the Officers of State and the Commissioner himself from the Palace of Holyrood to Parliament House. Prominent men included the Marquess of Douglas, who bore the Crown, the Earl of Mar who, as the eldest Earl present, carried the Sceptre, and the Earl of Argyll who conveyed the Sword.³⁴ It seems that precedence in the order of the procession was influenced by both tradition and the personal desires of James. This is illustrated by the fact that Lord Sinclair got precedence over the Lord Semple because he was more of a follower of James, a fact which the latter protested against on the opening day of the Parliament.³⁵ The act of 25 July ordered that there was to be no shooting, displaying of ensigns or beating of drums until the solemnities were over.³⁶ It was also ordained that in the case of commissioners embroiled in cases of double elections, neither was permitted to ride in the procession. The Convention of Royal Burghs, which met between 25 and 30 July 1681, certainly made every effort to minimise the risk that they would jeopardise the opening ceremony: they imposed an unlawful £120 Scots fine on all burgesses who did not “ryde at the down sitting of the Parliament with their best horses, furniture and apparell”.³⁷

In light of the fact that the Chancellor, the Duke of Rothes, was incredibly ill immediately prior to the opening of the Parliament and, indeed, passed away on 26 July, James asked Atholl to preside in his place in the Parliament.³⁸ This would not have come as a surprise, as Atholl’s alliance with James was widely recognised. Not only had Atholl accompanied James to Scotland on his first visit, he had actually travelled in his coach. Thereafter, he had played an active role in Scottish politics after being encouraged to do so by James.³⁹ As mentioned in the previous Chapter,

³⁴*RPCS*, vii, 170; *CSPD* (1680-1681), 388; Fountainhall’s *Notices*, 302; Willcock says that Argyll carried the Crown, *A Scots Earl*, 250.

³⁵*RPCS*, vii, 172; Fountainhall’s *Notices*, 302; *APS*, viii, 234; NAS PA7/11/8, Supplementary Parliamentary Papers, Minutes of the 1681 Parliament, f2.

³⁶Ry 1.1.48, *An Act by his Royal Highness*; GD157/1674.

³⁷*APS*, viii, 232; Mackie, J.D., & Pryde, G.S., *The Estate of the Burgesses in the Scots Parliament and its Relation to the Convention of Royal Burghs* (St Andrews, 1923), 47.

³⁸*APS*, viii, 234; *CSPD* (1680-1681), 386, 388; Fountainhall’s *Selections*, 45; Hutton, *Charles II*, 412.

³⁹Turner, *James II*, 171; Hutton, *Charles II*, 387.

Atholl had officiated at the Privy Council shortly after his return due to the absence of the Chancellor.⁴⁰ This form of substitution was simply taken one step further in relation to the Parliament.

The 1681 Parliament (28 July to 17 September)

The membership of the 1681 Parliament included James as High Commissioner and the four non-noble Officers of State who sat in Parliament *ex officio*. The estate of the clergy was made up of two Archbishops and 10 Bishops. That of the nobles consisted of one Duke, three Marquesses, 34 Earls, four Viscounts and 19 Lords.⁴¹ Of the 33 shires, 24 sent two commissioners each, giving a total of 57 commissioners for the shires.⁴² The final group of commissioners came from the 60 burghs, of whom only Edinburgh was eligible to send two commissioners.⁴³ This breakdown shows that in the case of the 1681 Parliament the nobility and burgesses tied in terms of being the most numerous group, each having 61 representatives.⁴⁴

The 1681 Parliament was larger than the 1678 Convention of Estates: excluding the High Commissioner and the four non-noble Officers of State there were 191 attendants at Parliament in 1681 as opposed to 175 at the 1678 Convention. This can undoubtedly be attributed to the fact that the heir to the throne was present, particularly unusual being the representation of every shire.⁴⁵ There was some common membership with the 1678 Convention: of the clerical estate, both Archbishops and eight of the Bishops had attended the Convention; of the nobles, the Duke, one Marquess, 25 Earls, three Viscounts and 14 Lords had been present in 1678; 25 of the shire representatives had prior experience from the 1678 Convention;

⁴⁰*RPCS*, vi, 345.

⁴¹*APS*, viii, 231-2; NAS PA7/11/1-3, Rolls of the 1681 Parliament; NAS GD 25/9, Ailsa Muniments, Box 30/2, Rolls of the bishops, nobles and commissioners of the shires and burghs, 28 July 1681.

⁴²*APS*, viii, 232; NAS PA7/11/1-3.

⁴³*APS*, viii, 232-3; NAS PA7/11/1-3. David Spence, who represented the burgh of Rutherglen at the Parliament, but who is not named on the rolls, has been included in this number. Spence's commission is shown in NAS PA7/11/5.

⁴⁴Terry claims that, apart from when the shires and burghs combined forces, the nobility were the most numerous force in the 1681 Parliament, Terry, C.S., *The Scottish Parliament: Its Constitution and Procedure 1603-1707* (Glasgow, 1905), 17.

⁴⁵*APS*, viii, 213-5, 231-3; Terry, *The Scottish Parliament*, 17, 37.

and of the burgesses, 13 had also been at the Convention.⁴⁶ Thus 92 of the 191 attendees, or 48% of the 1681 Parliament had also been present at the 1678 Convention of Estates.

The Parliament of 1681 was formally opened on 28 July in the usual manner of prayers said by the Bishop of Edinburgh, after which the rolls were called and the King's Commission to James was read.⁴⁷ After this came the customary protestations for precedence. Objections were lodged by the Earls of Sutherland, Marishall, Mar, Morton and Leven, the Lords Semple, Lovat and Elphinstone, the Lord Advocate, the Lord Register and the Lord Justice Clerk and the shires of Perth, Fife and Forfar, as well as the burgh of Inverkeithing.⁴⁸ Following the formal nomination by James of Atholl as President, in light of the fact that there was no Chancellor, the Oaths of Allegiance and Parliament were taken and the Declaration was subscribed by all members of the Parliament, with the notable exception of the Commissioner himself. A point of interest regarding the conduct of the Parliament in question was that in stark contrast with previous Parliaments, that of 1681 witnessed the first admittance of women, though only in the capacity of spectators. For the duration of the first day of the Parliament, James's wife and daughter observed proceedings, along with many other ladies of the court.⁴⁹

After the letter of Charles was read twice, the Duke of Hamilton successfully moved that the Parliament write a letter of thanks to the King.⁵⁰ James then delivered his speech in which he said that his appointment as Commissioner was evidence of the fact that Charles had great faith in him. He went on to outline the reasons for the Parliament being called: to protect the Protestant religion; to maintain Church government as already established; to suppress conventicles; to assert the

⁴⁶APS, viii, 213-5, 231-3; Having looked beyond the 1678 Convention, Gillian MacIntosh states that 43 of the 60 burgh representatives in 1681 had no previous experience, MacIntosh, G.H., "The Scottish Parliament in the Restoration Era, 1660-1681", (University of St Andrews PhD thesis, 2002), 276.

⁴⁷APS, viii, 231-234; NAS PA7/11/8, f2.

⁴⁸APS, viii, 234; NAS PA7/11/8, f2.

⁴⁹NAS PA7/11/8, f2; Fountainhall's *Selections*, 46.

⁵⁰NAS PA7/11/8, f2; APS, viii, 235; NAS PA7/11/5, Charles II's Letter to the Parliament; NAS GD 157/1671, Charles II's Letter to the Parliament of Scotland; NAS GD 157/1677, Charles II's Letter and James's speech to the Parliament of Scotland, 28 July 1681, 2-4; Fountainhall's *Selections*, 46.

royal prerogative; to uphold the rightful succession; to grant a new supply to the Crown; and to make other laws which would benefit the Kingdom of Scotland.⁵¹ The speech of James thus closely mirrored the Instructions given to him by Charles before the opening of Parliament, Instructions which he likely had a hand in compiling. Wodrow, writing from a fiercely Presbyterian perspective, stated that the letter of Charles and the speech of James manifestly displayed that there were, “two great designs in view this meeting of Parliament, to bear down separation, that is presbyterians in Scotland, and to secure the duke’s succession, that is popery in Britain.”⁵²

The Committees, Debates and Enactments of 1681

Only after the completion of the formalities of Parliament did the opportunity come to elect the Lords of the Articles. This body was a key element in ensuring Crown influence over the proceedings of Scottish Parliaments remained strong. The Articles were solely responsible for proposing and drafting legislation, and could accordingly control what measures were dealt with by the whole Parliament. The membership of the Articles was based on the notion of there being four ‘estates’ in the Parliament; the clergy, the nobility and the elected commissioners of both the shires and of the burghs. Each estate was required by an act of 1587 to have between six and ten representatives, the number agreed being the same for each group in any particular Parliament.⁵³ Crown control of Parliaments by the means of the exclusive nature of the Articles was compounded by the manner in which they were chosen. First the clergy nominated a specified number of noble members whilst the nobles did likewise with the clerical members. The members who had accordingly been elected onto the Lords of the Articles then reconvened to appoint the shire and burgh members. That the elected shires and burghs had no say in the appointment of the Articles which were thus chosen solely by clerical and noble Crown nominees was a

⁵¹NAS PA7/11/8, f2; NAS GD 157/1677, 5-6; Clarke, *The Life of James II*, i, 694-5; Mackay, A.G.J.,(ed), *Memoir of Sir James Dalrymple of Stair, President of the Court of Session in Scotland* (Edinburgh, 1873), 144; Ashley, *James II*, 138.

⁵²Wodrow, *Sufferings*, iii, 289.

⁵³Julian Goodare, ‘The Estates in the Scottish Parliament 1286-1707’, in Jones, C. *The Scots and Parliament* (Edinburgh, 1996), 21.

major factor in determining that the Lords of the Articles was merely an instrument through which the Court controlled Parliament.

In 1681, eight members of each estate were nominated as Lords of the Articles, the total number of elected members of that committee thus being 32. Whilst James retired to the Council chamber, the clergy, under the guidance of the Archbishop of St Andrews, sat in the Exchequer House to elect the eight members of the nobility who would become Lords of the Articles. Simultaneously the nobles sat in the Inner Session House, with Hamilton as their president, determining which members of the clerical estate should become Lords of the Articles. The result of these secret discussions in the Exchequer and Inner Session Houses was that the Clergy chose the Duke of Hamilton and the Marquess of Montrose, as well as the Earls of Argyll, Erroll, Marishall, Perth, Dumfries and Queensberry. The nobles elected the Archbishops of St Andrews and Glasgow and the Bishops of Edinburgh, Dunkeld, Ross, Breichen, Dunblane and Caithness.⁵⁴

The fact that Hamilton presided over the rest of the nobility in this crucial decision making process displays in no uncertain terms that he had had a key role in the 1681 Parliament. The central position of Hamilton can certainly be attributed to the influence of James as High Commissioner: under Lauderdale, Hamilton had not even been a member of either of the two named committees of the 1678 Convention of Estates.⁵⁵ The fact that James carefully managed Parliament, and in particular the elections of commissioners, caused Lee to claim that James simply maintained Lauderdale's system of government in Scotland.⁵⁶ Any similarities between James and Lauderdale, however, are heavily outweighed by the radically different approach of James with regards to the personnel involved in Scottish politics. As has been displayed in the previous Chapter, James pursued a much more inclusive policy and readily embraced those who had been out of favour under Lauderdale's regime, the most prominent of whom had been Hamilton. It is MacIntosh's assertion that the change of membership in the Lords of the Articles, in particular the inclusion of

⁵⁴NAS PA7/11/8, f2; NAS PA7/11/95, List of the Lords of the Articles; NAS GD 157/1670, List of the Lords of the Articles, 1681; *APS*, viii, 235-6.

⁵⁵*APS*, viii, 216, 219.

⁵⁶Lee, "Government and Politics in Scotland, 1661-1681", 279, 280.

Hamilton, Perth, Dumfries, Queensberry, Sir George Lockhart of Braidwood and Haddo, was the clearest sign that the Commissioner had altered.⁵⁷ The fact that Hamilton, Lauderdale's most vociferous adversary, actually presided over the rest of the nobility at the election of the Lords of the Articles makes it unmistakable that James envisaged a markedly different praxis than had become institutionalised by Lauderdale. The heir to the throne clearly felt that the benefits of bringing Hamilton so unmistakably into the sphere of the Court, and embracing him as an ally, vastly outweighed the risks of continuing his exclusion from the epicentre of politics. In essence, James hoped to negate the opposition by investing their natural leader as a pivotal player on the side of the Court.

The nobles and clergy who had been chosen as Articles then met in the Exchequer House to elect the shire and burgh representatives of the Articles. The shire members were Sir James Foulis of Collington (Edinburgh), Sir George Lockhart of Braidwood (Lanark), Sir James Dalrymple of Stair (Wigton), James Seton of Tough (Stirling), Sir George Gordon of Haddo (Aberdeen), Sir Patrick Ogilvie of Boyne (Banff), Sir William Sharp of Stoneyhill (Clackmannan) and Sir George Mackenzie of Tarbat (Ross). The burgh representatives elevated to the position of Lords of the Articles were Sir James Dick of Priestfield (Edinburgh), Sir George Skeen (Aberdeen), Robert Russell (Stirling), Alexander Mylne (Linlithgow), John Easson (St Andrews), John Bell (Glasgow), Robert Reynold (Montrose) and William Duff (Inverness). James and the Parliament then approved the recommendations of the clergy and nobility; and James then authorised the Officers of State to join the elected Lords of the Articles.⁵⁸

A notable point concerning the men on the Lords of the Articles is that there was a distinct correlation between them and the Privy Council. In fact, of the 32 elected Lords of the Articles, 13 were Privy Councillors.⁵⁹ The estate most closely linked to the Council was that of the nobility, where seven of the eight peers in the Articles were also Councillors, the latest addition extremely recent; the Earl of

⁵⁷MacIntosh, "The Scottish Parliament in the Restoration Era, 1660-1681", 278.

⁵⁸NAS PA7/11/8, f2; NAS PA7/11/95; NAS GD 157/1670; *APS*, viii, 236.

⁵⁹*RPCS*, vii, 176, 179.

Dumfries was only added to the Council on 19 July 1681.⁶⁰ The only exception was Hamilton and even he had previously been a member of the Privy Council, and was to be reinstated to that body less than a year later.⁶¹ During the course of the 1681 Parliament, James was to appoint six subcommittees of the Lords of the Articles, all of which shall be discussed during the course of this Chapter. These subcommittees were independently required to draft a letter to Charles II and discuss matters relating to religion, trade, peace, the supply and the King's prerogative.⁶² James carefully managed the subcommittees of the Articles: he dictated their membership, their remits and the times they met. Of the 32 Lords of the Articles who were not Officers of State, 26 were named on at least one subcommittee of the Articles, which again demonstrates James's predilection towards a rather inclusive policy. Only the Bishop of Caithness, the Marquess of Montrose, Earl Marishall, Robert Russell, Robert Reynold and William Duff were not appointed to any subcommittee.⁶³ That James was willing to use his managerial powers to fulfil his own objectives can be clearly seen in the matter of the Committee for Religion. In the case of this refractory Committee, which advanced measures James sternly disapproved of, James actually took the radical step of dissolving it in favour of replacing it with a more amenable body.

The final enactment of the first day of the 1681 Parliament was for James to directly appoint the members of the Committee for Controverted Elections. As with the Lords of the Articles, the Officers of State were on this Committee, along with an equal number of representatives from each estate. The three clerics chosen by James were the Bishops of Edinburgh, Galloway and Murray; the nobles were the Earls of Mar and Airlie and Lord Ross; the shire representatives were Sir Robert Dalziel of Glenae (Dumfries), Sir Alexander Seton of Pitmedden (Aberdeen) and Robert Gordon younger of Gordonstoun (Sutherland); and the burgesses were Sir James Dick of Priestfield, Sir George Skeen and John Bell, representatives of Edinburgh,

⁶⁰Ibid, 161.

⁶¹Ibid, 415; Rait mistakenly says that all eight noblemen elected onto the Articles were Privy Councillors, *The Parliaments of Scotland*, 384.

⁶²NAS PA7/11/96, ff 1, 5, 6.

⁶³Ibid.

Aberdeen and Glasgow respectively.⁶⁴ Besides the Officers of State, only four members of the Committee for Controverted Elections were also Lords of the Articles: these were the Bishop of Edinburgh and the three burgesses. This body was given the remit to examine the cases of double and controverted elections, and rule on who actually had the right to represent the shire or burgh in question in the Parliament.⁶⁵

That authority was vested in the High Commissioner to personally elect the Committee Anent Controverted Elections gave James an opportunity to observe Lauderdale's advice, that care should be taken to secure elections, even after the Parliament had begun. James was essentially able to influence disputed elections by assuring the members of the Committee were loyal, and thus disposed to rule in a manner favourable to the Court. Although Lee correctly recognised the fact that James continued Lauderdale's policy of securing elections, as has been seen, he heavily overstated the importance of the issue when arguing that James simply maintained Lauderdale's system of government.⁶⁶ That said, the matter of ensuring that only agreeable men were elected certainly concerned James who, as well as ensuring the Committee was predisposed to decide according to the Court's wishes, was also prepared to use vengeance against a voter in Fife for failing to acquiesce to the design of the Court. Fountainhall reported that Archibald Hope of Rankeillor was pursued before the Council for being absent from the King's host at Bothwell Bridge, the incentive for this action evidently being that he had not voted for the Court's choice of commissioner to the Parliament.⁶⁷

Before any of the disputed elections could be fully investigated, Hamilton moved that a former act of the Convention of Burghs be considered to determine whether or not it incurred on the privileges of Parliament. This act regulated election procedures in burghs by dictating that commissioners to Parliament had to be a burgess and residing trafficking merchant in the burgh they represented. During the course of the lengthy debate which ensued, Sir George Lockhart and Sir John

⁶⁴*APS*, viii, 236; NAS PA7/11/8, f2; NAS PA7/11/12, names of those on the Committees of Religion, Supply, Peace of the Kingdom and Elections.

⁶⁵*APS*, viii, 236.

⁶⁶Lee, "Government and Politics in Scotland, 1661-1681", 279.

⁶⁷Fountainhall's *Notices*, 301.

Cunningham supplemented Hamilton's motion by arguing that the act of Convention did not have the status of an act of Parliament and, in fact, burghs had the right to elect 'Country Gentlemen' as well as residing trafficking merchants.⁶⁸ Sir John Cunningham of Lambrughton was one of the commissioners for the shire of Ayr, and was to become the veritable thorn in the government's side during the 1681 Parliament. The trio of Hamilton, Lockhart and Cunningham actually had a significant history: whereas Hamilton had led the way in opposing Lauderdale, Lockhart and Cunningham had travelled to London together in 1679 to support the charges made against the former Secretary.⁶⁹ Although it can accordingly be said that James experienced an assault by the existing 'opposition party' in the early stages of the Parliament, neither Hamilton nor Lockhart were sustained in their challenges to the Court, and actually supported it in various matters, thus negating any notion that they were incessant adversaries. However, both Hamilton and Lockhart were unwilling to allow the Court to go unchallenged when they suspected it of spurious intent, and thus raised a number of issues during the 1681 Parliament.

The arguments of Lockhart and Cunningham were countered by the Lord Advocate, who argued strongly in favour of the existing act of the Convention of Burghs, undoubtedly on the grounds that he had seen many 'Bothwell Bridge' faces at the Parliament.⁷⁰ This was a necessary qualification, the Advocate argued, because "if it wer otherwayes it would open a door to disaffected persons to disturb the peace of the Kingdome at their pleasour It being very easy for such persons to influence pettie burghes & procure th[e]mselves to be chosen to represent th[e]m as Comm[issione]rs".⁷¹ Supplementing the Lord Advocate's demand that the qualification of the Convention be adhered to, James made a short speech in which he informed the Parliament that he had specific instructions from the King relating to the burghs: as already mentioned, the sixth instruction given to James by his brother had been to promote the interests of the burghs and ensure only residents and

⁶⁸NAS PA7/11/8, f3.

⁶⁹*The Parliaments of Scotland, Burgh and Shire Commissioners*, M. Young (ed), (Scottish Committee on the History of Parliament, Scottish Academic Press, 1993), 167.

⁷⁰Fountainhall's *Notices*, 310.

⁷¹NAS PA7/11/8, f4.

‘traffickers’ may represent them.⁷² The Court hoped to curtail potential opposition by restricting the eligibility of burgh commissioners to burgesses who were residing trafficking merchants. Essentially, by ensuring the burghal estate was entirely comprised of burgesses, and did not include any ‘country gentlemen’, the Crown could guarantee that it would be more susceptible to manipulation by offers of trading and manufacturing privileges. When a vote was finally taken to decide “whither or no a person may be a Commissioner for a burgh who is not a burges actuall residenter and a trafficking merchant”, it was carried in the negative by 52 votes.⁷³ This matter is portrayed in James’s *Memoirs* as a significant personal victory: “the question about the Burrows was the first tryall of Skill; which being carryed for the Court, was a good omen that all other matters would go on answerable to its wish.”⁷⁴

The decision that a burgh commissioner thus had to be a residing trafficking merchant was to be integral in the subsequent work of the Committee when settling disputed elections in North Berwick, Selkirk and Inverkeithing. On 5 August it was decreed that George Sutie was not qualified to fulfil his commission to represent North Berwick: he was admitted as a burges only after his election, which had taken place at 6am, and he was not “a residenter and trafficking merchant”.⁷⁵ Charles Maitland, on the other hand, did meet the criteria and could hence become the representative of North Berwick.⁷⁶ Maitland’s unobjectionable tendencies were well known as a result of having been a commissioner to the Convention of 1678.⁷⁷ Nonetheless, there were enduring concerns about the legality of Maitland’s election, namely, that “he was not elected by the toun Counsell sitting in Counsell.”⁷⁸ As such, when the Parliament was asked to decide if his commission should be upheld

⁷²CSPD (1680-1681), 343.

⁷³NAS PA7/11/8, f4.

⁷⁴Clarke, *The Life of James II*, i, 696.

⁷⁵NAS PA7/11/8, f3-4.

⁷⁶APS, viii, 237; NAS PA7/11/5, List of Double elections in the Shires and Burghs; NAS PA7/11/8, f4; NLS Adv MS 25.6.9, Note on decisions in Parliament regarding controverted elections 1661-1707, f1. Note: this Charles Maitland is not Charles Maitland of Halton, the Treasurer-Depute who was also Lauderdale’s brother, *The Parliaments of Scotland*, Young, 467-8, 469.

⁷⁷APS, viii, 215.

⁷⁸NAS PA7/11/8 f3.

or a new election should take place, the decision in favour of Maitland was carried by only 14 votes.⁷⁹ Also on 5 August, it was resolved that Sir Patrick Murray was not a residing trafficking merchant of Selkirk. As such, a new election was ordered and Andrew Angus was accordingly returned to represent the burgh of Selkirk, his commission being dated 8 August 1681.⁸⁰ The resolution of the Parliament about the qualifications of burgh commissioners did not result in the ejection of everyone whose election was disputed. The commission of John Dempster was sustained for the burgh of Inverkeithing on the grounds that “he was present provest and resided now & then in the s[ai]d brough and did sometymes tread in Victuall and timber”.⁸¹

There were also contentious elections in several shires: these were Peebles, Stirling, Haddington, Berwick and Linlithgow. The final decision given on 5 August rejected the commission given to David Murray of Stenhope and the Laird of Posso to represent the shire of Peebles, in favour of that awarded to Stenhope and Sir Archibald Murray of Blackbarony, who had represented Peebles at the 1678 Convention.⁸² The following day, after some contention over the eligibility of some electors in the shire of Stirling, it was agreed that they did have a rightful vote by virtue of the fact that they held land with the annual value of 40 shilling Old Extent, as decreed as a condition of eligibility in 1587 by the County Franchise Act.⁸³ Subsequently it was ordered that there should be a new election in the shire of Stirling, which returned the verdict that Richard Elphinstoun of Airth’s commission was sustained whilst that of Sir John Keir of Stirling, who had represented the shire at the 1678 Convention of Estates, was rejected.⁸⁴ Thus Elphinstoun of Airth joined James Seton of Tough to represent the shire of Stirling in the Parliament of 1681.

⁷⁹NAS PA7/11/8, f4.

⁸⁰APS, viii, 237, 238; NAS PA7/11/8, f4; NLS Adv MS 25.6.9, f1; NAS PA7/25/95, Commissions to Commissioners of Parliament; Fountainhall’s *Notices*, 303.

⁸¹NAS PA7/11/8, f4; Terry mistakenly asserts that the representatives of North Berwick, Selkirk and Inverkeithing were unseated, *The Scottish Parliament*, 58.

⁸²APS, viii, 214, 237-8; NAS PA7/11/8, f4; NAS PA7/11/5; NLS Adv MS 25.6.9, f2.

⁸³APS, viii, 238; NAS PA7/11/8, f5; NAS GD 124/1411, Extract resolutions of Parliament settling disputes in the shire of Stirling about election of commissioners to Parliament, 6 August 1681; Fountainhall’s *Notices*, 307; Terry, *The Scottish Parliament*, 32; William Ferguson in Jones, C, *The Scots and Parliament*, 6.

⁸⁴APS, viii, 214, 238, 239, 243; NAS PA7/11/8, ff5-6; NAS PA7/11/5; NLS Adv MS 25.6.9, ff2-3.

The case of the shire of Stirling highlighted the fact that much time was wasted in Parliaments and Conventions because of avoidable controverted elections in the shires. Thus, a supplement to the County Franchise Act of 1587 was deemed necessary to further clarify and reiterate the election requirements in the shires. As such, the Act Concerning the election of Commissioners for Shires was brought into legislation on 17 September. This reiterated the land-holding conditions men had to comply with before they were afforded a rightful vote in the election of commissioners, an alternative to 'Old Extent' being put into force to cover those cases in which the 'Old Extent' could not be determined.⁸⁵ The fact that an alternative to 'Old Extent' was offered allowed people to assess with greater accuracy the amount of land they held, which resulted in the broadening of the number of shire voters as more men found themselves eligible to vote.

During the intervening time between there being a new election ordered for Stirling and the Laird of Airth being returned, the Committee had other matters to debate and decide upon. They ruled that in the case of the shire of Haddington the commission of Adam Cockburn of Ormestoun, who had been present at the 1678 Convention of Estates, and Andrew Fletcher of Saltoun was to be upheld whereas that of Adam Hepburn of Humbie and John Wedderburn of Gosford was rejected.⁸⁶ Fountainhall reported that during the debates on the election in Haddington the Bishop of Edinburgh was heard to say, "that for serving the King, the Committee might verie lawfullie prefer one who was inferior in votes, and they might passe over 4 or 5 votes, to hold out a Shaftsburie."⁸⁷ Securing elections was clearly of paramount importance to the Court; the Bishop of Edinburgh, who was on the Committee Anent Controverted Elections as chosen by James, was even prepared to promote illegal means to ensure that only genial men became commissioners to Parliament.

Further, it was decided that John Edgar of Wedderlie was sustained as commissioner for the shire of Berwick at the expense of Charles Home, who was rejected. This decision was, however, contested by Alexander Montgomerie, eighth

⁸⁵*APS*, viii, 353-4; *Laws and acts ...28 July 1681*, 21-2.

⁸⁶*APS*, viii, 239, NAS PA7/11/8, f6; NAS PA7/11/5; NLS Adv MS 25.6.9, f3.

⁸⁷Fountainhall's *Notices*, 307.

Earl of Eglington, on the grounds that Wedderlie had been prelimited by his commission to vote against the succession. A debate ensued about the identity of the person who had prelimited Wedderlie, the answer seemingly being that it was Sir Patrick Home of Polwarth because Wedderlie could not deny this under oath.⁸⁸ Nonetheless, matters were settled when the Parliament approved the report of the Committee and allowed Wedderlie to sit as a member of Parliament. In the case of Linlithgowshire, the Committee decreed that the commission of General Thomas Dalziel of Binnes and John Hope of Hopeton was lawful whereas that of Thomas Drummond of Riccarton and Alexander Cochrane of Balbachlow was not.⁸⁹ Again, despite objections, led by Sir John Cunningham, about the eligibility of some of the voters in the shire, the full Parliament opted to side with the findings of the Committee. That Dalziel was a loyal servant of the Crown who played an integral role in the government, both as a Councillor and as a resolute military adversary to the radical Covenanters, would have guaranteed him the respect of the majority of the Parliament.

One remaining alteration to the representatives of the shires and burghs came from the Lords of the Articles themselves, not from the Committee anent Controverted Elections. This concerned the burgh of Rutherglen. Based on information from the Lord Advocate, the Lords of the Articles and James gave the order for the commissioner who had been elected, William Riddell, to be imprisoned and prosecuted for being accessory to the late rebellion.⁹⁰ As well as being suspended from his office as provost of Rutherglen, Riddell thus lost his position as commissioner to the Parliament to a burgess named David Spence, who had represented Rutherglen at the 1678 Convention.⁹¹ Neither Riddell nor Spence appear

⁸⁸NAS PA7/11/8, f6; *CSPD* (1680-1681), 426; Fountainhall's *Notices*, 311.

⁸⁹*APS*, viii, 239; NAS PA7/11/8, f7; NAS PA7/11/5; NLS Adv MS 25.6.9, f3.

⁹⁰NAS PA7/11/96, f1, Minutes of the Lords of the Articles, 1681; NAS PA7/11/10, Warrant to the Lord Advocate to bring William Riddell, Provost of Rutherglen, to trial for treason, 30 July 1681.

⁹¹NLS MS 1945, Records of the High Court of Justiciary, Criminal Proceedings,, February 1584 to January 1685, 397-8; NAS PA7/11/5; *APS*, viii, 215; *RPCS*, vii, 199; Rait, *The Parliaments of Scotland*, 87; *The Parliaments of Scotland*, Young, 653.

on the parliamentary rolls.⁹² It was not until 17 November that Riddell was released from prison, apparently without charges having been brought against him.⁹³ That the two persons responsible for bringing the initial charges against Riddell to the attention of the Lord Advocate are not named in the Minutes of the Lords of the Articles makes it difficult to be certain of their motives for doing so.⁹⁴ Nonetheless, it can be supposed that the origins of the motion could have stemmed from the fact that Riddell's personal politics may have been strongly anti-Court, given that Rutherglen had a reputation for being somewhat of a Covenanting stronghold, having been home to the Declaration of 29 May 1679. It is entirely possible that it was their design to replace him with someone less likely to cause upset to the government. In any case, it proved disturbingly easy for a legitimately elected commissioner to be unseated simply at the instructions of James and the Articles.

One day after the Committee anent Controverted Elections first met, the newly appointed Lords of the Articles convened for their initial meeting on Saturday 30 July as instructed by James.⁹⁵ On this day there were appointed two sub-committees; one to draft a letter of thanks to the King and one to prepare the draft of an act for the securing of the Protestant religion. One of the members of the committee to prepare a letter to the King was Hamilton, whose motion it had been that such a letter be written. Hamilton's inclusion again emphasised the key role played by the formerly ostracised Duke. Indeed, of the six subcommittees of the Lords of the Articles, Hamilton was on four of them, the Committee Anent Religion and the Committee to Consider the King's Prerogative excepted.⁹⁶ James clearly recognised that Hamilton's input could benefit the government, certainly more than his continued opposition, and made a concerted effort to get him on-side. James was determined to break away from the deliberately exclusionist practice of Lauderdale's rule in favour of securing the support of Hamilton by way of carving out an integral role for him by way of committee membership.

⁹²*APS*, viii, 232-3; Rait, *The Parliaments of Scotland*, 87.

⁹³*RPCS*, vii, 259.

⁹⁴NAS PA7/11/96, fl.

⁹⁵*Ibid.*

⁹⁶NAS PA7/11/96, ff 1, 5, 6.

As well as Hamilton, James appointed the Bishop of Edinburgh, Sir George Gordon of Haddo, Sir James Dick of Priestfield and the Lord Advocate to prepare the letter to Charles. On 1 August, the draft letter was duly approved by the Articles before being presented to the full Parliament.⁹⁷ Approval by the full Parliament was only achieved after the defeat of a motion made by Sir John Cunningham, that the answer be delayed for consideration by the members on the grounds that the letter contained extremely important references to religion and the royal succession. Hamilton, the Lord Advocate, Sir George Mackenzie of Tarbat and Sir George Lockhart, “represented that ther was nothing in the ans[we]r to the Kings letter which might be thought in the leist to anticipat the Parliaments deliberations and moved that the ans[we]r might be read over again.”⁹⁸ Thus the draft was accepted by the Parliament as being a suitable letter to send to Charles. This was unsurprising given that the essence of it was, “just a repetition of the king’s letter, with turning the compliment upon him and his brother.”⁹⁹

The second sub-committee of the Lords of the Articles was formulated in response to an overture by the Archbishop of St Andrews that an act be devised to ensure the long-term security of the Protestant religion. The Committee for Religion thus consisted of the Archbishop himself, along with the Bishops of Edinburgh and Dunkeld, the Earls of Argyll and Perth, Sir James Dalrymple of Stair, Sir George Gordon of Haddo and Sir George Lockhart. Also on the Committee were James Dick, John Bell and Alexander Mylne, the provosts of Edinburgh, Glasgow and Linlithgow respectively, as well as the Officers of State as supernumeraries.¹⁰⁰ On 4 August this Committee for Religion referred to the Lords of the Articles the drafts of two acts they proposed; the first being an act for securing the Protestant religion, which ultimately became the Act Anent Religion and the Test, and the second for ratifying all former laws concerning the Protestant religion, which was the first Act

⁹⁷Ibid, f3; *APS*, viii, 236.

⁹⁸NAS PA7/11/8, f3.

⁹⁹Wodrow, *Sufferings*, iii, 290.

¹⁰⁰NAS PA7/11/96, f1; NAS PA7/11/12, names of those on the Committee anent Religion, 1681. Colquhoun neglects to mention Sir James Dalrymple of Stair when she lists the names of those on this committee, 132, but later acknowledges his presence on the Committee, “Issue of the Late Civill Wars”, 149.

to be passed by the Parliament of 1681. The Lords of the Articles, however, were satisfied with neither of these drafts as proposed by the Committee for Religion and actually remitted both back to the Committee for further consideration and amendments.¹⁰¹

The Committee for Religion thus returned to the rest of the Articles on 10 August with a revised draft of an act concerning religion. This time the Lords of the Articles decided that the intended act should lay open on the table for the duration of the day so that it could be seen by the whole Parliament.¹⁰² It is interesting to note that this type of procedure was initiated in the 1640-41 settlement. “And it being proposed by severall that it might bee insert as a Clause in this Act that difference in Religione does not make void the Kings past and legall Authoritie nor free the people from their due obedience to him”,¹⁰³ it was remitted not to the original Committee for Religion, but to the Lords of the Clergy to consider in what terms such a clause should be included in the act. This alteration in policy was occasioned because James was so displeased with the findings of the Committee for Religion, that he discharged that Committee from ever meeting again.¹⁰⁴ The reason the Committee had incurred the wrath of James was that it had approved in its draft act for the security of the Protestant religion the inclusion of the Confession of Faith and the Coronation Oath, both of which were impossible for James to adhere to on account of his Catholicism. It is, however, curious that James had such an indignant reaction. Primarily, both were existing laws, and therefore necessitated conformity regardless of whether they were renewed in 1681 or not. Besides, he was ultimately forced to accept the inclusion of the Confession of Faith in the act for securing the Protestant religion which was later passed into statute.

Preserved in the Supplementary Parliamentary Papers in the National Archives of Scotland are two overtures designed to secure the Protestant religion. One proposed that the Coronation Oath be sworn upon entry to the government and that subscribers, “shall never endeavour or consent to any alteratione of the

¹⁰¹NAS PA7/11/96, f5.

¹⁰²NAS PA7/11/96, f7.

¹⁰³Ibid.

¹⁰⁴Wodrow, *Sufferings*, iii, 291; Jones, D., *The Life of James II* (London, 1702), 62.

protestant religion within this kingdome and shall never tollerate priests jesuits nor trafficking papists to abide in this [kingdom] or authorize or suffer any papist to be in any publick trust power or [office].”¹⁰⁵ Moreover, it maintained that no alterations should be made in ecclesiastical matters without the consent of a national synod of the church and the estates of Parliament. The second overture supplemented the first by requiring that all office holders took the Oath of Allegiance and subscribed the Confession of Faith of 1567.¹⁰⁶

It is MacIntosh’s contention that these overtures were presented by Sir John Cunningham on 22 August and that they were expressly ignored by the Lords of the Articles.¹⁰⁷ In this interpretation, she is mistaken on several counts. Primarily, the overtures for securing the Protestant religion which were presented to the Parliament on 22 August were in fact advanced by Sir John Cochrane.¹⁰⁸ Cochrane was Cunningham’s fellow commissioner for the shire of Ayr: he was known to hold strongly Covenanting principles and had been present at the Battle of Bothwell Bridge.¹⁰⁹ Also, the reality is that both of the overtures contained in the Supplementary Parliamentary Papers were in fact taken on board by the subcommittee of the Articles, the Committee for Religion. Both overtures, pertaining to the Coronation Oath and Confession of Faith, were encompassed in a draft act for the security of the Protestant Religion as devised by the Committee for Religion (see Appendix A).¹¹⁰ Given that the overtures contained in the Supplementary Parliamentary Papers were thus embodied in the draft act composed by the Committee for Religion, for which it was disbanded by James on 10 August,

¹⁰⁵NAS PA7/11/92, Overture for Securing the Protestant Religion.

¹⁰⁶NAS PA7/11/93, Overture for all office holders to take the Oath of Allegiance and the Confession of Faith as recorded in the first session of the Parliament of James VI.

¹⁰⁷MacIntosh, “The Scottish Parliament in the Restoration Era, 1660-1681”, 288-9.

¹⁰⁸NAS PA7/11/96, f12.

¹⁰⁹*The Parliaments of Scotland*, Young, 127.

¹¹⁰NLS Adv MS 31.6.15, Sir John Lauder of Fountainhall, Copies of historical documents, ‘The draft of ane act intended to have been past in the Scots parlia[men]t held in the month of August 1681 for the security of the protestant religion against poperie and a popish king, but which was then laid asyde and other two acts put in place thereof and past in that Session of Parliament’, ff206-9 [The *two* acts that Fountainhall referred to in fact became the conjoined Act Anent Religion and the Test]; Jones, *The Life of James II*, 62

the overtures for securing the Protestant religion presented on 22 August are almost certainly not the ones preserved in the Supplementary Parliamentary Papers in the National Archives of Scotland, as MacIntosh contends.

The draft of the act for securing the Protestant religion which conformed to each of the requirements of the overtures as contained in the Supplementary Parliamentary Papers was recorded by Sir John Lauder of Fountainhall, eminent lawyer and member of Parliament in 1685 and 1686 for the shire of Haddington (see Appendix A).¹¹¹ After beginning with a lengthy expression about the need to protect Protestantism, the Confession of Faith was ratified and approved, and numerous office holders were identified as being expressly charged to subscribe it. Any who failed to comply with this requirement were to be subject to specified punishments. In addition, those present at their admission to office were also liable to be fined the value of one year's rent on their whole estate. The draft act also provided for the fining of anyone who entertained Catholicism, the fines escalating in severity for repeated offences. As under Covenanter rule in the 1640s, fines were graded by social status: an Earl could be fined £1000 Scots; a Lord, 1000 merks; a baron, 500 merks; a freeholder, 300 merks; and a yeoman, £40 Scots. The amount a burgess could be fined was left to the Privy Council's discretion. Moreover, as well as demanding that all ministers supply the authorities with a list of papists or suspected papists within their parishes, the draft incorporated the Coronation Oath as intended by one of the overtures for the security of the Protestant religion.

Fountainhall certainly favoured this draft to the Act which was eventually passed. This was largely because of the fact that the draft provided for the fining of magistrates who proved remiss in putting the laws against Catholics into execution as well as the fact that it necessitated the Coronation Oath, whereas the ultimate statute incorporated neither of these clauses. Such subsequent omissions occasioned Fountainhall to speculate that the "intended act for the securitie of the Protestant religion would have quieted much better the minds of the people then the acts which ware past in this parlia[men]t anent religion and the Test".¹¹²

Fountainhall's view was certainly not shared by James who, as has been noted,

¹¹¹NLS Adv MS 31.6.15; Colquhoun, "Issue of the Late Civill Wars", 148-153.

¹¹²NLS Adv MS 31.6.15, f10.

elected to henceforth discharge the Committee for Religion in favour of using the Lords of the Clergy to consult on religious matters in their place. In essence, James carefully managed the parliamentary committee structure, a policy which allowed him to dismiss a 'rogue' committee in favour of transferring their remit to a more congenial group. Undoubtedly under the close scrutiny of James, the Lords of the Clergy thereafter assumed the role of drafting a suitable act for the security of the Protestant religion. Their work was to continue for two full weeks after the passing of the less controversial religious act which ratified all former laws that protected Protestantism. The subsequent alterations by the Lords of the Clergy to the draft recorded by Fountainhall were radical, with substantial sections being completely disregarded or considerably modified, as shall be discussed in detail below.¹¹³

On 12 August, after brief consideration of the draft for securing the Protestant religion, the Articles drew up and approved the act which ratified in general all former laws made by Charles II, Charles I and James VI which protected the Protestant religion, before ordering that it be brought into the full Parliament.¹¹⁴ Also on 12 August, the draft of the act of succession was read in the Articles, but it was decided that it should be further considered by them the following day, which was duly done. On 13 August, after some unspecified amendments, the draft act of succession was also approved by the Articles. Consequently, both the draft acts, to ratify all former laws for the security of the Protestant religion, and to acknowledge and assert the right of succession to the imperial crown of Scotland, were ready to be brought into the full Parliament.

Accordingly, on 13 August 1681 the full Parliament was presented with these two acts.¹¹⁵ Having already displayed his concern over the religious inclusions in the letter to Charles, Sir John Cunningham moved for a delay in voting on the grounds that neither was the House full, nor did the act extend to ratifying the several laws

¹¹³APS, viii, 243-244; *Laws and Acts made in the Third Parliament of our Most High and Dread Sovereign, Charles the Second, By the Grace of God, King of Scotland, England & Ireland, Defender of the Faith, Holden at Edinburgh, the 28 July 1681* (Edinburgh, 1681), 7-9; Wodrow, *Sufferings*, iii, 295-6.

¹¹⁴NAS PA7/11/96, f7.

¹¹⁵APS, viii, 238; NAS PA7/11/8, f6; *Laws and acts ...28 July 1681*, 2-3; CSPD (1680-1681), 388, 400, 406, 407.

against papists. There are unfortunately no records of the number of people present at Parliament on 13 August, though there are two viable ways to explain the high level of absenteeism recognised by Cunningham. Firstly, it is possible that non-Article members of Parliament were not made aware of the nature and importance of the matters intended to be settled on that day, and were absent due to ignorance. Secondly, people could have stayed away precisely because they were aware of the controversial character of the draft acts, particularly that relating to the succession, intended to be put to the full Parliament. By staying away, people could register their disquiet, perhaps about the fact that the succession was to be upheld despite James's religion, without fear of the same retribution they would face if they actually challenged the measure outright. Cunningham additionally said that the members of Parliament should be afforded a reasonable amount of time to deliberate the several former acts which had been made to secure the Protestant religion.¹¹⁶ He was seconded in this motion by, among others, the Earl of Tweeddale and Sir John Cochrane. Tweeddale had a history of being in opposition, having split with Lauderdale in the early 1670s, and lost his offices, including his place on the Privy Council, as a result.¹¹⁷ As has been noted, Cochrane had strong Covenanting sympathies. The amount of time afforded to discussion by the Parliament was a persistent cause for concern during the 1681 session, with acts being habitually presented to the Parliament late in the day so that there was little time for debate and consideration.¹¹⁸

Amongst others, Lockhart and Tarbat rejected the notion that there should be a delay on the grounds that the act ratified all former acts for the protection of Protestantism but acknowledged that the draft "may be helped as to the ratifieing of all Acts made ag[ain]st all papests and ordein the samen to be put to executione."¹¹⁹

¹¹⁶NAS PA7/11/8, f6; Burnet, *History of His Own Time*, ii, 148-9.

¹¹⁷*The Scots Peerage*, volume 8, Sir James Balfour Paul (ed), (Edinburgh, 1904), 453; Patrick, J., 'The origins of the opposition to Lauderdale in the Scottish Parliament of 1673', *SHR*, liii, (1974), 16-17.

¹¹⁸Burnet, *History of His Own Time*, ii, 149-150; Fountainhall's *Notices*, 313-4; Mackay, *Memoir of Sir James Dalrymple*, 144; Wodrow, *Sufferings*, iii, 298; Rait, *The Parliaments of Scotland*, 86; Hopkins, *Glencoe*, 83-4; Colquhoun, "Issue of the Late Civill Wars", 128.

¹¹⁹NAS PA7/11/8, f6.

Wodrow is amongst those who have claimed Argyll, Dalrymple and Lockhart were responsible for the retention of the words ‘against popery’ in the act.¹²⁰ If this were the case, then it must be assumed that the ‘others’ who joined Lockhart and Tarbat as mentioned in the Minutes of the Parliament were in fact Argyll and Dalrymple. The motion succeeded in gaining the inclusion of the words ‘and all Acts made against popery’ into the final act, words which the Articles had deliberately omitted, doubtlessly because of the presence and influence of James.¹²¹ In light of this addition, when it was put to a vote whether to approve or delay the Act, the former won by 100 votes.¹²² Thus was passed the first act of the Parliament of 1681, henceforth known as the Act ratifying all former Laws for the security of the Protestant Religion.¹²³

On the same day, the Act acknowledging and asserting the right of Succession to the Imperial Crown of Scotland was passed. This Act verified the lineal succession of the Crown according to proximity of blood, which, it was asserted, could not be interrupted, altered or diverted without involving the subjects of the kingdom in perjury, rebellion and civil war. Accordingly, the inherent rights of the monarchy, as well as “the fundamentall and unalterable laws of this Realme” were affirmed. Additionally, the Act secured the succession regardless of the sex of the heir, difference in religion or contrary laws made in future Parliaments. The Act ended by saying that it would be High Treason for anyone to attempt to alter, suspend or divert the rightful succession, or prevent the successor from assuming “full, frie, and actuall administration of the Government”.¹²⁴

¹²⁰Wodrow, *Sufferings*, iii, 290; Jones, *The Life of James II*, 62; Lang, A., *Sir George Mackenzie of Rosehaugh, His Life and Times 1636(?) - 1691* (London, 1909), 218; Colquhoun, “Issue of the Late Civill Wars”, 127; Willcock, *A Scots Earl*, 250.

¹²¹APS, viii, 238; NAS GD 157/1673, Ratification of all Protestant Acts; *Laws and acts ...28 July 1681*, 1; Wodrow, *Sufferings*, iii, 290-1.

¹²²NAS PA7/11/8, f6.

¹²³Ibid; APS, viii, 238.

¹²⁴APS, viii, 238-9; NAS PA7/11/8, f6; NAS GD 157/1675, Act Acknowledging and Asserting the Right of Succession to the Imperial Crown of Scotland, 13 August 1681; *Laws and acts ...28 July 1681*, 2; *A Source Book of Scottish History*, volume III, W.C. Dickinson and G. Dickinson (eds) (Edinburgh, 1961), 185-6; Wodrow, *Sufferings*, iii, 291-292; Clarke, *The Life of James II*, i, 697; Jones, *The Life of James II*, 62.

Given that this Act in effect upheld the right of James to become King, and therefore the head of the church, despite his open Catholicism, the very point on which the English House of Commons had become embroiled in such intense debates that the Parliament was prorogued, it is most surprising that it met with so little contention in Scotland. Though Wodrow stated that the Act, “appears to run cross to all our law and practick since we had any parliaments. Every sentence of it breathes the language of slavery, and so is exactly adapted to introduce popery, by bringing a popish successor to the throne”,¹²⁵ the members of the 1681 Parliament appear not to have felt so strongly about it. Of course, the aforementioned fact that there appeared to be numerous absentees from the Parliament may have played a significant role in this. Alternatively, it would not be without foundation to suggest the acquiescence of the Parliament over the matter of the succession was a form of reward to James for his acceptance of the ratification of the former laws which protected the Protestant religion.¹²⁶ Though a delay was requested by some unnamed members of Parliament, the general temper tallied with the sentiments of Richard Graham, first Viscount of Preston who, “befor the Act was put to a vote had a neat speach in commendaton therof”.¹²⁷ In any event, the Act was carried without one contradictory vote which was a rather considerable victory for both James on a personal level and the monarchy in general.¹²⁸

The deliberations over the draft of the act for securing the Protestant religion, however, being not so easily settled, continued until the end of August. After a ten-day hiatus, some unspecified overtures for further securing the Protestant religion were made by Sir John Cochrane on 22 August. These were given to the Lords of the Clergy along with instructions authorising them to give in any other overtures relating to that matter.¹²⁹ At the next meeting of the Articles the revised, “draught of ane Act for securing the protestant Religion against Poperie and phanaticisme”, was brought in and read. As well as protecting Protestantism from the influence of Roman Catholicism, the intention was clearly to mitigate the destabilising effects of

¹²⁵Wodrow, *Sufferings*, iii, 292.

¹²⁶Clarke, *The Life of James II*, i, 696-7.

¹²⁷NAS PA7/11/8, f6.

¹²⁸Ibid; Burnet, *History of His Own Time*, ii, 149.

¹²⁹NAS PA7/11/96, f12.

the Presbyterians who were guilty of holding conventicles. After customary (non-specific) amendments it was ordained that this draft act should “ly open in the Clerkes hands until it bee further considerd.”¹³⁰ Finally, on 26 August, it was agreed by the Lords of the Articles that the draft should be unveiled to the full Parliament, which was duly done on Saturday 27 August.¹³¹

Displaying characteristic angst over religious issues when the act was presented to the Parliament, Sir John Cunningham moved that it might lie open for scrutiny by the members on the grounds that the matter was of the greatest concern and importance.¹³² The Duke of Hamilton then moved that, “the Act might be returned again to the Articles and that what concernes the protestant Religione might be mo[ved] a pairt and what concernes the papists might be divide therfrom.”¹³³ In this motion Hamilton was seconded by the Earl of Argyll who had, of course, rather tellingly been on the original Committee for Religion. They were, however, answered by the Lord Advocate, Rosehaugh, who stated that the, “s[ai]d Act was deliberately considered by the Clergie and thought fitt be them to be Conjoynd as it stands & not divided.”¹³⁴ The Bishop of Edinburgh seconded the motion made by the Lord Advocate. At any rate, the Lord President of the Session, Sir James Dalrymple of Stair, then picked up on Cunningham’s point that the act should lay open for further consideration. A debate which lasted two full hours ensued, much of which centred around the question of whether it was necessary to make voters in elections take the Test, which was eventually declared essential, before it was decided that the overture for the act to be laid open would be granted.¹³⁵

Thus it was not until the 29 August that the draft act for securing the Protestant religion was next considered. After the Lord Advocate had moved that the Act anent the Test again be read, and that it could not under any circumstances be further delayed, a vote by the members of the Parliament carried that there should

¹³⁰Ibid, f13.

¹³¹NAS PA7/11/8, f7.

¹³²Ibid.

¹³³Ibid; Burnet, *History of His Own Time*, ii, 152.

¹³⁴NAS PA7/11/8, f7.

¹³⁵Ibid; APS, viii, 243-5, 353-4; *Laws and acts ...28 July 1681*, 7-9, 21-2; Burnet, *History of His Own Time*, ii, 152.

indeed be no delay, though this was only achieved by a majority of 13 votes.¹³⁶ Sir John Cochrane then went on to attempt to present a paper concerning the Test, the details of which are not recorded, but was informed that he should have tendered the paper to the Lords of the Articles, and not the full Parliament. Lord Belhaven then uttered a statement which was to become the source of much regret for him: he said that, although the act and the Test were some security for the Protestant religion, they made no attempt to safeguard it in the case of a ‘popish successor.’¹³⁷ One can only assume that Belhaven had paid no attention to the recently passed Act acknowledging and asserting the right of Succession to the Imperial Crown of Scotland, given that his remarks were classed by this Act as High Treason, a fact which the Earl of Airly and others wasted no time in pointing out to the rest of the Parliament.¹³⁸ On the basis that he was young and inexperienced, Belhaven was given a second chance to clarify his assertion, but his subsequent explanation changed little of what he said in his original statement, some unnamed members of the Court Party actually seeing his clarification as worse than his original statement.¹³⁹ It was, as such, carried by “many vots” that he should be imprisoned, a decision which was swiftly followed by the procurement of a warrant for his incarceration in Edinburgh Castle. Belhaven was only reinstated to his place in Parliament on 6 September after he had retracted his words and craved a pardon from James whilst on his knees.¹⁴⁰

Following the decision to imprison Belhaven, the Test itself was read article by article. “Therwer se[ver]all debaits anent the most part of the Articles and se[ver]all amendments made”, after which the Test was put to a vote, approve or not, where it was “caried by many.”¹⁴¹ It would seem that one of the amendments made at this late stage was to include the Confession of Faith in the Test Oath. After the

¹³⁶NAS PA7/11/8, f8. .

¹³⁷Ibid; *CSPD* (1680-1681), 440; Rait, *The Parliaments of Scotland*, 86; Willcock, *A Scots Earl*, 255.

¹³⁸NAS PA7/11/8, f8.

¹³⁹Fountainhall’s *Notices*, 307-8.

¹⁴⁰NAS PA7/11/8, f8; NAS PA7/11/20, Petition of Belhaven retracting certain words used in Parliament and craving discharge of his imprisonment, 5 and 6 September 1681; *APS*, viii, 242, 247; *CSPD* (1680-1681), 446.

¹⁴¹NAS PA7/11/8, f8.

dismissal of the Committee for Religion, the task of drawing up a new act to secure the Protestant religion fell to the Lords of the Clergy. Contained in the Yester Papers at the National Library of Scotland is a copy of the ‘Tenor of Oath’ as brought in by the Bishops. In accordance with the design of James, this contained no reference to the Confession of Faith.¹⁴² It is widely recognised that the eventual adherence to the Confession of Faith was the work of the President of the Session, Sir James Dalrymple of Stair. It is generally held, including by James himself, that Stair brought about this measure in an attempt to get the whole act viewed as preposterous and thrown out of Parliament. When this design failed he refused to take the Test, instead choosing to voluntarily exile himself in Holland.¹⁴³

Ludovic Grant of Freuchie, Commissioner for the shire of Murray, was the only member to vote against the Test who was specifically mentioned in the Minutes of the Parliament, this being done at his explicit request.¹⁴⁴ Following the vote on the Test, the entire Act Anent Religion and the Test was read again and it was moved that the article which ordered electors of commissioners of the burghs to take the Test be deleted from the act. This move was, however, rejected by 55 votes.¹⁴⁵ Finally the Act was voted on in Parliament, where it was carried, and instituted into law on 31 August as the Act anent Religion and the Test.¹⁴⁶

This Test Act differed greatly from that which had originally been proposed by the Committee for Religion and recorded by Fountainhall. The most striking feature of the Act was that, notwithstanding its inclusion in the draft act as prepared by the Committee for Religion and despite the eighth act of King James VI’s first Parliament making it a legal requirement, there was no reference whatsoever to the

¹⁴²NLS MS 7035, Yester Papers, f45.

¹⁴³Mackay, *Memoir of Sir James Dalrymple*, 146; Wodrow, *Sufferings*, iii, 298-9; *Letters Illustrative of Public Affairs in Scotland*, xxix; Burnet, *History of His Own Time*, ii, 152-3; Lang, *Sir George Mackenzie of Rosehaugh*, 220; Turner, *James II*, 189; Willcock, *A Scots Earl*, 253; Colquhoun, “‘Issue of the Late Civill Wars’”, 133, 138.

¹⁴⁴Ibid; NAS PA7/25/23.

¹⁴⁵Ibid; Burnet, *History of His Own Time*, ii, 152.

¹⁴⁶According to the Supplementary Parliamentary Papers the vote on the Act was “carried approve be many vots”, NAS PA7/11/8, f8, but Burnet alleges that it was passed, “only by a majority of seven voices”, *History of His Own Time*, ii, 154.

Coronation Oath in 1681.¹⁴⁷ As has been mentioned, it was this omission which played a large role in Fountainhall preferring the draft to the ultimate Act which was actually passed in Parliament on 31 August. In containing the Coronation Oath, the draft provided for a form of contract between the monarchy and the people, whereas the Act did not.¹⁴⁸ Without doubt, this measure was disregarded in order to pander to the Duke of York whose Catholicism dictated that he could not in good conscience take the Oath. If the Bishops had been successful, the Confession of Faith would not have been included in the Test Act either.

The basic tenor of the Act was that, in order to protect the Protestant religion, every office holder was to be required to take an oath, or ‘Test’, to prove their loyalty to the religion as established by the Confession of Faith (see Appendix B).¹⁴⁹ The only persons excepted from signing the Test were the King’s lawful brother and sons, despite a proposal by Argyll that only James be granted this exemption.¹⁵⁰ That the Test Oath ultimately included an allusion to the Confession of Faith was to become the source of much psychological wrangling, regardless of religious inclination, for many of those compelled by their employments to subscribe the Test. The Confession basically secured the fact that the only head of the Church was Jesus Christ and that the sovereign was only to be obeyed in matters, “not repugnant to the commandment of God.” Moreover, the Confession upheld the right of subjects to rise in arms against the Crown if the monarch failed to strictly abide by the word of God.¹⁵¹ In a blatantly contradictory measure the Test also adhered to the King’s

¹⁴⁷NLS Adv MS 31.6.15, ff206-11; Colquhoun, “Issue of the Late Civill Wars”, 156.

¹⁴⁸NLS Adv MS 31.6.15, ff206-11; *APS*, viii, 243-4; Colquhoun, “Issue of the Late Civill Wars”, 152.

¹⁴⁹*APS*, viii, 243-4; *CSPD* (1680-1681), 438, 440; Wodrow, *Sufferings*, iii, 295-6; Jones, *The Life of James II*, 63-4; Burnet, *History of His Own Time*, ii, 152; Lang, *Sir George Mackenzie of Rosehaugh*, 219; Donaldson, G., *Scotland; James V - James VII* (Edinburgh, 1998), 379; Mitchison, R., *A History of Scotland* (London, 1990), 266; Stevenson, D., *The Covenanters: The National Covenant and Scotland* (The Saltire Society, 1988), 67.

¹⁵⁰*CSPD* (1680-1681), 438, 440; Wodrow, *Sufferings*, iii, 298-9; Mackay, *Memoir of Sir James Dalrymple*, 147; Lang, *Sir George Mackenzie of Rosehaugh*, 220; Turner, *James II*, 189; Willcock, *A Scots Earl*, 255.

¹⁵¹NAS GD 157/1859, 1681 reprint of the Confession of Faith, 9, 11-12; Wodrow, *Sufferings*, iii, 295-8; Cowan, I.B., *The Scottish Covenanters 1660-1688* (London,

authority in matters temporal and spiritual, as well as prohibiting subjects from ever taking up arms against the King.¹⁵² The fact that the succession of James had already been secured posed a further point of conflict with the doctrine of the Confession of Faith. The ambiguity thus surrounding the Test Act proved to be the source of much public tension and even more private distress because of the fact that men had to struggle with their consciences before they could subscribe the Test.

As a supplement to this Act, the Additional Act Concerning the Test was passed on 17 September. This Act essentially reinforced the necessity of particular office holders, some of whom had been left out of the first Act Anent Religion and the Test, to subscribe the Test before 1 January 1682. Specifically required to take the Test were thus “all persons in publick trust”. Notably, this included everyone affiliated to the Admiralty, with the exception of James.¹⁵³

The fact that it took so long to pass the Act anent Religion and the Test is testament to the contention and ambiguity surrounding it. Robert Gordon of Gordonstoun, commissioner for the shire of Sutherland, voiced a common concern when he said that consciences could not be forced and the Test would thus merely succeed in making men hypocrites.¹⁵⁴ The intense discussions and repeated revisions to the draft of the act, since its inception over four weeks previously in the Committee anent Religion, are borne out with startling clarity by the legacy of the Act. The removal of numerous ministers and local government officers from their positions, as well as the indictment of the Earl of Argyll for treason, are just some of the more sinister repercussions of what became one of the most controversial pieces of legislation to be passed in Scotland. In essence, the Test acted as a catalyst for the purgation of all manner of offices: political and clerical roles were affected, on both national and local levels, some offices being vacated voluntarily, some by force. The enforcement of the Test in the aftermath of the 1681 Parliament is more fully discussed in the following Chapter.

1976), 108.

¹⁵²APS, viii, 243-4; *Laws and Acts ...28 July 1681*, 7-9; Wodrow, *Sufferings*, iii, 295-8; Stevenson, *The Covenanters*, 67.

¹⁵³APS, viii, 243-4, 355; *Laws and acts ...28 July 1681*, 7-9, 24; Wodrow, *Sufferings*, iii, 299-300; Ashley, *James II*, 138.

¹⁵⁴Fountainhall's *Notices*, 316.

Having appointed the two sub-committees already discussed, one to write a letter to the King and the other concerning religion, the Lords of the Articles also delegated other duties to small working parties within their number. The Committee of Trade was also created from members of the Lords of the Articles, as opposed to being a full committee of Parliament. Upon this body, James placed the Archbishop of Glasgow, the Bishop of Edinburgh, the Duke of Hamilton, the Earls of Argyll and Queensberry, Sir James Dalrymple of Stair, Sir George Mackenzie of Tarbat, Sir Patrick Ogilvie of Boyne, Sir James Dick of Priestfield, Sir George Skeen, John Bell and Alexander Mylne.¹⁵⁵ These men, with the Officers of State as supernumeraries, were given the remit to deliberate on all matters relating to the trade of the kingdom, as well as to, “consider how publick burialls marriages and Christenings may be legislate and the expenses therof restrained.”¹⁵⁶ The extravagance at baptisms, marriages and funerals was a matter James had expressed concern over as early as May 1681.¹⁵⁷

Drawing heavily on the mercantilist economic theory which prevailed at the time, the general work of this Committee aimed at improving the state of trade and industry in Scotland through framing regulatory public acts. On 13 September the Parliament passed a general Act for Encouraging Trade and Manufacturies. With the intention of stimulating the home economy this Act banned the importation of luxury items such as gold or silver thread, lace or buttons.¹⁵⁸ Additional economic Acts were concerned with individual industries, such as the statute which satisfied the petition of the sugar works in Glasgow to become a Manufactory.¹⁵⁹ In terms of the latter remit given to the Committee, they returned to the Articles on 31 August with a draft of an act which regulated the expense of burials, baptisms and marriages. This draft was returned to the Committee for further consideration and amendment which, being duly done, was approved by the Articles and ordered to be presented to the full Parliament where it was passed into law on 13 September.¹⁶⁰ As can be seen, the

¹⁵⁵NAS PA7/11/96, f5.

¹⁵⁶Ibid.

¹⁵⁷RPCS, vii, 110.

¹⁵⁸APS, viii, 348-350, *Laws and acts ...28 July 1681*, 13-15.

¹⁵⁹NAS PA7/11/96, ff15, 23; *Laws and acts ...28 July 1681*, 28; APS, viii, 360.

¹⁶⁰NAS PA7/11/96, ff15, 21; APS, viii, 350; *Laws and acts ...28 July 1681*, 16.

focus of the parliamentary Committee of Trade drew heavily on the work already done by the Privy Council, through its Committees of Trade, as discussed in the previous Chapter. Each were concerned with the stimulation of the domestic economy through the regulation of the importation of luxury items, and the curtailment of the cost of baptisms, marriages and burials.

The day after the creation of the Committee for Trade a further sub-committee of the Lords of the Articles was established, that relating to the peace of the kingdom. It is interesting to note that the Revolution of 1688-90 altered the way in which the matters of trade and peace were dealt with: from 1690 to 1702 trade and peace (or the ‘security of the kingdom’) joined controverted elections in being issues for which standing committees were routinely appointed at the beginning of the Parliament.¹⁶¹ On the 1681 Committee for Peace were the Archbishop of Glasgow, the Bishops of Edinburgh and Dunblane, the Duke of Hamilton, the Earls of Dumfries and Queensberry, Tarbat, Collington and Tough, along with Sir James Dick, John Bell, Alexander Mylne and Sir George Skeen, the provosts of Edinburgh, Glasgow, Linlithgow and Aberdeen respectively. Once more, the Officers of State were supernumeraries.¹⁶² In accordance with the wishes of Charles and the speech of James, these men were given instructions to assess what course might be taken for suppressing conventicles.

On 17 August it was proposed in the Articles that, “as an expedient for securing the Kingdome from field Conventicles that Landlords should bee lyable for ther tennents and servants”, so that if they were to be convicted of being a fugitive the heritor would be liable to pay their fines or present them to the authorities. It was further moved that fines for field conventicles were doubled.¹⁶³ This motion was remitted to the Lord Advocate to prepare an act for that purpose, which, being done, was voted eligible to be presented to the full Parliament.¹⁶⁴ After the draft act for securing the peace of the country had laid open for the Parliament to consider, it

¹⁶¹Rait, *The Parliaments of Scotland*, 391.

¹⁶²NAS PA7/11/96, f5; NAS PA7/11/12, names of those on the Committee for the Peace of the Kingdom.

¹⁶³Wodrow, *Sufferings*, iii, 294; Mackay, *Memoir of Sir James Dalrymple*, 144; Ashley, *James II*, 138.

¹⁶⁴NAS PA7/11/96, ff11-12; Wodrow, *Sufferings*, iii, 294; Ashley, *James II*, 138.

was proposed by the redoubtable Sir John Cunningham that the act was not in fact necessary on the grounds that there were already laws in place for the prevention and suppression of field conventicles. In reply, the Lord Advocate answered that the proposed act was indeed requisite because all former Acts had been frustrated in some way.¹⁶⁵ The draft act for securing the peace of the country was further opposed by Sir George Lockhart on the grounds that both divine and common law stated that men were only answerable for their own transgressions.¹⁶⁶ It was next asserted, by Sir George Dallas of St Martins, commissioner for the shire of Cromarty, that the draft act anent the peace should be returned to the Articles to be altered on technical grounds. As it currently stood it ratified the 1662 Act which restored episcopacy, an Act which in turn rescinded the Act of 1592, which included measures against popery. Dallas wanted it clarified that the aspects of the 1592 Act which abolished Catholicism remained in force.¹⁶⁷ It is stated in the Minutes of the Parliament that the act was accordingly amended, and Rait maintains that “all acts made against Popery” were declared to “stand in full force and effect.”¹⁶⁸ However, the final version of the Act, which was passed by 56 votes in Parliament, included no elucidation about the aspects of the 1592 Act which opposed Catholicism.¹⁶⁹ It was left to the Test Act to order that all acts against Popery be put into execution.¹⁷⁰

It has been said by Wodrow that the above Act, “gave a new handle to the managers to give commissions, and gratify whom they pleased thereby, to uplift the fines.”¹⁷¹ By ‘managers’, Wodrow certainly means the Privy Councillors, who were thus afforded the power to invest authority in individuals to suppress conventicles. The Council wasted no time in utilising this new ‘handle’. On 20 September, the Parliament having ended three days previously, the Council appointed a Committee anent the Peace of the Kingdom, upon which were the Earls of Mar, Glencairn, Perth, Queensberry and Balcarras, the Bishop of Edinburgh, General Dalziel, the

¹⁶⁵NAS PA7/11/8, f7.

¹⁶⁶Mackay, *Memoir of Sir James Dalrymple*, 144.

¹⁶⁷NAS PA7/11/8, f7; Fountainhall’s *Selections*, 47; Rait, *The Parliaments of Scotland*, 87.

¹⁶⁸NAS PA7/11/8, f7; Rait, *The Parliaments of Scotland*, 87.

¹⁶⁹NAS PA7/11/8, f7; *APS*, viii, 242; *Laws and acts ... 28 July 1681*, 5-6.

¹⁷⁰MacIntosh, “The Scottish Parliament in the Restoration Era, 1660-1681”, 290.

¹⁷¹Wodrow, *Sufferings*, iii, 294.

Treasurer-Depute, the Lord Advocate and John Drummond of Lundin.¹⁷² The delegation made to them accorded them responsibility for electing suitable persons to be given commissions to suppress conventicles and collect fines.

On 6 August another committee was established by the Lords of the Articles, this time being given orders to consider an act for the continuation of the supply and the method of collecting it. Characteristically the Officers of State sat on this Committee, this time being joined by the Bishops of Dunkeld, Ross and Breichen, the Duke of Hamilton, the Earls of Erroll and Queensberry, Sir James Dalrymple of Stair, Sir George Mackenzie of Tarbat, Sir George Lockhart and Sir William Sharp as well as Sir James Dick of Priestfield, John Bell and John Easson.¹⁷³ By 10 August this Committee had completed its duty by suggesting to the rest of the Articles that an offer be made to Charles of five months cess to be paid to him annually for the duration of five years, the new supply to begin on WhitSunday 1683, the date on which the current supply expired.¹⁷⁴ This proposal was subsequently approved by the rest of the Articles who then appointed the Lord Advocate, Argyll, Tarbat and Sir George Lockhart to meet and draw up the act which was to be presented to Parliament. After some revisions were made by the Articles, the draft act was accordingly passed to the full Parliament for consideration.¹⁷⁵ When this was done, on 15 August, Hamilton, Sir John Cunningham and others moved that there be a delay on the grounds that the matters of religion and controverted elections should be resolved first. After being answered by the Lord Advocate that the proposition was very plain and that it should be quickly settled, a vote carried in the negative by 59 votes that there should be a delay.¹⁷⁶ Following one alteration by the Parliament, that there should be a clause about the manner of the collection of the supply added, the act was accordingly passed into legislation on 20 August.¹⁷⁷

¹⁷²*RPCS*, vii, 196.

¹⁷³NAS PA7/11/96, f6; NAS PA7/11/12, names of those on the Committee for the Supply.

¹⁷⁴NAS PA7/11/96, f7; NAS PA7/11/13, report by the Committee anent Supply, 9 August 1681.

¹⁷⁵NAS PA7/11/96, f7; NAS PA7/11/8, ff6-7.

¹⁷⁶NAS PA7/11/8, f6.

¹⁷⁷*APS*, viii, 240; NAS PA7/11/96, f11; *Laws and acts ...28 July 1681*, 3-5.

Prior to the act being presented to the Parliament, James had conjectured that there would be some resistance to the cess. Referring to the intended supply for five years in a letter to Colonel Legge, James stated that “the Party will endeavour to bring it down to three, but I am very confident we shall carry it for five.”¹⁷⁸ There is, however, no record in the Supplementary Parliamentary Papers of any suggestion to reduce the supply to three years. Although James had put Hamilton onto various parliamentary committees, including the Committee for the Supply, he was well aware that Hamilton remained outwith the inner circle of the Court. In his letter to Legge of 14 August, James wrote that he wished “D[uke] Hamilton would lay aside his Thoughts of Popularity, it would be better for him, for in the end, he will do himself no good, and in the mean time may be made a Property to obstruct his Ma[jesty’s] Service.”¹⁷⁹

On the same day as the Committee anent Supply was created, in order to fulfil every last one of Charles’s private instructions to him, James charged Stair, Tarbat and Haddo to meet with the Lord Advocate to consider an act pertaining to the King’s prerogative.¹⁸⁰ In due course they presented a draft act to the full Parliament. Accordingly, the Act asserting His Majesty’s Prerogative in point of Jurisdiction was passed on 16 September.¹⁸¹

Conclusion

It can, therefore, be seen that the Parliament of 1681 instituted legislation which covered each of the original points made to James by his brother in the instructions he issued to him regarding the forthcoming Parliament. Indeed, none of the issues in Charles’s letter and in James’s speech to the Parliament were neglected. In terms of Acts and Ratifications, the 1681 Parliament was plainly loyal to the wishes of the Court. A less obvious victory for the Court is outlined by Fountainhall: “Some think it will be easier work for them to call a new Parliament, seeing the two prelimitations they have by this Parliament put upon all elections (the one in the

¹⁷⁸BL Add 18447, James to Legge, 14 August [1681], f41.

¹⁷⁹Ibid.

¹⁸⁰NAS PA7/11/96, f6.

¹⁸¹APS, viii, 352; *Laws and acts ...28 July 1681*, 19.

Burrows only to choose inhabitants, the other shires and Burrows that the electors must first take the Test) will have the influence in all subsequent Parliaments, they will get elected whomsoever the Court pleases to recommend in most Shires and Burrows, many thus being debarred from elections.”¹⁸² In this assertion Fountainhall is supported by Wodrow who also sees the requirement that office holders take the Test as being, “made with a particular eye to elections.”¹⁸³ It is certainly interesting to note that neither of the fractious representatives of the shire of Ayr, Sir John Cunningham and Sir John Cochrane, went on to attend the 1685 Parliament.¹⁸⁴

Nonetheless, as was mentioned at the beginning of this Chapter, Fountainhall also said that several acts were rejected by the 1681 Parliament. Included in this number were diverse acts; for weighing grain; regulating the amount of interest chargeable by merchants on monies loaned; restricting to the Justice Court the prerogative to try the crimes of murder, rape, arson and robbery; and for ensuring inhibitions stood against redeemers of wadsetters.¹⁸⁵ Clearly, the 1681 Parliament did not go entirely as the Crown would have preferred. Also according to Fountainhall, there were several measures “whispered as designed to be past in Acts”¹⁸⁶ but which did not in fact reach statute. Rumour not only had it that there was a design to introduce toleration for Catholics, but also that there was an intention to allow James to become joint sovereign of Scotland with his brother. Additionally, it was muted that measures were designed to allow appeals from the Session to the Parliament, and to facilitate the raising of money by the King and Council without the need to call a Parliament. Although such speculation can be dismissed as mere scaremongering, it would have undoubtedly served to have raised a few temperatures.

The most apparent evidence that the 1681 Parliament was not entirely obsequious to the Crown can be seen in the debates and overtures made throughout

¹⁸²Fountainhall’s *Notices*, 327; Rait, *The Parliaments of Scotland*, 305; Wodrow, *Sufferings*, iii, 299-300; *APS*, viii, 243-5. 353-4, *Laws and acts ...28 July 1681*, 7-9, 21-2.

¹⁸³Wodrow, *Sufferings*, iii, 299-300.

¹⁸⁴*APS*, viii, 451-3.

¹⁸⁵Fountainhall’s *Notices*, 321.

¹⁸⁶*Ibid*, 326; Colquhoun, “Issue of the Late Civill Wars”, 147.

the parliamentary proceedings. Persistent antagonists included Sir John Cunningham, and Sir John Cochrane, with various measures being challenged by Sir George Lockhart and Hamilton, and individual matters being contested by Argyll, Tweeddale and Belhaven. Although Cunningham, Lockhart, Hamilton and Tweeddale all had histories of notable opposition to Lauderdale, they did not comprise an organised 'opposition party': with the exception of Cunningham, they did not provide systematic resistance to the Court, and, in the cases of Hamilton and Lockhart, supported the Crown over other matters. Both Hamilton and Lockhart were Lords of the Articles, and were integral features of the subcommittees chosen by James. Whilst realising that Hamilton was not yet entirely reconciled to the Court,¹⁸⁷ James clearly also appreciated the value of having the support of the powerful and influential Duke. On the whole, those who contested issues were simply not prepared to allow every measure to pass through Parliament without question, particularly if it encroached on the rights of the Parliament, touched on the fundamental laws or pertained to controversial questions, such as religion. The very existence of the numerous instances of dissent shows that the 1681 Parliament was certainly not unanimously predisposed to be utterly servile to the Court. Not only did the House give the Lords of the Articles a rather tough time with the legislative process, but some of the Lords themselves defied the Court, the most notable example of which was when the Committee Anent Religion accepted inclusions in the draft act for the security of the Protestant religion which were in direct conflict with the notions of James.

As measures were not passed because members were universally subservient to the Crown, it can be confidently asserted that legislation was enacted largely because James and the Articles were rather astute in getting their proposals passed through the full Parliament. As a parliamentary manager, James was far more successful than speculation before the opening of the Parliament afforded him.¹⁸⁸ The Committees chosen by him were carefully selected so that they were packed

¹⁸⁷BL Add 18447, James to Legge, 14 August [1681], f41.

¹⁸⁸Hay, M.V., *The Enigma of James II* (London, 1938), 26; Ouston, H., 'York in Edinburgh: James VII and the Patronage of Learning in Scotland, 1679-1688', in Dwyer, J., Mason, R., Murdoch, A., (eds), *New Perspectives on the Politics and Culture of Early Modern Scotland*, (Edinburgh, 1982), 134.

with members friendly to the Crown, and, as in the case of the errant Committee Anent Religion, were terminated if they failed to best serve that Crown. As has been seen, delays were rarely granted when members requested them, usually being talked down by the Lord Advocate who represented James in the debates.¹⁸⁹ As a result of James viewing opposition as potentially harmful, acts were customarily presented to the Parliament late in the day to minimise the opportunity for debate and consideration.¹⁹⁰ This way procedure could be rushed through and the acts passed with as little input as possible from the members who were not on the Lords of the Articles.

On reflection, it is clear that whilst the Parliament rejected several Crown measures and forced the revisions of many draft acts, nothing fundamental was altered to the extent that the final Act would have been unacceptable to the Crown. The alteration which would have come closest to doing this was surely the addition of the words, ‘and all Acts made against popery’ to the Act ratifying all former Laws for the Security of the Protestant Religion.¹⁹¹ Nonetheless, in light of the fact that the succession of the Stewart dynasty had been secured regardless of James’s Catholicism, and that the established religion had been protected against extremism, the supply had been extended and the King’s prerogative had been asserted, the Parliament of 1681 was a major triumph for the Court. At the same time, the debates which were held during the parliamentary session showed in no uncertain terms that the Crown did not command universal subservience from the Scottish representatives.

¹⁸⁹Fountainhall’s *Notices*, 323; Colquhoun, “Issue of the Late Civill Wars”, 126.

¹⁹⁰Burnet, *History of His Own Time*, ii, 149-150; Fountainhall’s *Notices*, 313-4; Mackay, *Memoir of Sir James Dalrymple*, 144; Wodrow, *Sufferings*, iii, 298; Rait, *The Parliaments of Scotland*, 86; Hopkins, *Glencoe*, 83-4; Colquhoun, “Issue of the Late Civill Wars”, 128.

¹⁹¹APS, viii, 238; NAS GD 157/1673 - Ratification of all Protestant Acts; *Laws and acts ...28 July 1681*, 1; Wodrow, *Sufferings*, iii, 290-1.

CHAPTER 4

James, Duke of York, and the Enforcement of the 1681 Test Act

Introduction

In the wake of the 1681 Parliament, James remained the central focus of Scottish political life and continued to exert his managerial influence over the nation. His continued diligence and assiduity towards the administration of Scotland can be seen from his unfailing attendance at the Privy Council, in which his guiding role abided, between the conclusion of the Parliament in September 1681 and his departure for England in March 1682.¹ James was absent from the Council meetings between 13 March and 6 May 1682.² This was due to his trip to the Court in London, during which time Charles II agreed that he could return to England on a permanent basis. In May 1682 James thus returned to Scotland for the final time, resuming his place on the Council between 8 and 15 May, the purpose of this short stay being to collect his family and to establish the affairs of Scotland according to his designs.

Perhaps the most significant function of the Council after the sitting of the 1681 Parliament, was the enforcement of the Test Act. The role of James in driving this policy was recognised at the time; Arthur Ross, Archbishop of Glasgow, wrote that James was vigilant in ensuring the Test Act was put into effect.³ This Act obliged all office holders to take an Oath swearing their loyalty to the Protestant religion as established by law. Though undoubtedly odious in many respects to the devoutly Catholic Duke, he nonetheless felt obliged in his role as High Commissioner of Scotland to enforce the laws of the land that he perceived as having been created for both the advantage of that kingdom and the good of his brother. Burnet claimed that James accepted the Test's enforcement of Protestantism on the grounds that it also would "prove much for his service",⁴ a

¹ James attended all 52 meetings of the Council between 20 September 1681 and 9 March 1682, *RPCS*, vii, 196-355.

² *RPCS*, vii, 355-411.

³ NLS MS 3012, Bishop of Galloway's Papers, Letter, 21 November 1681, Archbishop Glasgow to Bishop Galloway, f4.

⁴ *Bishop Burnet's History of His Own Time from the Restoration of King Charles II*

nebulous way of saying that one of the more attractive facets of the Test as far as the Court was concerned was that it could be used as a tool with which to bar fractious people from offices. Burnet's assertion was in many ways true: the Test Act did provide an ideal opportunity for the government to remove or exclude those it viewed as disagreeable from official posts.

Whilst enforcing the controversial Test Act, the Privy Council was to encounter various obstacles, with objections and disputes originating from both the political and the ministerial arenas. This gave rise to the single largest purge from offices during the 1680s, sometimes on the rudimentary grounds that the individual candidly refused to take the Test as requested, though at other times on more spurious grounds. The Council certainly used the Test in various instances as a mechanism with which to deprive certain people from positions of authority. Perhaps the most compelling justification in arguing that the Council used the Test as a device with which to strip individuals of their employments is that it deposed several office holders before the deadline for taking the Test had passed. Whereas the Act of Parliament allowed people until 1 January 1682 to subscribe the Oath, the Council, before the arrival of this deadline, removed and replaced numerous individuals who refused to take the Test. In essence, the Council disregarded the time limit as established by parliamentary legislation in order to rid themselves of potentially disruptive office holders. In addition, the Council's partisan nature meant that whilst some favoured people were given repeated opportunities to take the Test, those less preferred were expeditiously cast out of their offices and replaced by more congenial individuals. Certainly, there was no hard and fast rule on the enforcement of the Test: the Council instead chose to interchange the policy of sympathetic encouragement towards certain people with that of arbitrary removal from office for others.

James's continued residence in Scotland had not in fact been automatic. Towards the end of August James expressed his desire to travel to London when the Parliament was over.⁵ Having seen the way in which James was commendably

to the Conclusion of the Peace of Utrecht in the Reign of Queen Anne, volume ii, (London, 1815), 152.

⁵ BL Add 18447, James to Legge, 24 August [1681], f42.

handling the often vocal Scottish Parliament, some notable English figures, including Laurence Hyde, Viscount Rochester and Edward, first Earl of Conway, apparently agreed that it was an appropriate time to renew his applications to be recalled to Court. According to Hyde and Conway, James would have more success if he petitioned to return only for a short visit. This would afford him the opportunity to personally debrief Charles on the recent proceedings in Scotland as well as on the suggestions he had for the future running of the country. In particular, James could advise the King about the appointment of a new Chancellor.⁶

Events were destined to circumvent the desires of James and his colleagues. When Halifax was informed that James had petitioned to return to Court he, somewhat blistered by the knowledge that he had not been privy to James's intention from the outset, advised the King that it would be folly to allow the Duke's return to London at that time. Despite his brother's success in Scotland, Charles was convinced by Halifax that James's return to England would not be advantageous. Hyde was thus dispatched to Scotland, in late August or early September, to gather news of the acts passed in the Parliament, and to tell James that his petition to return to Court had been rejected on account of his religion continuing to pose an insurmountable problem.⁷ One of Hyde's objectives on his visit to Scotland was to repeat the plea to James which had been uttered on countless prior occasions, to reconsider his Catholicism due to the inevitable consequence of ruining both himself and the King if he continued his allegiance to Rome.⁸ Despite all such efforts James remained stoically Catholic, and thus continued to reside in Scotland.

⁶ *The Life of James II King of England, &c, Collected out of Memoirs Writ of His Own Hand*, Volume i, Clarke, J.S. (ed), (London, 1816), 698.

⁷ BL Add 18447, James to Legge, 3 September [1681], f42, 11 September [1681], f43; *CSPD* (1680-1681), 446, 460; Clarke, *The Life of James II*, i, 699.

⁸ Clarke, *The Life of James II*, i, 699; Macpherson stated that James was pressed to alter his religion in January of 1681, *Original Papers: Containing the Secret History of Great Britain from the Restoration to the Accession of the house of Hanover to which are prefixed extracts from the Life of James II as written by himself*, volume i, James McPherson (ed), (London, 1775), 113; Reresby recorded that Halifax had also written to James to persuade him to convert to Protestantism, *Memoirs of Sir John Reresby. The Complete Text and a Selection From His Letters*, Browning, A. (ed), (Glasgow, 1936), 258.

James maintained a large input in the government of Scotland and faithfully tried to do the best service possible for his brother. Not being allowed to return to England to acquaint Charles with the state of Scotland in person, James resolved to convey details of his scheme for the future government of Scotland by writing to his brother. The nature of James's correspondence, in which he outlined all the matters he felt needed redress in Scotland, are recorded in his *Memoirs*.⁹ Notably, James highlighted the general mismanagement of Scotland, which he blamed on the fact that private animosities, rather than duty to Charles, seemed to dictate how the nation was governed. Without doubt, James was referring to the partisan administration which had been established by Lauderdale. James felt that the only solution to such a formidable problem was to sack the guilty persons by way of the royal prerogative, which was of course precisely what was done to some individuals in October when Charles issued a new commission for the Court of Session. That James had tackled some of Lauderdale's close allies, especially with regards to the representation about the Court of Session, caused the old Duke to retaliate: "Lauderdale, offended at the duke of York's exception to the Lord Register, the Earl of Argyle, and the President of the Session, He laboured to persuade the King, that they were all disposed to his service."¹⁰ Nonetheless, the pleas of Lauderdale went unheeded in the face of James's report to Charles, a fact which James could use to judge the high regard with which his brother viewed him.¹¹

That James was acutely aware that the Duke of Lauderdale had commanded an overbearing influence on Scottish politics is impossible to mistake in the face of his proposed alterations in the administration of Scotland. In terms of preventing any individual from acquiring too much power, James designed that there should be two Secretaries of State for Scotland, one to reside in London and the other to stay in Scotland, positions they would alternate annually. To further prevent the Secretaries of State from becoming overly influential would be the provision to allow five or six

⁹ Clarke, *The Life of James II*, i, 703-6.

¹⁰ *Original Papers*, 123.

¹¹ BL Add 18447, James to Legge, 30 September [1681], f44; Clarke, *The Life of James II*, i, 707; *Letters Illustrative of Public Affairs in Scotland, Addressed by Contemporary Statesmen to George, Earl of Aberdeen, Lord High Chancellor of Scotland, 1681 to 1684*, Dunn, J., (ed) (The Spalding Club, Aberdeen, 1851), 4.

Scottish Privy Councillors, again to be altered annually, to attend the court at London in order to establish a wider platform of advice for the King. In terms of the Treasury, James argued that if any of the Lords of the Treasury died, there was no need to replace them, as seven commissioners were more than capable of handling £60,000 per annum.¹²

In addition to the above suggestions, James argued that the standing forces of Scotland were in need of good professional officers in place of the ones who currently held those positions purely because of venality. James also mentioned that Archibald Campbell, ninth Earl of Argyll, had far too much power for one man, but cautioned that this was no easily resolved issue.¹³ James had actually been given the opportunity to effectively quash Argyll during the 1681 Parliament by allowing commissions to overturn the grants of certain heritable jurisdictions to the estate of Argyll.¹⁴ This notion was principally invoked as a result of the claims from Errol and Huntly that the Argyll estate was financially indebted to them as a result of loans given to the Marquess of Argyll. James, however, prevented any action against Argyll, “upon the first principle that hee wold neither suffer the King’s servants nor his ... patents to be call[e]d in question before the parl[iamen]t.”¹⁵ Obviously this was route was taken by James not because of an overwhelming desire to protect Argyll: he did, after all, attempt shortly thereafter to mitigate the powers of Argyll in a process which was to lead to one of the most prominent criminal cases of the time. Instead, James’s actions stemmed more from the need to prevent any opportunity being presented to the parliamentarians which would have allowed them to call into question or in any way undermine the royal prerogative.¹⁶ At all costs, the powers of the monarchy were to remain untouched by encroachments from the Parliament.

¹²Clarke, *The Life of James II*, i, 706. Although not expressly stated, this figure is undoubtedly in Sterling.

¹³Ibid, 704.

¹⁴Wodrow, R., *The History of the Sufferings of the Church of Scotland*, volume iii, (Glasgow, 1829), 313.

¹⁵Airy, O., *The Lauderdale Papers*, volume iii, (Camden Society, 1884-5), Sir George Mackenzie to the Earl of Moray, 225; Hopkins, P., *Glencoe and the End of the Highland War* (Edinburgh, 1998), 85.

¹⁶Clarke, *The Life of James II*, i, 703.

The Privy Council and the Enforcement of the Test Act

The passing of the Test Act in the 1681 Parliament presented the Council with a new focus, as the task of enforcing the Test fell to it. In the weeks and months after the Parliament, the Council essentially had to ensure all requisite people took the Oath and dissenters were located. The vast majority of the time immediately after the Parliament was spent issuing orders about the Test, pursuing people to take the Oath, and replacing those who refused to do so with more compliant individuals. For this purpose, the Committee Anent the Peace of the Kingdom was formed on 20 September 1681, just three days after the end of the Parliament. Made up of the Earls of Mar, Glencairn, Perth, Queensberry and Balcarras, the Bishop of Edinburgh and the Lords Dalziel, Treasurer-Depute and Lundin, this new Committee was given the remit to consider what was fit to be done for the peace of the kingdom, and for seeing that “late good act of parliament [the Test Act] put in execution.”¹⁷ Curiously, this Committee does not appear further in the Privy Council records, its duties of supervising the implementation of the Test being instead passed to the Committee for Public Affairs, the precise membership of which has unfortunately not been registered in the Council records beyond 25 November 1680.¹⁸ The Committee for Public Affairs henceforth adopted the dual role of enforcer of the Test and investigator of incidences of general dissent in Scotland, particularly those which came in the form of conventicles and other religious disorders. Its function insofar as it related to general dissent will be more fully discussed in the following Chapter.

The work of the Council, and in particular the Committee for Public Affairs, in pressing the Test Act was to be extremely contentious. Essentially, many people felt that, in good conscience, they simply could not accept the Test Act as it stood. Wodrow described the Test as “a medley of popery, prelacy, erastianism, and self-contradiction”.¹⁹ People basically faltered on the fact that whilst the Test enforced adherence to the Confession of Faith of 1567, which secured Jesus Christ as the only head of the Church, it also, diametrically, dictated that Charles II was head

¹⁷*RPCS*, vii, 196. At this stage Charles Maitland of Halton was Treasurer-Depute.

¹⁸*RPCS*, vi, 589-590.

¹⁹Wodrow, *Sufferings*, iii, 297.

of the Church (see Appendix B).²⁰ Moreover, whereas the Confession upheld the right of subjects to rise in arms against the Crown if the monarch failed to strictly abide by the word of God, the Test prohibited subjects from ever taking up arms against the King. In essence, the Test was fundamentally inconsistent in that it required adherence to opposite guarantees. In reality, it forced people to swear a self-contradictory oath in 1681 as well as posing the problem of obliterating certain previous oaths, such as the National Covenant, and putting others in jeopardy.²¹

It was obvious that the grounds upon which people balked at the Test spanned religious divides.²² Presbyterians could not take the oath because of the inclusion that the King was supreme in matters temporal and spiritual; post-Restoration Episcopalians were forced to refuse on the grounds that it encompassed the Confession of Faith; and Catholics could not subscribe the Test because of its affirmation of Protestantism. There was certainly some concern about the fact that Presbyterians were lumped together with ‘Papists and Fanatics’: one contemporary categorically refused to believe that the Test was only designed to catch out, “the wilde sort of people”, and as such opined that the sorry consequence of the Act would be to divide formerly harmonious Protestants amongst themselves.²³ Whilst some men took the Oath as a matter of course, many hesitated at doing so because of its content. In essence, the Test forced many moderate and loyal people onto the list of dissenters on account of the fact that in good conscience they were forced to reject a contradictory and fundamentally objectionable oath.

At Council on 20 September 1681, its first meeting since the adjournment of the Parliament, it was resolved that the whole of the Privy Council would sign the Test “nixt Thursday”.²⁴ Accordingly, on 22 September, all Councillors were

²⁰NAS GD 157/1859, 1681 reprint of the Confession of Faith, 9; *APS*, viii, 243-4; Wodrow, *Sufferings*, iii, 295-298; Cowan, I.B., *The Scottish Covenanters 1660-1688* (London, 1976), 108.

²¹NLS Adv MS 31.6.15 Some other scruples and objections against this oath of the Test, ff214-6.

²²Colquhoun, K.M. “‘Issue of the Late Civill Wars’: James, duke of York and the government of Scotland, 1679-1689”, (University of Illinois, PhD thesis, 1993), 114.

²³NLS Wod Qu XXVI (xx), Unaddressed and unsigned letter, 1682, giving reasons against taking the Test, f208; NLS Adv MS 31.6.15 Some Further Objections against this oath of the Test by way of a letter to a friend, ff220-7.

²⁴*RPCS*, vii, 195.

ordained to take the Test, and those who were absent were bound to take it on their next appearance at the Council.²⁵ This order aroused resentment among some unnamed contemporaries: Fountainhall recorded that it was “condemned as a great stretch in the Counsell, to attempt to abridge and shorten the tyme granted by the act of parliament it self.”²⁶ Notable reticence came from Queensberry who stayed out of the Council until some 26 others had taken the Test before him. Even then, the Earl declared that he was only willing to take the Test with the following explanation: “that by that part of the test declaring there lies no obligation on the swearer to endeavour any change or alteration in the government of the church or state, &c. he does not understand himself to be against alterations, in case it should seem good to his majesty to make them in church or state.”²⁷ Though this rationale by Queensberry was not fundamentally treasonous, as Argyll’s explanation was later deemed to be, largely on the grounds that he actually accorded support to Charles’s right to make alterations in the realm of religion, it does forward the argument that the Test was unacceptable in its present form, even to the most casual and obsequious eye.

A further example of early faltering over the Test came from the Earl of Argyll, who had of course proposed in the Parliament that only James be granted exemption from taking the Test.²⁸ Argyll conspicuously absented himself from the Council meeting on 22 September and for a further 15 meetings after it had been declared that all Councillors should immediately take the Test.²⁹ Several other Councillors were notably absent after the order that they take the Test. These included the Lord Register, Sir Thomas Murray of Glendook, and Atholl, who each missed the following two meetings, Ancram, who missed the next three, and

²⁵Ibid, 198; *CSPD* (1680-1681), 477.

²⁶*Historical Notices of Scottish Affairs, Selected from the manuscripts of Sir John Lauder of Fountainhall*, volume i, (Edinburgh, 1848), 328.

²⁷Wodrow, *Sufferings*, iii, 300.

²⁸*CSPD* (1680-1681), 438, 440; Wodrow, *Sufferings*, iii, 298-9; Mackay, *Memoir of Sir James Dalrymple*, 147; Lang, A., *Sir George Mackenzie of Rosehaugh, His Life and Times 1636(?) - 1691* (London, 1909), 220; Turner, F.C., *James II* (London, 1948), 189; Willcock, J., *A Scots Earl in Covenanting Times: Being Life and Times of Archibald 9th Earl of Argyll (1629-1685)* (Edinburgh, 1907), 255.

²⁹*RPCS*, vii, 198-9, 202, 212-5, 219, 220-1, 226, 234; *CSPD* (1680-1681), 477.

Abbotshall, who missed one. Sir John Wauchope of Niddrie, having been present at the Council on 20 September, was thereafter absent from all subsequent meetings of the Council.³⁰ Despite the absence of various men, it was only Argyll and the Register who seemed to arouse contemporary suspicions that they were unwilling to take the Test.³¹

After dealing with its attendant members, on 24 September the Privy Council turned its attentions to other office holders by issuing the decree that they should take the Test before January 1682.³² In conjunction with this order the Council wrote to the Secretary of State, the Earl of Moray, requesting that himself, Lauderdale and James Scott, Duke of Monmouth, all currently resident in England, take the Oath in their capacity as members of the Scottish Privy Council. Further, it was proclaimed that all magistrates and other officials take the Test at their next election, and that a report be made on all who refused to do so.

Though the majority of individuals required by parliamentary legislation to take the Test took it upon request by the Privy Council, some people stalled at doing so, and others refused outright. A significant number were appalled at the self-contradictory nature of the Test and, on the grounds that they would have at best jeopardised former oaths and at worst endangered their souls, took the decision to lose their offices rather than risk their consciences. A notable portion of the office-holding community was made up of those who avoided taking the Test, and were thus sought out by the Committee for Public Affairs. Even those who did comply with the Privy Council's demands that they summarily take the Test, such as the Town Council and magistrates of the burgh of Glasgow, who took the Test on 18 November 1681, require closer analysis before it can be asserted that they were amenable to the Council's wishes.³³ It is important to note that the office holders in Glasgow only took the Test after the Privy Council had obtained, by way of an order issued on 8 November, new elections to the Town Council of Glasgow on the grounds that the former election had been illegal. The precise illegality, as reported

³⁰*RPCS*, vii, 198, 199.

³¹*CSPD* (1680-1681), 477.

³²*RPCS*, vii, 202.

³³*Extracts from the Records of the Burgh of Glasgow 1663-1690* (Glasgow, 1905), 306.

by the Committee for Public Affairs, was that “there wanted two or three of the electors of the council, which is requisite by the constitution of the burgh”.³⁴ It was not, therefore, the original Town Council who subscribed the Oath, but was instead the newly elected representatives. Despite the fact that it is recorded that the new council subscribed the Oath on 18 November, the Archbishop of Glasgow actually wrote three days later that, “our Town Counsell is not yet full” because of the refusals of members to take the Test.³⁵ That a similar order for re-election was also made to the Town Council of Paisley by the Privy Council simply fuels allegations of spurious activities on the part of the government in terms of purging ‘problematic’ people from office and ensuring that they were replaced by more compliant individuals.³⁶

Whether or not the architects of the Test Act were simply guilty of unsympathetic heavy-handedness on the grounds that their drive towards the rigid conformity of all office holders was most unrealistic, or whether or not they had more sinister motives is difficult to assess with absolute certainty, not least because there were so many individuals involved in the formation of the Act. This statement can be supported by contemporary views on the matter: an anonymous writer said that the Test, “pretended to be for the secureing of the protestant religion and peace of the ma[jes]tie, yet seems in effect to tend (if not by some intended) to destroy both by laying a trap for solid sincere protestants and truly religious persones who feare an oath to turn th[e]m out and debarr th[e]m of all publick place”.³⁷ Thus it was recognised that whilst the creators of the Test Act included some people whose original objectives were largely innocent from allegations about the intentional purging of offices and who had never intended anything more suspicious than the removal of those who refused to conform to the government’s desire to protect Protestantism as established by law, others undoubtedly did have the wider implications at the forefront of their minds when they contributed to the shaping of

³⁴*RPCS*, vii, 247.

³⁵NLS MS 3012, Letter from Archbishop Glasgow to Bishop Galloway, 21 November 1681, f3.

³⁶*RPCS*, vii, 247.

³⁷NLS Wod Qu XXVI (xx), Unaddressed and unsigned letter, 1682, giving reasons against taking the Test, f208.

that Act. Certainly, the notion that the Test did intend to facilitate the sacking of various people so that they could be replaced with more malleable individuals was the overwhelming consensus. Fountainhall absolutely supported this view in terms of parliamentary membership by saying that, “one of the main designes of this Test was, to get elections of commissioners in shires and burrows so packed, as none should vote but these who took this Test, which will seclude all strick Presbyterians, as weel as Papists.”³⁸ This view certainly conforms to the previously noted interest displayed by James, and Court supporters such as the Bishop of Edinburgh, in terms of securing elections to the 1681 Parliament. As Burnet implied,³⁹ an additional device with which to secure elections must have been welcomed by them.

Regardless of the primary designs of the various creators, the formation and implementation of the Test Act did in fact have the notorious effect of giving rise to “evil consequences”,⁴⁰ namely the single largest purge of offices in the period. At no other time between 1679 and 1686 did the Council deal with so many alterations in local and national official political posts. It is certainly the case that many contemporaries and near contemporaries felt that this outcome was designed, if not necessarily by all of the makers of the Act, then certainly by those who exacted it so unyieldingly. Echoing Fountainhall’s views on the Test, Wodrow asserted that the uncompromising imposition of the Test on all office holders was, “with a particular eye to elections, and to corrupt deaconries in burghs.”⁴¹ Such views stemmed from the fact that many people, seemingly with the backing of the overwhelming majority of the higher administration, were immediately thrust out of their offices on declaring that they would not take the Test and were sometimes very rapidly replaced by government appointees. That they were summarily dismissed, prior to the 1 January deadline, meant that no opportunity was given by the Council for people to change their minds. In essence, the Test was used as a tool with which to deprive those who the government would otherwise have been stuck with as office holders: it simply became a mechanism for the purgation of official posts, or, at

³⁸Fountainhall’s *Notices*, 309.

³⁹Burnet, *History of His Own Time*, ii, 152.

⁴⁰*Memoir of Sir James Dalrymple First Viscount of Stair, President of the Court of Session in Scotland*, Mackay, A.G.J. (ed) (Edinburgh, 1872), 149.

⁴¹Wodrow, *Sufferings*, iii, 300.

least, those appointments with which the Council was not too comfortable in their desire for homogeneity in terms of agreement with official policy.

Despite the fact that both the original Act of Parliament and the proclamation of the Council on 24 September had given people until 1 January 1682 to take the Test, the Privy Council immediately began pressuring all office holders to take the Test sooner rather than later. The Council even went as far as to rule that there should be no meetings of any judicature, civil or ecclesiastical, until the members of that body had taken the Test, which simply succeeded in adding weight to the conviction that they were overstepping their powers by shortening the time granted by the act of Parliament for office holders to take the Test.⁴² On 4 October 1681 the Council issued an order which prevented the Duchess of Rothes from keeping sheriff-courts until she had taken the Test, which gave rise to the argument that the Council merely wanted to retrieve control of her offices. Two days later the heritable sheriff of Linlithgowshire, John Hope of Hopeton, was deprived from his office for outright refusal to take the Test, whereby power over the disposal of his office was given over to the King, thereby presenting the opportunity to the Crown to fill that office with a more subservient individual.⁴³ On 8 October the Council sent letters to the sheriff, magistrate and Bishop of Edinburgh ordering that they ensure all officials under their management subscribe the Test, and at the following meeting of the Council a similar order was sent to the sheriff-depute of Stirling.⁴⁴ The Earl of Mar had in fact already been instructed by the Council to be present when the town councillors in Stirling and Culross took the Test, and to, before 1 November, give the Council an account of all those who refused to do so.⁴⁵ It can be reasonably asserted that it was as a reward for so doing that Mar was given, on 6 February 1682, the office of sheriff of Stirling.⁴⁶ It must be noted though, that the Town Council of

⁴²*Memorials or, the Memorable Things that fell out within this island of Britain from 1638 to 1684*, edited from the manuscripts of Charles Kirkpatrick Sharpe, Law, R. (ed), (Edinburgh, 1818), 204.

⁴³*RPCS*, vii, 214; Wodrow, *Sufferings*, iii, 300; Law, *Memorials*, 208.

⁴⁴*RPCS*, vii, 218-9.

⁴⁵NAS GD 124/10/408, 24 September 1681, order for Mar to be present when the councillors took the Test in Stirling and Culross.

⁴⁶NAS GD 124/10/409, 6 February 1682, Gift to Mar by Charles II of office of sheriff of Stirling, with Royal Seal still attached.

Stirling was not at all keen to either rapidly take the Test as requested by the Council, or comply with the decree of 24 September that all officials take the Oath on their next election. As required, the election of new councillors for the following year had been done by Stirling Town Council on 27 September 1681. However, the magistrates, council and clerk did not actually take the Test until 24 December 1681, having evaded the necessity to do so until the very last day upon which the Town Council sat before the final deadline for taking that Test as established by the Act of Parliament.⁴⁷ Naturally, this displays that the Test was perceived with a great deal of discomfort on the part of the office holders of Stirling, who ultimately were forced to take it to secure their futures in office.

They were not alone. On 8 October, the Council received word that Patrick Brown, sheriff-depute of Haddington, had refused the Test outright, to which they answered by depriving him of that office and instating George Haliburton to officiate in the meantime.⁴⁸ In addition, when the sheriff-principal of Fife refused to take the Test, Alexander Malcolm was installed by the Council to take his place in the interim, though in fact he remained in that office for several years and apparently proved to be an excellent instrument of the Council in terms of fining and prosecuting dissidents.⁴⁹ Nonetheless, suitable replacements to fill the positions of those deprived from their offices were not always immediately available and by 1 November it was apparent in the Aberdeen area, to mention but one example, that many burghs were laying vacant.⁵⁰

In November, the Council was to spend much of its time enforcing the order that all office holders, many of whom were very high profile, took the Test. On 7 November, Robert Martin, Clerk of the Criminal Court, was replaced in office as a result of his refusal to take the Test.⁵¹ Instructions were continually issued outlining who needed to take the Test and who was empowered to administer it to them. Not only did their directives cover local offices, it was also intimated to Moray that all university Masters and Doctors were required to take the Test before the bishops in

⁴⁷Stirling Burgh Records, B66 20, Council Minutes, Volume 6.

⁴⁸*RPCS*, vii, 247; Wodrow, *Sufferings*, iii, 301.

⁴⁹Wodrow, *Sufferings*, iii, 301.

⁵⁰*The Diary of Alexander Brodie*, 463.

⁵¹Fountainhall's *Notices*, 335.

their respective dioceses.⁵² Even then, it was clear that not even within the Privy Council was there wholehearted support for the Test. Sir George Kinnaird of Rossie evaded taking the Oath until the beginning of December, at which stage he only did so because the Council had written to him demanding that he appear before them to take the Test.⁵³ Until then he had followed the same route of Argyll and had avoided attending any of the meetings of the Council in an attempt to evade the Oath.⁵⁴

The vast majority of Council time and concern was devoted to local offices, as can be seen by the number of orders that were issued in relation to them. On 10 November 1681 Perth wrote to Sir William Bruce, sheriff-principal of the shire of Kinross, on behalf of the Privy Council demanding an explanation before 1 December as to why there was a, “surcease and stop made within the Sherfdome of Kinross By reason that you and y[ou]r deputs have not taken the Test as the same is appointed by the late act of parliament and act and proclamation of Council.”⁵⁵ It would appear that if a person were to just avoid the issue of the Test they stood a far better chance of delaying their taking of the Test than if they had asked outright for such a delay. This was certainly the case regarding the magistrate and other officials of Jedburgh, who had been forthright in asking for a postponement in taking the Test. In response to their query, the Committee for Public Affairs recommended that the Council categorically refuse any concessions and order their offices declared vacant if they refused to take the Test on the prearranged date.⁵⁶

The 10 November was a particularly busy day for the Council in terms of enforcing the Test, the Committee for Public Affairs having given in a report relating to a fairly wide geographical area. The magistrates and town councils of Selkirk and Peebles were called to Edinburgh to allow James and the Privy Council to witness them electing new officials on the grounds that they had refused to take the Test. Renfrew also saw the replacement of one of its administrators; the town clerk was substituted by someone of the magistrate’s choice after he had failed to take the Test.

⁵²*RPCS*, vii, 245.

⁵³*Ibid*, 268.

⁵⁴*Ibid*, 196-273.

⁵⁵NAS GD 29/1913, Kinross House Papers, 10 November 1681, Letter from Perth to Sir William Bruce.

⁵⁶*RPCS*, vii, 249, 285-6.

Moreover, the officials in Dunbar, Dysert and Kirkcaldy were all expressly directed to take the Test before the presiding noble in their respective areas.⁵⁷ In addition to the places dealt with on 10 November, the Council went on to deal with the report of the Committee for Public Affairs that the magistrates and councils of Queensferry, Ayr and Cupar had, after refusing to take the Test themselves, failed to elect their successors and had thereby left their offices vacant.⁵⁸ The magistrates of Forres were also turned out of office for refusal to comply with the order that they subscribe the Oath.⁵⁹ The officials in Dunfermline, Inverkeithing and Linlithgow were equally remiss in taking the Test.⁶⁰ In such cases, it was deemed that the privilege of election fell into the hands of Charles II, thus securing governmental control over the appointments to each of those offices. Despite their stringent attempts, the enforcement of the Test was not complete by the end of November: as late as 15 December the Council was forced to write to the baillies of Lanark who had as yet avoided subscribing the Oath, to order them to appear before the Council in Edinburgh and take the Test.⁶¹

There is certainly a case which suggests that there is some correlation between traditionally Covenanting strongholds and refusals of local office holders to take the Test. When office holders from Covenanting areas were deprived by the Council on the grounds that they had not subscribed the Test Oath, this would have added to the general perception that the Council was simply using the Test as a mechanism with which to rid itself of sources of potential disloyalty. Ayr is just one example of this, though this case differs from most due to the fact that William Cunningham, the Provost of Ayr, actually sent forged subscriptions to the Privy Council in order to avoid himself and others being turned out of office. When his crime was discovered he was immediately fined £2400 Scots and Sir George Mackenzie of Rosehaugh, the Lord Advocate, was ordered to draw up a petition of

⁵⁷Ibid, 249-50.

⁵⁸Ibid, 234, 255, 273; *CSPD* (1680-1681), 517; *Fountainhall's Notices*, 337.

⁵⁹The *Diary of Alexander Brodie of Brodie, and of his son James Brodie of Brodie, consisting of extracts from the existing manuscripts and a republication of the volume printed at Edinburgh in the year 1740* (Aberdeen, 1863), 459.

⁶⁰*RPCS*, vii, 235, 263.

⁶¹Ibid, 281.

forgery against him.⁶² Alongside Ayr, outright refusals to take the Test came from areas such as West Lothian, Fife, the South and the South West, which would suggest that there was a link between traditionally Covenanting areas and those which were forthright in refusing to take the Test. The fact that the officials in Lanark were so hesitant in taking the Test could in reality point to the fact that they shared the same opinions as those responsible for the Lanark Declaration of mid-January 1682, which shall be examined more fully in Chapter 5.

Regardless, the Council continued to issue orders and letters compelling office holders to take the Test as quickly as possible. Nonetheless, the determination displayed by the Council in terms of ensuring everyone conformed to the Test Act was not enough to prevent some very high profile blatant rejections of the Oath. Towards the end of October, the Privy Council received news that Monmouth had refused to take the Test on the grounds that he was not resident in Scotland and that the Act did not actually give the Council power to administer the Oath outwith the kingdom of Scotland.⁶³ Suitably riled by what they saw as a grave injustice to their characters as well as a poor example to set others, the Councillors replied by advising Charles that Monmouth's offices be handed over to deputed until the deadline for taking the Test had arrived.⁶⁴ In this letter the Council further asserted that it did have the power to impose the Test to office holders in foreign lands by ordering that the Earls of Sutherland and Callendar and Sir James Dalrymple of Stair, all currently in England, take the Test.

To this latter order, the Council was to be humiliated once more when it received a letter from Secretary Moray in which he detailed his search for the Earl of Callendar had proved fruitless as the Earl had vanished so completely that Moray had given up all hope of ever seeing him again. Whether or not this disappearance was as a direct result of the order that he take the Test cannot be determined, but that Callendar never showed up to take the Oath perhaps speaks for itself. The fact that

⁶²*CSPD* (1680-1681), 591.

⁶³*RPCS*, vii, 229; Wodrow, *Sufferings*, iii, 300.

⁶⁴*RPCS*, vii, 233, 233; Wodrow, *Sufferings*, iii, 300; Clarke, *The Life of James II*, i, 707.

both Sutherland and Dalrymple had given over their offices to others negated the order that they take the Test in respect of their positions in public employment.⁶⁵

Sir James Dalrymple of Stair had actually avoided taking the Test, even in his capacity as President of the Court of Session, as he had been absent from all of the meetings of the Privy Council since the conclusion of the 1681 Parliament until 26 October 1681.⁶⁶ His non-attendance at the meetings can be attributed to the fact that he had gone to London to seek an audience with Charles, a journey he had not sought sanction for before leaving Scotland. Though Dalrymple wrote to Queensberry, “I intend God willing to sie the King next weeke”,⁶⁷ he was to be sorely disappointed. In fact, Dalrymple was refused access to Charles on the grounds that he had not solicited James’s permission before leaving Scotland and was instead ordered by Moray to retire from England, which he duly did.⁶⁸ Certainly amongst the eminent men it did not go unnoticed that Dalrymple’s actions had caused offence to James: “The D[uke] takes this cariage ill; and hath writt up relating to it.”⁶⁹ Accordingly, on his return to Scotland, Dalrymple found out that he had been removed from his position as President of the Court of Session, and replaced with the future Chancellor of Scotland, the loyal Sir George Gordon of Haddo.⁷⁰ Shortly thereafter Dalrymple voluntarily exiled himself in Holland having resolutely refused to take the Test.⁷¹ As mentioned in the previous Chapter, the inclusion of the Confession of Faith in the Test Act is attributed to Dalrymple as he attempted to get the whole bill thrown out of Parliament. That he failed in doing so and was simply left with a substantially

⁶⁵*RPCS*, vii, 294-5; Wodrow, *Sufferings*, iii, 302.

⁶⁶*RPCS*, vii, 196-234.

⁶⁷NLS MS 3414 Dalrymple Collection, Letter, 30 September 1681, Sir James Dalrymple of Stair to Queensberry, f14.

⁶⁸*CSPD* (1680-1681), 516; Mackay, *Memoir of Sir James Dalrymple*, 149.

⁶⁹*Letters Illustrative of Public Affairs in Scotland*, Letter from Sir George Mackenzie of Tarbat to Sir George Gordon of Haddo, 4.

⁷⁰NLS Adv MS 24.6.5 List of Scots Law Officers, f116; NLS Adv MS 25.2.2 Court of Session Sederunt Book 1537-1682, f311; *The Diary of Alexander Brodie of Brodie*, 463; *Letters Illustrative of Public Affairs in Scotland*, 3; *CSPD* (1680-1681), 516; Clarke, *The Life of James II*, i, 707; Mackay, *Memoir of Sir James Dalrymple*, 149; Law, *Memorials*, 207.

⁷¹Mackay, *Memoir of Sir James Dalrymple*, 149; *Letters Illustrative of Public Affairs in Scotland*, xxix; Law, *Memorials*, 207; Wodrow, *Sufferings*, iii, 312.

contradictory Oath was too much for him to swallow, even for the sake of his career as President of the Session.

To compound such high profile refusals to take the Test, on 3 November 1681, the Council suffered a further blow. This came from the Duke of Hamilton who, on the grounds that he had some reservations about the Test, agreed to the appointment of deputies to his many offices.⁷² The actual dispersal of Hamilton's offices angered his son, Lord Arran, as he had been largely overlooked, the Duke's offices all going to other men. In answer to this, Arran was informed that he should not have been so publicly bitter as this would only serve to suggest that he had differed in opinion from his father solely to gain his employments.⁷³ The reasoning behind Arran being overlooked apparently stemmed from the fact that he still needed to prove himself as worthy, having apparently kept some 'bad company' in London.⁷⁴ James actually conjectured that Hamilton may even take the Test when he saw that his offices did not pass to his son.⁷⁵

Hamilton's position certainly elicited some sympathy, and highlighted the role of aristocratic women in opposing the Test. The Duchess of Rothes, who had herself been banned from keeping sheriff courts until she had taken the Test, urged the Duchess of Hamilton to walk in God's ways in such troubled times. On 20 December 1681, Duchess Rothes wrote that happiness, "which I think goe the world as it will, consists in trew holiness and in walking uprightly."⁷⁶ On the other hand, Hamilton was pressured from various sources to reverse his decision to defer taking the Test. One of these pleas came from the Earl of Perth, himself shortly thereafter destined to convert to Roman Catholicism, who argued that he could see no ground for religious objections to the Test. Despite this reasoning, Perth later appeared to have regretted any offence his initial appeal may have caused to Hamilton.⁷⁷

⁷²*RPCS*, vii, 239; Wodrow, *Sufferings*, iii, 301; Clarke, *The Life of James II*, i, 707.

⁷³Clarke, *The Life of James II*, i, 711.

⁷⁴BL Add 18447, James to Legge, 5 November [1681], 47.

⁷⁵*Ibid.*

⁷⁶NAS GD 406/1/8668, 20 December 1681, Duchess Rothes to Duchess Hamilton. This was, incidentally, the same day that Argyll made his escape from the castle.

⁷⁷NAS GD 406/1/9206, 19 December 1681, Perth to Hamilton about the Test; NAS GD 406/1/9211, 28 December 1681, Perth to Hamilton apologising for seeming 'officious' in last letter.

Nonetheless, whilst Hamilton rejected the Test until long after the 1 January deadline, he did eventually subscribe it. His change of heart can be directly attributed to both James, Duke of York, and Charles II. Having allowed Hamilton some time to consider the finer points of the Test, during which his offices were granted to several other persons to administer, the time came that the royal brothers could no longer allow one of their subjects, no matter how important, to continually evade the Test. James wrote to Hamilton in mid-March 1682 intimating that Charles would view it as a personal service if Hamilton were to take the Test. James added that it was also his own wish that Hamilton would change his mind on the matter.⁷⁸ This naturally disproves Callow's assertion that James, who had long since been wary of the influence exerted by Hamilton, designed to use the Test as a pretext for his removal.⁷⁹ Pleading from such high places proved too much for Hamilton to ignore, because by 30 March 1682 he had written back to James with news that he had taken the Test on the previous day and was keen, "to serve his Ma[jes]tie as faithfully as is in my power".⁸⁰ It must be remembered that Hamilton rejected the Test for seven whole months before he was finally persuaded to take it, and only then did so after a personal behest from the King and the heir to the throne. For the time that he refused to take the Test, it remained a constant source of embarrassment to the government who doubtless appreciated the fact that it would have been better to have Hamilton on its side: the Court had no ulterior reason to want to deprive him of his offices, and thus avoided using the Test as a tool with which to do so.

Naturally, it can be asserted that the dispossession of many other individuals because of their refusal to take the Oath as required by Parliament was merely a cover for a more spurious design on the part of the Council to depose those who it regarded as less compliant, or in some way a threat to the authority of the government. This can certainly be seen in the removal of the Catholic magnate, Huntly. Though the ostensible reason for Huntly being stripped of his offices was simply that he had been unable to take the Test, the consensus of opinion concerning

⁷⁸NAS GD 406/1/10582, 18 March 1682, James to Hamilton; Law, *Memorials*, 222.

⁷⁹Callow, J., *The Making of King James II: The Formative Years of A Fallen King* (England, 2000), 294. Callow also stated that James designed to use the Test against Monmouth and Argyll, which has more accuracy.

⁸⁰NAS GD 406/1/10583, 30 March 1682, [Hamilton to James].

his removal was a degree of relief to be rid of the Roman Catholic who was by his very presence a blip on Protestant Scottish society. Though it can be asserted that some men were deprived of their offices for nothing more sinister than their refusal to comply with Acts of Parliament and the Council, the fact that the majority of offices were rapidly filled by the government tends to support the notion that the removal of certain individuals under the provision of the Test Act simply facilitated the real motive of replacing them with people more favoured by the authorities. In reality, the removal of individuals ostensibly as a result of their refusal to take the Test simply facilitated the development of a client base and network for the government.

Other notable figures who lost their offices as a result of their refusal to take the Test included the Earls of Haddington, Nithsdale, Cassilis, Findlater and Galloway, Viscount Kenmuir, Sir Alexander Agnew of Lochnaw, Cochrane of Babachly and the lairds Torphichen, Cardross and Orbiston.⁸¹ Most offices thus declared vacant did not remain unfilled for very long. By 7 January the Council had written to Charles listing those who had lost their offices on account of their refusal to take the Test, as well as indicating whom they had put in their places. Those who gained out of the dispossessions of others on account of the Test included the Marquis of Douglas, the Earls Dalhousie, Roxburgh, Queensberry, Glencairn, Balcarras, Home, Mar and Linlithgow, as well as the Lords Livingston, Duffus, Ogilvie and Claverhouse, Ardmillan, Sir Robert Maxwell and Sir George Mackenzie of Tarbat.⁸² It can be confidently stated that the Council, in many instances, simply used the recent declarations about the Test to its own advantage by replacing less desirable men with ones very much in favour at the time. Douglas was certainly blessed with positive partiality at this time because, on 26 October 1681, the Privy Council gained a new member in him: immediately he obliged in the demand that he take the Test, as too did the Earl of Dumfries who joined the Council on 17 November 1681, and Southesk who joined on 10 January 1682.⁸³ Others who gained out of the reverberations of the Test were men who had either just been promoted to

⁸¹*RPCS*, vii, 259, 306; Wodrow, *Sufferings*, iii, 301.

⁸²*RPCS*, vii, 306.

⁸³*Ibid*, 234, 252, 307.

positions of importance like Mackenzie of Tarbat who had been appointed the new Lord Register on 8 October 1681, or who were in time to become even more politically prominent, like Queensberry. James's personally favoured courtiers such as Roxburgh and Queensberry doubtless gained, as well by politically inspired decisions, partly through their private relationships with James, evidence of which can be observed in that they accompanied James to London in the spring of 1682, Roxburgh in fact losing his life on the return seaward journey.

The Earl of Argyll and the Test Act

“and [the]n the band & now the Test
makes up a hotch-potch w[i]t[h] the rest
would make the stoutest heart to ramble
let be a silly tender Campbell”⁸⁴

Perhaps the most prominent case of dissatisfaction with the Test came from Archibald Campbell, ninth Earl of Argyll. As both a Privy Councillor and Commissioner of the Treasury, Argyll was beholden to subscribe the Test Act twice by virtue of the necessity which accompanied each post. Though he complained that the time appointed for taking the Test had not yet elapsed, Argyll fulfilled his first obligation to take the Test by virtue of his status as a Privy Councillor, a duty which he performed on 3 November 1681.⁸⁵ Argyll took the Test as instructed, but with the addition of his own explanation as to its content, though there is some evidence to show that Argyll actually thought he had the Duke of York's backing when he did so, having received word via the Bishop of Edinburgh of this as he crossed the anteroom to enter the Council chamber.⁸⁶ As such, Argyll read a statement he had prepared in advance before subscribing the Oath. It is appropriate to quote the entire passage with which Argyll explained his acceptance of the Test:

I have considered the Test, and am desirous to give obedience as far as I can. I am confident the Parliament never intended to impose contradictory oaths, therefore I think no man can explain it but for himself. Accordingly, I take it

⁸⁴NLS Wod Qu XXVIII (xxiii), Some verses against the Test, f64.

⁸⁵Wodrow, *Sufferings*, iii, 313.

⁸⁶Willcock, *A Scots Earl*, 260.

as far as it is consistent with itself, and the Protestant religion; and I do declare that I mean not to bind myself in my station, and in a lawful way to wish and endeavour any alteration I think to the advantage of the Church or State, not repugnant to the Protestant religion and my loyalty; and this I understand as part of my oath.⁸⁷

There was no instantaneous adverse reaction to Argyll's explanation and he was admitted to the Council as usual. Upon going to James's Chambers the following day, however, Argyll was greeted with initial hostility apparently due to the fact that the Duke had assumed his explanation would have been a short one, like Queensberry's, though after a while Argyll was assured that the matter was at an end.⁸⁸ The real problems for Argyll were to come when he was again asked, on 4 November, to take the same Test, this time in his capacity as a Commissioner of the Treasury. "It was observed they chused the marquis of Montrose præses in counsell this day, of purpose to pique Argile, on the old discord beuixt Argile's father and Montrose's grandfather."⁸⁹ When he took the Test for the second time Argyll asserted that he took the Oath in the same manner 'as before', after which he was accused of mumbling so that the rest of the Council could not reasonably hear his caveat.⁹⁰ When Roxburgh asked the Earl to more fully explain himself, Argyll refused and was only persuaded to do so when James asked him to repeat his words of the previous day, which Argyll did by way of reading from a paper already in his pocket upon which was written his original explanation.⁹¹

⁸⁷NAS GD 157/1860, 3 November 1681, Explanation of the Test by Argyll; Ry 1.2.114(15) *A Vindication of His Majesties Government and Judicatures in Scotland from some Aspersions thrown on them by Scandalous Pamphlets, and News-Books, and especially with Relation to the late Earl of Argile's Process* (Edinburgh, 1683), 23; RPCS, vii, 242; *The Life of James II, Late King of England, Containing an Account of his Birth, Education, Religion, and Enterprises, both at Home and Abroad, in Peace and War, while in a Private and Publick Capacity, till his Dethronement*, Jones, D. (ed), (London, 1702), 64; Wodrow, *Sufferings*, iii, 314; Willcock, *A Scots Earl*, 249; Turner, *James II*, 190-1.

⁸⁸Wodrow, *Sufferings*, iii, 315; Willcock, *A Scots Earl*, 261.

⁸⁹Fountainhall's *Notices*, 335.

⁹⁰RPCS, vii, 241; Wodrow, *Sufferings*, iii, 316; Burnet, *History of His Own Time*, ii, 157.

⁹¹Clarke, *The Life of James II*, i, 708; Wodrow, *Sufferings*, iii, 315; Willcock, *A Scots Earl*, 262.

Though many contemporaries undoubtedly agreed with Argyll's statement on the grounds that in fact the Test was self-contradictory and did indeed put prior oaths in danger, others took the view that his "explanation made the Oath no oath."⁹² It was possible to make such an allegation on the grounds that the actual Test Oath contained the following acknowledgement: "this my solemn oath is given in the plain genuine sense and meaning of the words, without any equivocation, mental reservation, or any manner of evasion whatsoever" (see Appendix B). Moreover, previous parliamentary statutes, such as the 107th Act of the 7th Parliament of King James I, dictated that no interpretation could be made on oaths on the grounds that, if it were to be allowed, then every individual would accordingly take only his own form of oath, and thus the purpose of the intended oath would be destroyed.⁹³ Argyll simply could not be allowed to set the precedent of qualifying the meaning of oaths as this would have led to a situation in which he was only answerable to himself.

The second time Argyll explained the Test, he was thus deemed to have failed to have taken the Oath as passed by Parliament and required by the Privy Council, and was as a result excluded from the Council. Rather hypocritically, the Council, which had itself published an explanation of the Test,⁹⁴ took the decision to prosecute Argyll when he chose to do the same. The same Privy Council which on the previous day had allowed for a very liberal interpretation of the Confession of Faith to dissuade ministers from having scruples about the Test thus penalised Argyll for being more literal in his personal construction of the Test. Of those who were present at the Council meeting on 3 November and were as such party to the decision to publish an explanation of the Test for the benefit of ministers and clerics, there were just five absentees on 4 November when they excluded Argyll from the Council on the grounds that he had failed to take the Oath as instructed. These five men were Atholl, Lorne (Argyll's son), General Dalziel, Collington and Lundin.⁹⁵

⁹²Ry 1.2.114(15) *A Vindication of His Majesties Government*, 21.

⁹³*A Vindication of the Government of Scotland*, 27; Fountainhall's *Notices*, 336.

⁹⁴NAS GD 157/1862, *Act of Council, Explanatory of the Test: With His Majesties Letter Containing His Royal Approval Thereof* (Edinburgh, 1681), 3-4; *RPCS*, vii, 239. The Council's explanation will be discussed in greater detail later in this Chapter.

⁹⁵*RPCS*, vii, 235-240.

Argyll was thus instructed not to leave Edinburgh until the next Council day, and his application to speak to James in private was refused.⁹⁶ When the Council met again, the Earl was ordered into the Castle of Edinburgh for treason, leasing-making, leasing-telling and perjury.⁹⁷ Burnet stated that for some days after the charge of treason had been pronounced on Argyll, “it was believed all this was done only to affright him to a more absolute submission, and to surrender up some of those great jurisdictions over the Highlands that were in his family.”⁹⁸ The Lord Advocate, Sir George Mackenzie of Rosehaugh, was instructed to prosecute Argyll and in a letter to Charles II the Council explained its actions by saying that Argyll’s caveat had merely succeeded in, “depraving your Majesty’s laws, misrepresenting your parliament and teaching your subjects to evacuate and disappoint all the laws and securities that can be enacted for the preservation of the government.”⁹⁹ This letter was subscribed by Glencairn, Winton, Linlithgow, Perth, Roxburgh, Ancram, Airlie, Livingston, the Bishop of Edinburgh, Ross, Haddo, Charles Maitland, George Mackenzie, Collington, Richard Maitland and Lundin.¹⁰⁰ It is not clear whether the George Mackenzie who signed the letter to Charles was Rosehaugh or Tarbat, both of whom were in the Council that day. James, Lorne, Elphinston, Dalziel and Abbotshall were also at the Council meeting, but did not subscribe the letter.¹⁰¹ As mentioned earlier, several of the men who did add their names to the letter, such as Roxburgh, Livingston, Glencairn and Linlithgow, actually went on to benefit from the deposition of others from offices because of their refusal to take the Test. Others, like Perth and Haddo, shortly thereafter went on to the most prominent political positions in Scotland, so were obviously very much favourites of the Court at this stage. Thus, instead of being solid legal grounds upon which Argyll was indicted, it can be reasonably claimed that many of the men involved in his exclusion from the Council and subsequently prosecution were simply trying to ingratiate

⁹⁶Burnet, *History of His Own Time*, ii, 158.

⁹⁷Wodrow, *Sufferings*, iii, 318-9; Jones, *The Life of James II*, 65.

⁹⁸Burnet, *History of His Own Time*, ii, 158.

⁹⁹*RPCS*, vii, 244; Wodrow, *Sufferings*, iii, 318; Jones, *The Life of James II*, 66; Willcock, *A Scots Earl*, 264; Turner, *James II*, 191.

¹⁰⁰*RPCS*, vii, 243.

¹⁰¹*Ibid.*

themselves further with the Crown for their own personal advancement. The prospect of securing some of the estates and jurisdictions of Argyll would have made a criminal process against him seem like a most lucrative opportunity.

In response to the charges levied against him, Argyll instructed Sir George Lockhart of Carnwath to be his council, along with seven others who included Sir John Dalrymple of Stair, who was Sir James Dalrymple's son, and Sir John Lauder of Fountainhall. The defence council initially based their case on the fact that the statement by Argyll had been blown out of proportion and that the case against him was, "altogether strained and unwarrantable."¹⁰² The Council's response to this was to appoint a committee to consider whether or not the defence team could be prosecuted for implying maladministration by the government. Upon this committee were Atholl, Perth, Queensberry, the President of the Session, the Lord Register, the Lord Advocate and Collington, four of whom had been subscribers of the letter to Charles intimating that Argyll had been charged with heinous crimes against the government.¹⁰³ Fountainhall wrote that he, "was afterwards quarrelled for signing with Sir G[eorge] Lockhart and the rest ane opinion that [he] thought the dittay not relevant to infer these crymes against him [Argyll]."¹⁰⁴ It seemed that the defence team merely succeeded in angering the Privy Council by implying that the charges upon which Argyll was brought before the Courts were somewhat exaggerated. Evidence for this assertion comes from the subsequent order issued by the Council for the arrest of James Stewart, a lawyer for the defence. Stewart was later pursued by the Council on the grounds that he had personally amended a paper which was to be sent to London upon which was written the state of Argyll's case.¹⁰⁵ Nevertheless, he evaded capture by escaping to Holland where he became an instrumental part of Argyll's later invasion of Scotland.

¹⁰²Wodrow, *Sufferings*, iii, 321; Burnet, *History of His Own Time*, ii, 159; Willcock, *A Scots Earl*, 266.

¹⁰³*RPCS*, vii, 284.

¹⁰⁴*Historical Selections From the Manuscripts of Sir John Lauder of Fountainhall, Historical Observations 1680-1686*, Laing, D. (ed) (Edinburgh, 1837), 53.

¹⁰⁵Fountainhall's *Notices*, 344; Wodrow, *Sufferings*, iii, 342; Willcock, *A Scots Earl*, 266.

Argyll certainly enjoyed some high profile support. Gilbert Burnet petitioned Halifax to speak to the King on Argyll's account, and the Duke and Duchess of Lauderdale voiced their objections to Charles on the grounds that Argyll had been incredibly hospitable to James during his time in Scotland.¹⁰⁶ Nonetheless, Argyll's enemies were more numerous than his allies. After Lauderdale had been overshadowed, Argyll lacked a sufficiently strong support base at Court, which essentially allowed his opponents and creditors to disadvantage him without fear of retaliation.¹⁰⁷ Charles approved the proceedings of the Privy Council, and the date of 12 December was set for Argyll's trial.¹⁰⁸ The King, however, instructed the Council in Scotland to keep him informed of the proceedings in that affair and to send him an account of what Argyll should be found guilty of before the sentence on him was pronounced.¹⁰⁹ Argyll was thus prosecuted to the fullest extent of the law for labouring over a point of the Test. The Earl was called before the Court of Justiciary, in which the judges were Justice-General Queensberry along with Lords Collington, Forret, Newton, Kirkhouse and Nairn.¹¹⁰ Despite the fact that all were believed to be loyal and honest men, it was suspected that Argyll's fortunes would not be as good as Shaftesbury's had been in England.¹¹¹ In reality, all Argyll could hope for was the mercy of the King, regardless of the fact that Queensberry was in the rather peculiar position of having himself given in an explanation of the Test.

Argyll's trial began with the Earl's own evidence that his words explaining the Test were "benign" and that he was an eminent and worthy subject who had unfalteringly supported the Crown. Ending with the statement that he was, "neither papest nor phanatick but truly loyall in my principles and practices", the trial moved on to some letters of personal reference which were read to the judges.¹¹² Oddly, one

¹⁰⁶Burnet, *History of His Own Time*, ii, 158; Clarke, *The Life of James II*, i, 709;

¹⁰⁷Macinnes, A.I., *Clanship, Commerce and the House of Stuart 1603-1788* (East Linton, 1996), 139.

¹⁰⁸NLS Adv MS 31.6.15 Copie of the Criminal Libel or Indictment given to the Earl of Argyll in November 1681 to appear in the Justice Court on 12 December; *CSPD* (1680-1681), 565, 606, 611; *RPCS*, vii, 259; Jones, *The Life of James II*, 68.

¹⁰⁹*RPCS*, vii, 259; *CSPD* (1680-1681), 565; Fountainhall's *Notices*, 339; Jones, *The Life of James II*, 68.

¹¹⁰Wodrow, *Sufferings*, iii, 332-6.

¹¹¹*CSPD* (1680-1681), 606; Fountainhall's *Selections*, 52.

¹¹²NLS Wod Fol XXXIII (xlii) f76; NAS GD 40/12/82, Lothian Muniments, Copy

of these came from Glencairn who had actually signed the letter to Charles and been party to Argyll's arrest in the first place. The first task of the judges was to decide on whether the libel against Argyll was relevant or not, and this interlocutor was decided in the affirmative for all charges except perjury. This decision had been reached after some twelve hours of deliberation, and was to provoke Lockhart to complain that the judges were guilty of 'lucrative treason'.¹¹³ The many complex and intricate legal debates essentially resulted in each sentence of Argyll's explanation being minutely scrutinised and eventually judged to imply that, "in every single word or letter" he had attempted to evade the Oath.¹¹⁴ Despite having been initially alleged that Argyll had copied his opposition to the Test in order to corrupt others,¹¹⁵ "His Majesties Advocate declared that he will not burden himself to prove that copies were dispersed."¹¹⁶ Lord Nairn, on account of being old and infirm, was not actually present for much of the debates on whether the charges were relevant. It was only when the presiding lords reached a stalemate situation, in which Queensberry declined to act as the casting vote, that Nairn was brought back into the court and tipped the balance in favour of bringing Argyll before an assize.¹¹⁷

The jury of 15 members, headed by the Marquess of Montrose, who had been President in the Council on the day that Argyll was excluded from that body on the grounds that he had failed to take the Test, returned the unanimous verdict on 13 December that Argyll was indeed guilty of treason, leasing-making and leasing-telling, though he was by a majority acquitted of perjury.¹¹⁸ That the jury was laden with men who desired their own advancement rather than true justice was

speech of Argyll during his trial; Wodrow, *Sufferings*, iii, 321-2; Jones, *The Life of James II*, 69-73; Willcock, *A Scots Earl*, 270.

¹¹³NLS Wod Fol XXXIII (xlii) f79; Fountainhall's *Notices*, 341; Law, *Memorials*, 209.

¹¹⁴NLS MS 1945 Records of the High Court of Justiciary Criminal Proceedings, February 1584-January 1685, f402.

¹¹⁵Ibid, f400.

¹¹⁶Ibid, f404.

¹¹⁷Wodrow, *Sufferings*, iii, 332-6; Fountainhall's *Notices*, 342; Burnet, *History of His Own Time*, ii, 159.

¹¹⁸The jury consisted of the Marquess of Montrose, the Earls of Linlithgow, Roxburgh, Dumfries, Airly, Perth, Dalhousie and Middleton, and the Lords Sinclair, Lindores and Burntisland, and the lairds Gosford, Ballymain, Gordon and Claverhouse, Wodrow, *Sufferings*, iii, 337.

recognised at the time: Bishop Burnet was sorely disappointed when he was betrayed by his former ally and member of the jury, Perth, after writing frankly to him about the trial. Perth actually showed Burnet's letter to James, hoping, in Burnet's words, "to merit at the duke's hands... He was then aspiring to great preferment, and so sacrificed me to obtain favour: but he made greater sacrifices afterwards",¹¹⁹ the final statement obviously referring to Perth's conversion to Catholicism. It was, however, no real surprise that Argyll was found guilty by the assize given that the judges had already decreed, by way of affirming the libel, that he had given in a paper which was deemed treasonable.¹²⁰ However, this did not prevent Lockhart from remarking at how a man, "could be condemned as a traitor for saying he will endeavour all amendments he can to the advantage of the Church and State."¹²¹

In accordance with the earlier request of Charles that sentence on Argyll should not be immediately pronounced, the Council merely intimated to the King that Argyll, "after a full debate and clear probation, was found guilty of treason, leasing-making betuixt your Majestie, your Parliament and your people and the reproaching your laws and acts of Parliament."¹²² Charles's order to refrain from passing sentence perhaps stems from the fact that he was aware that the perception in Scotland of Argyll having become over-mighty may well have led to the hasty proclamation that he be executed. Instead, Charles wanted to take time to consider the situation and in particular the actual crimes for which Argyll had been found guilty, so judgement was accordingly adjourned until the king's pleasure was known.¹²³

In the event, Argyll did not stay to hear the sentence pronounced on him. Aided by his step-daughter and her footman, he escaped on 20 December from his imprisonment in Edinburgh Castle by way of swapping clothes with the footman and exiting the Castle in the guise of Lady Sophia's servant, a scheme for her part in

¹¹⁹Burnet, *History of His Own Time*, ii, 160.

¹²⁰Fountainhall's *Notices*, 341.

¹²¹Mackay, *Memoir of Sir James Dalrymple*, 149.

¹²²*RPCS*, vii, 281.

¹²³Clarke, *The Life of James II*, i, 709; Maidment, J., *The Argyle Papers* (Edinburgh, 1834), 3; Wodrow, *Sufferings*, iii, 337; Jones, *The Life of James II*, 76; Law, *Memorials*, 209.

which she later received fond poetry and correspondence from Argyll.¹²⁴ Though it was advocated by some unnamed members of the Council that Lady Sophia should be whipped through the streets of Edinburgh as punishment for her part in the escape, James prevented any such thing, and simultaneously displayed that his heart still lay south of the border, by saying that he was not used to dealing with ladies in such a cruel manner in his country, namely England.¹²⁵ Argyll's motivations for escaping seemingly included a report that in the event of the Privy Council not hearing quickly from Charles II, James was going to issue the sentence himself, and the rumour that preparations were being made to move him to a common jail as was the custom immediately before an execution.¹²⁶

Having thus escaped from prison, which was said to have "concerned" the King,¹²⁷ a proclamation was issued by the Council the following day which ordered Argyll's apprehension on the grounds that he was a fugitive guilty of high treason, defaming the Parliament and prison breaking.¹²⁸ In this proclamation it was ordained that, "if it shall happen that the said Earle of Argyle or any of his complices (resisting to be taken) be killed, mutilate or slain by our said officers or any assisting them, wee declare they are hereby indemnified and shall never be brought in question therefore, civilly or criminally, in all time comeing."¹²⁹ On 22 December the Council received a letter from Charles, written and posted before the Earl had escaped, declaring that it was his pleasure for sentence to be passed on Argyll, but for the effectuation of that sentence to be delayed until he further notified it.¹³⁰ The Privy Council, though aware that the order had been issued before Charles knew of Argyll's escape, which may have caused his instructions to have been suspended,

¹²⁴NLS Wod Oct IX (xxiii), ff131-2, One poem begins, "You are ane Angele in the Case to me, Expressly sent to guide and sett me free"; NLS Wod Qu XXVI (xxi), f217; NLS Wod Qu XXXVI (lviii), f214.

¹²⁵Clarke, *The Life of James II*, i, 710; Jones, *The Life of James II*, 77; Turner, *James II*, 193; Oman, C., *Mary of Modena* (England, 1962), 73.

¹²⁶Wodrow, *Sufferings*, iii, 337; Burnet, *History of His Own Time*, ii, 159; Willcock, *A Scots Earl*, 277.

¹²⁷Browning, *Memoir of Sir John Reresby*, 241.

¹²⁸RPCS, vii, 291; CSPD (1680-1681), 651; Wodrow, *Sufferings*, iii, 339.

¹²⁹RPCS, vii, 291.

¹³⁰NAS GD 112/39/133/4, 28 December 1681, unsigned letter to John Campbell, son of Breadalbane; RPCS, vii, 292.

nevertheless used this command to punish Argyll to the fullest extent of the law. By an act of Council the Lords of the Justiciary were given the power to pronounce sentence on Argyll, but were, in accordance with the king's wishes, advised to defer prosecution of that sentence until Charles had declared his pleasure on the matter.¹³¹

On 23 December sentence was accordingly intimated to the public: to the sound of trumpets it was proclaimed that Argyll was guilty of high treason and that he was to be executed for his crimes, though the time, place and manner of execution were remitted to the King. This was despite some hesitation over whether or not the passing of sentence in the absence of the accused was actually legal and, given that dubiety, suggestions that the Council merely declare Argyll an outlaw.¹³² The Council then further stripped him of dignity by defacing his coat of arms at the Market Cross in Edinburgh, an action normally done at the time of the effectuation of the sentence and therefore prematurely by the Council.¹³³ In all, the Council seemed determined to penalise Argyll as severely as the law would allow. This was in part due to the fact that many on the Council would have benefited from Argyll's fall from power and loss of offices,¹³⁴ but was also because Argyll had become the embodiment of dissent, and therefore afforded the Council the most public opportunity it could hope for in creating an example in its war against opposition. They advertised sentence on Argyll in his absence despite knowing that this provision had been made by Charles before the Earl had escaped and in the knowledge that the proclamation of the sentence of execution in the absence of the accused was legally suspect. The Council could in fact reasonably be accused of acting unconstitutionally in the matter of the sentencing of Argyll. Moreover, the Council questionably carried out rituals normally associated with the execution of the sentence and were so ruthless in searching out people who supported Argyll to the extent that a contemporary wrote that, "people ar shy to writt from Edin[bu]r[gh] and there is just ground given to men to be cautious both in word and

¹³¹NLS MS 1945, f405.

¹³²Fountainhall's *Selections*, 53; Wodrow, *Sufferings*, iii, 340; Maidment, *The Argyle Papers*, 3.

¹³³Fountainhall's *Selections*, 53; Fountainhall's *Notices*, 344; Wodrow, *Sufferings*, iii, 341; Willcock, *A Scots Earl*, 281.

¹³⁴Callow, *The Making of King James II*, 295.

deed.”¹³⁵ In time though, even in absence, Argyll was to prove problematic for the Council when his speech was printed in London and distributed in Edinburgh, thereby spreading the word about the inconsistencies in the Oath.¹³⁶

After being initially unaffected by Argyll’s explanation of the Test Act, James, who has long since borne the brunt of the blame for the treatment of Argyll, was apparently persuaded by Rosehaugh, Tarbat and Haddo that Argyll should be prosecuted for treason on the grounds that his words represented sedition.¹³⁷ Nonetheless, there is an important argument which asserts that Argyll incurred the wrath of James some ten months earlier than his refusal to take the Test without explanation. This comes from Argyll’s biographer, Willcock, who forwarded the notion that Argyll’s earlier rebuke to James, when the latter suggested in February 1681 that if Argyll convert to Catholicism he would make him the, “greatest man in Scotland”, heralded the beginning of James’s design to restrain Argyll.¹³⁸ Burnet recorded another potential reason for the demise in relations between James and Argyll: when James thought Charles may have consented to his exclusion from the throne, “he tried to engage Lord Argyll to stick to him in that case; who told him, he would always be true to the king, and likewise to him when it should come to his turn to be king, but that he would go no farther, nor engage himself, in case the king and he should quarrel.”¹³⁹ A further and more public point of antagonism between Argyll and James came during the 1681 Parliament. Argyll’s actions during the parliamentary debates on the Test, in which he forwarded the notion that an exemption from the Test should only be given to James and not to the rest of the royal family, can only have irritated James who would have recognised that Argyll’s proposal would have forced any future children of his to take the Test, which of course would have been impossible if they were to be brought up in the same faith as their parents.¹⁴⁰ Certainly Fountainhall recognised that Argyll’s action in the

¹³⁵NAS GD 112/39/133/4.

¹³⁶Ibid; NAS GD 406/1/9211, 28 December 1681, Perth to Hamilton.

¹³⁷Wodrow, *Sufferings*, iii, 315; Hopkins, *Glencoe*, 85; Fountainhall’s *Notices*, 336.

¹³⁸Willcock, *A Scots Earl*, 249; Hopkins, *Glencoe*, 85.

¹³⁹Burnet, *History of His Own Time*, ii, 160.

¹⁴⁰CSPD (1680-1681), 438, 440; Wodrow, *Sufferings*, iii, 298-9; Mackay, *Memoir of Sir James Dalrymple*, 147; Lang, *Sir George Mackenzie of Rosehaugh*, 220; Turner, *James II*, 189; Willcock, *A Scots Earl*, 255.

Parliament was seen as being in some way responsible for his later prosecution: the lawyer remarked that, “This is a strange reverse of providence: Argyll a great courtier in July last, and carries the crown before the Duke before the Riding of the Parliament, and now condemned of treason and forfeited, and overrun by the violent malice of his enemies, and which many thought was the more readily given way too that he appeared to be a valiant assertor of the Protestant interest in the Parliament.”¹⁴¹ The denunciation of Argyll was said by Sir John Reresby, an English contemporary commentator, to have “much discouraged the Presbyterian interest both ther [Scotland] and in England”,¹⁴² which may be reasonably argued to have been one of the main incentives for his prosecution in the first place.

The case of Argyll gives weight to the notion that the Test was, “in the hands of the Duke of York and his advisors, only a more pliable instrument of tyranny, a shelter for the lax, and a terror to the upright conscience.”¹⁴³ It must be remembered, however, that James’s fellow Roman Catholics, such as Huntly, also suffered because of the Test Act. To some extent it can be seen that neither James nor Charles had any real intention of seeing Argyll actually beheaded for his explanation of the Test, instead “the only design being not to take away his life, but to get a forfeiture of some jurisdictions and superiorities surreptitiously acquired by his predecessors.”¹⁴⁴ James’s relationship with Argyll was complex: he had on the one hand expressed his affection for Argyll to the Duchess of Lauderdale:¹⁴⁵ and on the other had displayed his angst at Argyll’s power, as can be seen from his letter to Charles immediately after the 1681 Parliament. The crux of the issue for James was that he essentially believed Argyll had become overly mighty. On 13 December, when awaiting the verdict of the jury, James conjectured that: “the jury will find the bill, and not *ignoramus*, and that that Little Lord will be once again at His Ma[jesty’s] mercy.”¹⁴⁶ James further wrote that, “people take all the pains they can

¹⁴¹Fountainhall’s *Selections*, 53.

¹⁴²Browning, *Memoir of Sir John Reresby*, 24; Burnet, *History of His Own Time*, ii, 160.

¹⁴³Mackay, *Memoir of Sir James Dalrymple*, 149.

¹⁴⁴*Original Papers*, 123; Clarke, *The Life of James II*, i, 709.

¹⁴⁵Moray Muniments, volume III, Box 7, 391, letter from Duchess Lauderdale to Earl Moray, 27 February, no year.

¹⁴⁶BL Add 18447, James to Legge, 13 December [1681], f57; Willcock writes that

to tax me with severity in this affair of Lord Argyle's: tis not the first wrong of that kind which has been done me, as those who are acquainted with the laws of this Country know very well: he has but to thank himself for what has happened to him."¹⁴⁷ It was Fountainhall's contention that, rather than actively seeking the execution of Argyll, "the design was to low him, that he might never be the head of a Protestant Party, and to annex his jurisdictions to the Croune, and to parcell out his lands."¹⁴⁸

That James and Charles wanted the controlled mitigation of Argyll's powers more than his execution can further be seen by the fact that they had already begun to strip him of some of his powers. In October 1681, "ther was a new commission for the Lords of the Session, wher President Stairs, Glendoik, Clerk-Register, Newbyth, and Argyll ware left out, and Haddo, Tarbat, Boyne, Drumcairn, and Queensberry put in ther rουμε."¹⁴⁹ Perhaps as punishment for his opposition in the Parliament, or perhaps simply to remove some of the jurisdictions that had been the cause of concern, Argyll was omitted as one of the Extraordinary Lords, a place he had enjoyed since 1674. As a continuation of the process they had thus already begun, the royal brothers allowed the prosecution of Argyll to continue because this presented to them the most obvious way to remove more of Argyll's powers. Whereas Argyll's forfeited estates were allowed to pass to his son, his jurisdictions were divided amongst the other Highland chiefs. Though it has been argued that this was designed to ingratiate the Duke of York to the other Highlanders who opposed the excessive power of Argyll,¹⁵⁰ an equally weighty argument is that Charles and James simply wanted to avoid Lorne becoming as mighty as his father had done. Of paramount importance was the desire to use Argyll's explanation to remove some of his independent powers, curb his autocracy and bring him back into the sphere of influence of the monarchy.¹⁵¹

this letter was to Lord Dartmouth, *A Scots Earl*, 274; but Turner correctly stated that it was to Colonel Legge, *James II*, 192.

¹⁴⁷BL Add 18447, James to Legge, 5 January [1682], f57; Willcock, *A Scots Earl*, 275.

¹⁴⁸Fountainhall's *Notices*, 342.

¹⁴⁹Fountainhall's *Selections*, 51.

¹⁵⁰Donaldson, G., *Scotland; James V - James VII* (Edinburgh, 1998), 379.

¹⁵¹*Original Papers*, 131.

This argument can be further supplemented by the fact that other notable figures who declined to or at least hesitated in taking the Test, such as Hamilton, were treated in a very different manner from that which saw Argyll being found guilty of treason for offering an explanation of the Test. Essentially, the others were not in the position of being seen as overly powerful and outwith the controls of the Crown, and therefore needed no ulterior case of prosecution to bring them back under the authority of the Crown.¹⁵² Nonetheless, the dissimilar treatment of certain individuals gives weight to the notion that those who remained personally preferred by James were more favourably treated in their discomfort with the Test; they were coaxed rather than crushed. It is curious to note that Perth's letter to Hamilton asking him to take the Test came just after the indictment of Argyll, yet is nevertheless anxious to assure Hamilton that he need not fear any such repercussions from his refusal to take the Test. At the outset of this correspondence, Perth wrote that he found, "the Duke most affectionately disposed towards the interest of your family, and very well satisfied with your self." He also stated that Hamilton needed, "no justification with the Duke".¹⁵³ This is in fact borne out by several rather friendly letters between the Duchess of Hamilton and Mary of Modena during February and March 1682, still before Hamilton had actually taken the Test.¹⁵⁴

Nonetheless, it can reasonably be argued that there were easier ways to approach matters if the royal brothers really did just want the forfeiture of Argyll's superiorities: the Council need only have declared that Argyll had failed to take the Oath within the meaning of the Act and he would have automatically lost his offices.¹⁵⁵ Nevertheless, there is the alternative argument which contends that James wanted to see Argyll punished for his actions, which James found more insulting than fundamentally subversive, on the grounds that Argyll's explanation displayed that he felt he was above the law. James actually went as far as to say to his son-in-law, the Prince of Orange, that if Argyll had simply refused to take the Oath

¹⁵²Colquhoun, "Issue of the Late Civill Wars", 191.

¹⁵³NAS GD 406/1/9206, 19 December 1681, Perth to Hamilton.

¹⁵⁴NAS GD 406/1/10594, 8 February 1682, Duchess Hamilton to Mary of Modena; NAS GD 406/1/10593, 20 February 1682, Duchess of York to Duchess Hamilton; NAS GD 406/1/10601, 17 March 1682, Mary Modena to Duchess Hamilton.

¹⁵⁵Turner, *James II*, 192.

nothing would have been done about it: the fact that really served to anger James was that Argyll had tried to manipulate the Oath and circumvent it in a rather underhand manner.¹⁵⁶ Borne from his beliefs about the duty of subjects and the rights of the Crown, James oversaw the implementation of the Test because he recognised that acceptance of it was an essential part of the formalisation of the relationship between the monarchy and its subjects. Fundamentally against Catholicism, the Oath would have in many ways been repugnant to James who nevertheless felt he had a duty to promote the taking of it in its natural sense. Any person who unilaterally decided to alter the tenor of the Oath would have essentially displayed that he thought the laws of the kingdom either not applicable to himself, or worthless in itself, and it was this fact which contributed to provoking such a strong reaction to Argyll's explanation.

In terms of the public reaction to Argyll's trial, there were many outcries on his behalf. "Of Argile's case, they say, the Earle of Halifax had this expression to the King, that he knew not the Scots law, but by the law of England that Explanation could not hang his dog."¹⁵⁷ One of the most notable displays of incredulity towards the Test in general and the treatment of Argyll in particular did in fact involve a dog. Fountainhall recalls this particular incident: "The children of heriot's Hospital finding that the dog which keiped the yards of that Hospitall had a publick charge and office, they ordained him to take the Test, and offered him the paper, but he, loving a bone rather than it, absolutely refused it; then they rubbed it over with butter, (which they called ane Explication of the Test in imitation of Argile,) and he licked of the butter but did spite out the paper."¹⁵⁸ Though Fountainhall's account of this incident states that the dog was actually hanged for his crimes, an alternative contemporary version of the episode was published in 1682 in which it was stated that the jury thus summoned to hear the case of the dog, "found that he had mangled the Test with his explanatory tongue and teeth, and swa misleardly abused it with his slaver" that he was condemned to death.¹⁵⁹ Nonetheless, in this description of the

¹⁵⁶Ashley, M., *James II* (London, 1977), 139.

¹⁵⁷Fountainhall's *Selections*, 55.

¹⁵⁸Ibid, 55-6.

¹⁵⁹Ry1.1.32(2) *An Account of the Arraignment, Tryal, Escape, and Condemnation of the Dog of Heriot's Hospital in Scotland, that was supposed to have been Hang'd but it did at last slip the Halter* (Edinburgh, 1682); Willcock, *A Scots Earl*, 281.

event it is actually stated that the dog in fact escaped, thereby creating further parallels with the case of Argyll.

Religious Opposition to the Enforcement of the Test

The imposition of the Test did not just prove problematic in terms of political offices, for it was also challenged in the religious arena. In common with political office holders, the vast majority of ministers took the Test as requested. Certainly, the Archbishop of Glasgow saw fit to write that most in his diocese had taken the Test willingly, even the Presbyterians.¹⁶⁰ Even still, that he also wrote that those who had absented themselves from taking the Test had done so on the grounds that they were ill may in fact simply point to his gross naïvety. The reality behind their absence was far more likely to have stemmed from their discomfort with the Oath that they were supposed to subscribe.

John Paterson, the Bishop of Edinburgh, experienced early problems from the members of the Synod of Edinburgh who aired their uncertainty about the Test when he proposed that they take it.¹⁶¹ Though he initially did not push the issue, he shortly thereafter followed the example set by the Privy Council in largely ignoring the deadline established for subscribing the Oath by intimating to the Bishops and ministers that if they had not taken the Test before 20 November 1681 they were to prepare themselves to have their livings declared vacant.¹⁶² This led to Fountainhall asserting that, “In November 1681 many ministers in Scotland desert ther churches because they, though Episcopall and conformists, yet had no freedome to swear the Test: Some relented, and on ther repentance ware readmitted again to ther kirks.”¹⁶³ Many ministers, though they preached in the established church, found themselves unable to in good conscience subscribe the Test and as such were either deposed for their nonconformity or voluntarily left their posts.¹⁶⁴ As in the cases of political

¹⁶⁰NLS MS 3012 Bishop of Galloway's Papers, Archbishop Glasgow to Bishop Galloway, 21 November 1681, f3.

¹⁶¹Fountainhall's *Notices*, 333.

¹⁶²*CSPD* (1680-1681), 572.

¹⁶³Fountainhall's *Selections*, 53.

¹⁶⁴*The Diary of Alexander Brodie of Brodie*, 459, 464; Clarke, *The Life of James II*, i, 707.

offices, the Council succeeded in simply forcing many otherwise loyal and unobtrusive ministers on to the perpetually extending list of dissenters.

Despite the repeated order, on 22 December, that all ministers should be removed from their offices if they had failed to take the Test by 1 January 1682, the Council was confronted with logistical problems in this respect. In fact, the issue of the enforcement of the Test persisted until well after the deadline of 1 January, for as late as December 1682 the Bishop of Edinburgh deposed five ministers who had heretofore evaded the authorities in never having taken the Test.¹⁶⁵ Despite his earlier optimism about the ease with which the ministers in his diocese had taken the Test, Arthur Ross, Archbishop of Glasgow, suffered similar lingering refusals to take the Test. A particularly troublesome example of this came from a man referred to only as Fullerton, who the Archbishop regarded as the leader of the “mutinous faction against authoritie” and the “ringleader of the recusants in my diocese”, who held out against the Test until late May 1682, when he finally gave in and procured an order from the Privy Council, who obviously did not know of the Archbishop's opinions, to allow him to take the Test.¹⁶⁶

Whereas most of the political objections to the Test had been privately owned, even if they were not unique, many of the ministers of Scotland formally banded together and actually wrote down in a single document their objections to the Test and the decree that they had to subscribe it.¹⁶⁷ Their writings became known as the ‘Grounds and Reasons Whereupon some of the Conforming Ministers of Scotland Scruple to Swear that Test’. In this, the conforming ministers primarily stated that they deeply resented the inclusion which forced them to prove they were neither popish or fanatical, when they were the least likely persons to be either, especially when it was considered that they preached daily against the evils of popery. It was argued that the Test simply succeeded in dividing the Protestants

¹⁶⁵*RPCS*, vii, 295; *Fountainhall's Selections*, 86.

¹⁶⁶NLS MS 3012, Archbishop Glasgow to Bishop Galloway, 2 March 1682, f6; Archbishop Glasgow to Bishop Galloway, 20 May 1682, f10.

¹⁶⁷NLS Wod Fol XXVII (lxxviii), ff166-7; NLS Adv MS 31.6.15 Grounds and Reasons Whereupon some of the Conforming Ministers of Scotland Scruple to Swear that Test, ff211-3; NLS MS 7035, Yester Papers, Grounds Whereon the Conformed Ministers Scruple to Swear the Test, f48; Burnet, *History of His Own Time*, ii, 154; Wodrow, *Sufferings*, iii, 304-8; Law, *Memorials*, 205.

when in fact it should have been more specifically directed at Roman Catholics: “instead of quenching the flames [the Test] may create new ones.”¹⁶⁸ Further, it was asserted that the provision in the Test for a Catholic monarch to preside over the Protestant church put that church in mortal danger, not only because it was contrary to the terms of the Coronation Oath but also because the fact that the stipulation allowing the King’s brother and sons to be Roman Catholic might actually influence lesser people to follow their example. As such, people who signed the Test ran the risk of being seen as the “countenancers and encouragers of Popery”, which the ministers strongly objected to.¹⁶⁹ Other exceptions centred on the fact that conscientious Protestants could not subscribe the Test on the grounds that it was blasphemous to presume that any mortal, monarch or not, could be seen as the head of the Church, when that role was accepted to be the exclusive right of Jesus Christ.¹⁷⁰ Further, the Test Act gave the monarch far too much power over the government of the church, yet at the same time precluded anyone else from attempting to alter the church, even for the better.¹⁷¹

As a result of the Council’s order that no civil or ecclesiastical body was permitted to meet if its members had not taken the Test, the Synods of Glasgow and Ayr, which attempted to meet on the first Tuesday of October, were dismissed without sitting. In addition, the Synods of Peebles, Aberdeen, Fife, Lothian and Argyll all refused the Test. The members of the Synod of Peebles actually gave their reason: it was somewhat lamely argued that the Test could not be taken because it bound them to keep ecclesiastical meetings, which they could not have done under a popish successor as it was likely that such a monarch would not have allowed them to meet.¹⁷²

In terms of some clergymen, the government gave the distinct impression that it would have preferred to retain their services rather than see them replaced. It would inevitably have been easier for the authorities if the ministers simply complied with their wishes: how were they supposed to produce and ordain enough new

¹⁶⁸NLS Adv MS 31.6.15 Grounds and Reasons, f211.

¹⁶⁹Ibid, f212.

¹⁷⁰NLS MS 7035, f48.

¹⁷¹NLS Wod Fol XXVII (lxxviii) ff166-7; Wodrow, *Sufferings*, iii, 306-8.

¹⁷²Law, *Memorials*, 205.

ministers to replace the ones dispossessed of their offices on account of the Test? It can be suggested that most ministers, even in their initial hesitation towards the Test, did not pose a substantial threat to the political administration. The government often had no ulterior motive for wanting to replace most members of the ministry, and as such would have been satisfied with the existing clergy as long as they bowed to the demands of the state and took the Test. Whereas the magistrates of Forres had immediately been turned out of office on their refusal to take the Test, it was recorded by the contemporary, James Brodie of Brodie, that the ministers in the area were visited by the Bishop of Aberdeen in an attempt to persuade them to subscribe the Oath on the grounds that it contained nothing any loyal person could find objectionable.¹⁷³ The Bishop's visit would certainly have been instigated by the Council because the Bishop himself was personally troubled by the Test Act, so much so that he actually refused to take the Test until such time as he was faced with the very real prospect of being thrust out of office if he continued to refuse the Oath.¹⁷⁴ Any attempted persuasion from the Bishop of Aberdeen could have thus done little to allay the fears of the ministers in the diocese of Aberdeen. By 15 October it became apparent that as well as the ministers at Forres, those of Aberdeen had joined the band formally opposed to the Test, and so too had most of the rest of the synod of Aberdeen, including the Bishop himself.¹⁷⁵

The publication of the Bishop and ministers of Aberdeen containing their objections to the Oath was in fact one of the most notable formal outcries against the Test. In this they begun by saying that, "When an oath is of the strictest obligation, and must be taken in judgement, truth and righteousness, and when conscience is the most tender thing in the world and not to be strained", they accordingly required some matters resolved.¹⁷⁶ Their protestations about the Test then emulated the aforementioned reservations of other clerics, including that the Confession of Faith was fundamentally contradictory to much of what was explicitly stated in the Test Act and Oath. Moreover, they suggested that no-one should be forced to swear to

¹⁷³*The Diary of Alexander Brodie of Brodie*, 459, 460.

¹⁷⁴*RPCS*, vii, 254; Wodrow, *Sufferings*, iii, 301.

¹⁷⁵*The Diary of Alexander Brodie of Brodie*, 461; Law, *Memorials*, 205.

¹⁷⁶NLS Wod Fol XXXIII (xxxvii), *Objections to the Test by the Ministers of Aberdeen*, f66; Wodrow, *Sufferings*, iii, 304.

defend the King's rights and privileges as the Test desired in case they, at some point in the future, turned out to be inconsistent with the rights and privileges of the church. It was also noted that if they found something amiss in time coming, the Test would have forsworn them not to attempt to alter it, and as such they could not in good conscience subscribe the Test. Finally, it was declared an unnecessary task upon them to require them to swear the Test when they had already taken the Declaration, the Oath of Supremacy and the Oath of Canonical Obedience upon entry to the ministry.¹⁷⁷

In response to the widespread refusal to take the Test, the Synods of Aberdeen and Dunkeld actually issued their own interpretations of the Test Act, which actually went as far as to say that the ministers under their influence need not swear to every proposition in the Test.¹⁷⁸ In effect, these explanations advocated only selective adherence to the Test, something that others were to suffer greatly for so doing.

That the enforcement of the Test to ministers and clergy was proving a problem for the government can be seen in the fact that the Council actually went as far as to issue their own explanation of the Test Act, which was later approved by Charles II.¹⁷⁹ In this it was ordained that, "His Royal Highness, His Majesties High Commissioner, and Lords of the Privy Council, Do Allow, Authorise and Empower, the Archbishops and Bishops to Administer this Oath and Test, to the Ministers and Clergy in their respective Diocesses"¹⁸⁰ in the sense that the Proclamation went on to outline. This three-pronged explanation began by stating that the Confession of Faith of 1567 was the product of the infancy of the Reformation, and as such, the Test of 1681 did not swear to every proposition therein. Instead, it was suggested that the Test only adhered to the Confession in as much as it opposed popery and fanaticism. It was also asserted that the Test desired no encroachment onto the

¹⁷⁷NLS Wod Fol XXXIII (xxxvii) ff66-7; Wodrow, *Sufferings*, iii, 304-6, 308.

¹⁷⁸Wodrow, *Sufferings*, iii, 308; Cowan, *The Scottish Covenanters*, 109; Law, *Memorials*, 208.

¹⁷⁹NAS GD 157/1862, 3-4; *RPCS*, vii, 239; *CSPD* (1680-1681), 565; Burnet, *History of His Own Time*, ii, 155; Wodrow, *Sufferings*, iii, 309; Fountainhall's *Notices*, 339; Law, *Memorials*, 208.

¹⁸⁰NAS GD 157/1862, 2.

spiritual powers of the Church. Finally, the Proclamation by the Council argued that the Test was of no danger to the Episcopal government of the Church or the word of God, which the King would continue to observe.¹⁸¹ Despite this Proclamation, few who had originally balked at the Test changed their minds. Indeed, questions were further raised about the validity of a Test which seemed not to stick to the, “plain sense and meaning of the words” it contained.¹⁸²

As in the case of political office holders, the Council’s attitude towards certain clerical waverers of the Test was quite swift and unrelenting. On 17 November the Council ordered Tweeddale to replace the dispossessed minister of Newbattle who had lost his place for failing to take the Test, and issued a similar letter instructing Sir John Clerk of Penicuik to replace the minister of Penicuik on the same grounds.¹⁸³ Four ministers from the diocese of Edinburgh were also replaced by the Council on news from the Bishop of Edinburgh that they had refused to take the Test. According to Fountainhall, “this was an instance and practice in the King’s supremacy in ecclesiasticks over churchmen, whereas, properly, they should be only deproved by their oune peers, or the Bischop.”¹⁸⁴ Fountainhall also explained the reason why these replacements were instated so rapidly: it was essentially done, “to terrify the rest; and tho the Magistrates too hastily filled some of ther places, yet the Ministers had till the 1 Januar to deliberat, by the Act of Parliament.”¹⁸⁵

The Privy Council went on to further facilitate the intensification of the administration of the Test to those who had not yet taken it: Bishops were granted the power to appoint fit persons to administer the Test to aged and infirm ministers in their dioceses; and the dean of the Isles was granted power to assist the Bishop of the Isles in executing his duties concerning the Test. Nonetheless, the drive for conformity on the part of the Council did not end their problems as dozens of clerical office holders continued to reject the Oath. Having found that it would be too time consuming to issue individual letters each time a minister refused the Test, the

¹⁸¹Wodrow, *Sufferings*, iii, 303; Law, *Memorials*, 208.

¹⁸²Wodrow, *Sufferings*, iii, 310.

¹⁸³*RPCS*, vii, 253; Wodrow, *Sufferings*, iii, 311.

¹⁸⁴Fountainhall’s *Notices*, 338.

¹⁸⁵*Ibid.*

Council, on 22 December, advertised its general desire for the patrons of churches in which ministers refused the Test to remove the said ministers as soon as possible after 1 January 1682 and replace them with suitable alternatives.¹⁸⁶ In essence, the government had to ensure general conformity to its demands, and as time progressed were willing to accept any compliant individual as chosen by the leading local political figures who of course had already taken the Oath, thereby assuring their own allegiance to the government.

In late November there was a particularly harsh example in the Council's treatment of clerical dissenters. The minister of Duddingston, Andrew Lumsden, was called before the Council to account for his dual crime of failing to take the Test and ridiculing it, both privately and publicly, as self-contradictory and unlawful. Having argued that he had not been specifically referring to the Test in the sermon in which he was purported to have attacked the Test, he was acquitted by the Council of this charge, but was still turned out of his position on account of failing to subscribe the Oath as instructed.¹⁸⁷ The dispossession of Lumsden can be seen as particularly stern when it is considered that when he petitioned the Council to take the Test on 6 December 1681, some three weeks before the official deadline, he was refused on the grounds that his delay had already caused his office to be declared vacant. In such instances it can certainly be argued that the superficial reason given by the Council for the dispossession of an individual, namely failure to take the Test as instructed, simply hid a more sinister reason why they wanted to rid themselves of that particular influence.

In total, it has been estimated by both Burnet and Wodrow that around 80 ministers were deposed for their refusal to take the Oath, among whom were some of the finest clergymen in Scotland.¹⁸⁸ Of those who did not relent to the pressures of the government and lost their positions as a direct result of their rejection of the Test were some very prominent individuals, who included Laurence Charteris, Professor of Divinity at the University of Edinburgh.¹⁸⁹ Others, like Burnet, entered the

¹⁸⁶Wodrow, *Sufferings*, iii, 312.

¹⁸⁷*RPCS*, vii, 252; Wodrow, *Sufferings*, iii, 303; *Fountainhall's Notices*, 339.

¹⁸⁸Wodrow, *Sufferings*, iii, 310; Burnet, *History of His Own Time*, ii, 156.

¹⁸⁹Cowan, *The Scottish Covenanters*, 109; Burnet, *History of His Own Time*, ii, 156.

Church of England to avoid the Test, though many simply followed the path of nonconformity. As a result of the governmental policy to eradicate all forms of dissent to their laws, the Council succeeded in alienating many people who would otherwise have proven no problem whatsoever to them.¹⁹⁰ In the event, they simply strengthened identifiable opposition to the established church by adding many otherwise passive moderates onto the list of dissidents. The Council also succeeded in creating a climate of opposition to themselves and the nature of the government of Scotland which would likely never have arisen had the Test not been framed and imposed in the way in which it was.

Conclusion

It is suffice to say that the enforcement of the Test Act of 1681 was one of the most contentious implementations of the Scottish government under the guidance of James, Duke of York. In the wake of the 1681 Parliament, the task of enforcing the Test Act fell to the Privy Council. The Council created the Committee Anent the Peace of the Kingdom specifically for the purpose of imposing the Test, but this role was rapidly taken over by the Committee for Public Affairs, which, as well as investigating cases of general dissent, targeted those office holders who were remiss in taking the Test as directed by the Council.

The Test was fundamentally flawed: its adherence to the Confession of Faith resulted in a number of inconsistencies within the Act, not least of all insofar as it related to the head of the Scottish church. The self-contradictory nature of the Test Act resulted in significant levels of opposition to its implementation. Grievances were aired from political and religious sectors alike: from the very lowest of local officers to Dukes and members of the Privy Council; from the most humble parish ministers to Bishops and Professors of Divinity. Being open to challenge from multifarious angles, the Test Oath effectively expanded the number of people labelled as dissident in Scotland during the 1680s. In many respects, the new law forced belligerence from individuals who would undoubtedly otherwise have remained loyal and obedient to the Crown and government.

¹⁹⁰Cowan, *The Scottish Covenanters*, 109.

The Privy Council was undoubtedly guilty of the charge that it used the Test Act to rid itself of persons it viewed as disagreeable, either because they were out of favour with the government at that time, or because they were seen as in some way a threat to the stability of Scotland and the conformity of the entire nation. Perhaps the most blatant way in which the Council did this was to remove and replace office holders prior to the deadline for taking the Test, 1 January 1682, as established by the parliamentary Act. That there was a degree of correlation between traditionally Covenanting strongholds and areas in which local office holders refused to take the Test fuelled perceptions that the government was guilty of using the Test Act as a mechanism with which to deprive potentially suspect people from local offices.

In some respects, it seems that the administration of Scotland under James, Duke of York, had something in common with that of Lauderdale. Both systems of government at times oscillated, at its own convenience, between outright severity and conciliation towards those who dissented from the behest of the authorities. Whereas some, like Hamilton, were blessed with the leniency of the government with regards to their failure to immediately take the Test as instructed, others, like Argyll, were thrust aside and relieved of their official duties with a swiftness that can reasonably be seen as duplicitous. In essence, the Test facilitated the overhaul of official posts to create a situation whereby the government was assured of the compliance of the majority of office holders.

CHAPTER 5

James, Duke of York, and the Pacification of Scotland

Introduction

James, Duke of York, lived continually in Scotland until 9 March 1682, at which point he headed to England, where he remained until early May 1682. During his visit to Charles II, the King made the decision that James should be allowed to permanently resume residence in England. As such, James only returned to Scotland for a short time: he sat at just five Council meetings, between 8 and 15 May,¹ before commencing his final journey to England. James was never to return to Scotland, either as Duke of York, or King James VII. Immediately prior to his final departure, James instituted a number of alterations in terms of the political personnel in Scotland. It was clear that the new appointees were loyal to James, whose intention was certainly that they would be vigilant in continuing the work he had begun. This included ensuring political and religious officials took the Test, a function which had preoccupied the Council in the immediate aftermath of the 1681 Parliament, as the previous Chapter demonstrates. However, other aspects of government were also of enduring and significant concern. These included the ongoing issues of the militia and the Highlands, as well as the growing domestic threat posed by the radical Covenanters. All of these matters had been addressed by James during his stay in Edinburgh, but none had been comprehensively resolved by the time he was permanently recalled to England in May 1682.

When James returned to Scotland on his second visit, on 26 October 1680, he had been specifically instructed by Charles as to what matters he should focus on during his residence in Edinburgh. The Duke of Rothes was informed of James's remit by the King: James was to work towards militia reform in Scotland and to use his influence "for the general settlement of the peace and quiet in that our ancient kingdom".² As has been previously discussed, James readily accepted the role his brother had given him in Scotland, and expended considerable effort in attempting to

¹ *RPCS*, vii, 412-429.

² *RPCS*, vi, 565; Turner, *James II* (London, 1648), 182; Callow, *The Making of James II*, 286; Lee, "Government and Politics in Scotland", 279.

solve the problems relating to the militia and the peace of Scotland, particularly in the Highlands. Both of these issues were of abiding concern, and contributed to the continued utilisation of existing standing committees by the Privy Council, namely the Committee Anent the Peace of the Highlands and the Committee for Public Affairs. As such, the ongoing issues of the militia and stability in the Highlands shall be analysed in terms of the attempted pacification of Scotland, both when James was resident political manager, and after he returned to England.

James's second visit to Scotland also witnessed the growing domestic problems posed by the radical Covenanters in the south west and parts of central Scotland. Covenanting behaviour has been examined in depth by various individuals:³ as such it is not the purpose of this study to examine these activities. Rather, it is the intention to analyse the response of the authorities to the various exertions of religious dissidents in the early- to mid-1680s, both whilst James was present in Scotland and after he left. The tactics employed by the Council against popular dissent were founded on the conviction that resistance to official decrees, religious or not, was a criminal offence. Though the politicisation of religious discord was by no means a new tactic, it afforded the Council the basis it needed to embark on a mission to systematically eradicate dissent, a policy which was at once both preventative and reactionary. The reorganisation of the militia and the quartering of troops in specific areas, the issuing of commissions to suppress conventicles, and the fining, imprisonment, banishment or execution of dissenters were all means used by the government to pacify Scotland. Not all aspects of the Indulgence of 1679 had been revoked in 1680: albeit under draconian controls, indulged ministers were still permitted to practice. In November 1684, however, this concession was also rescinded. Thereafter, the government initiated a campaign to depose dissenting ministers as punishment for their failure to comply with the

³ For some examples, see, Campbell, T., *Standing Witnesses. An Illustrated guide to the Scottish Covenanters* (Edinburgh, 1996); Cowan, I.B. *The Scottish Covenanters 1660-1688* (London, 1976); Macpherson, H., *The Covenanters Under Persecution. A Study of their Religious and Ethical Thought* (Edinburgh, 1923); Mathieson, W.L., *Politics and Religion in Scotland 1550-1695*, Vol 2, (Glasgow, 1902); Paterson, R.C., *A Land Afflicted. Scotland and the Covenanter Wars 1638-1690* (Edinburgh, 1998); Stevenson D., *The Covenanters; The National Covenant and Scotland* (Edinburgh, 1988).

original instructions set out to regulate their conduct. The inevitable result of this increasingly harsh policy was that the government thus persecuted all Presbyterians, not just those guilty of militant activities.⁴ It will become clear that the notion that all religious dissenters could be viewed as seditious political rebels allowed for the potential to imprison many more people than if the Council had simply prosecuted those who were genuine threats to the stability of the country.

The issue of the Covenanters and their treatment at the hands of the Scottish government is certainly controversial. Most early histories which encompassed a discussion of the later Covenanters were of a partisan nature, written by historians such as Gilbert Burnet, Robert Wodrow and Thomas Babington Macauley with a specific agenda in mind, namely to portray the treatment of the Presbyterians under James's direction as vile and inexcusable.⁵ Implicit were always the same old arguments: James was Roman Catholic therefore he persecuted the Protestants; he was autocratic therefore he overruled the more conciliatory administrators; he was just plain evil therefore he enjoyed the suffering and torture of non-Catholics. What this Chapter will definitively demonstrate is that far from being the catalyst for repression, James was instead a figure of compromise and reason. After the Revolution of 1688-90 James effectively became an ideal scapegoat for beginning the severities against Presbyterians which escalated to the 'Killing Times' of 1684-5.

In contrast to the belief that James was personally responsible for the harsh treatment of dissenters during the early 1680s, it will be clearly established that in fact he was a moderating force. Hutton has claimed that, "when James returned triumphantly to England in 1682, he left behind him the complete ruin of the policies of comprehension and toleration, and yet a more savage persecution of Dissenters underway".⁶ Although Hutton qualified this by saying that James played 'little

⁴ Cowan, *The Scottish Covenanters*, 122.

⁵ For some of the many partisan examples of the early historiography, see *Bishop Burnet's History of His Own Time from the Restoration of King Charles II to the Conclusion of the Peace of Utrecht in the Reign of Queen Anne*, volume ii, (London, 1815); Wodrow, R., *The History of the Sufferings of the Church of Scotland*, 4 vols. (Glasgow, 1829); Macauley, T.B., *The History of England from the Accession of James II*, volumes i and ii, (London, 1849); Hay, M.V., *The Enigma of James II* (London, 1938), xvi, 2-8.

⁶ Hutton, R., 'The Triple-crowned Islands', in Glassey, L.K.J., (ed), *The Reigns of*

personal part in these developments', his timing is still negligent. In fact, as Ian Cowan asserted, "it is possibly not without significance that his [James's] return to England in May 1682 was followed by increasing severity in sentences demanded by the council."⁷ James did not leave behind a 'savage persecution' as Hutton claimed: it began after he returned to England. In many instances James was sympathetic to, and even bemused by, some of the religious dissent he encountered in his visits to Scotland, with no-one being executed who would acknowledge the King's authority.⁸ Though James advocated harsh sentences for what he regarded as dangerous crimes, he often intervened on behalf of those accused of offences he viewed as less grievous, including those accused of holding house conventicles as opposed to field conventicles for whom he, "stopped their prosecution for treason, which carried the death penalty, and ordered them to be imprisoned with hard labour."⁹ James is also reported to have responded with the words, "Take them away, else they will say what will hang themselves"¹⁰ when confronted by dissenters who remained steadfast in their beliefs about religion and the position of the monarchy. In essence, James did not instigate the 'Killing Times'; in truth he was often prone to reducing the crimes with which people were charged and the sentences imposed upon them. This was a trait that was to continue to the end of his stay in Scotland: it is a fact that only after James's departure did the harshness of the Scottish Council increase to levels whereby a period of unprecedented repression was witnessed.

This is not to argue that James was untainted by involvement in the severity of the Scottish reaction to dissent in the 1680s: he was personally present when it was decided that certain individuals, such as James Skeen, Archibald Stewart and John Spreull, could be tried by torture, when some persons were banished, and when others were sentenced to execution.¹¹ Nor was he ignorant of Scottish affairs once

Charles II and James VII and II (New York, 1997), 79.

⁷ Cowan, *The Scottish Covenanters*, 114.

⁸ See Chapter 2, 46-7; *RPCS*, vii, 121, 123; Turner, *James II*, 185-6; Hay, *The Enigma of James II*, 17; Cowan, *The Scottish Covenanters*, 106; Walsh, J., *History of the Catholic Church in Scotland* (Glasgow, 1874), 464; Speck, W.A., *James II Profiles in Power* (London, 2002), 28-9.

⁹ Ashley, M., *James II* (London, 1977), 137.

¹⁰ Miller, J., *James II*, (England, 1978), 107.

¹¹ *RPCS*, vi, 573, 586; *RPCS*, vii, 61, 62, 178, 219, 428.

he returned to England: he was in regular contact, via letter and personal visits by the Scots to London, with, amongst others, such prominent men as Queensberry, Aberdeen, Perth, Lundin and Hamilton. Though James did share the objective of the Council to suppress rebellious persons, as can be seen by his recommendation on his final departure in May 1682,¹² he nonetheless appreciated that the indiscriminate execution of dissenters was not an appropriate response on the part of the government. Only in the more extreme cases did James accept that severe sentences were necessary. As heir to the throne, James perhaps enjoyed a greater amount of leeway than the Councillors in his approach to dissent. Whereas he could afford to be clement to those who gained his sympathy, the Councillors were more inclined to administer tough sentences in an attempt to spread the message that dissenters would not be tolerated.

New Appointments

The Council received a letter from James on 30 March 1682 expressing “the great care he hath for the concernes of this kingdom even at this tyme when he is at so great a distance”.¹³ It is, however, difficult to precisely assess the level of input James continued to have in routine Scottish affairs after his departure, though it is entirely accurate to say that he remained fully involved in the more serious matters. Hutton claimed that James ‘functioned more as a puppet for others’ between 1682 and 1685.¹⁴ Whilst it is certainly true that the Secret Committee, which was formed in November 1683, did guide policy in Scotland to a large extent, it is overly harsh to deem James a mere puppet. Not only did he keep regular contact with the Scots, various schemes that were implemented after his return to England can be directly attributed to him, not least of all the appointment of two Secretaries of State and the conciliatory Commission for the Peace of the Highlands, which will be more fully discussed later in this Chapter.¹⁵

¹²*RPCS*, vii, 431; Wodrow, *Sufferings*, iii, 365.

¹³*RPCS*, vii, 373.

¹⁴Hutton, R., *Charles the Second, King of England, Scotland, and Ireland* (Oxford, 1989), 431.

¹⁵Clarke, *The Life of James II*, i, 705; Macinnes, A.I., ‘Repression and Conciliation: the Highland Dimension 1660-1688’, in *SHR*, 65(2), (1986), 189; Macinnes, A.I.,

In the early stages of his return to England there appeared to be a considerable degree of communication between James and the Scots even in more minor concerns, as can be seen by his demand in April 1682 for more information regarding the quarrel between Colonel James Douglas and Captain Cairns which had escalated into a duel. In response to James's request, the Council sent a report to Moray, who, as Secretary of State, would have conveyed the news to James.¹⁶ The traditional role of the Secretary included acting as an intermediary between the Crown and its administrators. It was certainly through Secretary Middleton's correspondence with the Chancellor that the Town Council of Edinburgh were made aware of the Crown's choice for a new Provost in September 1683, and hence appointed Baillie George Drummond.¹⁷ After James resumed permanent residence in England, he accordingly utilised the Secretary (later Secretaries), as an avenue through which he could communicate with the Privy Council, and, on occasion, Haddo.¹⁸

As well as communication through the Secretaries of State, James retained his influence over Scotland by maintaining personal lines of contact with many of the key figures in Scotland. These included Perth, Hamilton and Queensberry, the latter of whom was in constant correspondence with James throughout 1682-5.¹⁹ James and Queensberry, the Lord High Treasurer, not only corresponded about issues relating to the treasury, they also mentioned other areas of business, particularly the army and the navy.²⁰ James's continued influence over Scotland was recognised by Burnet, who noted that "Scotland was so entirely in his dependance, that the king

Clanship, Commerce and the House of Stuart 1603-1788 (East Linton, 1996), 139.

¹⁶*RPCS*, vii, 383, 391.

¹⁷*Extracts from the Records of the Burgh of Edinburgh, (1681-1689)*, Marguerite Wood and Helen Armet (eds), (Edinburgh, 1954), 89-91.

¹⁸*Letters Illustrative of Public Affairs in Scotland*, 19-20, 26, 29-31, 41-2, 91-2, 94-5, 99-100, 106, 130, 160.

¹⁹NAS GD 160/529/4, 6-11, 16; NAS GD 406/1/10582; NAS GD 406/1/10583; HMC 44, Report 15, appendix part viii, *The Manuscripts of his Grace the Duke of Buccleuch and Queensberry, K.G., K.T., Preserved at Drumlanrig Castle* (London, 1897), 168-215; *The Scots Peerage*, volume 7, Sir James Balfour Paul (ed), (Edinburgh, 1904), 138.

²⁰HMC 44, 15th Report, 155.

would seldom ask what the papers imported, which the duke brought to be signed by him.”²¹

As well as by writing, the leading figures in Scottish politics, including the Bishop of Edinburgh, continued to visit London and thus gain personal access to both James and Charles. Indeed, at one point James appears to have told the Bishop of Edinburgh that, “he wold hear non, nor be advised by anie in the matters if Ed[in]b[ur]gh”,²² except by himself and Sir George Gordon of Haddo, created Earl of Aberdeen in November 1682. Nonetheless, it would seem to be the case that James was merely placating the Bishop, as the avenues of contact remained open for the rest of the politicians too. On occasion the Scots went *en masse* to Court. Such instances were preceded by much planning as they usually concerned a major issue and often heralded the downfall of a prominent person or group, such as the investigation into the running of the Mint in Scotland which resulted in each of those involved being found guilty of gross malversations and accordingly suspended, and the matter which fostered the ruination of the Earl of Aberdeen as Chancellor in the summer of 1684.

During James’s residence in Scotland there had been various new appointments to the Privy Council, which can certainly be attributed to his influence. On 26 October 1681 the Marquess of Douglas was admitted to the Council, followed by the Earl of Dumfries who was added on 17 November, Southesk who was made a Councillor on 10 January 1682 and the Earl of Dalhousie who was admitted to the Council on 23 February.²³ Without James’s support it is difficult to imagine Charles appointing new Councillors with James still resident in the country. So too would it be accurate to apportion the alterations in personnel of May 1682 to James’s direct influence, by virtue of the fact that Charles had faith in his firsthand knowledge of Scottish affairs. The trust Charles had in James would not have diminished in any way since Charles had assured James before the 1681 Parliament that he was not

²¹Burnet, *History of His Own Time*, ii, 234.

²²*Letters Illustrative of Public Affairs in Scotland*, the Bishop of Edinburgh to Aberdeen, 17 August 1682, 49.

²³*RPCS*, vii, 234, 252, 306, 242; Wodrow incorrectly states that the Earl of Strathmore was added to the Council on 10 January 1682, *Sufferings*, iii, 364.

only unwilling to dispose of any offices without his advice, but also that he would never refuse anyone who was suggested by James.²⁴

James's return to England in March 1682 had not been permanent, and was actually more likely to have been a test to see if Londoners were ready to accept the Catholic heir back into their midst. That the English capital had been much quieted during James's residence in Scotland, compounded by the fact that his return was greeted with cries of 'No Whig, no Whig' and 'God Bless the King and his Royal Highness',²⁵ led to the decision being taken by Charles that James could return to his side indefinitely. Nonetheless, James was required to return to Scotland for one final visit on the grounds that he had to collect his family. James elected to return to Scotland by sea, accompanied by various leading figures to whom he had become increasingly close during his residence in Scotland. The journey itself was to prove disastrous in that the vessel in which they travelled, *The Gloucester*, sank. Samuel Pepys, who accompanied James on his voyage to Edinburgh, albeit on a different ship from the Duke, estimated the numbers killed to have been around 200.²⁶ Whilst, "most of the people of quality"²⁷ were saved, some notable casualties included the Earl of Roxburgh, the Laird of Hopeton, Sir Joseph Douglas, the Lord O'Brian and James's brother-in-law, Lord James Hyde.²⁸ Apparently James made it perfectly

²⁴*The Life of James II King of England, &c, Collected out of Memoirs Writ of His Own Hand*, Clarke, J.S. (ed), (London, 1816), volume i, 707.

²⁵Mullet, M., *James II and English Politics 1678-1688* (London, 1994), 42; *Letters Illustrative of Public Affairs in Scotland*, Sir William Paterson to Haddo, 15 March 1682, 9; Wodrow, *Sufferings*, iii, 365.

²⁶*Letters and the Second Diary of Samuel Pepys 1656-1703*, R.G. Howarth (ed) (London, 1933), 135.

²⁷Arthur, H. (ed), 'Some Familiar Letters of Charles II and James Duke of York Addressed to their Daughter and Niece, the Countess of Litchfield', *Archaeologia*, volume I LVIII (1902), 9 May 1682, 168.

²⁸NLS MS 7009, Sir James Hayes to Tweeddale, 15 May 1682, f89; *The Life of James II, Late King of England, Containing an Account of his Birth, Education, Religion, and Enterprises, both at Home and Abroad, in Peace and War, while in a Private and Publick Capacity, till his Dethronement*, Jones, D. (ed), (London, 1702), 80; *The Diary of Alexander Brodie of Brodie, and of his son James Brodie of Brodie, consisting of extracts from the existing manuscripts and a republication of the volume printed at Edinburgh in the year 1740* (Aberdeen, 1863), 473; *Diary of Samuel Pepys*, 133-136; Wodrow, *Sufferings*, iii, 365; *Memoirs of Reresby*, 263; Oman, C., *Mary of Modena* (England, 1962), 74.

clear during the shipwreck that Haddo was to be the next Chancellor when he cried out 'save my Chancellor' when Haddo fell into the sea.²⁹ Despite such a clearly traumatic journey, James continued with his original objectives for his final visit to Scotland which included formally announcing the various new appointments in the Scottish political arena, the warrants for which had been in a strong box on the ship and had been placed in James's pocket when the vessel ran aground.³⁰

The first meeting of the Council at which James was again present took place on 8 May 1682. Immediately the focus was on key appointments in lieu of his imminent permanent departure from Scotland: George Gordon, later Earl of Aberdeen, was to be elevated to the position of Chancellor, a position which had lain vacant since the death of Rothes on the grounds that James was in residence in Edinburgh and actively involved in the government; the Earl of Queensberry was to become the sole High Treasurer in place of a number of treasury commissioners; and the Earl of Perth was given the position of Lord Justice-General, which had been vacated by Queensberry's appointment as Treasurer. In these three individuals, it was clear that James had found men he could rely on and trust to govern Scotland in a manner with which he was comfortable.

The appointment of Haddo to the position of Chancellor was a doubly unusual move. Firstly, the general consensus was that either Atholl would be appointed Chancellor by virtue of his service as substitute to Rothes in taking over the role as President of the meetings of the Council, or that Perth would get the position.³¹ Atholl, though seemingly upset by this appointment, evidently kept his feelings from James, who reported that he "received it with that submission as became a loyal subject, for he did not appear at all displeased".³² Secondly, the position as Chancellor in Scotland had hitherto been the exclusive prerogative of the nobility and had never before been filled by a mere gentleman. Though corrected in late 1682, when Haddo was created Earl of Aberdeen, James's original decision can be reasonably explained: quite simply, Haddo had quickly established himself as

²⁹*Letters Illustrative of Public Affairs in Scotland*, xxxi.

³⁰BL Add 15892, James to Laurence Hyde, 9 May 1682, f130.

³¹*Letters Illustrative of Public Affairs in Scotland*, Sir William Paterson to Haddo, 25 March 1682, 12, 54; *Fountainhall's Notices*, 354.

³²BL Add 15892, James to Laurence Hyde, 9 May 1682, f130.

being an avowed advocate of James's administration as well as being an astute and capable individual. Though he was made a Privy Councillor by Lauderdale, it was under James that his career really took off. After James's first visit to Scotland he was given a seat on the Supreme Court as an Ordinary Lord of Session and was later also appointed by James onto the Committee Anent the Peace of the Highlands.³³ During the 1681 Parliament, Haddo was made one of the all important Lords of the Articles, a position which gave him the opportunity to "establish himself as an advocate of the Duke's administration."³⁴ Clearly his role on the Committee of Religion, which was dismissed by James as seen in the previous Chapter, did not diminish James's high opinion of him. After the Parliament he was appointed President of the College of Justice in place of Sir James Dalrymple of Stair who had been deposed for his refusal to take the Test, and who subsequently voluntarily exiled himself in Holland (see page 109). Further, Haddo was granted £6,000 Scots from Whitehall.³⁵ Haddo's rise to the higher echelons of Scottish politics, culminating in his lucrative appointment as Chancellor which came with an annual pension of £18,000 Scots,³⁶ can thus be directly attributed to the patronage of James. Consequently, there was no question about where Haddo's loyalties lay, his trustworthiness being compounded for James by the knowledge that Haddo's family had been loyal to the Stewarts throughout the horrors of the 1640s and 1650s.

For his part, Queensberry had seen previous promotions during the regency of James in Scotland: he had been made Lord Justice-General of Scotland in place of Sir George Mackenzie of Tarbat in June 1680, a position which was supplemented in October 1681 when he was made one of the Extraordinary Lords of Session. Queensberry was created Lord Treasurer on 8 May 1682. It was noted by a contemporary, Fountainhall, that Queensberry's position as Treasurer was in fact far more powerful than that of previous treasurers, as he could choose the Clerks of the

³³*The Scots Peerage*, volume 1, 88; *Letters Illustrative of Public Affairs in Scotland*, xxiv; *RPCS*, vi, 572.

³⁴*Letters Illustrative of Public Affairs in Scotland*, xxviii.

³⁵*The Scots Peerage*, volume 1, 88.

³⁶NAS GD 33/65/90, Charters from Haddo House, pension granted to Haddo, 1 May 1682.

Exchequer, whereas formerly this privilege had lain with the King.³⁷ To further illustrate the high regard in which the Crown held Queensberry is his elevation to Marquess in February 1682, just one month before James departed for England, a title which was superseded in November 1684 when he was made a Duke.³⁸

As for Perth, it is perhaps testament to his regular attendance of James at Holyrood that he was appointed Lord Justice-General, as this was the first major office he had held, having only been a Privy Councillor since 1678. Nonetheless, it was on this basis that a strong and lengthy relationship between the two men was to form, a relationship that was to see Perth loyally following his King into exile in later years. Perth's role as a key player in the government of Scotland was cemented later in 1682, after he had spent much of the year in London with James, when he was made an Extraordinary Lord of Session and his brother, John Drummond of Lundin, was made Treasurer-Depute in place of Charles Maitland of Halton, Lauderdale's brother.³⁹ Maitland's dismissal was the result of an investigation into the management of the Treasury which found him guilty of grave malversations in the running of the Mint, the impetus for the inquest seemingly having come from Queensberry and the Drummond brothers.⁴⁰ Instead of the Scottish Treasury being under the control of a committee, as had formerly been the case, treasury matters were henceforth the sole domain of Queensberry and Lundin, who thus exerted much influence as a result of their control of the purse in their respective positions as Lord High Treasurer and Treasurer-Depute.

In addition to the alterations in the key offices in Scotland, the Duke of Hamilton and the Earls of Tweeddale and Middleton were appointed to the Council on 11 May 1682, followed the next day by Lieutenant-General William Drummond of Cromlix. Sir David Falconer of Newton, who had taken over from Haddo as President of the Session, was also added to the Council on 1 August 1682.⁴¹ The

³⁷Fountainhall's *Notices*, 360.

³⁸*The Scots Peerage*, volume 7, 138; Fountainhall's *Notices*, 348.

³⁹*The Scots Peerage*, volume 7, 51. Ronald Hutton wrongly asserts that Perth and Lundin were cousins, in 'The Triple-crowned Islands' in Glassey, L.K.J., (ed), *The Reigns of Charles II and James VII and II* (New York, 1997), 79.

⁴⁰Colquhoun, "Issue of the Late Civill Wars", 262.

⁴¹*RPCS*, vii, 415-6, 419, 497; Wodrow, *Sufferings*, iii, 364; Fountainhall's *Notices*, 361.

following year saw a renewed spate of appointments when Sir John Lockhart of Castlehill and John Wedderburn of Gosford were appointed Councillors on 4 January 1683, Sir George Monro on 31 January and Colonel John Graham of Claverhouse and John, Archbishop of Glasgow, being formally added to the Council on 22 May and 12 July respectively.⁴²

Hamilton and Tweeddale had actually both been Councillors previously, “and were turned out by Lauderdale’s means.”⁴³ According to George Hilton Jones, one of Middleton’s biographers, Hamilton, Tweeddale and Middleton were all in some way opponents of Lauderdale.⁴² The re-appointment of Hamilton to the Council, however, was also a reward for having displayed to Charles and James that he was willing to tow the line and acquiesce to their demands over the matter of the Test.⁴⁵ Hamilton’s enduring favour was evident in his receiving Lauderdale’s position in the Order of the Garter after the latter died, something which was apparently also a direct result of the influence of James.⁴⁶ Middleton was certainly in favour at this time: in accordance with James’s scheme for the better government of Scotland, on 10 October 1682 Middleton was appointed joint Secretary of State for Scotland with the Earl of Moray, and was additionally given Lauderdale’s place as a gentleman of the bedchamber, which came with a £1000 Sterling (£12,000 Scots) salary per annum, upon Lauderdale’s death.⁴⁷ Tweeddale and Drummond would simply have been nominated Councillors by virtue of the fact that they were viewed as trustworthy and diligent persons, as well as potentially useful in the efforts against religious dissidents, Tweeddale’s sphere of influence being in a traditionally

⁴²*RPCS*, viii, 1, 31, 155, 191; Wodrow, *Sufferings*, iii, 364; *Letters Illustrative of Public Affairs in Scotland*, Moray to Aberdeen, 29 May 1683, 106.

⁴³*Fountainhall’s Notices*, 355.

⁴²Jones, G.H., *Charles Middleton The Life and Times of a Restoration Politician* (London, 1967), 61.

⁴⁵NAS GD 406/1/10582, 18 March 1682, James to Hamilton; Law, *Memorials*, 222.

⁴⁶BL Add 38140, Letter from Charles to Hamilton on the latter’s election to the Order of the Garter, f32; NAS GD 406/1/9212, Perth to Hamilton, 29 August 1682; GD 406/1/5883, Hamilton to Arran, 6 September 1682; HMC 44, 15th Report, 156; *Letters Illustrative of Public Affairs in Scotland*, Perth to Haddo, 29 August 1682, 53.

⁴⁷*Letters Illustrative of Public Affairs in Scotland*, Sir William Paterson to Haddo, 15 March 1682, 9, George Mackenzie to Haddo, 26 September 1682, 71, Middleton to Haddo, 26 September 1682, 72, Moray to Haddo, 26 September 1682, 73.

Covenanting area, and Drummond being a skilled member of the armed forces. Sir David Falconer of Newton's addition to the Council was most likely as a result of his position as President of the Session, whereas the later appointment of Claverhouse to the Council was certainly a reward for his persistent actions against Covenanters, as both a commissioner and member of the militia.

The proliferation of new appointments in Scotland made it possible for Wodrow to assert that, "thus a great many new managers, all of the duke of York's party, are taken in."⁴⁸ Certainly, there is evidence that those who benefited from Lauderdale's death were not of the old contingent so favoured by him, Queensberry writing that, "if he had gotte nameing of his successers I think would as little pitch upon yow [Arran] and me as the rest that gott his ither places."⁴⁹

The Continuation of James's Scheme to Settle the Military and the Highlands

When sending James back to Scotland in October 1680, Charles had asserted that two priorities for his brother were the speedy implementation of militia reforms and the promotion of increased peace and stability within Scotland.⁵⁰ Having been granted money by the 1681 Parliament with a view to supporting the military, the immediate aftermath of the Parliament witnessed a flurry of activity in terms of the organisation of troops throughout Scotland, including the Highlands. Undoubtedly, close attention to Scotland's forces stemmed from the acute awareness of the necessity to be well prepared in the face of opposition, whether that be the typical disturbances of the Highlands or organised dissent in the Lowlands. In terms of pacifying Scotland, the military was to be a crucial tool. As a result, the King, the Council and its standing committees were all involved in military reorganisation in the period after the Parliament.

On 24 September 1681 the Committee Anent the Peace of the Highlands⁵¹ gave in to the Council a report in which it was advised that two new companies of

⁴⁸Wodrow, *Sufferings*, iii, 364.

⁴⁹NAS GD 406/1/3083, Queensberry to Arran, 12 September 1682.

⁵⁰*RPCS*, vi, 565.

⁵¹The last recorded membership of this Committee was on 8 July 1680: the Officers of State, Montrose, Mar, Queensberry, the President of the Session, Tarbat, Haddo and Sir George Monro, *RPCS*, vi, 493.

His Majesty's forces be sent to the Highlands. This was based on the original proposal of James, which had been approved by the Council in March 1681, and sanctioned by Charles at the beginning of April,⁵² that two neutral companies of men be raised with a view to securing the Highlands. The Committee reported that these two companies should reside at Kilwinnan and Auchintor, near Inverlochy, and that the task of feeding and furnishing the troops should fall to the commissioners of Argyll, Inverness, Nairn, Ross and Moray.⁵³ That the creation of what was effectively a standing army in the Highlands was seen as the best course of action with regards to introducing stability to the area was symptomatic of the intention to prevent rather than react to disorder in the Highlands. A visible military force would, it was hoped, preclude any lawbreaking or violent uprisings in an area which had a long history of notoriety in the eyes of the government. Besides, in the event of any Lowland disturbances, the Council had to ensure the Highlands would not simultaneously erupt into violence and force them to contend with concurrent dissent in the two regions: strong military presence in the Highlands was thus essential to minimise the risk of this. To this end, on 12 May 1682, the same day he was made a Councillor, Lieutenant-General Drummond was immediately added to the Committee Anent the Peace of the Highlands.⁵⁴

Notwithstanding the garrisoning of troops, troubles continued to affect the Highlands after the final departure of James. The Earl of Seaforth reported in September 1682 that they, "suffer so much by the Lochaber men" and that, despite his attempts to depress these disorders, "to resist a vhol country of robbers is not in my pouer without the King's authority."⁵⁵ Additional measures clearly needed to be taken by the government to ensure that there were no major disturbances in the Highlands. Given the collapse of the scheme to divide the Highlands into four (later five) areas of magnate control, another plan had to be formulated. Hence, the Commission for Securing the Peace of the Highlands acted continuously from August 1682 to September 1684, with each Commissioner being empowered to

⁵²*RPCS*, vii, 65, 88-9.

⁵³*Ibid*, 205.

⁵⁴*Ibid*, 420.

⁵⁵*Letters Illustrative of Public Affairs in Scotland*, Seaforth to Haddo, 25 September 1682, 71.

apprehend, imprison and present all persons suspected as being guilty of theft, robbery, blackmail or harbouring or resetting fugitives.⁵⁶ This was in fact a rather progressive policy, based on Breadalbane's earlier suggestion,⁵⁷ which decentralised authority over the Highlands to local landowners, whose charges against individuals would be heard in one of the four new justiciary courts which covered that area. The impetus for implementing this tack came, despite his absence, directly from James who wanted to cultivate Highland allies and whose tenure in Scotland has thus been called, "the only phase of conciliation in the Highlands during the Restoration era."⁵⁸

Nonetheless, the military option continued to exist for the government who, in the event of serious Highland disorders, could still utilise the forces there, some of them being garrisoned at Inverlochy, some supplying the reporting stations at Braemar and Aberchalder, and some escorting the Commissioners on their judicial circuits.⁵⁹ Latent suspicions about the ability of the Highlands to remain relatively quiet obviously still determined the policy of the government: a military presence continued to be deemed necessary in the Highlands to ensure a rapid response to any outbreaks of disorder as well as to act as a preventative peace-keeping force. The move away from the conciliatory tactics became increasingly noticeable when Instructions were given to the Secret Committee on 14 June 1684 to consider raising a force in the northern shires and Highlands "for preventing and suppressing commotions."⁶⁰ The matter of peace in the Highlands was certainly not easily resolved, though the cooperation of the Highland elite eased the situation and displayed that the biggest threat came from lawless commoners rather than the higher echelons of society.⁶¹

⁵⁶*RPCS*, vii, 503-513; Macinnes, 'Repression and Conciliation', 189; Macinnes, *Clanship and Commerce*, 139; Hopkins, *Glencoe*, 92-4.

⁵⁷Macinnes, *Clanship and Commerce*, 138-9.

⁵⁸Macinnes, 'Repression and Conciliation', 189; Macinnes, *Clanship and Commerce*, 139.

⁵⁹Macinnes, 'Repression and Conciliation', 190; Macinnes, *Clanship and Commerce*, 139.

⁶⁰*CSPD* (May 1684-February 1685), xx, 55; Hopkins, *Glencoe*, 94.

⁶¹Macinnes, 'Repression and Conciliation', 191; Macinnes, *Clanship and Commerce*, 140.

James, the Privy Council and the Growing Covenanting Threat

The Covenanters were a group of radical Presbyterians who adhered to the principles contained in the National Covenant of 1638, notably that allegiance to the King was secondary to allegiance to God: if it was perceived that the King was in any way attempting to interfere with the people's relationship with God, they were entitled to take up arms against him to defend their religion. Neither defeat at the hands of Cromwell nor the Restoration of the monarchy had destroyed the Covenanters, and Restoration Scotland had witnessed the continuation of Covenanting activities, the most notorious being the Pentland Rising of 1666 and the Battle of Bothwell Bridge of 1679. Though both of these had been suppressed, the difficulties posed by the Covenanters did not end. As has been outlined in Chapter 2, the return of Richard Cameron instilled the movement with new impetus, and the war against the Episcopalian government of Scotland was recommenced.

As has already been mentioned, in May 1680 substantial elements of the Indulgence of 1679 were revoked: house conventicles were banned and dissenting ministers were neither permitted to meet in presbyteries nor within a twelve mile radius of Edinburgh.⁶² This had the effect of redoubling the offensive against the government: shortly thereafter, the Queensferry Paper, which challenged the authority of the monarchy, and the Sanquhar Declaration, which disowned both Charles and James, came to light. Though much of the ferocity of the Covenanters was removed with the death of Richard Cameron in July 1680, and the extension of the Indemnity in October 1680, the Cameronians neither relinquished their ideals nor ceased their actions against the government.

Although only office holders were required by the Test Act to subscribe the Oath, that contentious piece of legislation also received popular objections, many of which came in the form of public disorders, demonstrations and conventicles. As such, despite much time being taken up with ensuring officials took the Test in the aftermath of the 1681 Parliament, and considering the Highland issue, James also oversaw the implementation of measures to suppress general dissent in Lowland Scotland. When James left, Lowland disorders, particularly of religious motivation,

⁶²Cowan, *The Scottish Covenanters*, 107.

remained an overriding concern for the government, which became increasingly harsh in attempting to achieve the goal of general conformity to its policies. In working towards the pacification of Scotland, the government, which initially included James, employed a variety of methods. The Committee for Public Affairs was used to investigate opposition and devise ways in which the perpetrators could be located and prosecuted. Particularly after James left Scotland, commissions were commonly granted. These authorised individuals to search out and put to trial those allegedly involved in seditious activities. The Court of Justiciary, as well as Circuit Courts, were heavily relied upon, and individuals carved out indispensable roles of authority and power for themselves in the very public battle against religious dissent.

The Moderate Influence of James

Wodrow's assertion that during James's absence from Scotland, "there was a sort of respite in the severities,"⁶³ particularly against Presbyterians, would tend to suggest that James was the instigator of such policies and the Council, for its part, was merely conforming to James's wishes when they issued such orders. This is not particularly accurate on two counts: firstly, there were various instances when James was present in Scotland that severity was avoided; and, secondly, there were other times, when James was absent, that the Council displayed its independent ferocity towards its opponents. The government of Scotland, with and without James present, tended to treat minor offenders reasonably leniently whilst those it considered serious threats to the peace and stability of the nation were severely dealt with.

Cases of incredulity towards the Test Act were not confined to local political officials and ministers; there were various public demonstrations against the Act too. The first sign of popular dissent after the Parliament came on Christmas Day 1681, the anniversary of the protest by the students of the College of Edinburgh. On this day an effigy of the Pope was burnt by some boys and apprentices of Presbyterian sympathies in Edinburgh: "They brought him to the Croce, and fixed his chair in that place where the gallows stands, he was trucked up in a red goun and a mitar with

⁶³Wodrow, *Sufferings*, iii, 357.

two keys over his arme, a crucifix in on hand and the oath of the Test in the other, then they put fyre to him, and it brunt lenthly till it came to the powder at which he blew up in the air.”⁶⁴ The fact that on this occasion the Pope had a copy of the Test in his hands speaks volumes in terms of what the protesters felt the Test facilitated. In essence, they saw that the Test allowed for the creation of further divisions within the Protestant church and therefore the strengthening of the Roman Catholic position in Scotland. Nevertheless, no efforts seem to have been made by the Council to address the protesters. Perhaps this was a result of the clement influence of James who was still resident in Scotland at this time, but it is more likely that it was due to the protesters not being avowed Covenanters, the similar demonstration of the previous year having died down without having posed a substantial threat to the stability of the nation. At any rate, the boys and apprentices came to no gritty end despite James having being present in Edinburgh when the episode occurred.

An incident which won a more severe response from the Council, with James in attendance, was the proclamation of the Declaration of Lanark. In mid-January 1682 a party of sixty men, of whom around forty were on horseback, rode into Lanark where they burned a copy of the Test and affixed a proclamation to the market cross in which they detailed their objections to the King’s authority. In response to this act of public disorder the Council informed the King and Moray of the occurrence and ordered that some members of the Privy Council, accompanied by some of the King’s forces, immediately go to Lanark to question the Town Council. The Council also engineered its own public derogation of the actions in Lanark by issuing the order that the Solemn League and Covenant and the Declarations of Sanquhar, Rutherglen and Lanark, as well as Cargill’s Covenant, be burned at the market cross of Edinburgh by the hangman.⁶⁵ Though apparently done with the design that it may “evidence the great abhorrence they have of these treasonable libells”, Fountainhall wondered that it may not simply revive old memories and persuade people to read the Solemn League and Covenant again.⁶⁶

⁶⁴*Historical Selections From the Manuscripts of Sir John Lauder of Fountainhall, Historical Observations 1680-1686*, Laing, D. (ed) (Edinburgh, 1837), 55-6.

⁶⁵*RPCS*, vii, 310-11; *Law, Memorials*, 215; *Wodrow, Sufferings*, iii, 314.

⁶⁶*RPCS*, vii, 311; *Fountainhall’s Notices*, 345.

When the immediate tension had dissipated the Council heard a report from the Committee for Public Affairs, on 17 January, in which it was recommended that the Council delay sending a party of Councillors to Lanark until James had heard an account of the current situation. To this end, Major Andrew White was given instructions to obtain a list from the Justice Court of persons denounced as rebels, then to discover where they lurked, before seizing all those rebels in Lanark who had not yet taken the Bond. White was evidently diligent in his duties concerning the rebels, for he quickly compiled a list of those suspected as participating in the disturbance at Lanark and, having been ordered by James to keep close correspondence with Lord Ross about the affair, informed Ross who the rebels were. In turn, Ross contacted Sir William Turner and advised him to employ a party of dragoons to apprehend the men.⁶⁷ On 26 January orders concerning the militia in Lanark were given: the Marquess of Douglas was to ensure that the heritors of Lanark provided corn and hay for the soldiers who were to be stationed there and the soldiers were to be equipped with arms from the supplies at Edinburgh Castle, some of which were to be moved to Stirling Castle. Having played such an effective role in the hunting of rebels in the area, White was appointed joint sheriff-depute of Lanark with Adam Urquhart of Meldrum. Both were given powers to suppress any religious disaffection within that shire.⁶⁸

Further, the Privy Council admonished the magistrates and Town Council of Lanark for “neglect of their duety in not raising the town and opposeing these villains that publish’d that infamous lybell, at the least for not pursueing after them and detecting and discovering them.”⁶⁹ The magistrates of Lanark were later fined 6000 merks.⁷⁰ This act of defiance against the government clearly warranted a more determined response than that of the apprentices in Edinburgh. James and the Council were simply not prepared to stand by and once again witness Scotland deteriorate into a land of religious uprisings and clashes between government forces and dissidents. When confronted by such organised and clearly seditious opposition

⁶⁷BL Add 12068, Lord Ross to Sir William Turner, 22 January 1682, f100.

⁶⁸*RPCS*, vii, 333-4.

⁶⁹*Ibid*, 311-2; Wodrow, *Sufferings*, iii, 369.

⁷⁰Wodrow, *Sufferings*, iii, 363; Fountainhall’s *Notices*, 347; Fountainhall’s *Selections*, 56.

the only adequate response was deemed to be the hunting down of those who disputed official determination, with military backup standing by in case it was needed. Though Wodrow contends that many of the men found guilty of participation in the Lanark Declaration were banished to the plantations or were forced into the army at Flanders,⁷¹ there is no corroborating evidence for this in the records of the Council. As such, it is impossible to say whether such men were sentenced when James was present at the meetings of the Council, or whether these were declared in his absence. Despite their crime being specifically religious in motivation, there was no immediate and irrevocable brutality issued against the Lanark Covenanters. A considered and objective approach was instead taken, even if this did include the order to hang a man in Lanark, “for example and terror to others ther”⁷² after he had been found guilty of posting the declaration made at Bothwell Bridge. It is true that James made it a priority to suppress religious dissent, the motivation for this stemming from the fact that he regarded “the Enemies of the Church as Adversaries to the Monarchy it self.”⁷³ Simply, James advocated leniency for lesser crimes, but stringency for those which had a potentially destabilising effect on the nation, a policy which is clearly displayed by his tolerant attitude to the apprentices of Edinburgh and his instrumental role in the coordination of government forces against the rebels of Lanark.

Wodrow’s allegation that there was a temporary respite in the severity of the Council in James’s absence can be further refuted on the grounds that draconian measures were issued when James was out of the country. James returned to England in early March 1682, seemingly as an unintentional result of the actions of the Duchess of Portsmouth who had set about regaining favour in the Court.⁷⁴ On this trip he was accompanied by various members of the Scottish nobility. These men cannot all be definitively identified given that there is no comprehensive record of James’s party, but the more prominent men can be recognised, not least through their notable absence from the meetings of the Council in Scotland for the exact

⁷¹Wodrow, *Sufferings*, iii, 363.

⁷²Fountainhall’s *Notices*, 348.

⁷³*The Copy of a Letter from Scotland to His Grace The Lord Archbishop of Canterbury, Subscribed by Eight Archbishops and Bishops of that Kingdom*, 2.

⁷⁴Clarke, *The Life of James II*, i, 722-6.

duration of James's visit to London. In his trusted group of advisers James included Roxburgh, Ancram, Queensberry, Perth and Sir George Gordon of Haddo. From the sederunts of the Privy Council, it can be seen that Haddo, by this stage President of the Session, did not accompany James on his southerly journey, perhaps because of the commitments of his new role, though he did join James in England at the start of April.⁷⁵ Thus, during James's two month absence, the government in Scotland was not fully manned, notable absentees including those men who would go on to fill the most prominent political positions in Scotland during the following years.

As evidence to support the contention that the Council independently issued harsh judgements, the case of Joseph Learmonth can be examined. It is particularly interesting that during the very first meeting of the Council after the departure of James and his entourage, which was held on 13 March 1682, there was an order issued for the execution of Learmonth on account of his participation in the rebellions of 1666 and 1667.⁷⁶ Of course, it may be the case that James knew about the proposed sentence before he left Edinburgh, the hope of avoiding his association with it obliging the Council to wait until he had gone before formally issuing the order. Or it could simply be coincidence that this sentence of execution occurred in the first meeting in which James was not present. However, it could also be true that James had no idea about the intentions of the Council, which may have deliberately waited until the indulgent Duke was en route to England before pronouncing the death sentence for fifteen-year-old crimes. Though sentences of execution had been issued when James attended the Council, notably those of James Skeen and Argyll who had recently violated the government, it certainly cannot be said to have been commonplace during James's administration. In James's presence, it was ordinarily in extreme cases only and, with the exception of Argyll, when the accused had refuted all attempts to mitigate their crimes that harsh punishments were favoured.⁷⁷

⁷⁵Haddo continued to attend most of the meetings of the Council until 6 April 1682. Thereafter, he did not appear until James had returned to Scotland on 8 May, *RPCS*, vii, 355-412.

⁷⁶*RPCS*, vii, 355.

⁷⁷See Chapter 2, 46-7; *RPCS*, vii, 121; Ashley, *James II*, 137; Miller, *James II*, 107; Turner, *James II*, 185-186; Hay, *The Enigma of James II*, 17-18; Walsh, *History of the Catholic Church in Scotland*, 464; Speck, *James II*, 28-9.

With this taken into account, it seems feasible that James knew nothing of the judgement against Learmonth and that the Council independently chose to order the execution, something which indicates that James could in reality have been the mitigating force which prevented the earlier institution of increased governmental repression, rather than the tyrannical sadist who devised the whole sorry episode. Despite Learmonth in fact being later reprieved,⁷⁸ it can be argued that whereas James favoured harsh sentences for those who continued to present a substantial threat to the country, certain members of the Council were also willing to punish those individuals who had once been a menace. It is entirely viable to suggest that, had James not been resident in Scotland between 1679 and 1682, the retribution of the Council may have surfaced earlier.

Further displaying the vehemence of the Council despite the absence of James are the orders of 4 and 5 May relating to those involved in the 2 May riot in Edinburgh. The origins of the disturbance lay in the rumour that the King's forces were guilty of pressing apprentices to join them in Dutch service. Having thus been the subject of attack by various inhabitants of Edinburgh, the troops fired on the crowd and killed several people. Undeterred by this, the crowd went on to imprison many of the guards, vandalise their arms and invade Sir George Kinnaird's house in which several of the Councillors were meeting.⁷⁹ The Council subsequently ordered the trial of those accused of being accessory to the riot and commanded that those who were condemned to death were to be executed just three hours after sentence was pronounced on them. The forces of Dalziel were to be present at the trials and executions, all of which were ordered to take place the following day, on 6 May.⁸⁰

Though Charles was evidently pleased with the way in which the matter was dealt with, being specifically supportive of "speedy justice" being dealt to the "principall contryevers" of the riot,⁸¹ the actual decision to try and execute the rioters

⁷⁸Fountainhall's *Selections*, 63.

⁷⁹*RPCS*, vii, 403-7; *Historical Observes of Memorable Occurrents in Church and State, October 1680 - April 1686* by Sir John Lauder of Fountainhall, (Edinburgh, 1840), 66-67; *Letters Illustrative of Public Affairs in Scotland*, 16.

⁸⁰*RPCS*, vii, 403-7.

⁸¹HMC 45, *Fourth Report of the Manuscripts of the Duke of Buccleuch and Queensberry*, volume ii, (London, 1903), Moray to Queensberry, 11 May 1682, 12.

the following day was proclaimed by the Council before they knew of the King's support. This ruling was in essence the antithesis of the policy towards the previous demonstrators in Edinburgh, who had admittedly presented a far less serious threat, but against whom no action was taken at all. The policy of swiftly executing those upon whom such sentence was passed would naturally circumvent any chance the prisoners would have to appeal the decision made against them. Though this extremely aggressive stance on the part of the Council pertains to secular crimes, it does adequately illustrate the oppressive nature of the Council despite the absence of James: any disturbance was to be viewed as a potential undermining of the government, and was to be treated accordingly. Even those involved in the declaration of Lanark had not been subject to such despotic treatment under the guidance of James, despite arguably posing a greater threat to the security of the nation in that they represented an enduring militant Covenanting opposition to the government.

It was indubitably partly because the rioters had violated some of the Councillors themselves, albeit in a spontaneous affray which had no deep roots in Scotland, that they were not to enjoy the same treatment as either previous rioters or the Covenanters. Their attack on the actual members of government in Scotland, as opposed to simply attacking their policies, undoubtedly contributed to the decision to crush them outright instead of allowing them the benefit of time in which to appeal. Nonetheless, it can be reasonably argued that the perceived need to stamp out *all* disturbances also led to the uncompromising stance of the Council. Fountainhall attributed the severity of the stance of the Council with regards to this matter directly to Sir George Mackenzie of Rosehaugh, Lord Advocate, who, after the apprehension of three participants, "resolved to get [them] hanged for examples as ringleaders."⁸² Despite the instantly draconian position of the Council, the assize which actually tried these suspects found them not guilty of the crimes with which they were charged and they thus walked free irrespective of the design of the Council.

Whether the policy of the Council would have been the same under James's guidance is impossible to say. Though he would in no way have ignored the threat

⁸²Fountainhall's *Observes*, 66-7; *Letters Illustrative of Public Affairs in Scotland*, 16.

posed by the rioters on account of their actions amounting to a serious attack on the government, James's predilection for mitigating people's sentences, other than in the most grave cases, suggests that he would have balked at the Council's intention to execute the rioters. Certainly, the breakneck speed with which the Council desired to carry out the executions, ensuring that they would have taken place before the imminent return of James, suggests that they wanted the matter completed by the time James arrived back in Edinburgh. The episode did, however, receive some consideration when James was again present at the meetings of the Council: at his first reappearance, a Committee was ordered to assess what had already been done about the riot and what further measures should be taken regarding it.⁸³ James, less than a week later, recommended that there be no process made against the magistrates of Edinburgh with regards to the late tumult, though they were obliged to allow him to name the officers of the new company of 108 men which was to be henceforth stationed in Edinburgh, which James felt displayed the good use to which he had put the riot.⁸⁴ What is evidently true is that James's absence from the original ruling by the Council meant that it was solely responsible for the orders against the rioters, thereby proving that they were not passively led by James in all matters of severity.

It can be confidently asserted that whilst James was resident in Scotland a conciliatory approach had been taken towards those dissenters he viewed as less seditious. In his absence, so too were some instances of dissent dealt with leniently, especially those which had been committed by people who had since recognised the error of their ways and promised to lead law-abiding lives, and had as such received from the Committee for Public Affairs recommendations that they be conditionally freed. One example of this was when the Earl of Tarras was pardoned in 1685 on

⁸³*RPCS*, vii, 410; This Committee was made up of a mixture of men who had been present when the original decisions regarding the riot were taken in the Council, and men who had not been party to these decisions. Those in the former category included Atholl, the Bishop of Edinburgh, and the Lords Register, Advocate and Halton. Those on the Committee who had not been present at the Council on 4 or 5 May were Montrose, Perth and Haddo.

⁸⁴BL Add 15892, James to Laurence Hyde, 13 May 1682, f136; *RPCS*, vii, 407, 425; Fountainhall's *Observes*, 66-7; Fountainhall's *Notices*, 357; *Letters Illustrative of Public Affairs in Scotland*, 16.

account of the regret he had shown after being found guilty of involvement in the Rye House Plot.⁸⁵ Nonetheless, in most cases not even a step in the direction of rebellion would be tolerated by either James or the Council, though this policy was more marked in the absence of James. It can be reasonably suggested that, as heir to the throne, James enjoyed the luxury of being able to attempt a more flexible approach to government, conciliation being seen as a rational approach, especially to the less fanatical opponents. Whereas James was heir to the throne regardless of capability, the Councillors of Scotland did not enjoy such liberty: failure to preserve the stability of the country would have precipitated their fall from government. With the onus of routine government shifted back onto themselves when James returned to England, the Council began to rely far more heavily on repression as a means of containing schismatics and preventing their actions spiraling out of control. Nonetheless, one particular instance of James encouraging the Council's diligence against rebels must be noted. After hearing about the murder of a minister in Galloway, James wrote to Queensberry on 22 December 1684 affirming that he was sure that, "you of the Secret Comitty will continu your care and vigilancy to secure the government from such bloody principled villans."⁸⁶ Clearly, the pressure from London was unswerving in applying for an end to lawlessness in the name of religion. Such insistence from the Court undoubtedly convinced the Scots to do everything in their power to end the trouble posed by the dissident religious fanatics.

Increasing Severity Towards Dissent

On 27 November 1683 a Secret Committee was formed upon which were Aberdeen, Queensberry, Atholl, Perth, Lundin, Tarbat and Rosehaugh, who were given the remit to meet and consult about all matters relating to the government of Scotland and whatever was proposed by the King.⁸⁷ That the members of the Secret Committee were instrumental in maintaining the pressure on opponents of the government into the first half of 1685 can be seen by their correspondence to such

⁸⁵NLS Wod Qu XXXVI (lvi) The Indictment of the Earl of Tarras, 1685, ff209-210; Wodrow, *Sufferings*, iv, 224-6.

⁸⁶HMC 44, 15th Report, 213.

⁸⁷*CSPD* (October 1683-April 1684), 111; *CSPD* (May 1684-February 1685), xx; Jones, *Charles Middleton*, 66.

commissioners as Colonel Douglas.⁸⁸ In these letters the continued absorption of the Committee in the matter of the rebels in the west of Scotland can easily be seen, though it can be asserted that by 1685 their concern was not just with religious dissenters, but also with the rebels who allied themselves to Argyll. Through the existence of such a Committee it can be seen that the government of Scotland had been increasingly streamlined to the point that it would be impossible to separate any of those on the Secret Committee with the actions against opponents of the government.

The overwhelming impetus behind the actions of the Scots in the 1680s was to secure the nation and prevent the degeneration into rebellion once more. In this, they were not only protecting their own careers, they were also acting on behalf of James in more ways than one. As has already been stated, part of the desire to avoid ructions in Scotland stemmed from the fact that, as James was so closely linked to the country, instability would have been seen as a failure on his part to ensure lasting peace. Moreover, as Perth wrote from England, “evrie litle extravagance of a company of old wives is magnified here to a rebellion by some men. They may chance to possess the K[ing] with a conceit of the necessity of the Duke’s presence, to quiet Scotland, and so drive him once more away. For God’s sake let all be keep’t in as quiet condition as may be”.⁸⁹ In essence, there was a real concern that an upset in Scotland would have led to calls in England for James’s return to the northern kingdom, ostensibly with the design to stabilise the country, but in reality to rid themselves of his presence.

James himself was acutely aware of the fact that disturbances in Scotland could have been used in such a manner. Immediately after the Lanark Declaration in January 1682 he wrote to Colonel George Legge expressing his hopes that the matter would not be reason enough to keep him in Scotland.⁹⁰ In particular, James believed that Halifax would do all he could to hinder his return by arguing “that there is a

⁸⁸NLS MS 214 Lauriston Castle Collection: Letters to Col. Douglas from the Privy Council about the Suppression of the Covenanters in the West, 1682-1688, ff1, 3, 4, 6, 8, 10, 16, 22, 24.

⁸⁹*Letters Illustrative of Public Affairs in Scotland*, Perth to Haddo, 23 March 1682, 10.

⁹⁰BL Add 18447, James to George Legge, 19 January 1682, f60.

likelihood of the Whigs rising in arms again.”⁹¹ Such sentiments would naturally have persuaded James to implore the Scots to keep the country stable and free from uprisings on account of the fact that he had desperately wanted to return to his brother’s side for some time, seeing his position in England as being compromised by his absence. That his wife was also extremely keen to return to the Court in London would have further convinced James to beseech the Scottish politicians to do everything in their powers to avoid disturbances, and thus provide his English enemies with no ammunition to remove him once more.⁹²

Apprehensions about dissent were further fuelled by such schemes as the Rye House Plot, a conspiracy to murder Charles and James on their way back from Newmarket. Though foiled, the Plot presented a clear picture that danger could come anywhere, at any time and without warning. Sir Andrew Forrester described the proceedings of June 1683 as “one of the most damnable and hellish conspiracies that ever was in the world; having been designed not only for the horrid and most barbarous murder of his Majestie and his Royall Highnes but also for the utter overturning of the Government of both Church and State.”⁹³ Reports such as that by Forrester, a Scot resident in England at the time, simply heightened the anxiety of the Scottish government and made them more firm in their resolution to stamp out dissent, which left untended could have presented a much larger problem in the future. That several Scots were implicated in the Plot was further proof to the Scottish government that it should be diligent in crushing opponents, Reresby writing that the “conspiracie was generall in both kingdomes amongst the discontented party.”⁹⁴ Concerns in Scotland about a possible uprising by Argyll and other disaffected individuals, which magnified fears that Scottish and English opponents would conjoin in a unified and simultaneous attack throughout the archipelago, had in fact been smouldering in the Scottish elite from as early as October 1682.⁹⁵ After

⁹¹Ibid, 26 January 1682, f61.

⁹²BL Add 24901, Mary, Duchess of York to Anne, wife of Lord Belasyse, 20 April 1682, f7.

⁹³*Letters Illustrative of Public Affairs in Scotland*, Sir Andrew Forrester to Aberdeen, 26 June 1683, 131.

⁹⁴*Memoirs of Sir John Reresby. The Complete Text and A Selection from his Letters*, Browning, A (ed), second edition, (London, 1991), 308.

⁹⁵*Letters Illustrative of Public Affairs in Scotland*, Sir George Mackenzie, Lord Clerk

those Scots who had been charged with planning an insurrection in Scotland to coincide with that in England were examined by the English Council, they were sent to Scotland for trial. These included the two Campbells of Cessnock, the two Muirs of Rowallan, John Crawford of Crawfordland, William Fairlie of Bruntsfield, Alexander Monro of Bearcrofts, William Spence, Robert Murray of Tibbermore, John Hepburn, William Carstairs and Robert Baillie of Jerviswood. Sir John Cochrane and Roger Ferguson had evidently escaped abroad.⁹⁶ The relief of the Scots over the discovery of the Plot can be seen from their celebrations after the event, though it is notable that those in Paisley seem to have been directed to God in thanks for the preservation of Charles's life alone, there being no mention about James in their intimation of a day of thanksgiving in September 1683.⁹⁷

Between 1682 and 1685 the government reacted to what it perceived as a steadily increasing threat by the Covenanters with mounting urgency. It channelled as many resources as possible into the battle against the Covenanters, particularly the Cameronians, and noticeably heightened the severity of sentences imposed on dissenters. Particularly palpable was the resulting rise in the number of organised and field executions, especially between late 1684 and 1685. Highlighting an upswing in the number of executions, are the treasury records of Kirkcudbright Town Council's, in which there are various entries detailing the fees paid to the local hangman.⁹⁸ The Lords Justiciary and the Lord Advocate, on Circuit in 1683, reported to Aberdeen that the only person they had sentenced to execution during their time in Stirling was a man who repeatedly refused to acknowledge that Bothwell Bridge was a rebellion and that Sharp was unjustly murdered.⁹⁹ The number of executions, however, was to rise markedly following the actions of James

Register to Haddo, 4 October 1682, 84; Moray to Aberdeen, 26 June 1683, 133-4; Moray to Aberdeen, 3 July 1683, 137; *Memoirs of Reresby*, 306-310.

⁹⁶NAS GD 406/1/9418, William Paterson [to Hamilton] 28 October 1683; *CSPD* (October 1683-April 1684), xi.

⁹⁷NLS Wod Oct IX (xxiv) Intimation of Thanksgiving on the Sabbath at Paisley, 2 September 1683, for the failure of the Rye House Plot, f133.

⁹⁸Stewartry Museum, Kirkcudbright: 'The Galloway Scrapbook', Treasurer's Accounts Box 1992/24, Burgh of Kirkcudbright Treasurer's Accounts 1624 to 1698, Bundle 1680-1685.

⁹⁹*Letters Illustrative of Public Affairs in Scotland*, Lords of the Justiciary and the Lord Advocate to Aberdeen, whilst on Circuit [1683], 116.

Renwick, a follower of Richard Cameron, who had returned to Scotland in September 1683 after being ordained as a preacher in Holland. On 28 October 1684 Renwick published the *Apologetical and Admonitory Vindication of the True Presbyterians of the Church of Scotland*, which was effectively a declaration of war on the government as a result of its refusal to acknowledge the National Covenant.¹⁰⁰ The *Apologetical Declaration* disowned the monarchy and government and vowed to assassinate any who served the King. In response, Charles demanded that the “most effectual remedy be applied for their utter extirpation.”¹⁰¹ The Council thus framed an Abjuration Oath in which any person who refused to disown the *Apologetical Declaration*, “whether they bear arms or not, should be immediately put to death, but always in the presence of two witnesses and the person or persons with the Council’s commission to that effect”.¹⁰² Cowan has asserted that Presbyterians, as opposed to Cameronians, were seldom executed, but they did suffer harsh treatment at the behest of the Council.¹⁰³ Nonetheless, the number of executions rose to such a point that the years 1684-5 gained the ignoble title of the ‘Killing Times’, the most intense phase of which apparently took place in the first half of 1685.¹⁰⁴ A substantial part this argument rests on the number of field executions between January and May 1685. This number includes the incident in which six rebels, suspected of posting treasonable papers in several towns, were killed in a fight with the troops of Colonel Douglas, an instrumental force in the fight against the dissidents.¹⁰⁵

As an alternative to execution, banishment was an option favoured by the Council, which spent considerably more of its time in 1683-4 on the matter of transportations to the plantations than it had done in 1681-2.¹⁰⁶ Vast numbers were also banished throughout 1685, particularly during the summer months when

¹⁰⁰*CSPD* (May 1684-February 1685), xxii; Cowan, *The Scottish Covenanters*, 120; Campbell, *Standing Witnesses*, 21; Wodrow, *Sufferings*, iv, 241.

¹⁰¹*CSPD* (May 1684-February 1685), 219, 284.

¹⁰²*RPCS*, x, 32-3.

¹⁰³Cowan, *The Scottish Covenanters*, 122.

¹⁰⁴Campbell, T., *Standing Witnesses. An Illustrated Guide to the Scottish Covenanters* (Edinburgh, 1996), 20-1.

¹⁰⁵*CSPD* (February to December 1685), 12; NLS MS 214, Lauriston Castle Collection, ff3, 4, 6, 8, 10, 16, 18, 22, 24.

¹⁰⁶*RPCS*, vii, 61, 62, 178, 219, 428, 534, 538; *RPCS*, viii, 235, 253, 379, 437, 508, 514-517, 519-522, 524-527, 682, 706-711.

religious dissidents were joined by supporters of Argyll in filling the ships contracted by the government to convey prisoners to the plantations.¹⁰⁷ Even before the outbreak of rebellion, however, there was talk of the benefits of banishment amongst the Scottish hierarchy. In April 1685 Moray wrote to Queensberry about the number of persons who would be sent from Scotland to the plantations on the ship of Sir Philip Howard, Moray commenting that, "You can never haw so good ane opportunity to empty the prisons and be rede of thos vermin."¹⁰⁸ On the orders of the Secret Committee, those who were willing to show loyalty were to be treated with respect, but any who refused the Oath of Allegiance were deemed irreparably rebellious and ordered to be banished.¹⁰⁹ Indeed, transportation was a punishment still being used in March 1687, when twenty-four prisoners were banished to Barbados for crimes ranging from prostitution and theft to participation in conventicles and the Argyll rebellion.¹¹⁰

The sole purpose of the government in using execution and banishment against dissenters was not simply to rid Scotland of undesirable elements: instead it was the punishment of those who would not conform to its laws which was deemed important. When a group of Scots fugitives and rebels fled to Ireland in 1684 the government did not simply pride itself in expelling such individuals from Scotland; it wanted the criminals brought to justice. This can be seen from the orders sent to the Lord Lieutenant of Ireland, James Butler, twelfth Earl and first Duke of Ormonde, in August and November 1684 to send any Scots sheltering in Ireland back to Scotland.¹¹¹ Cooperation from England and Ireland with a view to returning captured rebels to Scotland for trial simply added to the appearance of a gradual government victory.¹¹² Nonetheless, assistance from other nations within the archipelago was not all positive or successful. The aid from England had the knock-on effect of seriously hampering Scottish trade, particularly that in linen, as

¹⁰⁷Wodrow, *Sufferings*, iv, 216-223.

¹⁰⁸HMC 45, 4th Report, 51.

¹⁰⁹RPCS, ix, 345-8; BL Add 37951, f68.

¹¹⁰Fountainhall's *Notices*, 792.

¹¹¹BL Lansdowne 1152, Sunderland to the Duke of Ormonde, Lord Lieutenant of Ireland, 4 August 1684, f182-3; CSPD (May 1684-February 1685), 114-5, 211.

¹¹²CSPD (February to December 1685), 42-3, 54, 58, 106, 113, 121, 132-3, 145; RPCS, x, 46.

traffickers were repeatedly apprehended whilst in England and were often subjected to extremely poor treatment.¹¹³ In late December 1684 it was noted by an Irishman that some Scots remained in Ireland, promoting their designs and “blowing the coals of sedition among us.”¹¹⁴

The use of torture further contributed to perceptions of governmental barbarity during the period. It should, however, be noted that there were just 15 cases of torture recorded for the whole of the 28 year period of restored monarchy in Scotland.¹¹⁵ Notable suspects who were examined under torture included William Spence and William Carstairs, both of whom were alleged to have played roles in the plots of 1683.¹¹⁶ In the case of Carstairs, the deposition gleaned from him under torture was extremely useful to the government of Scotland. Not only did Carstairs make the authorities aware that there had been cooperation between the conspirators in England and Scotland, he also highlighted the fact that Argyll was intent on raising a rebellion. In return for such precious information, Carstairs was eventually given a remission for all his crimes, particularly corresponding with Argyll.¹¹⁷ Although the number of recorded cases of torture is relatively small, the threat of torture was evidently also used by the government. George Pringle of Torwoodlee was suspected of involvement in the Rye House Plot, and later recounted his sufferings at the hands of the Scottish authorities to Wodrow. Although the Laird of Meldrum, being financially indebted to Pringle, tipped his creditor off about the imminent search for him and thus facilitated his escape to Holland, Pringle’s son was to be victimised for refusing to disclose his father’s whereabouts. Having been imprisoned, Pringle’s son was reputedly subjected to threats of torture, which included having boiling oil and lead poured onto him and having every bone in his body broken, if he continued to refuse to answer the interrogator’s questions.¹¹⁸

¹¹³*RPCS*, x, xx-xxi.

¹¹⁴*CSPD* (May 1684-February 1685), 261.

¹¹⁵Mitchison, R., *A History of Scotland* (London, 1990), 269.

¹¹⁶*CSPD* (October 1683-April 1684), xi, 65.

¹¹⁷*CSPD* (May 1684-February 1685), 145, 156-7, 274.

¹¹⁸NLS Wod Qu XXXVI (xxxvi) An Account of the sufferings of George Pringle of Torwoodlee, 135-6; Wodrow, *Sufferings*, iv, 227-8.

It is important to note, however, that those resident in England were actually deeply involved in decisions to use torture. The Secret Committee in Scotland received general notification that torture was to be used in the examinations of those involved in the late conspiracy through the Additional Instructions from the King of 14 June 1684.¹¹⁹ More specifically, both Secretaries of State and Charles himself were instrumental in the decision to put Alexander Gordon of Earlston to torture. In reply to the Council's letter of 11 September 1683, Middleton wrote back on 20 September with a warrant to employ such methods.¹²⁰ In respect of this a committee was established to try the suspect under torture, upon which were placed Douglas, Tweeddale, Winton, Linlithgow, Livingston, Dalziel, the President of the Session, Collington, Castlehill and Abbotshall.¹²¹ This committee was seemingly reluctant to use torture against Gordon, initially convening only to examine the answers he had already given in England before again writing to the Secretaries of State with news that they awaited further directions about the use of torture. After receiving supplementary instructions from Charles, who wanted to obtain information about the accessories to the late rebellion, Gordon was called before the committee to be examined by torture. On account of Gordon showing signs of madness, however, the interrogation was suspended before it began.¹²² In order to evaluate whether or not he was simply feigning madness, he was moved from the tolbooth to the castle, where he remained a prisoner until the revolution.¹²³

Given that the numerous sufferings of the Scottish dissenters has been comprehensively tackled already, it is not the intention of this work to reiterate the multitude of examples which prove that there was indeed an intensification of the severity of the government during the mid-1680s.¹²⁴ This upswing in tougher

¹¹⁹*CSPD* (May 1684-February 1685), 55.

¹²⁰*RPCS*, viii, 244, 256.

¹²¹*Ibid*, 259-60.

¹²²*Ibid*, 287-8.

¹²³*CSPD* (October 1683-April 1684), xi; *RPCS*, viii, 289.

¹²⁴Though Wodrow is a biased source, he nonetheless gives an invaluable account of the sufferings of the Presbyterians at the behest of the government; Wodrow, *Sufferings*, iii, 381-496, iv, 1-187, 211-259. Other accounts can be found in Fountainhall's *Selections*, 87; Cowan, *The Scottish Covenanters*, 110-127; Paterson, *A Land Afflicted*, 264-278; Campbell, *Standing Witnesses*, 18-24.

punishments can be directly linked to the Council's overwhelming desire to rebuke the most fundamental elements of the Cameronian movement with the utmost severity of the law. Additional Instructions pertaining to the treatment of Scottish Covenanters issued by the Secret Committee in September 1684 made it clear that the real enemies were those who were "notoriously guilty or obstinate"; as long as these elements were satisfactorily dealt with, it was not "expected that multitudes be punished".¹²⁵

Whilst the Scottish government, particularly after the publication of the *Apologetical Declaration*, was guilty of monstrous humanitarian crimes, the extent of the brutality apportioned to the era has all too often been exaggerated. After the recommendation of the Committee for Public Affairs, in April 1683, penitent rebels were offered the chance to mitigate their crimes by renouncing previous acts against the government, declaring their loyalty and taking the Test.¹²⁶ Anyone who expressed a wish to do so after they had been found guilty, however, were deemed suspicious by the governmental bodies.¹²⁷ Certainly, some contemporaries viewed this policy as evidence of the government's leniency to rebels, though their purpose of vindicating the government suggests deep bias.¹²⁸ Nonetheless, it was an integral feature of the Additional Instructions issued in 1684 that those who were willing to express loyalty were treated with respect and that only the most fanatical of nonconformists be relentlessly persecuted.¹²⁹ Forfeitures of land remained more common than executions or banishments, and the quartering of troops on specified lands and fining by commissioners continued to be the main ways in which the Council exerted its influence and suppressed dissent in Scotland.¹³⁰

¹²⁵BL Add 37951, f67; *RPCS*, ix, 345-8.

¹²⁶*RPCS*, viii, 120.

¹²⁷*Letters Illustrative of Public Affairs in Scotland*, Lords of the Justiciary and the Lord Advocate to Aberdeen, whilst on Circuit [1683], 115-6, 117; Lord Justice-Clerk to Aberdeen, 9 June 1683, 118-9.

¹²⁸Ry 1.2.114 (15) *A Vindication of His Majesties Government and Judicatures in Scotland*, f13.

¹²⁹BL Add 37951, f67-8; *RPCS*, ix, 345-8.

¹³⁰Donaldson, G., *Scotland; James V-James VII* (Edinburgh, 1998), 372-3; Paterson, *A Land Afflicted*, 272.

Instruments of Government Control

Part 1: The Committee for Public Affairs and the Military in the Lowlands

The Committee for Public Affairs was a standing committee to which the Council delegated most matters of general dissent for investigation. On 12 March 1680 this body, made up of the Archbishop of St Andrews, the Earls of Atholl and Moray, the Bishop of Edinburgh, Elphinstone, Treasurer-Depute, Register, Advocate, Tarbat, Lundin and Richard Maitland of Gogar, had been appointed to “take course for suppressing of conventicles and other disorders of that nature.”¹³¹ Further, they were to correspond with Lieutenant-General Dalziel regarding any disturbances they found and any measures they felt needed implemented in order to bring about stability and peace throughout the kingdom. Shortly after James returned to Scotland the second time, the membership of this Committee was altered. On 25 November 1680 Rothes, the Archbishop of St Andrews, the Bishop of Edinburgh, Treasurer-Depute, Register, Advocate, Justice-Clerk, Collington, Dalziel, Abbotshall, Niddry and Lundin became the members of the Committee.¹³² Subsequent information contained in the Council records regarding the membership of the Committee shows that the Duke of Hamilton was added to their number on 5 July 1682.¹³³ When the sederunts of the meetings of the Committee between 24 September and 20 October 1683 are shown in the records of the Privy Council, it can be seen that the Earl of Balcarras, the President of the Session, the Earl of Linlithgow, the Lords Livingston, Castlehill, Pitmedden and Harcarse, Colonel Graham and the Marquess of Douglas all appear, despite no entries being made in the text of the Council records to show their addition to the Committee.¹³⁴ All were Privy Councillors with the exception of Pitmedden and Harcarse who were evidently there by virtue of their positions as Justices. That the addition of new members to the Committee was not always expressly recorded in the Privy Council records is

¹³¹*RPCS*, vi, 429.

¹³²*Ibid*, 589-590.

¹³³*RPCS*, vii, 473.

¹³⁴*RPCS*, viii, 261-266. As well as the Archbishop of St Andrews, Bishop of Edinburgh, Collington, Lundin, Niddrie and the Officers of State, Linlithgow and the President of the Session had been on the temporary Committee for Public Affairs which had been appointed on 4 August 1680, to sit for the duration of the vacation, *RPCS*, vi, 521.

perhaps indicative of the fact that membership was ever-changing, meeting the demands of continued attention to public disorder whilst ensuring that the individual members could fulfil whatever other duties they had. The only other available membership details show that a new Committee was formed on 15 July 1684. On this were the Archbishops of St Andrews and Glasgow, Linlithgow, Balcarras, Tweeddale, Drumlanrig, Livingston, Drummelzier and Claverhouse, with the Officers of State and President of the Session as supernumeraries.¹³⁵

The role of the Committee for Public Affairs was reasonably diverse, being concerned with all aspects of popular dissent in Scotland. Before the 1681 Parliament, the many issues dealt with by the Committee included, as well as the suppression of conventicles as instructed in March 1680, cases dealing with libel, absentees from the King's Host, participants in the late rebellion, prisoners in the various tolbooths, vacant commissions for commissioners of the militia, absentees from the parish church and persons travelling around the country or running schools without valid licences.¹³⁶ In the aftermath of the 1681 Parliament, though non-religious matters were also given over to the Committee if they were deemed by the Privy Council to merit further investigation, the majority of Committee time was predominantly concerned with the implementation of the Test, as discussed in the previous Chapter, and the enforcement of religious conformity throughout the country. This was a trend which was to continue for over three years.¹³⁷ With the general functions "to visit unruly districts, to discover guilty persons, and to report to the Council the offences with which they were charged", this standing committee was to be busier from 1681 onwards than it had ever been before.¹³⁸ The Committee for Public Affairs essentially coordinated the war on dissent, a particular feature of which was the issuing of orders to the forces or those individuals upon whom power was bestowed to deal with delinquents. In September 1684, tremendous authority was bestowed on the Committee: the Council actually empowered it to pronounce

¹³⁵*RPCS*, ix, 43.

¹³⁶*RPCS*, vii, 1, 9-10, 26, 28, 30, 37, 107, 108, 110, 122-123.

¹³⁷*RPCS*, viii, 7, 17, 25, 27, 33, 100, 108, 132, 285, 321, 380, 382, 519; *RPCS*, ix, 2-3, 19, 174-5, 176; *RPCS*, x, vi, 1-2, 7, 9.

¹³⁸*RPCS*, vii, xiv.

sentence of banishment on people for church disorders or to remit their cases to the Justices for criminal trial.¹³⁹

It was to the Committee for Public Affairs that petitions of individuals imprisoned on account of accession to rebellion or failing to attend the King's Host were remitted. In stark contrast to perceptions of systematic violence against all who were suspected of opposing the decrees of the government, it was certainly not unheard of for the Committee to report back to the Council throughout 1682-5 with recommendations that persons currently imprisoned should be freed. There were various reasons for this apparent leniency of the Committee, and the subsequent clemency of the Council, which had the final say over recommendations made by the Committee. In the particular case of the accused Covenanter, James Gordon, son of William Gordon of Craichlaw, it was argued that he had been young and impressionable at the time of the rebellion in 1679, and that his attendance was not therefore due to wickedness or maliciousness.¹⁴⁰ With James still present in Scotland, the Council was even merciful to one man who had confessed to being in the rebellion: on the grounds that William Murray was found to be of simple mind, James and the Council wrote to Moray with the recommendation that he should thus be pardoned.¹⁴¹

It was more regular, however, for prisoners to be freed by virtue of the fact that they had paid the fine imposed on them for non-attendance at the parish kirk, or that no witnesses had been brought against them, or that no evidence was available to support the charges against them. Nonetheless, men were only released if they could find caution, or bail, to appear before the Council when called, usually ranging from 500 to 5000 merks. Additionally, they were usually obliged to make some form of public show of their loyalty before they were freed, whether that be merely promising to live in an orderly manner and refrain from attending conventicles, or actually taking the Test as proof that they were not rebels, safe conduct in their journey being granted by the Council to those persons who decided they did wish to

¹³⁹*RPCS*, ix, ix, 176.

¹⁴⁰*Ibid*, 214.

¹⁴¹*Ibid*, 273.

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¹³⁹*RPCS*, ix, ix, 176.

¹⁴⁰*Ibid*, 214.

¹⁴¹*Ibid*, 273.

subscribe the Oath.¹⁴² Numerous examples of freedom being granted to individuals following payment of fines or public expressions of loyalty can be found in Wodrow's *History of the Sufferings of the Church of Scotland*.¹⁴³ However, those cases which were so leniently dealt with were undeniably of a lesser degree of seriousness than those which later resulted in long-term imprisonment, banishment or execution and which gained the government the dubious honour of being the remembered as the perpetrators of the 'Killing Times'. Certainly, those who were freed were simply not viewed as persistent dangers to the stability of the nation.

The Committee for Public Affairs had a further role: to give advice to the Council about strengthening its military position in the Lowlands. In the autumn of 1681, instructions relating to the furnishing of several garrisons were issued. As such, letters were sent to the Duke of Hamilton ordering him to outfit the garrison of Strevin, to the Earl of Dumfries concerning the garrisoning of the house of the dean of Kilmarnock, to Queensberry to make ready the Castle of Dumfries and to Viscount Kenmuir to station forces at his house in Kenmuir.¹⁴⁴ The matters of how the forces were to be provided with corn and straw in the shires in which they were to be quartered, and at what rate this was to be charged, however, required the extended deliberations of the Committee for Public Affairs, as they reported back to the Council on 26 October that they needed more time to consider the issue.¹⁴⁵ Further, Colonel John Graham of Claverhouse was sent into Galloway with a troop of guards in January 1682 so that he could punish all disorders and church irregularities in Kirkcudbright, Annandale, Wigtown and Dumfries.¹⁴⁶ Patently, the areas which had been traditional Covenanting strongholds were targeted by the government in terms of stationing the militia around the country. Supplementary military modifications included the Earl of Queensberry being appointed on 8 October 1681, by way of a letter from Charles, to act in his son's place as captain of the militia in the shire of Nithsdale and Stewartry of Annandale for the duration of

¹⁴²*RPCS*, vii, 263, 378, 388, 621; *RPCS*, viii, 6, 33, 89, 99, 100, 108, 120, 132, 266, 285, 313, 321, 346, 350, 351, 417, 517.

¹⁴³Wodrow, *Sufferings*, iv, 211-223.

¹⁴⁴*RPCS*, vii, 215.

¹⁴⁵*Ibid*, 235.

¹⁴⁶*RPCS*, vii, 323; Wodrow, *Sufferings*, iii, 370.

the time Lord Drumlanrig was abroad.¹⁴⁷ The reshuffling of the military was continued after the Council received a letter from Charles II in which it was stated that he desired the reduction of the regiment of the guards commanded by Linlithgow and the regiment of foot commanded by Mar in favour of the levying of three companies of dragoons.¹⁴⁸

To some extent the military rulings made in the aftermath of the Parliament were to satisfy Charles in his demand for unity throughout his kingdoms, but it can be asserted that many of the amendments, in particular those involving the quartering of troops in areas of traditional Covenanting support, were the result of governmental unease. Despite that fact that Queensberry did not view the rebels in Galloway as either numerous or particularly dangerous, he still wholeheartedly supported Claverhouse's garrisoning of the area in January 1682.¹⁴⁹ Queensberry continued to monitor the state of the lands within his sphere of influence, commenting in June 1682 that, "Matters heir [Sanquhar] and in Galloway looke very weell without the least appearance of trouble; butt, for all that, the Forces most not be removed".¹⁵⁰ This view was mirrored by the gentlemen of the shire of Roxburgh, who conveyed to the Council in June 1682 that it was their recommendation that two troops of dragoons be left in the shire.¹⁵¹ The Bishop of Edinburgh also reported that there was nothing for the government to fear: "D[uke] Hamilton is now here, and tells me that there is not so much as a house conventicle heard of in the west of Scotland."¹⁵² It was even recounted in September 1682 by General Dalziel that quiet had settled on the country.¹⁵³ Despite this, troops continued to be garrisoned in the west of the country, the intention being that their ostensible presence would prove to be a preventative force against dissident action.

¹⁴⁷*RPCS*, vi, 221-2; *CSPD* (May 1684-February 1685), 87.

¹⁴⁸*RPCS*, vii, 266-7.

¹⁴⁹*Letters Illustrative of Public Affairs in Scotland*, Queensberry to Haddo, 2 January 1682, 5.

¹⁵⁰*Ibid*, Queensberry to Haddo, 27 June 1682, 23.

¹⁵¹*RPCS*, vii, 458.

¹⁵²*Letters Illustrative of Public Affairs in Scotland*, Bishop of Edinburgh to Haddo, 23 September 1682, 64.

¹⁵³*Ibid*, Sir George Mackenzie, Lord Advocate to Haddo, 30 September 1682, 79.

Nevertheless, the Scottish militia also had an offensive role against the nonconformists, as can be seen by the *fact* that members of the militia actively sought out dissenters. Thomas Kenway, one of the riders in the company of guards, is just one example of this, having searched around Glasgow, a hotbed of Presbyterian radicalism,¹⁵⁴ with a view to finding out who had been in the late rebellion.¹⁵⁵ More notably, much of Claverhouse's time was spent hunting rebels in the southwest of Scotland, all the while remaining in close contact with General Dalziel, who also dedicated a substantial amount of time to the physical search for rebels.¹⁵⁶ Often as a reaction to new demands, the Scottish militia continually altered, amongst these changes being the formation of a new company of grenadiers from two of the regiments under the control of Mar and the installation of Claverhouse as commander of a newly formed regiment of horse.¹⁵⁷ Troops were regularly moved around the country to target opposition more effectively, some such orders being the direct result of instructions from James, when he was resident in Scotland, or Charles by way of letter.¹⁵⁸ When disorder was seen or suspected in an area, the Council reacted swiftly in ordering a military presence to the scene to rectify the situation. One such instance was that, upon hearing of a design to burn Edinburgh in the late summer of 1683, troops were moved to the city, although nothing in fact came of the rumour.¹⁵⁹

The continued efforts of religious fundamentalists led to a number of military appointments and innovations over the following years. These included the installation of Lord Drumlanrig, Queensberry's son, as Lieutenant-Colonel of Claverhouse's regiment of horse on 16 June 1684.¹⁶⁰ In turn, Drumlanrig's old command as Captain of a troop of horse in Dumfries passed to his father, such venality playing a considerable role in the breakdown of the relationship between

¹⁵⁴Birkeland, M., "Politics and Society in Glasgow c.1680-c.1740", (University of Glasgow, PhD thesis, 1999), 70.

¹⁵⁵BL Add 12068, Arran to Sir William Turner, 29 March 1682, f19.

¹⁵⁶NAS GD 406/1/9382, J. Graham to Dalziel, 18 January 1682.

¹⁵⁷*RPCS*, vii, 470; *RPCS*, viii, 2.

¹⁵⁸BL Add 12068, Lord Ross to Sir William Turner, 8 March 1682, f111; *RPCS*, vii, 497, 548; *CSPD* (October 1683-April 1684), 114, 398.

¹⁵⁹NLS MS 6406 Pitfirrane Papers, f136.

¹⁶⁰*RPCS*, ix, 41; *CSPD* (May 1684 to February 1685), 62.

Queensberry and Claverhouse, as shall be discussed in Chapter 7. Also, Lord Ross was promoted to the rank of major and in November 1684 Airlie became Captain of a troop in Claverhouse's regiment. In early December, a warrant was issued for a new troop to be raised and added to the regiment of horse under the command of Lord William Douglas and the decision was taken to use 200 Highland volunteers against the rebels in Dunbartonshire and Renfrewshire.¹⁶¹

Though the Highlands continued to require a military presence, the consensus of opinion was that the Covenanters posed the biggest threat to the stability of Scotland. Whereas the Highlanders could wreak havoc in that area, sometimes encroaching into the passes to the Lowlands, disorders in the Lowlands could destabilise the entire nation to the extent that external assistance had to be relied upon to reinstate order. It was necessary to avoid a repetition of the embarrassment of having English troops settle the country as they had done in June 1679. To show that the Scots alone could cope with the threat posed by the dissidents, the government thus embarked on a policy to suppress conventicles and other instances of dissent through commissioners who had the unfettered support of the military behind them. This was certainly seen by contemporaries as being an effective means of the prevention of dissent, the eight archbishops and bishops having stated that the 'fanatics' feared, "nothing so much, as to see him [James] upon the Head of his Majesties Commissions and Forces against them."¹⁶²

Part 2: Commissions for the Suppression of Conventicles

The trend of issuing commissions to suppress conventicles and other religious disorders began towards the end of James's residency in Scotland. Major White and Adam Urquhart of Meldrum, appointed joint sheriff-deputes of Lanark on 10 February 1682, with powers to suppress religious disaffection in that shire, were simply the first of many local officials to be granted such powers.¹⁶³ When restlessness was reported or suspected as brewing in a locality, especially if that area

¹⁶¹*CSPD* (May 1684 to February 1685), 112, 214, 234; *RPCS*, x, 51-3.

¹⁶²*The Copy of a Letter from Scotland to His Grace The Lord Archbishop of Canterbury, Subscribed by Eight Archbishops and Bishops of that Kingdom*, (London 1682), 2.

¹⁶³*RPCS*, vii, 333-4.

had a history of unrest, commissions were rapidly issued by the Council to its trusted local servants. Most commissions had similar powers: to search out persons guilty of attending conventicles, withdrawing from the parish church or holding disorderly baptisms or marriages, and to sentence those persons, exact fines from them and report back to the Council.

The issuing of such commissions became increasingly common after James left for England in March 1682. In the two years after March 1682, commissions were issued to cover areas such as Kinrosshire, Edinburgh, Perthshire, Falkirk, Linlithgow, Galloway and Eskdale, Culross, Falkland, Ayr, Haddington, Roxburgh, Selkirk, Berwick, Peebles, Midlothian, Ross and Cromarty, Nairn, Lanark, Renfrew, Dumbarton, Dumfries, Wigtown, Kirkcudbright, Annandale and Glasgow.¹⁶⁴ The fact that conventicles were usually held at irregular hours to circumvent discovery by the commissioners led to various supplementary measures being made.¹⁶⁵ In addition to the commissions there was a proclamation on 5 July 1682 in which it was decreed that lieges were to report the presence of men at arms in their respective localities, naturally the express intention of which was to allow for commissioners and troops to be appointed or redirected as required.¹⁶⁶ In order to make the identification of rebels easier, parish ministers were required in 1683 to give in to the Council a list of all those who had been absent from the parish church and were also to make known their knowledge of all disorders and rebels.¹⁶⁷

The quest of the Council to eradicate dissent stemmed from their overwhelming desire to avoid the degeneration of Scotland into rebellion once again and the corresponding need to enforce national conformity to their laws. On 14 March 1682 the Earl of Balcarras and Sir William Bruce of Balcaskie were given commissions to suppress conventicles in the shire of Kinross, with express orders to pursue and punish those guilty “with the outmost severity of the law, that the

¹⁶⁴Ibid, 362, 364, 368-9, 373, 384, 443, 451, 456, 497, 565, 572, 624; *RPCS*, viii, 68, 244, 280, 289, 318, 373; Wodrow, *Sufferings*, iii, 369-381.

¹⁶⁵NLS MS 1038 Sermons Preached at Kippen and Conventicles, 1682-3, ff235, 246, 273, 451, 464, 479, 500, 562.

¹⁶⁶*RPCS*, vii, 470; Colquhoun, “Issue of the Late Civill Wars”, 223.

¹⁶⁷NLS Wod Qu XXXVI (xli) List of things to be done by the minister of each parish, 1683, f153; NLS MS 7035 Yester Papers, f42.

beginnings of these discords may be crushed in the bud.”¹⁶⁸ Obviously, the recent memory of the chaos of 1679 was at the forefront of the minds of the policy makers in 1682. If the nation once again slipped into rebellion, the Privy Council would have been seen to have failed in their administration of Scotland. Moreover, James, by virtue of his residency and continued close association with Scotland, would also have been compromised in the event of rebellion. If for no better reason, the Council felt it had a duty to James to keep a tight lid on any activists and dissenters within the nation, and to crush all small signs of dissent by way of preventing the potential escalation of these into more serious attacks on governmental policy. A return to the mutinous times so recently witnessed was to be averted at all costs.

Having initially been restricted to areas of traditional Covenanting sympathies, the commissioners came to be relied upon to suppress disorder and ensure stability throughout Scotland. The work of the commissioners did appear to be successful; contemporary pamphlets noted the fact that by 1683 there were more people in the churches than in the fields.¹⁶⁹ Nonetheless, many people simply returned to the parish churches in order to avoid paying fines, provoking Fountainhall’s comment that such persons’ prayers were of no worth.¹⁷⁰ The work of the commissioners was nonetheless further proven as advantageous by such definite instances as Claverhouse breaking a cabal that had been formulating in Galloway, an accomplishment which led to the Bishop of Galloway reputedly arguing that “the supporting of Clevers there is positively essential for the quiett of that shyre.”¹⁷¹ Indeed, the success of the commissioners was such that Claverhouse himself reported that his work in Galloway had impacted on the region to such an extent that, from being seen by the government, “as almost in a state of war” it became “not only

¹⁶⁸*RPCS*, vii, 362.

¹⁶⁹Ry 1.2.114 (15) *A Vindication of His Majesties Government and Judicatures in Scotland from some Asperations thrown on them by scandalous Pamphlets, and News-books, and especially with relation to the late earl of Argiles Process* (Edinburgh 1683), f16.

¹⁷⁰Fountainhall’s *Selections*, 87.

¹⁷¹*Letters Illustrative of Public Affairs in Scotland*, Sir George Mackenzie, Lord Advocate to Haddo, 10 October 1682, 88; Sir George Mackenzie, Lord Clerk Register to Haddo, 11 October 1682, 89.

as peacable, but as regular as any pairt of the contry on this seyde Tey.”¹⁷² The apparent success of the commissioners and the militia in prosecuting those guilty of participation in the rebellion, holding conventicles and deserting the parish church, especially in the Covenanting epicentre of Galloway, simply reinforced the Council’s determination to sustain its offensive against dissidents. The enduring view that the commissioners were invaluable in the drive for conformity led to the almost inevitable extension of commissions to areas which had not traditionally been sympathetic to Covenanting sensibilities or been directly involved in the rebellion of 1679.

With each new threat, such as the Rye House Plot, the authorities stepped up their offensive against dissenters. As far as the Council was concerned, potential sources of disquiet were literally everywhere and, as such, it widened the scope of the search for Covenanters and increased the number of commissions granted to suppress conventicles and other religious disorders. On the grounds that it could escalate into seditious opposition, any dissent was viewed by the Council as worthy of suppression. As such, despite the common knowledge that an integral feature of the Quaker movement was pacifism, the Council issued an order in February 1684 to the magistrates of Aberdeen to dissipate Quaker meetings and “fyne and imprisone them as persones guilty of conventicles.”¹⁷³ This order was actually in line with the policy employed in England during the time, and which had led to the imprisonment of around 1300 Quakers by the beginning of 1684.¹⁷⁴ The message was simple in both Scotland and England: dissenters and opponents of the government, regardless of opinion and the degree of their difference from the official line, would not be tolerated. Additional concerns in Scotland about keeping their own peace, and thus avoiding external forces being brought in to stabilise the nation, further motivated the Scottish Council to favour immediate and uncompromising action against dissidents. To this end the military was required to be in readiness to quash any insurrections, commissions with the express intention of suppressing religious

¹⁷²Ibid, Claverhouse’s report to the Committee for Public Affairs, [1683], 107-110.

¹⁷³*RPCS*, viii, 380.

¹⁷⁴*CSPD* (October 1683-April 1684), xiii.

disorders were more readily granted and, exceptional cases notwithstanding, harsher sentences were pronounced on those guilty of public disorders and religious dissent.

Part 3: The Court of Justiciary and the Circuit Courts

The Court of Justiciary played a significant role in suppressing both secular and religious dissent. There can in fact be found diverse examples of trials by this Court which ended in the pronouncement of execution for the accused: three men were to be forfeited of life, lands and goods for their part in trying to break prisoners out of the tolbooth in Edinburgh, though their sentences were later commuted on account of them being unarmed at the time; an Englishman who denounced Charles II as a tyrant in a letter to a Scot was to be hanged in the Grassmarket in May 1682, shortly after James left; and William Lawrie of Blackwood, a servant of the Marquess of Douglas, was to have his head cut off in January 1683 for resetting, corresponding with and assisting rebels.¹⁷⁵ Numerous other examples of the often brutal involvement of this Court pervade its official records. In July 1683 the Court of Justiciary declared that Andrew Guilan should have his hands removed before being hanged for his part in the murder of Archbishop Sharp in 1679. When Guilan was dead, his head and one hand were to be displayed in Edinburgh, the other hand was to be strung up in chains in Cupar tolbooth, and his body was to be exhibited on Magus Moor, the scene of the assassination of Sharp. Also in July, Robert Hamilton of Monklands was executed despite repenting his crime of intercommuning with rebels.¹⁷⁶ In late December 1684 the case of Robert Baillie of Jerviswood, implicated in the Rye House Plot, was heard before Linlithgow, Livingston, Collington, Castlehill, Forret, Harcarse and Pitmedden, the last of whom had been admitted as one of the Commissioners of the Justiciary in place of Sir David Falconer of Newton when he had been made President of the Session.¹⁷⁷ Having been charged with various crimes which amounted to high treason, not least of which was conspiring to overturn the government and monarchy, they pronounced Baillie

¹⁷⁵NLS MS 1945 Records of the High Court of Justiciary, Criminal Proceedings February 1584-January 1685, f408, 411, 422; NAS GD 406/1/3164, Queensberry to Arran, 8 February 1683.

¹⁷⁶NLS MS 1945, f426.

¹⁷⁷Ibid, f412.

guilty and ordered that he be executed that same day by being hanged, drawn and quartered.¹⁷⁸ Evidently the members of the Court of Justiciary were inextricably involved in the generic policy of suppressing dissent, with many of their sentences undoubtedly being issued with the intention of providing an example to others to dissuade them from joining in league with the rebels.

Instrumental in the punishment of dissenters, particularly those who were religiously motivated, were the Circuit Courts. The Circuits were to become an increasingly common feature of the Scottish judicial process throughout 1683, 1684 and 1685, their role being to take justice to the localities in a bid to prosecute more rebels than could feasibly be brought to Edinburgh for a hearing. Overwhelmingly, the work of the Circuit Courts was to effectuate subscriptions of the Test and declarations of loyalty from those with rebellious tendencies, though many heritors also took the presence of the Circuits to be an ideal opportunity to take the Oath as a public display of their fidelity. Such behaviour was naturally welcomed by the government, which hoped that this would provide a good example to others and was generally deemed to be a sign of the success of the Circuits.¹⁷⁹ The Cameronians, on the other hand, saw the Circuit Courts as being “the height of blasphemie against God”, ruining religion with their “horrid oaths”.¹⁸⁰

The Circuits were optimistic that harsh judgements would be seen around the localities as a deterrent to any who remained mutinous, being of the opinion that, “those who contemned authoritie should not escape the danger of refusing the King’s mercy when it was offered.”¹⁸¹ Accordingly, though the exacting of fines was the predominant punishment implemented by the Circuit Courts, much harsher sentences were at times pronounced, including that of execution.¹⁸² The way in

¹⁷⁸Ry 1.1.95 (2) *The Tryal and Process of High Treason and Doom of Forfaulture against Mr Robert Baillie of Jerviswood* (Edinburgh, 1685), ff3, 27; NLS MS 1945, ff444, 450.

¹⁷⁹*Letters Illustrative of Public Affairs in Scotland*, Lords of the Justiciary and the Lord Advocate to Aberdeen, whilst on Circuit, 19 June 1683, 128; NLS MS 6406 Pitfirrane Papers, unsigned letter to Gosford, 10 July 1683, f134.

¹⁸⁰NLS, Wod Fol XXXIII (ci), A Protestation Prohibiting any to Come to Court, 1685, f176.

¹⁸¹*Letters Illustrative of Public Affairs in Scotland*, Lords of the Justiciary and the Lord Advocate to Aberdeen, whilst on Circuit, 13 June 1683, 126.

¹⁸²*Letters Illustrative of Public Affairs in Scotland*, Lords of the Justiciary and the

which prisoners were treated by the Circuit Courts certainly induced contemporary resentment: William McGeorge recounted that suspects from the Borders were taken to Edinburgh in appalling weather conditions, which triggered the death of at least one prisoner en route, before being imprisoned in the capital without being separated into single-sex groups.¹⁸³ Such accounts simply added to the horrors attributed to the governmental bodies in the early- to mid-1680s. Although the members of the Circuits were thus contributory forces in creating an atmosphere in which maltreatment of dissenters was accepted, they seemed to be successful in reducing dissent. This can be evidenced by Queensberry writing in October 1683 from Kirkcudbright that “matters relaiteing to the King’s service goe very weel heir”.¹⁸⁴

The membership of these courts varied, but that which visited Stirling, Glasgow, Ayr, Dumfries and Galloway in the summer of 1683 comprised of various members of the Court of the Justiciary, including Perth, as Justice-General, Maitland, as Justice-Clerk, the Lords Advocate, Collington and Castlehill, as well as Sir David Balfour.¹⁸⁵ As a show of respect for the members of the Circuit Court and as an ostentatious display of their own loyalty, the members of the Town Council of Stirling actually gave Perth, Collington, Castlehill and Rosehaugh liberty and freedom of the burgh.¹⁸⁶ The Circuit which travelled around southwestern Scotland included Queensberry, Drumlanrig and Claverhouse.¹⁸⁷ Despite allegations of cruelty from certain quarters, Middleton commented that, “All honest men are mightily pleasd with the happy successe of the Justice Aires”.¹⁸⁸ Middleton’s

Lord Advocate to Aberdeen, whilst on Circuit [1683], 116; 13 June 1683, 126.

¹⁸³NLS Wod Qu XXX (cxv) Letter to Wodrow from William McGeorge, Minister of Heriot, about the Sufferings of his Father, 1684, f186.

¹⁸⁴NLS MS 14407 Yester Papers, Queensberry to Tweeddale, 13 October 1684, f98.

¹⁸⁵*Letters Illustrative of Public Affairs in Scotland*, the Lords of the Justiciary and the Lord Advocate to Aberdeen, whilst on Circuit, 6 June 1683, 111-3; 19 June 1683, 130.

¹⁸⁶*Burgh of Stirling; Extracts from Records 1667-1752*, Renwick, R. (ed), (Glasgow, 1889), 38.

¹⁸⁷NLS Wod Qu XXX (cxv) Letter to Wodrow from William McGeorge, Minister of Heriot, about the Sufferings of his Father, 1684, f186.

¹⁸⁸*Letters Illustrative of Public Affairs in Scotland*, Middleton to Aberdeen, 21 July 1683, 146.

comments demonstrate that support for the rigorous prosecution of dissenters was thus present at the highest levels.

The publication of the *Apologetical Declaration* was a contributory factor as to why the work of the Circuit Courts continued into 1685. The Court, which consisted of the Earls of Balcarras, Winton and Linlithgow as well as Claverhouse, John Wedderburn of Gosford and the Lords Justice-Clerk and Register, henceforth proposed the Oath of Abjuration to everyone above the age of 16. The purpose of this was to allow them to display their integrity. Further, a voluntary cess was offered to all those who appeared before the Courts.¹⁸⁹ A further important feature of the 1685 Circuit Courts was that they called all ministers before them with the requirement that they give in lists of all the “irregular people in their respective parishes, not only those who absented themselves from the Church, but also such as did not communicate with them at the Lord’s Table yearly”.¹⁹⁰ The Circuits could thus extend their influence to penetrate each individual parish, which left little scope for dissenters to continue unnoticed.

Part 4: A Notable Role for Individuals

As well as governmental bodies, various individuals can be identified as having played a consequential role in the suppression of dissent in Scotland in the 1680s. One such figure was John Graham of Claverhouse, who gained a reputation for being the harshest of all the government commissioners of the 1680s, eventually earning him the spurious honour of being known as ‘Bloody Clavers’. In Claverhouse’s own report to the Committee for Public Affairs regarding his work in Galloway, he listed eating the rebels’ provisions, rifling their houses, ruining their goods and imprisoning their servants with a view to starving their women and children and thereby forcing the men to renounce their rebellious principles, swear to the King’s authority and promise to live peaceably.¹⁹¹ Claverhouse certainly operated with the support of the Council: it had sent a letter to him on 29 September

¹⁸⁹Fountainhall’s *Notices*, 602, 603-4.

¹⁹⁰*Ibid*, 604.

¹⁹¹*Letters Illustrative of Public Affairs in Scotland*, Claverhouse’s report to the Committee for Public Affairs, [1683], 107-8.

1682 approving of his conduct in suppressing religious disorders.¹⁹² Contributing to his notoriety was undoubtedly his opinion on the matter of rebels asking to take the Test after they had been found guilty, a matter on which he was supported by Rosehaugh.¹⁹³ The Lords of the Justiciary, although suspicious in such instances, were inclined to refer the case back to the Council or the Chancellor for arbitration. Claverhouse, on the other hand, was adamant that in most cases the rebels were only trying to avoid execution, and were not truly repentant. Claverhouse warned the Chancellor that Oaths taken by men who were merely trying to escape death would not provide security for the government anyway, and that although it was right to show clemency, “to people that ar sincerely resolved to be reclaimed... the King’s Indemnity should not be forced on villains.”¹⁹⁴ In the same letter, Claverhouse’s sentiments towards dissenters are adequately displayed: “I am as sorry to see a man day, even a whigüe, as any of them selfs; but when on days justly for his owen faults, and may sawe a hondred to fall in the lyk, I have no scrupull.”¹⁹⁵ Clearly Claverhouse favoured the method of ruling by dissuasion through the provision of severe examples of punishment.

It is evident from Fountainhall’s legacy that Rosehaugh was a driving force behind the implementation of harsh policies towards opponents of the government, particularly those involved in the riots in Edinburgh in May 1682. That Rosehaugh was also instrumental in the punishment of religious dissenters can be seen from his own correspondence, though it must be noted that this would have been an integral feature of his role as Lord Advocate regardless of any personal opinions he may have held.¹⁹⁶ Rosehaugh obviously thought his involvement in the prosecution of dissenters was reasonable: “I did this day represent the danger of being rebells, which they say frighted both lairds and comons. I tak also all the pains I can to secur honest men, and terrifie rascalls of vhat quality soever; and beleev the pains I took to

¹⁹²*RPCS*, vii, 548.

¹⁹³*Letters Illustrative of Public Affairs in Scotland*, Sir George Mackenzie, Lord Advocate, to Aberdeen, no date, 120.

¹⁹⁴*Ibid*, Claverhouse to Aberdeen, 9 June 1683, 122.

¹⁹⁵*Ibid*.

¹⁹⁶*Ibid*, Sir George Mackenzie, Lord Advocate to Haddo, 30 September 1682, 77.

mak prices easie was of advantage to yow and the Government.”¹⁹⁷ Clearly his intervention in setting fines at relatively low rates was not done from compassion, as a contemporary pamphlet would suggest,¹⁹⁸ but rather so that the authorities would stand a better chance of receiving any fines that were imposed. Despite the attempt of Rosehaugh to set fines at low rates, there were many instances in which those imposed were extortionate, reaching £53,000 Scots in 1684.¹⁹⁹ As a direct result of his vigorous prosecution of rebels, Rosehaugh was awarded the sum of £18,000 Scots in October 1683.²⁰⁰

Other instrumental figures in pacifying Scotland include landowners like Orbiston who sought out their own tenants and presented them to the government for punishment. Orbiston himself was actually derided by Lord Ross for neglecting this duty for some 12 months but he eventually did provide the government with men who had been in the late rebellion.²⁰¹ Orbiston presented the men with the statement that he could prove that all of those tendered were either guilty of participating in the rebellion or, at the very least, “what would come within the Acte of Parliament which reaches the securing of vagabonds and villans.”²⁰² The hunt for rebels thus succeeded in bringing to the notice of the government those individuals who could have otherwise escaped their attentions. Orbiston’s words provide evidence that the government was guilty of misusing the justice system to meet its own ends: by prosecuting people under vagrancy laws, the authorities could imprison those who in all likelihood would not have proven serious threats to the stability of Scotland. In essence, by this means the government could effectively punish a much wider range of people than if they had simply targeted those who posed genuine, rebellious threats to the nation. Such a policy had the twofold advantage of mopping up elements in society which were seen as undesirable by the authorities and providing

¹⁹⁷Ibid, Sir George Mackenzie, Lord Advocate to Haddo, no date, 120.

¹⁹⁸Ry 1.2.114 (15) *A Vindication of His Majesties Government and Judicatures in Scotland*, f11.

¹⁹⁹NLS Wod Qu XXX (cxvi) A Letter about the Sufferings of John Yule of Darleith, 1684, f188; Wod Qu XXXVI (xliii) Notes on fined persons, 1684, ff155-157.

²⁰⁰NAS GD 157/1873, Royal letter to Queensberry, 22 October 1683.

²⁰¹BL Add 12068, Lord Ross to Sir William Turner, 11 March 1682, f115.

²⁰²Ibid, Arran to Sir William Turner, 28 March 1682, f83.

a warning to the populace that nothing short of complete conformity to the laws of the land would suffice.

Not all of those involved in the politics of the early- to mid-1680s were of the same mind in all affairs. Although Hamilton assured the Bishop of Edinburgh that he would, “act heartilie in the Government with your Lordship [Haddo] for suppressing phanaticism and rebellion”,²⁰³ he clearly differed from other prominent men in some matters. Just one week after writing to the Bishop, Hamilton was elected President of the Council, but apparently “scrupld much” at the order that Claverhouse put the laws into execution against holders of conventicles and absentees from the parish church in Galloway.²⁰⁴ This was after some deliberation about who, Claverhouse or Sir John Dalrymple, had the right to prosecute and exact fines from the dissenters in the area. Whereas the former argued that he had the right by virtue of his commission from the government, the latter argued that, as heritable baillie of the Regality of Glenluce in which the Covenanters dwelt, he had overall authority to prosecute them. On the one hand, Hamilton’s reservation about allowing Claverhouse predominance in the area, despite the common view that Dalrymple had been negligent in his duty, points to the possibility that he believed Dalrymple’s argument that his inaction towards the dissenters was due to the fact that Claverhouse was in the area.²⁰⁵ On the other hand, this may have been an early indication that Hamilton was one of the more lenient politicians of the day, outwith that group which advocated a thorough employment of the law against all nonconformists. This contention can be supported by the fact that Hamilton later felt that the instructions given to the Circuit were “very sever”.²⁰⁶ In October 1684 he wrote to his wife, “I am as tender in sheding of blood as you are, and does what I can that banishment may be rather applyed.”²⁰⁷

²⁰³*Letters Illustrative of Public Affairs in Scotland*, Bishop of Edinburgh to Haddo, 23 September 1682, 64.

²⁰⁴*Ibid*, Sir George Mackenzie, Lord Advocate to Haddo, 30 September 1682, 77-78.

²⁰⁵*Fountainhall’s Notices*, 373-4; *Memoir of Sir James Dalrymple First Viscount of Stair, President of the Court of Session in Scotland*, Mackay, A.G.J. (ed) (Edinburgh, 1872), 179.

²⁰⁶NAS GD 406/1/5891, Hamilton to Arran, 21 June 1683.

²⁰⁷NAS GD 406/1/8152, Hamilton to Anna, Duchess of Hamilton, 8 October 1684.

Despite his reservations and expressions of moderacy, Hamilton continued as part of the government forces who sought out dissenters, as can be seen by his pursuit of those responsible for the protestation which was affixed to the church at Lesmahagow, and the hunt for other rebels and resisters on his lands.²⁰⁸ That he was always on the periphery of the inner circle of government, however, is clear from the events of 1683. Hamilton came into conflict with the members of the Circuit Court in the summer of 1683 over their refusal to allow him to attend their meetings in his role as Privy Councillor and sheriff, as he so desired. The Duke was especially aggrieved that, “at this Circuit Court Milton was allowed to be w[i]t[h] the Lords when they privately examined witnesses”, a fact which he took to mean that they trusted him less than Milton.²⁰⁹ Further evidence of a void can be seen by Perth’s refusal to meet with Hamilton in late 1683, the reason for which Hamilton suggested as being “that I was to be represented as a person so obnoxious to the government that he judged it not fitt to convers intimately w[i]t[h] me.”²¹⁰ Additionally, Hamilton was left off the Secret Committee appointed in November 1683, despite the efforts of his son to get him placed on it.²¹¹ Regardless, Hamilton was able to avoid coming to a sticky end at the hands of those with whom he differed, quite unlike the Earl of Aberdeen, most likely as a result of the continued affection Charles and James had for him.²¹²

A Political Reshuffle

By June 1684 Aberdeen’s administration was at an end, Perth, Queensberry and “the rest of our grandees ...having carried all their designs against the Earl of Aberdeen.”²¹³ A commission from the King at Whitehall, dated 13 June, embodied the alterations in the Council. These included that Aberdeen retired from political life; Montrose had died; Dundonald was old; and Maitland, Argyll’s son-in-law, had

²⁰⁸*Letters Illustrative of Public Affairs in Scotland*, Hamilton to Aberdeen, 5 January 1683, 95; Hamilton to Aberdeen, 12 January 1683, 96.

²⁰⁹NAS GD 406/1/5891.

²¹⁰NAS GD 406/1/5886, Hamilton to Arran, 26 December 1683.

²¹¹*Ibid.*

²¹²NAS GD 406/1/8249, Sir George Mackenzie to Arran, 21 April 1684.

²¹³*Letters Illustrative of Public Affairs in Scotland*, 165.

been replaced by Sir James Foulis of Collington as Justice-Clerk. Additions to the Council were noted as Drumlanrig, Yester, Hay of Drummelzier and Colonel James Douglas.²¹⁴

As has been seen, there was a history of tension stemming from Aberdeen's appointment as Chancellor, much of which originated from the fact that he was of non-noble birth. Matters got steadily worse; Hamilton wrote to his son in June 1683 that, "yow may believe the Chanc[ellor] and Th[r]e[a]s[u]r not to be in a good understanding".²¹⁵ Even Aberdeen's old friend Middleton had turned against him, ridiculing his "obscure way of living".²¹⁶ In addition, Aberdeen "sometymes gave his opinion on debates at Privy Counsell, as the sense of the board, without ever asking ther votes."²¹⁷ Such arbitrary behaviour was instrumental in turning the rest of the Councillors against him, something which was compounded by him having sided with those who were "odious to the country, as the Bishop of Edinburgh."²¹⁸ As a result of the various grievances held against him, Aberdeen's fall was engineered in 1684.

One of the matters on which there was a difference of opinion concerned the fining of husbands for the actions of their wives, specifically relating to their attendance at conventicles and their non-attendance at church. Evidently not in unanimous agreement, the Council had sent letters to Charles and James intimating both the arguments for and against the fining of husbands. To this, Charles replied on 14 February 1684 with a decision in the affirmative, that husbands could henceforth be fined for the crimes of their wives, except in those cases in which the husband delivered up the wife to justice.²¹⁹ The notable split over the issue of fining had come when Aberdeen argued that, although a husband could be fined for his wife attending conventicles, because he had the power to restrain his spouse, he could not be fined for his wife's refusal to attend the established church because there was no provision in the law to cover this matter. Though there were people

²¹⁴*RPCS*, ix, xix, 32-5.

²¹⁵NAS GD 406/1/5891.

²¹⁶Jones, *Charles, Middleton*, 65.

²¹⁷Fountainhall's *Selections*, 129.

²¹⁸*Ibid*, 131.

²¹⁹*RPCS*, viii, 348-9, 367.

who thought it morally wrong to punish one person for the nonconformity of another, Wodrow going as far as to say that it amounted to suffering at the hands of the government,²²⁰ Aberdeen's reluctance to fine husbands was instead based on a legal point.²²¹ It was this technicality which caused Aberdeen to apparently alter his stance on the prosecution of one individual for the actions of another, having once called Hamilton "an obstracter of the Kings service"²²² when the Duke had previously objected to the fact that heritors and tenants were made responsible for any conventicles held on their lands.

Having been called to England to resolve their differences, the matter of fining husbands being merely one of these, the leading Scots argued their cases in the Court, the outcome of which was that Charles and James sided against Aberdeen.²²³ As part of their offensive, he was charged with being an unworthy Chancellor who stepped in the way of justice and who was responsible for the harshness of the Circuit Courts.²²⁴ Instrumental in Aberdeen's downfall were apparently Queensberry, Perth and the Duchess of Portsmouth, the former two paying the latter large sums of money to persuade the King to dismiss Aberdeen.²²⁵ Fountainhall wrote of the visit to London, "The Treasurer had mo of the nobles to oune him, partly out of pick against a gentleman made Chancelor, and also because they are pensioners, and forced to depend on him ere they can get payment from the Exchequer."²²⁶ It was also reported from England that, despite the confidence of both, most countrymen there supported the Treasurer over the Chancellor.²²⁷ Even after the return of Aberdeen to Scotland it was not commonly known what the outcome of the meeting in London had been: "the busines hes been kept so closs from the begining that the

²²⁰NLS Wod Qu XXVII (xv) Some Arguments Against the 'Black Bond', ff98-105; Wod Fol XL (xxii) David Wilson's Sufferings, f60.

²²¹Burnet, *History of His Own Time*, ii, 233-4.

²²²NAS GD 406/1/3145, William Hamilton to Arran, 5 August 1682.

²²³*The Scots Peerage*, volume 1, 89.

²²⁴Fountainhall's *Selections*, 130.

²²⁵*Letters Illustrative of Public Affairs in Scotland*, xxxix; *The Scots Peerage*, volume 1, 89; Fountainhall's *Notices*, 745; *Chronological Notes of Scottish Affairs from 1680 till 1701, chiefly taken from the diary of Lord Fountainhall*, (Edinburgh, 1822), 188.

²²⁶Fountainhall's *Selections*, 122.

²²⁷NAS GD 406/1/3272, William Hamilton to Arran, 19 May 1684.

parties th[e]mselves scarce know what will be the issue of it.”²²⁸ Nonetheless, speculation was rife regarding Aberdeen being replaced, Perth and Atholl being notable suggestions.²²⁹ Just four days later, Aberdeen was indeed replaced by Perth, the turning out of a Chancellor being seen in some quarters “as a crime.”²³⁰

A repercussion of the dismissal and replacement of Aberdeen was that Perth’s former office of Lord Justice General was given to the Earl of Linlithgow. The political reshuffling in Scotland was not yet complete. More changes stemmed from Charles’s transformation of his English ministry in August 1684. The Earl of Rochester was removed as first minister of the Treasury and was instead given the position as Lord President of the Council. Rochester’s former office went to Godolphin, who had been one of the Secretaries of State for England, along with the Earl of Sunderland. In place of Godolphin, Charles made Middleton one of the Secretaries of State for England, thus leaving a vacancy in the position of Secretary of State for Scotland. Middleton’s elevation to this most prominent of English positions was rather controversial on account of his Scottish nationality, the contemporary John Evelyn writing that the changes in the English administration were “very unexpected and mysterious.”²³¹ When Lundin was elevated to Middleton’s former position as joint Secretary of State for Scotland, evidently on the recommendation of the Duke of York,²³² that in turn facilitated the Earl of Kintore’s instatement as Treasurer-Depute in December 1684.

Conclusion

In working towards the pacification of Scotland, James and the Privy Council had to take account of numerous matters. Primarily, James had to ensure he left Scotland in the hands of capable and loyal men when he left in May 1682. As such, resounding alterations were made to the government of Scotland immediately prior

²²⁸NAS GD 406/1/3288, William Hamilton to Arran, 9 June 1684.

²²⁹NAS GD 406/1/5895, Hamilton to Arran, 9 June 1684; GD 406/1/3288; NAS GD 406/1/8250, Sir George Mackenzie to Arran, [c1684]; *The Diary of Brodie of Brodie*, 490.

²³⁰NAS GD 406/1/3284, William Hamilton to Arran, 16 June 1684.

²³¹Jones, *Charles Middleton*, 69.

²³²*Ibid*, 68.

to his departure. Both when James was present, and after he had resumed permanent residence in England, particular attention was paid by the government of Scotland to the ongoing themes of stabilising the Highlands, enforcing the Test and suppressing both secular and religious dissent.

Though the government was responsible for one of the most notorious episodes in the nation's history, the extent of the repression in the early- to mid-1680s, which culminated in the Killing Times, has been exaggerated by those with an intention to represent the tenure of James, Duke of York as the most reprehensible to ever taint Scotland. There are numerous examples which refute this claim by displaying that James was in fact widely known to have mitigated various charges with the specific intention of saving lives. His clemency was, in fact, most likely one of the main factors which heralded a period of relative tranquillity in Scotland in the aftermath of the Covenanting rebellion of 1679.

The slide towards the more severe treatment of those guilty of dissent began when the Scots were once more left to govern themselves.²³³ Though James had advocated harsh sentences for those responsible for grievous crimes and where their religious dissent had crossed over into outright resistance to the government, the Council favoured a generally more heavyweight response to dissent. Not only would a rebellion put the Councillors at personal risk of being removed from government, it may also have precipitated the unwilling return of James as a result of English claims that his presence in Scotland was the only thing that kept the nation in check. That the new elite in Scottish politics had personal relationships with James, in which trust and respect featured prominently, motivated the politicians to do all they could to ensure James remained beside his brother. In essence, whatever was necessary to keep Scotland stable and free from rebellious influences was done. There can be no argument that the government resorted to increasingly desperate measures after James left Scotland.

The notion that religious dissent could be interpreted as political opposition, as indeed it did become in certain quarters, allowed for the fining, imprisonment, banishment and execution of all those individuals who were deemed to be dangerous

²³³Cowan, *The Scottish Covenanters*, 114.

to the security of the nation. The reorganisation of the militia, the garrisoning of troops in volatile areas, the issuing of commissions to suppress conventicles and try those involved can certainly be seen as the foundations for a “very severe and general persecution.”²³⁴ Additional methods employed by the Council to systematically eradicate dissent in Scotland were the use of Circuit Courts and the creation of integral roles for uncompromising individuals who held firm convictions of the righteousness of the policies of the government. Laws such as those which governed vagabonds were also erroneously used by the government against those it viewed as offensive.

What can be made clear, however, is that it is not possible to trace the impetus for the increased repression towards dissenters back to a small core of men who acted with severity only when other members of the government were not present. At different times and concerning divergent matters all who were present at the Council meetings at which harsh judgements were passed, and all who were members of the Court of Justiciary or Circuit Courts in similar instances were to some degree guilty of participation in the draconian system of the early- to mid-1680s. So too were those individuals, often unnamed in the records, who brutalised in the name of the authorities those they suspected of harbouring rebellious tendencies. The humanitarian crimes thus witnessed and later dubbed the ‘Killing Times’ leaves few government agents free from culpability in the episode.

²³⁴Wodrow, *Sufferings*, iii, 381.

CHAPTER 6

James VII: A Regime Under Threat

Introduction

In February 1685, James succeeded his brother as King. There was no public outcry at a Roman Catholic assuming the throne in either Scotland or England, and the most immediate destabilising influence in Scotland came from the same source that had so troubled his brother's reign, the remnant Covenanters. The Cameronians remained the most fundamental element of the Covenanting movement and continued to pose a radical ideological threat to the government in Scotland, which they persistently defied and regularly fought in the name of religion. In the wake of the *Apologetical Declaration* of November 1684, the government, at the further expense of its reputation, had stepped up its offensive against dissenters. The ongoing domestic battle between the authorities and the rebels had not been decisively won by the time Charles died. James, who had experienced firsthand Covenanting activity in Scotland, was thus faced with solving the issue which was at once financially draining and socially disruptive.

Before any conclusion to the persistent problems posed by the Covenanters was reached, James was to face a considerably more menacing threat. Within three months of his accession, James experienced a perilous attack on his regime. This came in the form of the externally launched invasions led by Archibald Campbell, ninth Earl of Argyll, who concentrated his attack on Scotland, and James Scott, Duke of Monmouth, whose offensive aimed at England. Both Argyll and Monmouth directed their attacks on James's authority as well as his kingdoms; both rebel nobles claimed that James had usurped the throne.

Argyll had, of course, escaped from Edinburgh Castle in December 1681 after being indicted for treason on the grounds that he had altered the tenor of the Test Act when he took it. In his absence, a sentence of execution had been pronounced. After initially making his way to London, Argyll ultimately sailed to Holland, where he met up with Monmouth. The death of Charles provided the impetus they required, and they accordingly embarked on a scheme to cooperatively

invade their home nations.¹ Argyll and Monmouth had planned to coincide their assaults, but Argyll actually set out from Holland on 1 May 1685, some four weeks before Monmouth, who left on 30 May. Though James and his governments were ultimately victorious, with both Argyll and Monmouth being executed, on 30 June and 15 July respectively, it was a seriously distressing time for the new King.

For practically the entire duration of the Argyll rebellion, a Scottish Parliament was in session. The first session of the first Parliament of King James VII met on 23 April 1685, just over a week before Argyll left Holland, and ended on 16 June, just two days before Argyll was captured. Enactments which directly concerned Argyll will be dealt with in this Chapter. The 1685 Parliament will, however, be more fully considered in Chapter 7, though it must be noted that the existence of a simultaneous invasion led by a rebel member of the Scottish nobility, who was himself a former member of Parliament, inevitably affected proceedings and contributed to the apparent loyalty of the Scottish Parliament.

The Accession of James VII

At the beginning of 1685 John Drummond of Lundin optimistically informed the Duke of Queensberry that the King was recovering well from an unidentified illness and was getting stronger with each passing hour.² Little over a month later, however, Charles II's health failed him completely after being weakened by a succession of strokes, the result, it was muted, of "his voluptuary excesses."³ Charles passed away in the early hours of 6 February 1685, mere hours after converting to Catholicism.⁴ Word of the death of Charles spread the simultaneous news that his brother was henceforth King James VII of Scotland and II of England. Wodrow saw this development as a mere formality, stating that, "the duke of York was in effect king in Scotland before now."⁵ This view is shared by William

¹ Wodrow, R., *The History of the Sufferings of the Church of Scotland*, volume iv, (Glasgow, 1836), 283.

² HMC 45, 4th Report, *The Manuscripts of the Duke of Buccleuch and Queensberry*, volume ii, (London, 1903), 203.

³ *History of the Union of Scotland and England by Sir John Clerk of Penicuik*, Duncan, D., (ed) (Edinburgh, 1993), 80.

⁴ Hutton, *Charles II*, 443-5.

⁵ Wodrow, *Sufferings*, iv, 264.

Ferguson, who wrote that, “even before the death of Charles II in February 1685, James, Duke of York, was master of Scotland”.⁶ Wodrow and Ferguson clearly recognised that James’ influence over Scotland did not cease when he departed in May 1682. James continued to have a managerial role over Scotland in the subsequent years, not least of all through the appointments he had personally made in May 1682. He was also diligent in ensuring he maintained personal correspondence with elite Scots, including Hamilton, Chancellor Aberdeen, his replacement, Perth, and Treasurer Queensberry.⁷

Upon hearing the news that Charles had died, the Chancellor, Treasurer and other Officers of State, along with the lords and clerks of the Privy Council and Session, the magistrates and entire Town Council of Edinburgh, and the nobility and militia who were in the proximity when the news reached Scotland, assembled at the Market Cross in Edinburgh. The formal proclamation of the passing of Charles and succession of James was read out on Tuesday 10 February by a weeping Chancellor before the canons of the castle went off, bonfires lit, bells rung and the seal of Charles II broken.⁸ Customary expressions of loyalty to the lately deceased monarch, along with condolences to James, were balanced out by commendatory gestures to the new King, both north and south of the border.⁹ Hamilton’s letter to James VII was no doubt archetypal: “all here are very sensible of the Great loss of

⁶ Ferguson, W., *Scotland's Relations with England; A Survey to 1707* (Edinburgh, 1994), 161.

⁷ NAS GD 406/1/10582; NAS GD 406/1/10583; NAS GD 160/529/4, 6-11, 16; HMC 44, Report 15, appendix part viii, *The Manuscripts of his Grace the Duke of Buccleuch and Queensberry, K.G., K.T., Preserved at Drumlanrig Castle* (London, 1897), 168-215; *Letters Illustrative of Public Affairs in Scotland*, 19-20, 26, 29-31, 41-2, 91-2, 94-5, 99-100, 106, 130, 160; *The Scots Peerage*, volume 7, Sir James Balfour Paul (ed), (Edinburgh, 1904), 138.

⁸ NAS Buccleuch Muniments, GD 224/173/2, *Memoirs from the Reign of James II and VII*, f1-2; *Chronological Notes of Scottish Affairs from 1680 till 1701, chiefly taken from the diary of Lord Fountainhall* (Edinburgh, 1822), 123; *Historical Notices of Scottish Affairs, Selected from the Manuscripts of Sir John Lauder of Fountainhall*, volume ii, (Edinburgh, 1848), 615-6; *RPCS*, x, 136; Wodrow, *Sufferings*, iv, 201-2; Speck, W.A., *James II Profiles in Power* (London, 2002), 85.

⁹ BL Add 21483, f21; NLS Ry 1.6.151, *An Ode on the Death of Our Late Sovereign Lord King Charles II of Blessed Memory* [London] (1685); NLS Ry 1.6.152, *To the King: A Congratulatory Poem* (London and Edinburgh, 1685).

his late Ma[jes]tie so their greife is lessened [by] y[ou]r goodnes to this Kingdom.”¹⁰ Indeed, the Scots were so keen to show James that they were sincere in their congratulations to him that the Town Council of Edinburgh threatened to regard inhabitants as disaffected if they failed to light bonfires on the proclamation of his ascendancy.¹¹ At this time, the Provost of Edinburgh was Sir George Drummond, who had been nominated to that position by the Crown in 1683.¹² Around the country, officials hurried to perform the formalities required of them, namely taking the Oath of Allegiance to James VII, the Oath of Supremacy and the Test.¹³

Initially, there was no alteration by James to the personnel in civil and military offices, the new King having decided to continue those whom his brother had installed.¹⁴ Despite the issuing of a proclamation to this effect in England,¹⁵ within a fortnight of James’s accession, Laurence Hyde, first Earl of Rochester had been made Lord High Treasurer of England, Sidney Godolphin, first Earl of Godolphin was promoted to Lord Chamberlain to the Queen Consort, and it was rumoured that Henry Hyde, second Earl of Clarendon would be made Lord Lieutenant of Ireland, though he was instead made Lord Privy Seal.¹⁶ Additionally,

¹⁰NAS GD 406/1/10602, Hamilton to James VII, 14 February 1685.

¹¹*Extracts from the Records of the Burgh of Edinburgh*, (1681-1689), Marguerite Wood and Helen Armet (eds), (Edinburgh, 1954), 136; Ouston, H., ‘York in Edinburgh: James VII and the Patronage of Learning in Scotland, 1679-1688’, in Dwyer, J., Mason, R., Murdoch, A., (eds), *New Perspectives on the Politics and Culture of Early Modern Scotland* (Edinburgh, 1982), 134.

¹²*Extracts from the Records of the Burgh of Edinburgh*, (1681-1689), 81, 83, 90-1, 130; *The Parliaments of Scotland, Burgh and Shire Commissioners*, volume i, M. Young (ed), (Scottish Committee on the History of Parliament, Scottish Academic Press, 1993), 205; Fountainhall’s *Chronological Notes*, 31.

¹³RPCS, x, 135-6; Dumfries Archives, BH2/3/4/10, Oath of Allegiance to the Protestant Religion and to James VII and renunciation of all leagues and covenants, 1685; *Extracts from the Records of the Burgh of Glasgow 1663-1690* (Glasgow, 1905), 372; *Extracts from the Records of the Burgh of Edinburgh*, (1681-1689), 136; Wodrow, *Sufferings*, iv, 202.

¹⁴HMC 45, 4th Report, 42.

¹⁵PRO SP 45-12, *A Proclamation Signifying His Majesties Pleasure That all Men being in Office of Government at the Decease of the Late King, His Majesties Most Dear and entirely Beloved Brother, shall so continue till His Majesties Further Direction* (London, 1685); NLS MS 2956 (31), Letters and Documents 1600-1843, f54-5; NAS GD 224/173/2, f2.

¹⁶NAS GD 224/173/2, 3; HMC 45, 4th Report, 44; *Historical Selections From the Manuscripts of Sir John Lauder of Fountainhall, Historical Observations*

George Savile, Marquis of Halifax was named as President of the Council when Clarendon took over his former position as Lord Privy Seal. There were no comparative alterations to the Scottish administration when James became King in February 1685. There were two reasons for this: firstly, a staffing upheaval of similar proportions had taken place in Scotland in May 1682, as James departed after a prolonged residency in Edinburgh; and, secondly, Aberdeen's subsequent replacement as Chancellor by Perth was still a relatively new modification within the Scottish government, having taken place less than a year previously.

Apparently, the accession of James brought remarkable changes to the mood of the English Court, as well as to the political hierarchy. Whereas under Charles there had been "mirth, playes [and] buffoonerie", James was more preoccupied with, "seriousnesse and businesse... he [was] grave, and of much application to public affairs; and the same imitation also holds true in religion".¹⁷ The new King's religious intentions are perfectly illustrated by his rapidly delivered orders to English Judges of Assize to release Catholic priests from jail, as well as all those loyal subjects who had been imprisoned for refusing to take the Oaths of Allegiance and Supremacy, or who had been fined for refusing to go to the established church.¹⁸

The Remnant Covenanters

As mentioned in the previous Chapter, the government of Scotland was troubled by the continued efforts of Covenanters well into 1685. The two most prominent Covenanters still at large were James Renwick and Alexander Peden, both of whom remained actively involved in field conventicles. The only answer, it seemed, was for the authorities to redouble the efforts against dissenters and rebels, a policy for which the government gained an atrocious reputation as the unnecessarily brutal instigators of the Killing Times. The law and the military were the main weapons against the remnant Covenanters. Renwick's *Apologetical Declaration* had occasioned the formation of the Abjuration Oath in November 1684, the latter of

1680-1686, Laing, D. (ed) (Edinburgh, 1837), 150; Miller, J., *James II. A Study in Kingship* (England 1977), 121.

¹⁷Fountainhall's *Selections*, 153.

¹⁸Ashley, M., *James II* (London, 1977), 159.

which had extended the powers of commissioners and accounted for a steep rise in the number of field executions in the first half of 1685.¹⁹

Shortly after his accession to the throne, a proclamation of Indemnity was issued by the new King.²⁰ This Indemnity was rather limited in scope, pertaining only to persons under the rank of property owners and specifically exempting those such as vagrant preachers, persons under sentence of fining and the murderers of Archbishop Sharp.²¹ It had a time limit of twenty days for any fugitives to come forward to obtain their pardon, which was thought by Sir John Lauder of Fountainhall to be an impossible target, thus making the Indemnity inherently weak and superficial.²² The prospect of such an Indemnity had in fact been discussed in the reign of Charles. In January 1685 the Secret Committee, consisting of Perth, Queensberry, Atholl, Tarbat and Rosehaugh, wrote to James informing him that they had framed a draft act of Indemnity. This, it was claimed, was designed for everyone but the “habitually disloyal”.²³ The relatively stringent terms passed by James in February thus, in all likelihood, were those devised by the Secret Committee the previous month. The narrow confines of the Indemnity can be best explained in the words of the Secret Committee: “The party wee have to doe with make cobwebs of the tyes of bands and oaths and by their malice what is intended for medecine is turned into poisons.”²⁴ Nonetheless, in March the Council went on to interpret the Indemnity in favour of various imprisoned commoners provided they would meet the demands of the government to disown the *Apologetical Declaration*, swear not to rise in arms against the King or government or take the Test, depending on the nature of the crime for which they were imprisoned.²⁵

¹⁹Campbell, *Standing Witnesses*, 21.

²⁰NLS 1.2 (134), *A Proclamation containing his Majesties Gracious Indemnity, dated 26 February 1685* (Edinburgh, 1685).

²¹RPCS, x, 162-4; Wodrow, *Sufferings*, iv, 204, 205; Cowan, *The Scottish Covenanters*, 125.

²²Fountainhall's *Notices*, 622.

²³BL Add 28558, Secret Council to James, Duke of York, January 1685.

²⁴Ibid.

²⁵RPCS, x, 183.

The limitations of the Indemnity were, however, amplified by the renewal of commissions against dissenters.²⁶ Included in this number was the commission and instructions issued to General Drummond on 21 April 1685. Drummond was given leave to utilise the Highlander force, “for pursueing, suppressing, and utterly destroying all such fugitive rebels as resist and disturb the peace and quiet of his majesties government.”²⁷ When the Parliament met two days later, it was clear that a paramount intention of the Court was to secure legislation which would assist in the fight against the rebel Covenanters. This will be more fully addressed in the following Chapter.

Although Argyll’s standard bore the motto, ‘For God and Religion against Poperie, Tyrannie, Arbitrary Government, and Errestianisme’, he remained cut off from the Cameronians who refused to join the rebellion on the grounds that it was untrue to the Covenant.²⁸ As Lang points out, the fact that Argyll had cast his vote against Cargill some years previously was also a likely factor in the refusal of the Cameronians to associate with him in the rebellion.²⁹ The remnant Covenanters did add to the troubles of James’s Scottish government at the time of the Argyll rebellion. Upon hearing reports that James Renwick was lurking in Edinburgh at the beginning of May, it was deemed necessary to double the number of guards there and all inhabitants were ordered to give in a list of all the strangers they had lodging with them.³⁰

In spite of the fact that the authorities had palpably stepped up the campaign against them in the preceding months, the Cameronians continued in their opposition to the Episcopalian Scottish government. On 28 May 1685, at the height of the Argyll rebellion, around 200 Cameronians, with Renwick at their head, rode into Sanquhar and fixed their ‘Protestation and Admonitory Apologetical Declaration’ to the market cross.³¹ The government, which by this stage desperately needed to crush

²⁶Cowan, *The Scottish Covenanters*, 125.

²⁷RPCS, xi, 26; Cowan, *The Scottish Covenanters*, 125.

²⁸Cowan, *The Scottish Covenanters*, 129; Donaldson, G., *Scotland; James V-James VII* (Edinburgh, 1998), 380; Speck, *James II*, 88.

²⁹Lang, A., *Sir George Mackenzie of Rosehaugh, His Life and Times 1636(?) - 1691* (London, 1909), 289.

³⁰Fountainhall’s *Notices*, 639, 640.

³¹Cowan, *The Scottish Covenanters*, 129; Campbell, *Standing Witnesses*, 22.

the domestic threat to Scotland so that it could concentrate on the menace posed by Argyll, heightened its efforts against the Covenanters. This was to have little effect. The activities of Renwick and the rebel Covenanters were to continue in much the same vein as before, with field conventicles proving as common as ever in the months following the Argyll rebellion. The fact that the two opposition forces had not combined their efforts, however, was certainly a relief to the government.

The Argyll Rebellion

It was the sweetest Maiden ever he kissed, it being a mean to finish
his sin and misery, and his inlet to glory, for which he longed.³²

Since Argyll's indictment and escape in 1681 there had abounded rumours of his intention to invade Scotland to aid the Protestant cause there. Many of these were actually based on fact: during his residency in England immediately after his escape, Argyll had attempted to raise £360,000 Scots and 1000 horses so that he could mount an invasion into Scotland to form part of a general insurrection against the monarchy and governments in England and Scotland.³³ This information, along with the names of some of Argyll's co-conspirators, and evidence that cooperation between the Scottish noble and Monmouth had taken place, was made available to the authorities not least of all by way of the testimonies of Alexander Gordon of Earlston and Thomas Shepard in the wake of the Rye House Plot.³⁴ Additional information about the intended rebellion of Argyll continually came to the attention of the government: according to the correspondence of Lundin and Captain Andrew Birch, the contents of which were made available to Lord Sunderland via the Duke

³²Wodrow, *Sufferings*, iv, 306; Linklater, M. and Hesketh, C., *For King and Conscience, John Graham of Claverhouse, Viscount Dundee (1648-1689)* (London, 1989), 135.

³³Willcock, J., *A Scots Earl in Covenanting Times: Being Life and Times of Archibald 9th Earl of Argyll (1629-1685)* (Edinburgh, 1907), 310.

³⁴NLS Ry 1.1.95 (1), *A True and Plain Account of the Discoveries made in Scotland of the Late Conspiracies Against His Majesty and the Government Extracted from the Proofs Lying in the Records of His Majesties Privy Council and the High Justice Court of the Nation* (Edinburgh, 1685), 9-10, 13.

of Newcastle in October 1684, Argyll's forces had planned to lay siege upon Berwick, seeing the town as an ideal gateway to Scotland.³⁵

Although these initial plans failed due to lack of cohesion between the various opposition forces, Argyll did not abandon hopes of invading Scotland, and during his subsequent exile in Holland spent much of the time preparing for such an event. Although Fountainhall pointed out after his death that Argyll, "hes never been very solid sen his trepaning of his skull in 1653,"³⁶ the Earl's actions in 1685 stemmed from more than alleged instability. Quite simply, Argyll was determined to act decisively against what he perceived to be a corrupt and dangerous monarchy and government.

James Brodie of Brodie, a contemporary commentator, wrote in January 1685 that "Ther was a great appeiranc of trubl to the cuntrey. Oh! the cloud that hangs over it."³⁷ The government was certainly aware of the steadily worsening threat posed by Argyll and began making preparations to mitigate the impact an invasion by Argyll would have. Primarily, Atholl was created Lieutenant of the shires of Argyll and Tarbat in July 1684, a position which initially lasted only to 1 December of that year, though which was continued thereafter.³⁸ On 20 March 1685 a warrant was issued ordering that all the forts, strengths and castles in the Highlands belonging to Argyll, numbering nine in total, be demolished in case he returned and fortified them.³⁹ Atholl, along with a force of 500 Highlanders, was authorised to tear down these houses and forts, though the order was apparently later cancelled.⁴⁰ In late May, when Argyll was on Scottish soil, Atholl was again given specific orders

³⁵CSPD (May 1684-February 1685), 161-2.

³⁶Fountainhall's *Selections*, 195.

³⁷*The Diary of Alexander Brodie of Brodie, and of his son James Brodie of Brodie, consisting of extracts from the existing manuscripts and a republication of the volume printed at Edinburgh in the year 1740* (Aberdeen, 1863), 506.

³⁸RPCS, ix, 81; RPCS, xi, 31; CSPD (May 1684 to February 1685), 104-5.

³⁹Fountainhall's *Notices*, 629.

⁴⁰RPCS, x, 179-80; Wodrow, *Sufferings*, iv, 285; Hopkins, P., *Glencoe and the End of the Highland War* (Edinburgh, 1998), 96; Willcock puts the figure at 1000, *A Scots Earl*, 328; the figure is also reported as 300; Clarke, *The Life of James II*, ii, 22.

by the Secret Committee to destroy the houses and goods of rebels, specifically Inverary Castle, which was to be burned.⁴¹

When firmer reports began to be made about an impending insurrection, such as the news from Ireland in early April 1685 that several armed rebels had left for Scotland,⁴² the government became increasingly unsettled. A committee was also established in the Privy Council to inquire into suspected correspondence with Argyll and others.⁴³ Rumours that Argyll had landed in Scotland to coincide with the opening of the Parliament, though uncorroborated, led to the Council ordering that 1200 Highland troops be sent to the western shires under the command of Lieutenant-General Drummond and Colonel Douglas, though their remit broadly included action against all ‘fugitive rebels’.⁴⁴ On 16 April James wrote to Perth that he was going to send two troops of dragoons to Carlisle in order to secure the border.⁴⁵ The fears of the authorities were magnified by the reports of some Scottish skippers who had recently returned from Rotterdam where they had heard that some armed ships were being made ready to sail for Scotland.⁴⁶ Moray instructed Queensberry on 21 April to ensure the coasts of Scotland were strictly manned, and that, “all other means [be] used to prevent any inconveniencs from this helishe projecte.”⁴⁷ A proclamation was also issued on 28 April for putting Scotland in a posture of defence.⁴⁸

Additional developments occasioned because of the threat of Argyll included sending the Catholic Earl of Dumbarton to Scotland with a special commission so that he could report to James with an account of the condition of the forces there.⁴⁹

⁴¹NAS GD 406/1/9411, Secret Committee to Atholl, 20 May 1685; GD 406/1/9410, Secret Committee to Atholl, 31 May 1685.

⁴²HMC 45, 4th Report, 47; Fountainhall’s *Notices*, 630.

⁴³*RPCS*, xi, 17.

⁴⁴Fountainhall’s *Chronological Notes*, 129; Fountainhall’s *Notices*, 636; *RPCS*, xi, 25; Wodrow, *Sufferings*, iv, 207-9.

⁴⁵NAS GD 160/529/4, James to Perth, 16 April 1685.

⁴⁶Fountainhall’s *Notices*, 636-7.

⁴⁷HMC 45, 4th Report, 56.

⁴⁸NLS 1.15 (98), *A Proclamation for Putting the Kingdom of Scotland in a Posture of defence against the enemies of the King and Government*, dated 28 April 1685 (Edinburgh, 1685); *RPCS*, xi, 29.

⁴⁹HMC 45, 4th Report, 57; HMC 44, 15th Report, 100-1, 107.

As Dumbarton had been in London when the decision was taken to send him back to Scotland, the King took the opportunity to have him deliver a letter to Perth in which he warned that Scotland must be on the alert and revealingly ordered that the Scots “lay a side all little piques or animositys that may be amongst you.”⁵⁰ Also, George Legge, Lord Dartmouth, who was Master General of the Ordinance in England, was ordered to send various provisions, including muskets, cartridges, pikes and spades, all of which were to be paid for by the Scottish Treasury.⁵¹

Following earlier correspondence between the Council of Scotland and the Justices General of Ireland which outlined coastal security measures and made an agreement about reciprocal intelligence, the command was given for ships to sail in the channel between Scotland and Ireland in an active search for any rebel ships.⁵² Similar security measures were later instated in England, proof of their necessity coming with such discoveries as that of Captain Wheeler, who captured a ship laden with four or five thousand arms bound for the west of Scotland.⁵³

In order to assist the government troops, the Council initially called to arms only those heritors who held above £100 of valued rent, but that was later supplemented by the proclamation that heritors and freeholders who held less than £100 valued rent were not exempt from service.⁵⁴ Those who deserted or failed to attend the King’s forces were vigorously prosecuted, a pertinent example being when Sir Charles Halkett of Pitfirran and Sir William Bruce of Kinross were charged with neglect for failing to provide the government with a list of those who failed to fulfill their duties.⁵⁵ It has been estimated that the number of men defending Scotland from attack was 60,000 after the Privy Council called all heritors to be in readiness to assist the standing forces and the militia, equal parts of which were to be stationed at

⁵⁰NAS GD 160/529/7, James to Perth, 10 May 1685.

⁵¹CSPD (February to December 1685), 155, 161-2.

⁵²RPCS, xi, 29; CSPD (February to December 1685), 174; HMC 45, 4th Report, 64.

⁵³NAS GD 160/529/10, James to Perth, 4 June 1685; NAS GD 406/1/4098, Melfort to Arran, 4 June [1685]; NAS GD 406/1/3331, Note by R.G., [1685].

⁵⁴NLS ABS.10.94.6, *A Proclamation requiring all the Heritors and Freeholders and Militia of the Kingdom of Scotland to be in readiness to come out in their best arms and provided (upon advertisement) for His Majesties Service* (Edinburgh 1685); NLS MS 14414, Yester Papers, f53; NLS MS 6406, Pitfirrane Papers, f139; RPCS, xi, 38, 46; Wodrow, *Sufferings*, iv, 285.

⁵⁵NLS MS 6406, ff147, 151, 152.

Selkirk, Stirling and Glasgow.⁵⁶ Moreover, it was ruled that all Covenanting prisoners being kept in jails on the western side of the country be moved to Dunnottar Castle to prevent Argyll from making any contact with them. This instruction resulted in over 70 prisoners being removed from Glasgow, along with a further 48 from Dumfries.⁵⁷

Though each had their own reasons for invading the lands of James VII and II, Argyll and Monmouth had been drawn into an alliance, and after a meeting in Amsterdam in April 1685, each promised to coincide their attack on their home country with that of the other. While Argyll left Holland for Scotland on 1 May 1685, Monmouth was delayed and did not leave for England until 30 May, though Hopkins has shown that Argyll's early successes may well have contributed to assisting Monmouth's campaign in England.⁵⁸ Some eleven days prior to his departure from Holland, the Articles of the Scottish Parliament issued a warrant to Rosehaugh, the Lord Advocate, for a process of treason to be raised against Monmouth.⁵⁹ Adding to the cloud that hung over Monmouth's campaign was the fact that he landed with so few men, contemporary reports ranging from 30 to 200.⁶⁰ More recently, it has been suggested that Monmouth was accompanied by "eighty-two supporters and equipment for barely a thousand more",⁶¹ the idea being to rally and equip additional support as he marched towards London. Regardless, Argyll's forces, though not as large as he had hoped, were considerably larger by comparison, numbering around 500 but with resources to equip 20,000 more.⁶² Whereas Monmouth did manage to raise considerable forces upon landing, almost 5000 troops within three weeks,⁶³ Argyll was to be faced with an organised defence on the part of the Scottish government which prevented the mass embracing of his

⁵⁶Fountainhall's *Selections*, 165; Willcock, *A Scots Earl*, 348-9.

⁵⁷CSPD (February to December 1685), 173; RPCS, xi, 49; Fountainhall's *Notices*, 642; Wodrow, *Sufferings*, iv, 322.

⁵⁸Hopkins, *Glencoe*, 95-6.

⁵⁹HMC 44, 15th Report, 120.

⁶⁰NAS GD 406/1/3349, R Yard to Arran, 6 June 1685; GD 406/1/4098, Melfort to Arran, 4 June [1685]; *The Diary of John Evelyn*, E.S. de Beer (ed), (Oxford, 1955), 449; Fountainhall's *Selections*, 201.

⁶¹Clifton, R., 'James II's Two Rebellions', in *History Today*, 38, (1988), 23.

⁶²Fountainhall's *Selections*, 165.

⁶³Clifton, 'James II's Two Rebellions', 27.

cause that he had envisaged, as well as significant levels of apathy and outright resentment.

Amongst those accompanying Argyll in his journey from the Netherlands were his second and third sons, Charles and John, his secretary, William Spence and William Blackadder, the covenanting minister, as well as Sir John Cochrane of Ochiltree and Sir Patrick Home, the latter two each having been implicated in the Rye House Plot.⁶⁴ Having represented Ayr at the 1681 Parliament, Cochrane had been particularly vocal about matters relating to the protection of the Protestant religion.⁶⁵ Two prominent Englishmen, Richard Rumbold, who had been pivotal in the Rye House Plot, and Ayloff, a close associate of Monmouth, also accompanied Argyll, though Burnet remarked that he did not know why they chose to accompany Argyll rather than Monmouth.⁶⁶ Two less prestigious characters were John Balfour of Kinloch and George Fleming, alleged murderers of Archbishop Sharp.⁶⁷

Argyll's supporters sailed in three ships; the *Anna*, the *David* and the *Sophia*, which had 36 guns, 12 guns and six guns respectively, guns which were used to sink the yacht of a Dutchman who tried to arrest them upon their departure from Holland.⁶⁸ That the Dutch forces had failed to prevent Argyll's ships from leaving gained for the Prince of Orange a series of mild rebukes from his father-in-law, who also implored him to do everything in his power to ensure no more followed them.⁶⁹

Initially it had been thought possible that Argyll would attempt a landing in the north of Ireland. As the Duke of Ormond had been removed from his position as Lord Lieutenant of Ireland in March 1685, responsibility for the governing of the country fell to the Lords Justices, the Archbishop of Armagh and the Earl of Granard, who were accordingly informed of the suspicions of the English hierarchy. Between 12 and 13 May Sunderland wrote to the Lords Justices with news of the potential threat from Argyll and with word that James commanded more troops, to be led by

⁶⁴*The Parliaments of Scotland*, Young, 128, 353; Wodrow, *Sufferings*, iv, 227.

⁶⁵See Chapter 3.

⁶⁶Burnet, *History of His Own Time*, ii, 295.

⁶⁷BL Add 41822, f242; Willcock, *A Scots Earl*, 339, 340.

⁶⁸Maidment, J., *The Argyle Papers* (Edinburgh, 1834), 30; Willcock, *A Scots Earl*, 343.

⁶⁹PRO SP8/3, King William's Chest, James to the Prince of Orange, 5 May, 12 May, 19 May 1685, ff 244, 246, 248; *CSPD* (February to December 1685), 149.

Granard himself, to be sent to the north of Ireland. An integral part of their purpose in the north of Ireland was to disarm any whom they perceived to be disaffected.⁷⁰ On 14 May, Granard was also informed that he should be prepared to send part of the Irish army over to the west of Scotland “upon advice from the Lord High Commissioner or Privy Council there”.⁷¹

Despite concerns that Argyll would land in Ireland, the rebel ships sailed straight for Orkney. Poor visibility caused by fog led to some early problems, though eventually Spence and Blackadder were able to go ashore in Orkney on 14 May. Having been forewarned of the attempted invasion, the Orcadians arrested them as “servants to a rebel” and, despite a later attempt by the invaders to exchange seven prisoners they had taken for Spence and Blackadder, Argyll was forced to leave his men in Orkney and continue his expedition without them.⁷² When James heard of that Argyll had ‘touched at Orkney’, he confidently wrote to Perth, saying, “I am at ease since you are in so good a postur”.⁷³

Although James predicted that Argyll would be able to “get a good number of disaffected men together”,⁷⁴ the rebel Earl was in fact to have trouble rousing a significant body of support. Although Argyll gained some followers, including Argyllshire heritors,⁷⁵ the numbers who joined his rebellion were nothing like Argyll had hoped or the government had feared, Burnet estimating that around 2500 men joined him.⁷⁶ Upon arriving at Mull, Argyll sent his son Charles over to the mainland to take possession of Dunstaffnage Castle in Lorne. Charles, however, was met with a lukewarm reception, some of the population refusing to believe that his father had returned to Scotland on the grounds that he had not gone ashore himself.⁷⁷

⁷⁰*CSPD* (February to December 1685), 149, 152, 183.

⁷¹*Ibid*, 153.

⁷²*A True and Perfect Account of the Earl of Argiles Landing in the North of Scotland With the Particulars of that whole Transaction* (London, 1685); *RPCS*, xi, 46; Wodrow, *Sufferings*, iv, 285; Fountainhall’s *Selections*, 164; Willcock, *A Scots Earl*, 350-2.

⁷³NAS GD 160/529/8, James to Perth, 18 May 1685.

⁷⁴PRO SP8/3, James to Prince of Orange, 22 May 1685, f251.

⁷⁵NLS MS 975, Campbell Papers, List of the heritors in Argyllshire who were in the rebellion with the late Earl Argyll, 1685, f1.

⁷⁶Burnet, *History of His Own Time*, ii, 295.

⁷⁷Wodrow, *Sufferings*, iv, 287-8, 290; Willcock, *A Scots Earl*, 353; Hopkins,

Argyll's plans to gather forces in Islay were circumvented by the prior arrival of government forces there, the imposition of a bond on the residents and the complete removal of their arms. In addition, on hearing of his position off the west coast of Scotland, the Privy Council arrested Argyll's wife and fourth son, James, as well as Lady Sophia and Lord Neil Campbell, Argyll's brother, so that they would not be able to assist in his rebellion.⁷⁸

On 20 May 1685 Argyll's forces landed at Campbeltown where they read out their Declaration at the Market Cross, before printing multiple copies of it in the hope of rousing popular support.⁷⁹ In this long document was detailed their grievances against the present government, namely that it was not committed to the suppression of popery. Argyll then made a speech in which he stated that "the Duke of York having taken off his mask and having abandoned and invaded our religion and liberties, resolving to enter into the government, and exercise it contrary to law, I think it not only just, but my duty to God and my country, to use my utmost endeavours to oppose and repress his usurpation and tyranny."⁸⁰ That Argyll referred to James as 'Duke of York' shows that he did not recognise James as King, which later emerged was due to the fact that James had not taken the Scottish Coronation Oath.⁸¹ In an attempt to muster support, Argyll also promised to pay his and his father's debts, a source of antagonism to which has been assigned some of the blame for the failure of Argyll's recruitment campaign.⁸²

The tenor of Argyll's Declaration differed substantially from those which Monmouth was later to issue. Monmouth proclaimed not only that he was the legal heir to the thrones, but also that James was responsible for the burning of London and the poisoning of Charles II.⁸³ Such audacity prompted Moray to call Monmouth

Glencoe, 97.

⁷⁸RPCS, xi, 54; *A True and Perfect Account of the Earl of Argiles Landing*; Fountainhall's *Notices*, 642; Willcock, *A Scots Earl*, 355-6.

⁷⁹*The Declaration and Apology of the Protestant People, That is of the Noblemen, Barrons, Gentlemen, Burgesses, Commons of all sorts, Now in Armes within the Kingdom of Scotland* (Produced by the Earl of Argyll, 1685).

⁸⁰Wodrow, *Sufferings*, iv, 290-1; Willcock, *A Scots Earl*, 361.

⁸¹Burnet, *History of His Own Time*, ii, 296. James's failure to take the Scottish Coronation Oath will be more fully discussed in Chapter 7.

⁸²Hopkins, *Glencoe*, 98.

⁸³NLS Ry 1.2.115 (20), *The Declaration of James Duke of Monmouth, and the*

‘impudent’, but deeply disturbed James, who was reported by Moray on 22 June to be, “extremely harast.”⁸⁴ Whereas Monmouth assumed the role of ‘king’ and went on to formally declare Abermarle and his forces to be rebellious, James’s tax collectors to be traitorous and the English Parliament to be illegal, Argyll was far more ambiguous in his designs.⁸⁵ Indeed, when Argyll was later captured and imprisoned, he complained about the fact that Monmouth had deemed himself King.⁸⁶ Although the Scot agreed in principle with the fact that James had usurped the throne, he chose vagueness over specifics, not even going as far as to support Monmouth’s claim to the throne. Despite challenging the existing monarch and government, Argyll notably lacked suitable alternatives. The real downfall of Argyll’s plan, however, stemmed from the fact that he was attacking the rightful King and government of Scotland in an invasion led from abroad. Regardless of religious ideology, James was the legitimate monarch according to the ancient rule of primogeniture.

Having already heard the news that a consignment of arms had left Holland for Scotland, the English had it confirmed on 23 May at the opening of their Parliament that there was a rebellion taking place in Scotland.⁸⁷ The response of both Houses was to reply that James had their full backing: they would support him with their lives and fortunes. On 25 May James wrote to the Scottish Parliament

Noblemen, Gentlemen and others, now in Arms, for Defence and vindication of the Protestant Religion, and the Laws, Rights and Priviledges of England, from the Invasion Made Upon them: and for Delivering the Lingdom from the Usurpation and Tyranny of James Duke of York (London, 1685), 2, 7; NLS Wod Qu XXVII (i), The Declaration of the Duke of Monmouth, ff1, 5, 7; BL Harley 7006, f 186; Clarke, *The Life of James II*, ii, 27-8; *Princes and Peoples France and the British Isles, 1620-1714; An Anthology of Primary Sources*, M.L., Kekewich (Manchester, 2002), 165-6.

⁸⁴HMC 45, 4th Report, 80, 81.

⁸⁵BL Harley 7006, ff 188, 190, 191, 195; NAS Biel Muniments, GD 6/1103, copy letters between Monmouth and Abermarle, 4 July 1685; NAS Hay of Belton Muniments, GD 73/1/1/b, copy letter of Monmouth to Abermarle, with Abermarle’s reply.

⁸⁶Burnet, *History of His Own Time*, ii, 296.

⁸⁷NLS MS 14488, Yester Papers, f91; NAS GD 112/39/137/14, Griffin to Breadalbane, 23 May 1685; *Memoirs of Sir John Reresby. The Complete Text and A Selection from his Letters*, Browning, A (ed), second edition, (London, 1991), 365, 366.

voicing his opinion that Members would be better employed in helping quash the Argyll rebellion, something he supplemented on 1 June by ordering Queensberry to adjourn the Parliament as quickly as possible.⁸⁸

Despite the embarrassment caused by Monmouth's delay, Argyll vowed to continue in his cause, all the while attempting to recruit more men. In a letter to the Laird of Luss, dated 22 May 1685, Argyll beseeched him to serve God in the knowledge that James was a papist by assisting him in the "defence of the protestant religion, our lives and liberties, against popery and arbitrary government."⁸⁹ Argyll then marched from Campbeltown to Tarbat, where he printed his former speech,⁹⁰ in order to meet up with additional men and his ships, immediately after which he sailed around the Isle of Bute. Having sent a reconnaissance mission to Largs, which returned the news that the town was heavily manned by government forces, a contingent of Argyll's troops instead anchored off Greenock. From there they initiated a successful attack on Lord Cochrane's men, who were defending that stretch of the coast, before rejoining the Earl on the Argyllshire shore.⁹¹

The continued campaign of Argyll spurred many Scots resident in England to apply for leave to return to Scotland in order to assist His Majesty's forces there. One such man was Arran whose enthusiasm to return to fight in his homeland was to induce James to resolve to give him a commission of Lieutenancy for the shires of West Lothian, Clydesdale, Renfrew and Dumbarton.⁹² On 28 May, Lady Essex Griffin wrote that, "My Lord Arran and his brother doe dayly declare they will goe into Scotland the first hour the King receives intelligence of the bold rebells making any considerable advance."⁹³ The brothers had not long to wait, for on 30 May she reported to Glenorchy, whilst enclosing his pass to allow him to go into Scotland, that the King had received word that Argyll had landed in Kintyre and consequently

⁸⁸HMC 44, 15th Report, 103, 104.

⁸⁹Maidment, *The Argyle Papers*, 31.

⁹⁰Wodrow, *Sufferings*, iv, 290.

⁹¹Ibid, 291-3; Willcock, *A Scots Earl*, 375, 377-8.

⁹²HMC 45, 4th Report, 70.

⁹³NAS GD 112/39/137/22, Lady Essex Griffin to her uncle (Breadalbane), 28 May 1685.

“all the young Scotch noblemen and gentlemen th[a]t were her as in duty bound are gone down in to Scotland to oppose the Rebels.”⁹⁴

On 23 May, Queensberry confirmed James’s commissions making Claverhouse and Douglas both brigadiers.⁹⁵ The issue of these commissions had in fact caused some controversy between the Secretaries of State at Court in London: whereas Melfort had favoured Claverhouse to hold the superior position as commander of the horse, Moray preferred Queensberry’s brother, Colonel Douglas. In response to the “verry hot” debate between the Secretaries on the matter, James mediated by ordering that both commissions be drawn for both horse and foot. In an apparent bow to the arguments of Moray, Douglas’s commission was to predate Claverhouse’s by two days in order to give him precedence.⁹⁶

Determination to end the rebellion in Scotland as quickly as possible, coupled with the new threat of the Monmouth invasion in England, led to a great deal of effort being put into suppressing the Argyll offensive over the next few weeks. The Earl of Mar, as Keeper of Stirling Castle, was ordered to remove all women, children and other ‘unnecessar people’ out of the Castle so that it would be in readiness for any onslaught by the rebels.⁹⁷ Queensberry, Perth, Dumbarton and Tarbat told Mar that a similar order would likely be issued to other castles too. Twenty additional men were put onto each troop of dragoons, assistance was called from Ireland and more ships were sent to the Irish Sea.⁹⁸ In Edinburgh there was a proclamation prohibiting the export of meal and oats so that the army might be better served, 5000 bolls of meal were to be imported from Ireland, though this was later countermanded, and ships were to be pressed, if necessary, for transport.⁹⁹ Breadalbane became an intrinsic player in the fight against Argyll, acting as a source

⁹⁴NAS GD 112/39/137/24, Lady Essex Griffin to Glenorchy, her cousin, 30 May 1685.

⁹⁵Linklater and Hesketh, *For King and Conscience*, 135.

⁹⁶HMC 45, 4th Report, 69.

⁹⁷NAS GD 124/15/179, letter to the Earl of Mar from Queensberry, Perth, Dumbarton and Tarbat, 23 May 1685.

⁹⁸Ibid, 72-3; *CSPD* (February to December 1685), 174.

⁹⁹NLS 1.2 (148) *A Proclamation Discharging the Exporting of Meal and Oats off the Kingdom of Scotland till further notice*, dated 25 May 1685 (Edinburgh, 1685); *RPCS*, xi, 56, 57, 80; *CSPD* (February to December 1685), 175; *Fountainhall’s Selections*, 169.

of intelligence on such matters as the estimated numbers joining the rebellion, and actively fighting against the insurrection.¹⁰⁰ From the beginning of May until well after Argyll's execution on 30 June 1685, each meeting of the Council dealt in some respect with the campaign against Argyll and the suppression of the rebellion, numerous orders being issued which regulated the leadership, movement and garrisoning of government forces.

The campaign against Argyll was also fought by the Scottish Parliament. The second act passed in 1685, 'The Declaration and offer of Duty by the Kingdom of Scotland', ordered that "all of this nation, betwixt sixty and sixteen, armed and provyded according to their abilities, shall be in readiness for his majesties service where and as oft as it shall be his royal pleasure to require them."¹⁰¹ Additional measures supplemented this by directly targeting Argyll: the forfeiture of the late Earl of Argyll was approved on 13 May; an act containing an address against "the Arch Traitor Archibald Campbell sometime Earle of Argyle" was passed on 11 June; and, an 'Act for a Commission anent the Estate of Archibald Campbel late Earle of Argyle' was passed on 13 June.¹⁰² Those who accompanied Argyll also bore the brunt of parliamentary disfavour. After consideration of his crimes, which included soliciting funds to assist Argyll's rebellion, the Lords of the Articles had declared that Cochrane was guilty of treason before he was officially forfeited on 22 May.¹⁰³ Proceedings of forfeiture were also instigated against Sir Patrick Home.¹⁰⁴

Alterations were also made to the organisation of the hierarchy armed forces of Scotland, including the secondment of Lieutenant-Colonel Maxwell to be aide de camp to Duke Gordon, who had been made lieutenant in Banff, Elgin and Inverness and commander of forces raised from Ross, Sutherland and Caithness.¹⁰⁵ By way of

¹⁰⁰NAS GD 112/39/137/17, Queensberry, Perth, Tarbat and Sir David Falconer to Breadalbane, 25 May 1685.

¹⁰¹APS, viii, 459-60; Cowan, I.B. 'The Reluctant Revolutionaries: Scotland in 1688' in Cruickshanks, E., *By Force or Default? The Revolution of 1688-1689* (Edinburgh, 1989), 66.

¹⁰²APS, viii, 472, 485, 487.

¹⁰³HMC 44, 15th Report, 120; APS, viii, appendix, 32; Wodrow, *Sufferings*, iv, 276.

¹⁰⁴APS, viii, appendix, 57.

¹⁰⁵NLS Adv MS 34.6.11, The Portrait of True Loyalty Exposed in the Family of Gordon without interruption to this present year 1691, f254; RPCS, xi, 48; HMC 44, 15th Report, 109.

a royal letter, Dumbarton was given chief command of the forces, with Dalziel and Drummond under him.¹⁰⁶ Further appointments included Colonel Hugh McKay being made Major-General of all the Forces and Sir Roger Strikland being instated as commander of the frigats off the west coast of Scotland.¹⁰⁷

It was the general perception that Argyll's ultimate goal was Galloway or Ayrshire.¹⁰⁸ When James heard that Argyll had been spotted off Largs, his reaction was to write to Queensberry that this was "only a faint ... that he [Argyll] does it only to draw Earle Dumbartone, as far as he can from Galloway ... for if he lands at Largs, he must haue some design on Glasgow, and I do not thinke him strong enough for that."¹⁰⁹ James repeated these sentiments in a separate letter to Perth, and was adamant that the danger to Scotland would be minimised by keeping the south and west quiet.¹¹⁰ Though it was accurate that Argyll was destined for the Lowlands, his plans were delayed after he became determined to drive Atholl's men out of his former lands.¹¹¹ In the meantime, and despite the King's confidence about the security of Glasgow, the defence of both Stirling and Glasgow continued to be vital in the campaign against the Earl. The militia of Edinburgh were moved to Stirling as soon as the government received intelligence that Argyll was headed in that direction, and Hamilton advised Arran to make his way towards Glasgow in order to evaluate the condition of the troops there.¹¹²

As well as reorganising the forces in Scotland, James had also written to the Prince of Orange on 22 May asking for the assistance of three Scots Regiments currently based in Holland.¹¹³ It was initially intended that these regiments be used

¹⁰⁶*RPCS*, xi, 59; Clarke, *The Life of James II*, ii, 22.

¹⁰⁷HMC 45, 4th Report, 75.

¹⁰⁸NAS GD 112/39/137/15 Secret Committee to Breadalbane, 23 May 1685; HMC 44, 15th Report, 110; NAS GD 160/529/9, James to Perth, 1 June 1685.

¹⁰⁹HMC 44, 15th Report, 110.

¹¹⁰NAS GD 160/529/10; NAS GD 160/529/9; NAS GD 160/529/11, James to Perth, 10 June 1685.

¹¹¹Willcock, *A Scots Earl*, 378.

¹¹²NAS GD 406/1/7548, [Hamilton] to Arran, 7 June 1685; Fountainhall's *Selections*, 168; Fountainhall's *Notices*, 646.

¹¹³*CSPD* (February to December 1685), 161; Childs, J., *The Army, James II and the Glorious Revolution* (Manchester, 1980), xiii, 2. For more information of the Scots brigade in Holland, see *Papers Illustrating the History of the Scots Brigade in the Service of the United Netherlands 1572-1782*, volume i (1572-1697) (Scottish

against Argyll in Scotland. Although James refused the offer of his son-in-law to accompany the regiments on their journey, the Prince of Orange did provide the Scottish troops with a protective convoy.¹¹⁴ As it happened, this escort needed only to take them as far as England. As Sunderland informed the Archbishop of Armagh on 30 June, the Scots Regiments “lately commanded to pass out of Holland into Scotland, being countermanded in the suppression of the rebels there, arrived this morning at Gravesend.”¹¹⁵ Having landed in England on the very day that Argyll was executed in Edinburgh, the Scots Regiments thus proceeded to defend their King on English soil.

This development occurred for three reasons. Perhaps the most significant of these was that before the regiments had actually returned it had become clear that Argyll was in the throes of defeat: he had abandoned his fortifications and ships in the west, his provisions and arms had been secured and the government forces were in hot pursuit of their main enemy.¹¹⁶ In essence, there was no longer the pressing need in Scotland for the support of the three Regiments from Holland. Conversely, and to the second reason for the relocation of the troops, Monmouth’s offensive was still a worry in England, the rebel Duke not being crushed by the King’s forces until the Battle of Sedgemoor on 6 July. Simply, there was more need for the support of three additional regiments in England. The third reason as to why the Scots Regiments did not reach Scotland was an economic one. James made the decision to utilise the Scots in England on the grounds that there were more than enough men already in Scotland, but also because Scotland “had more forces then ther uas cashe to pye”.¹¹⁷

The capture of Argyll afforded James further opportunity to consolidate his forces in against Monmouth in England. James added to the three Scottish regiments already bound for England by sending additional orders to the Scottish Privy Council

History Society, first series, volume xxxii (Edinburgh, 1899).

¹¹⁴PRO SP8/3, James to Prince of Orange, 2 June, 12 June 1685, ff 253, 256; *CSPD* (February to December 1685), 175.

¹¹⁵*CSPD* (February to December 1685), 237.

¹¹⁶*Ibid*, 202, 206.

¹¹⁷HMC 45, 4th Report, 78.

on 26 June.¹¹⁸ Under the ultimate command of Dumbarton, a force consolidated from the Regiment of Guards, Mar's regiment, Claverhouse's forces and two additional troops of dragoons was created and ordered to go to the Scottish side of Carlisle. The Council was unhappy about the removal of the standing forces until the rebellion had been completely crushed and Moray's assurance to Queensberry that "The King leaves your brother Coll. Douglas to command in Scotland"¹¹⁹ did little to assuage this. James, however, remained adamant that the Scottish forces should be stationed near Carlisle.¹²⁰ In addition to assistance from Scotland, James wrote to the Lords Justices of Ireland on 26 June informing them that whereas Scotland no longer needed their aid, they should send 1000 foot soldiers over to Chester.¹²¹ Whilst bolstering his troops against the Monmouth rebellion James had also introduced a number of Catholics to his army, a policy which ultimately led to the English Parliament voicing its concerns over the matter, after which James chose to prorogue it in November 1685.

Irrespective of the vigorous searching of the professional government forces, Argyll had in fact eventually been apprehended by some civilians in Renfrew, one of whom apparently gave Argyll "a great skelp on the head" with a rusty sword.¹²² Government ships blocking the Kyle of Bute had prevented Argyll from sailing towards a Lowland port after he had stationed his men at Ellan-Gheirrig Castle, and Atholl's troops to the north likewise obstructed Argyll's exit in that direction. As such, the Earl had been forced to begin a circuitous march towards the south where he eventually met his fate at the hands of a weaver named John Riddell, who received the sum of £600 Scots for his efforts.¹²³

Argyll was first taken to Glasgow before being transferred to Edinburgh on 20 June, the news of his secure imprisonment being met with appreciation from the

¹¹⁸RPCS, xi, 85.

¹¹⁹HMC 45, 4th Report, 82.

¹²⁰RPCS, xi, 86, 93, 103.

¹²¹CSPD (February to December 1685), 288.

¹²²Linklater and Hesketh, *For King and Conscience*, 135; *Memoirs of Sir John Reresby*, 379.

¹²³Willcock, *A Scots Earl*, 381, 382-3, 395; RPCS, xi, x, xxix; Wodrow, *Sufferings*, iv, 294, 297; The weaver is named as Semple by Linklater and Hesketh, *For King and Conscience*, 135.

administration.¹²⁴ A royal letter of 22 June indicated to the Council that they should “take all ways” to elicit information from Argyll regarding his associated and ultimate aims, but that he should be tried as a traitor within three days.¹²⁵ Although Argyll was interrogated quite incessantly, it appears that he was not in fact subjected to any form of torture.¹²⁶ Argyll’s justifications for his actions emerged during the questioning: these included that he had been unjustly attainted in 1681 and was due no allegiance to James VII until the King had taken the Coronation Oath.¹²⁷

Whilst Argyll awaited death, by virtue of his old sentence of 1681, the precise method of his execution was hotly debated. Despite the argument being forwarded that Argyll had lost his right to the noble privilege of beheading when he was found guilty of treason, something which was seemingly compounded by the fact that he was referred to only as Mr. Campbell throughout proceedings, it was finally decided by the Council that beheading should be the means by which he died.¹²⁸ On 30 June 1685, Argyll was thus executed in Edinburgh, an action which Burnet reported as “looked on as no better than murder.”¹²⁹ From the scaffold, Argyll addressed the assembled crown in a speech which was largely a compendium of Biblical quotations and which alluded to the fact that he saw his circumstances as being God’s “speciall providence”.¹³⁰ In essence, Argyll used his scaffold speech to project the notion that he was a Protestant martyr.

During the course of his imprisonment whilst awaiting execution, Argyll was seemingly in very good spirits, the Chancellor writing on 21 June that he was, “as merry a man as can be.”¹³¹ Though Argyll was given materials with which to write

¹²⁴BL Add 19254, Hamilton to Perth, 27 June 1685, f70; Robert Boyle to Perth, 15 July 1685, f71.

¹²⁵NLS MS 1945, Records of the High Court of Justiciary, Criminal Proceedings February 1584 - July 1685, f452; *RPCS*, xi, 84; Wodrow, *Sufferings*, iv, 300.

¹²⁶NLS Wod Oct IX (xxix), Interrogatories for the late Earle of Argyle, f159; Wodrow, *Sufferings*, iv, 299 -300.

¹²⁷Burnet, *History of His Own Time*, ii, 296.

¹²⁸*RPCS*, xi, 85, 86; Willcock, *A Scots Earl*, 409.

¹²⁹Burnet, *History of His Own Time*, ii, 296-7.

¹³⁰NLS Wod Qu XXVI (xxi), The Last Speech and Testimony of the Late Earl of Argyll, 1685, ff213-4; NLS Wod Qu XXXVI (lix), Argyll’s Last Speech, f214; Wodrow, *Sufferings*, iv, 305-6.

¹³¹NAS GD 406/1/9225, Perth to [Hamilton], 21 June 1685.

whilst in prison, he did not mirror the actions of Monmouth, who chose to occupy his time by penning letters to influential people with the intention of escaping with his life. Monmouth wrote to the Queen Dowager beseeching her to intervene on his behalf so that his life could be spared.¹³² He also wrote directly to James begging leave to speak to him in person, shifting blame for his actions onto some “horrid people” who led him astray, and even accusing James of giving him false hope.¹³³ In contrast, Argyll chose to spend his time writing an account of what had lately passed, letters to loved ones, his speech for the scaffold and his own epitaph, the last of which alluded to the “endless glory” he would gain in death.¹³⁴ Throughout his imprisonment, Argyll apparently accepted his fate as his destiny, as a means by which he could better serve God. Although some of his writings do betray a degree of resentment at the way in which many of his supporters conducted themselves throughout the course of the campaign in Scotland,¹³⁵ Argyll remained at all times assured in his conviction that everything had happened as a result of the will of God. Certainly, Argyll’s letters to his wife, his son, James, and Lady Sophia, written on the day of his execution, show a solid and unwavering trust in his Lord and display an optimistic quality which was clearly derived from his faith.¹³⁶

The depth of Argyll’s spiritualism can also be seen from the words he spoke to his visitors, as well as from his writings. Upon hearing that the manner of his death was being debated, Argyll said to his sister, Lady Lothian, “I have given up myself to the Lord’s disposal, and am assured of my salvation: as for my body, I care not what they do with it.”¹³⁷ On the day of his execution he apparently said, “I have more joy and comfort this day than the day after I escaped out of this castle.”¹³⁸

¹³²BL Lansdowne 1236, Monmouth to the Queen Dowager, 9 July 1685, f 229.

¹³³BL Harley 7006, ff 197, 198; Clarke, *The Life of James II*, ii, 35-6.

¹³⁴Wodrow, *Sufferings*, iv, 307.

¹³⁵Ibid, 298.

¹³⁶NLS Wod Qu XXXVI (lviii), Letters of the Earl of Argyll to his wife and Lady Sophia, 1685, ff213-4; NLS Wod Qu XXVI (xxi), Letter to Lady Sophia, f217; NLS MS 3145, Yule Collection, Royal Letters, Earl Argyll to his son on the day of his execution, 30 June 1685, f82.

¹³⁷Wodrow, *Sufferings*, iv, 301.

¹³⁸NLS Wod Qu XXXVI (lx), An account of some things said by Argyll on the day of his execution, 28 June 1685 [the actual date of his execution was in fact 30 June 1685], f217; Wodrow, *Sufferings*, iv, 302.

Having had Argyll brought into custody, on 24 June 1685 the Council issued a proclamation for apprehending several other traitors and fugitives in which it was declared that all subjects, especially sheriffs and magistrates, should apprehend the named individuals using “warlike force against them”.¹³⁹ Evidence that the Council was desperate to see an end to the invasion at any cost can be seen from the fact that it agreed to “pardon them [those who apprehended the rebels] of any blood, slaughter, mutilation, fireraising, or such like inconveniences which may fall out in this our service.”¹⁴⁰ A victory for the government at this time was the capture of the notorious Rumbold (see page 205), who was swiftly tried, found guilty of being the commander of a party of rebels led by Argyll, and executed on 26 June 1685.¹⁴¹ Rewards, ranging from 500 to 1800 merks, were also put on the heads of various prominent rebels, which was perhaps instrumental in bringing Sir John Cochrane and his son into custody on 1 July.

In addition to having been forfeited by the Parliament, Cochrane, along with his son and William Spence, had also been sentenced to death, though they all managed to evade execution. Following the interception of Dumbarton, they were reprieved with the intention of making them testify against other rebels. Indeed, shortly after Monmouth’s seizure in England, James sent a yacht for the two Cochranes and Colonel Ayloff so that they could give evidence to the authorities there about various traitors and the nature of their crimes against King and country.¹⁴²

Others were even more fortunate than Cochrane, managing to flee to Holland in the aftermath of the failed rebellion. One such figure was Sir Patrick Home, the process of forfeiture against whom was completed on the same day as that against Cochrane. Home only returned to Scotland after accompanying the Prince of Orange in his voyage to England in 1688.¹⁴³ Also forfeited on the same day as Cochrane was George Pringle of Torwoodlee, another whose process had begun in January 1685 as a result of having been instrumental in assisting Argyll after his escape from

¹³⁹*RPCS*, xi, 78; Wodrow, *Sufferings*, iv, 311-2; Maidment, *The Argyle Papers*, 33.

¹⁴⁰*Ibid.*

¹⁴¹NLS MS 1945, f452; Wodrow, *Sufferings*, vi, 314-5.

¹⁴²HMC 45, 4th Report, 85; Fountainhall’s *Selections*, 208.

¹⁴³*The Parliaments of Scotland*, Young, 353.

Edinburgh Castle and having been implicated in the Rye House Plot.¹⁴⁴ Torwoodlee also made his way to Holland after the Argyll rebellion, having previously fled there in 1683 as a result of being pursued by the government.

The Political Aftermath of Rebellion

For the Scottish government there remained the problem of prosecuting several hundred prisoners who had played roles in the rebellion. Whereas an assessment was made by Erroll, Marischal and Kintore to ascertain which prisoners in Dunnottar would take the Test and live peaceably, those rebels guilty of more serious crimes were executed “as a warning.”¹⁴⁵ In spite of this, there was no Scottish equivalent to the Bloody Assizes that were witnessed in England, and which were responsible for an estimated 331 people being hanged and quartered.¹⁴⁶ In fact, only one execution actually took place in Scotland after the death of Argyll, the rest of those under such sentence apparently being reprieved at later dates.¹⁴⁷ With the jails unable to cope with the volume of prisoners deemed too risky to be liberated in Scotland, and with the rebel prisoners being more numerous than James thought fit to execute,¹⁴⁸ the most viable option, it seemed, was to transport the rest to the plantations with the warning that if any returned to Scotland they would be hanged. Amongst the number ordered to be banished were Argyll’s sons, Charles and John, as well as Lord Neil’s son, Archibald.¹⁴⁹

The associates of Argyll, however, fared slightly better than some of the religious prisoners who were to be transported along with them as punishment for crimes such as attending conventicles, withdrawing from the established church, resetting and corresponding with rebels or refusing to take the Oath of Allegiance.¹⁵⁰ Around forty such prisoners who adamantly refused to acknowledge James’s rightful

¹⁴⁴Ibid, 574; Wodrow, *Sufferings*, iv, 226.

¹⁴⁵RPCS, xi, 96, 123; Wodrow, *Sufferings*, iv, 325-6.

¹⁴⁶Fountainhall’s *Selections*, 220.

¹⁴⁷Wodrow, *Sufferings*, iv, 308, 320; Mitchison, R., *A History of Scotland* (London, 1990), 274.

¹⁴⁸RPCS, xi, 123.

¹⁴⁹Ibid, 153; Wodrow, *Sufferings*, iv, 320.

¹⁵⁰Wodrow gives a detailed list of those sentenced to be banished in 1685, *Sufferings*, iv, 216-223.

authority were ordered to have one of their ears cut off, a punishment devised by the Secret Council and accepted by James, the equivalent for women being to have their cheek branded.¹⁵¹ However, the intense grievances amongst the Protestant nonconformists persisted, the execution of Argyll and the proliferation of banishments being amongst those added to traditional complaints in late 1685.¹⁵² Perth advised, on his departure for London in September 1685, that the Committee of Public Affairs meet on a weekly basis and call a meeting of the Council if necessary.¹⁵³ The vociferous efforts of the administration against religious rebels allowed the Council to report to the King on 21 September that “there is greater quiet in the western shires than has been in them these many years bypast.”¹⁵⁴

The same could not have been said about the Highlands. Unrest and robberies had dictated that a government military presence had remained in some Highland districts, even during the Argyll rebellion.¹⁵⁵ After the Commission for Securing the Peace of the Highlands was renewed in July 1685,¹⁵⁶ lawlessness continued to the extent that a royal letter of 12 December 1685 demanded an explanation for the relapse of the Highlands into disorders of the scale witnessed before the inception of the Commission under Charles II.¹⁵⁷ Hopkins attributes the ineffectiveness of the renewed Commission to the liberty allowed to it.¹⁵⁸ Macinnes asserts that, despite the renewal of the Commission, less emphasis was hereafter

¹⁵¹*RPCS*, xi, 114-8.; HMC 44 15th Report, 82, 105; Fountainhall asserts that the women were to be burnt on the shoulder, *Chronological Notes*, 140; Fountainhall's *Notices*, 658; Wodrow claims that the women were to be marked on their hand, *Sufferings*, iv, 217, though names various examples of women who were ordered to be burnt on the cheek, iv, 218.

¹⁵²NLS Ry 1.2.115 (19), *The Declaration and Apology of the Protestant People, That is of the Noblemen, Barrons, Gentlemen, Burgesses, Commons of all sorts, Now in Armes within the Kingdom of Scotland* (Edinburgh) [1685], 2, 3.

¹⁵³Wodrow, *Sufferings*, iv, 211.

¹⁵⁴*RPCS*, xi, 190.

¹⁵⁵*Ibid*, 16, 57.

¹⁵⁶NLS 1.2 (154), *A Proclamation for Securing the Peace of the Highlands*, dated 20 July 1685 (Edinburgh, 1685), *RPCS*, xi, 103; *RPCS*, xii, xxvii.

¹⁵⁷*RPCS*, xi, 170, 395.

¹⁵⁸Hopkins, *Glencoe*, 104.

given to cooperation with the clan elite than was afforded to retribution for the depredations of the Highlanders during the course of their service under Atholl.¹⁵⁹

At the height of the Argyll rebellion, Atholl was given repeated orders to destroy the goods and houses of rebels.¹⁶⁰ In addition, in the wake of the capture of Argyll, he was commanded by the Secret Committee to either kill or apprehend all who had allied themselves to the rebel Earl: all heritors, along with “a hundred of the Chief ringleaders of the Tenants and Commons”,¹⁶¹ were to be executed in accordance with Atholl’s powers of justiciary, the estates of the heritors being forfeited to the King and the goods of the others being disposed of as Atholl saw fit. Despite the existence of such extreme orders from the most powerful group in Scottish politics, the actions of Atholl’s troops were seen as having exceeded necessity. Macinnes thus attributes the greater reliance on the military option in terms of peacekeeping in the Highlands directly to the behaviour of Atholl’s troops during the Argyll rebellion, although Breadalbane was also accused, by Wodrow, of allowing his men to act severely against Argyll’s tenants and men.¹⁶² Macinnes argues that the good work of the Commission for Securing the Peace as established in the reign of Charles II, “was largely undone by the overindulgence of clansmen mobilised under the command of the marquis of Athol to suppress the earl of Argyle’s rebellion.”¹⁶³ The chance to wreak revenge on the lands of Argyll was an opportunity evidently welcomed by around 4000 clansmen who, in the aftermath of the ‘Atholl raid’, were once more subjected to the repression central government felt was warranted as a result of the resurrected image of the savage Highlander. The net

¹⁵⁹Macinnes, A.I., ‘Repression and Conciliation: the Highland Dimension 1660-1688’, in *The Scottish Historical Review*, 65(2), (1986), 193. Macinnes dates the renewal of the Commission to July 1686, though this is likely a typographical error as the Council records show that it was reactivated on 20 July 1685, *RPCS*, xi, 103.

¹⁶⁰NAS GD 406/1/9411, Secret Committee to Atholl, 20 May 1685; NAS GD 406/1/9410, same, 31 May 1685.

¹⁶¹NAS GD 406/1/9410/1, Secret Committee to Atholl, 23 June 1685. Speck appears to mistakenly date the order to ‘kill or apprehend all those who joined with the late Argyle’ to 31 May, Speck, *James II*, 88, 98. The letter of 31 May to Atholl in fact only refers to the destruction of the property of men who joined with Argyll, NAS GD 406/1/9410, Secret Committee to Atholl, 31 May 1685.

¹⁶²Macinnes, ‘Repression and Conciliation’, 193; Wodrow, *Sufferings*, iv, 310.

¹⁶³Macinnes, ‘Repression and Conciliation’, 193.

result of this was that peace in the Highlands was not as effectively maintained as had been the case under the earlier Commission, which had genuinely cooperated with the Highland elite to achieve mutually agreeable ends.

Such was the continued volatility of the situation that the Council ultimately turned to Lieutenant-General Drummond, later Viscount Strathallan, for help. In July 1686 the Council authorised him to send a company of foot to Argyll, supplementing this in September with a commission for Strathallan to settle the region. Certainly, he appeared to have more success than his predecessors, for in November he reported that he had, “reduced the Highlands to a full peace and quiet.”¹⁶⁴ Despite this report, however optimistic, the Council nevertheless continued to place emphasis on repressing notorious districts, particularly Lochaber.¹⁶⁵

Conclusion

On 6 February 1685 Charles II died and his brother, a Roman Catholic, was subsequently proclaimed James VII and II. Despite James’s religious convictions, there was no public outcry upon his accession to the throne that even closely rivaled the Exclusion Crisis some years earlier, when the mere possibility of a Catholic on the throne of England had been deemed so abhorrent that the House of Commons passed a Bill of Exclusion. The succession of James in 1685 was smooth and unchallenged: the numerous expressions of loyalty were seemingly both genuine and dutiful, and there was no hint whatsoever of the adverse popular opinion surrounding his religion that had been apparent a few short years earlier.

Despite this, James experienced the ongoing threat posed by the Covenanters. His lenient tendencies were shown by the rapid issuing of an Indemnity, but the limitations it encompassed, along with the renewal of commissions to suppress religious dissent, rendered this somewhat impotent. Indeed, the continuation of commissions simply succeeded in prolonging the Killing Times, evidence for which can be seen in the escalation of the number of executions of remnant Covenanters in the period between January and May 1685.

¹⁶⁴*RPCS*, xii, xxvii.

¹⁶⁵Macinnes, ‘Repression and Conciliation’, 194-5; *RPCS*, xiii, lxii, 291-2, 352, 354.

The most significant threat to James VII came from the Earl of Argyll and the Duke of Monmouth. Nonetheless, the invasions from abroad by Argyll and Monmouth, both of whom professed James to be a usurper of his own rightful throne, simply served to accentuate the allegiance the Scots and the English had to their legitimate monarch. In short, the real downfall in each rebellion was that they rested on the principle of overturning a King whom centuries of convention and precedent dictated should have succeeded the thrones on the death of Charles II. For the moment, James's religion was not reason enough to discard such a considerable history, particularly for the Scots, for whom no alternative was offered by the leader of the insurrection which invaded their shores. Even when James later chose to unilaterally dispense special commissions to Roman Catholics in order to allow them to serve in political and military offices, no monumental opposition arose. It was simply easier to sweep the matter aside as a temporary grate on Protestant principles. James's Catholicism was not enough in itself to alienate his subjects and provide sufficient reason for them to join a rebellion to oust him. Thus James successfully weathered this early assault on his monarchy.

CHAPTER 7

James VII and Scottish Politics in the First Year of his Reign

Introduction

The Argyll rebellion occurred whilst the Scottish Parliament was in session, between 23 April and 16 June 1685. As a direct consequence of the invasion, the design of which was suspected well before Argyll left Holland on 1 May, the Parliament sanctioned various measures that augmented James's powers. Particular laws were made against Argyll and his supporters, and the Covenanters, who posed the other significant threat to Scottish stability, also bore the brunt of uncompromising legislation. Though the Covenanters would undoubtedly have been targeted regardless of the Argyll rebellion, the invasion, or likelihood thereof, meant that the government could not afford to be preoccupied with any simultaneous domestic threats posed by the militant elements of the Covenanting movement, namely the Cameronians. Argyll's attack essentially fuelled the government to do everything in its power to put a speedy end to the disruptions caused by the Covenanters. The 1685 Parliament also showed its loyalty to James VII through the Excise Act, which granted him more money than had previously been made available to the monarch and included such lavish expressions of his power that Stewart absolutism was continued unhindered.

The Parliament which had met in 1681 had been repeatedly prorogued by Charles until 10 March 1685, the intention being for James to continue his position as High Commissioner to the Scottish Parliament.¹ At the beginning of 1685, the Duke of Hamilton, as Keeper of Holyrood House, had been ordered to make the Palace ready for the arrival of James in Edinburgh and the Earl of Queensberry, as High Treasurer, had been commanded to make all the other necessary preparations, including the purchase of two new kettle drums for the impending celebrations.² The death of Charles, however, superseded the plan to make James High Commissioner to the Scottish Parliament. Additionally, the accession of James generated intricate debates about the legality of the situation, specifically concerning whether or not the

¹ *CSPD* (May 1684-February 1685), 204.

² *Ibid*, 276, 277; *HMC* 45, 4th Report, 204.

Parliament called by Charles still held. Leading the precise objections to this was the argument that, “it might be of a dangerous preparative to the Government to assert it continued in being; for then a Parliament called by a King might convey without the consent of the succeeding King, and make Acts prejudicial to him”.³ Largely on these grounds, it was eventually decided that it would be more legal to call an entirely new Parliament.

Even before this Parliament met, there were signs of discord in the Scottish administration. The most notable initial schism was between Melfort and Queensberry. In time, Moray, Perth, Hamilton and Middleton became involved, and there developed two distinct parties within the government. On one side, there was Queensberry, Moray and Middleton. On the other were the two Drummond brothers, Perth and Melfort, who were joined by Hamilton. Though Hamilton and Queensberry had once formed an alliance against Lauderdale, relations between the two became increasingly strained after Queensberry accepted a place on the Privy Council some years previously.⁴ Having ordered them to lay aside their ‘piques’ during the Argyll rebellion,⁵ within six months of his accession, James VII was forced to intervene more directly in an attempt to quell the mounting tension between the most prominent men in his Scottish administration.

Preparations for the First Session of the First Parliament of King James VII

James VII called his first Parliament to meet on 9 April 1685, though this was later prorogued until 23 April, which was the same date on which the coronation would take place in England, symbolically also St George’s Day.⁶ Although the

³ Fountainhall’s *Notices*, 616.

⁴ MacIntosh, G.H., “The Scottish Parliament in the Restoration Era, 1660-1681”, (University of St Andrews PhD thesis, 2002), 273, 283; Hutton, R., *Charles the Second, King of England, Scotland, and Ireland* (Oxford, 1989), 388.

⁵ NAS GD 160/529/7, James to Perth, 10 May 1685.

⁶ NLS Ry 1.1.96 (1), *The Coronation of their Sacred Majesties King James the Second and Queen Mary* (London and Edinburgh, 1685), 1; *The Day being the Festival of St George, the Coronation of their Sacred Majesties King James the Second and Queen Mary, was performed at Westminster in manner following...* (Edinburgh, 1685); *The Life of James II King of England, &c, Collected out of Memoirs Writ of His Own Hand*, Clarke, J.S. (ed), (London, 1816), volume ii, 10; *RPCS*, x, 155-6, 195-6; *RPCS*, xi, 11; Wodrow, *Sufferings*, iv, 259.

coronation “was performed in a most splendid manner”,⁷ the ceremony was somewhat abridged from the precedent established by his brother. The most notable difference was that the Anglican communion was omitted from James’s service, an alteration that was necessary because James had recently worshipped as a Catholic in public for the first time.⁸ Significantly, James was never crowned by the Scots as their King, nor was he pressed to take the Scottish Coronation Oath. Wodrow wondered at this, stating that James “might have swallowed it as well as the English. His loyal servants here did not give him the trouble of it, either as being entirely satisfied with the king’s good intentions, or willing to go along with his designs be what they would.”⁹ In all likelihood, James was able to take the English Oath on the grounds that, as Fountainhall pointed out, it was “not verie speciall as to the Protestant or Popish religion, but runs in somewhat general termes.”¹⁰ James’s failure to take the Scottish Coronation Oath made his later forfeiture by the Convention of Estates in 1689 an easy task and, as was seen in the previous Chapter, was one of the reasons Argyll felt he owed James no allegiance.

With the death of Charles having altered the original plan for James to have been High Commissioner, an abundance of rumours circulated about who would be James’s choice as his replacement. It is interesting to note that there appeared to be no suggestion of James attending the Parliament in person, his adoption of the established role of an absentee monarch apparently being accepted by the Scots without question. Fountainhall recorded that Hamilton, Gordon, Queensberry, Middleton and Lundin were all named as potential candidates for the position of High Commissioner by the tattlers. More startlingly, an Englishman, Colonel Legge, Earl of Dartmouth was also mentioned as a feasible Commissioner. Legge was an old friend of the new King whom, it was said, wanted to use the appointment of Legge as a means by which to unite the kingdoms of England and Scotland.¹¹ Despite the fancies of the many gossips and irrespective of contemporary designs to have Lundin offered the position, James, after the intervention of Middleton, chose

⁷ NAS GD 112/39/137/3, Sir Andrew Forrester to [Breadalbane], 25 April 1685.

⁸ Speck, *James II*, 37.

⁹ Wodrow, *Sufferings*, iv, 202-3.

¹⁰ Fountainhall’s *Selections*, 159.

¹¹ Fountainhall’s *Notices*, 620.

the staunchly Protestant Queensberry to fill his former role as High Commissioner to the Scottish Parliament.¹²

On 7 March Perth and Queensberry, both of whom were to be honoured with an appointment to the English Privy Council during their stay, set out for London amidst a farewell from the officials of Edinburgh.¹³ The principal reason for this trip was to allow them, as Chancellor and Treasurer respectively, to receive the new King's commands on Scotland, the most pertinent of which concerned the meeting of the Scottish Parliament. Also given leave to attend the Court was the Archbishop of St Andrews, although Secretary Moray assured Queensberry that the cleric would neither be put on the Secret Committee or have any power "to doe any thinge".¹⁴

That James had previously had such a favourable experience with the Scottish Parliament of 1681, which had proven most cordial in terms of the legislation it passed, particularly the Act of Succession, undoubtedly persuaded him that there should be a Parliament held in Scotland prior to one in England. In essence, it was hoped that the Scottish Parliament would provide a good example to the English through their expected compliance with the wishes of James.¹⁵ As preparations for the Scottish Parliament were underway, as has been seen, simultaneous provisions were being made for an invasion by Argyll. By the time the English Parliament met, on 22 May, Argyll had already landed and Monmouth's landing was imminent. As it happened, both Houses of the English Parliament did indeed show their duty and loyalty to James, though this was no doubt secured more by the threats posed by the rebellions of the Earls of Argyll and Monmouth than by the example of their Scottish counterparts.¹⁶

¹²Fountainhall's *Chronological Notes*, 125; Fountainhall's *Notices*, 622.

¹³NLS 1.24 (242), *Caledonia's Farewell to the ... Earl of Perth ... and Duke of Queensberrie ... March 1685* (Edinburgh, 1685); *Extracts from the Records of the Burgh of Edinburgh*, (1681-1689), 139.

¹⁴HMC 45, 4th Report, 44, 46.

¹⁵Clarke, *The Life of James II*, ii, 10; HMC 44, 15th Report, *The Manuscripts of his Grace the Duke of Buccleuch and Queensberry, K.G., K.T., Preserved at Drumlanrig Castle* (London, 1897), 79-80; Wodrow, *Sufferings*, iv, 259, 260; Fountainhall's *Notices*, 620.

¹⁶HMC 45, 4th Report, 79, 100; Fountainhall's *Selections*, 173.

During his month-long stay in London, James warned Queensberry “to suffer nothing to pass to the prejudice of the Roman Catholics more than was already”.¹⁷ Undoubtedly, this was in part due to Queensberry’s sentiments: according to Burnet, the newly appointed High Commissioner, “told the king, that if he had thoughts of changing the established religion, he could not make any one step with him in that matter.”¹⁸ Having assured Queensberry that this was not on his agenda, James outlined his intentions for the Parliament; to give assurances about religion, to get the revenue settled and to enact any other laws as may be necessary for the general safety of Scotland.¹⁹ His fears about the prospect of any alteration to the established religion having thus been allayed by James, Queensberry determined to ensure the Parliament carried as much for the security of the monarchy as was possible, matters of finance and the protection of the royal prerogative being highest in priority.

The formal Instructions for the 1685 Parliament were drawn up by James, Perth and Lunĉin, and comprised 41 individual articles, nearly all of which were passed into law during the course of the Parliament.²⁰ Correspondence continued after the first draft of these Instructions had been drawn up, Additional Instructions being developed to cover such matters as the privileges of the Senators of the College of Justice, the plantation of teinds and the promotion of trade and manufacturies.²¹ The measures later laid aside by the King included those which ordered “an act for clearing the crimes of resett and intercommuning” and, “an act for free coinage.”²² The Instruction relating to the introduction of a further act of Indemnity was halted when the Argyll rebellion broke out, James writing to Queensberry that it was not fit for his service to pass an Indemnity at that time.²³ That there was no resolution to the insurrection before the rising of the Parliament on

¹⁷Fountainhall’s *Chronological Notes*, 150-1; Rait, R.S., *The Parliaments of Scotland* (Glasgow, 1924), 88; Turner F.C., *James II* (London, 1948), 368.

¹⁸*Bishop Burnet’s History of His Own Time from the Restoration of King Charles II to the Conclusion of the Peace of Utrecht in the Reign of Queen Anne*, volume ii, (London, 1815), 298; HMC 44, 15th Report, 80.

¹⁹Burnet, *History of His Own Time*, ii, 298-9; Clarke, *The Life of James II*, ii, 10.

²⁰HMC 44, 15th Report, 80, 91-3.

²¹*Ibid*, 94-8.

²²*Ibid*, 91, 92.

²³*Ibid*, 103.

16 June meant that the matter of the Indemnity was not addressed at all by the Parliament.

In a letter dated 16 April, Moray informed Queensberry that the intended act to ratify all former laws for the security of the Protestant Religion was to be based on the first Act of the 1681 Parliament, passed when James himself was High Commissioner. This was despite the fact that it had been previously agreed, when Queensberry was in London, that the similar Act of Charles I would be used as a precedent as it did not specifically mention the 'Protestant Religion'. This development evidently resulted from Moray having convinced James of the necessity of the inclusion of specific reference to the Protestant religion. The King, however, was adamant that the phrase 'and all acts against Popery' should be omitted in case it gave the English Parliament any ideas.²⁴

In terms of elections in 1685, which were required as a result of James calling a new Parliament, Sir John Lauder of Fountainhall viewed the election held in the shire of Edinburgh as unlawful. The precise illegality, according to Fountainhall, originated during the vote in which Sir John Couper of Gogar, who had represented the shire at the 1681 Parliament, was replaced by Sir John Maitland of Ravelrig, who was the second son of Charles Maitland of Halton. The inclusion of the King's Advocate and the Justice-Clerk as voters at the election evidently contravened the rule that precluded Officers of State from all facets of the election process on the grounds that they were not able to be elected themselves by virtue of their status.²⁵ Despite Fountainhall's reservations, the election of Maitland was not formally investigated by the Committee for Controverted Elections as later appointed by the Parliament. It is therefore possible that the lack of formal investigation into the election in Edinburgh is indicative of electoral manipulation by the Court.

The 1685 Parliament (23 April to 16 June 1685)

The Parliament itself consisted of representation from 62 burghs, which gave total of 63 burgh commissioners on the grounds that Edinburgh was eligible to send

²⁴HMC 45, 4th Report, 52.

²⁵Fountainhall's *Notices*, 628.

two commissioners.²⁶ Fifty-nine of the burghs also participated in a burgh convention between 16 April and 4 May.²⁷ As had been the case in 1681, each of the 33 shires were represented, which gave a total of 60 commissioners. In 1685 there were 13 members of the clergy, and 50 nobles, the latter of which included one Duke, two Marquesses, 27 Earls, four Viscounts and 16 Lords.²⁸ In addition, there was Queensberry, the High Commissioner, and two non-noble Officers of State. As well as such usual members of Parliament, the Clerks of Council, the Clerk of the Justice Court and the Sheriffs-Depute of Edinburgh were admitted after a decision taken by the Lords of the Articles at their first meeting.²⁹ Such an innovation is explained by Terry thus: “parliament summoned as extraordinary Members such officials as the nature of public business made it advisable to remain in touch with.”³⁰ That close relations between the Parliament and the Justice Court were apparent can be seen also by the decision to allow the Lords of the Justiciary to continue to meet during the sitting of Parliament.

Excluding the High Commissioner, the two non-noble Officers of State and extraordinary members, the 1685 Parliament had 186 members. This was five less than the 1681 Parliament. Because of the ruling that the Parliament called by Charles was no longer valid and the ensuing necessity that James call his own Parliament, the burghs and shires were thus obliged to elect new Commissioners to Parliament. Whereas the relationship between the shire and burgh membership of the Parliaments of 1681 and 1685 does display a degree of consistency, most of those in attendance in 1685 had no prior parliamentary experience. Of the 60 shire commissioners present in 1685, only 22 had been at the 1681 Parliament. The number of burgh commissioners in 1685 who had been present at the previous meeting was also 22. In terms of the clergy and nobility, however, there was a much higher correlation: 50 of the 63 clerics and nobles present in 1685 had also been at

²⁶*The Acts of the Parliament of Scotland*, T. Thomson (ed), volume viii, (Edinburgh, 1820), 453.

²⁷Mackie, J.D., & Pryde, G.S., *The Estate of the Burgesses in the Scots Parliament and its Relation to the Convention of Royal Burghs* (St Andrews, 1923), 48.

²⁸APS, viii, 451-2.

²⁹HMC 44, 15th Report, 112, 113.

³⁰Terry, C.S., *The Scottish Parliament Its Constitution and Procedure 1603-1707* (Glasgow, 1905), 66.

the 1681 Parliament. As such, excluding the High Commissioner, non-noble Officers of State and extraordinary members, 51% the 1685 Parliament had also been on the rolls of the 1681 Parliament.³¹

On 23 April 1685 proceedings commenced with the customary Riding of the Parliament. As was usual, this had been meticulously planned in the run-up to the opening of the Parliament, a time which had also seen the erection of a lead statue of Charles II in Parliament Close in Edinburgh, estimated to have cost the city £12,000 Scots.³² The apparel and position of each representative to the Parliament, as well as that of each of their servants, had been precisely regulated by the Privy Council.³³ Not everyone, however, was satisfied with the arrangements for the procession. Contention arose between the nobility and the barons over the appropriateness of the garments to be worn by the latter. Whilst the nobles grudged the fact that the barons were allowed to wear silver and gold mixed in the fringes of their foot mantles, the barons argued that they were entitled to such accoutrements by virtue of the fact that they comprised the same Estate as the nobility.³⁴

After the Rolls and the commission to the Duke of Queensberry were read, the Oath of Allegiance was taken and the King's letter to Parliament was read. Although this laid stress on the royal prerogative, it made no mention of any mitigation of the penal laws, as had been rumoured, instead concerning itself more with "fanatical contrivances, murderers, and assassins" as well as, "wild and inhumane traitors".³⁵ Following the reading of James's letter, the Lord High Commissioner gave his speech. In this, Queensberry reiterated the royal pleasure for

³¹APS, viii, 231-3, 451-3.

³²*Domestic Annals of Scotland from the Reformation to the Rebellion of 1745*, Chambers, R., (Edinburgh, 1885), 340; Fountainhall's *Chronological Notes*, 129; Fountainhall's *Selections*, 161; Fountainhall's *Notices*, 635.

³³RPCS, xi, 15, 24, 280; *The History and Antiquities of St. Rule's Chapel in the Monastery of St Andrew's in Scotland*, G. Martin (London, 1787), 222-5.

³⁴Fountainhall's *Notices*, 634; Goodare, J., 'The Estates in the Scottish Parliament, 1286-1707', *Parliamentary History*, xv (1996), 29; Jones, C., (ed) *The Scots and Parliament* (Edinburgh, 1996), 29.

³⁵APS, viii, 455; *His Majesties Gracious Letter to the Parliament of Scotland with the Speeches of the Lord High Commissioner and the Lord High Chancellor; together with the Parliament's Answer to His Majesties Letter* (Edinburgh, 1685); Wodrow, *Sufferings*, iv, 259; Rait, *The Parliaments of Scotland*, 88.

the Parliament: the safeguarding of the King's prerogative, the protection of the government of the Church as it already existed, the maintenance of the just rights and properties of his subjects and the improvement of trade. Echoing James's concerns about traitors, particularly those with religious differences to the government, Queensberry went on to implore the Parliament to enact measures to destroy, "that desperate fanatical and irreclaimable party".³⁶ In addition, Perth used his speech to beseech the Parliament to unite in driving out any who may be perceived as part of that "bastardly brood of villanous men".³⁷ It was abundantly clear that the Court wished to legally arm itself as fully as possible in the continued fight against the rebel Covenanters.

The Appointment of Committees

As was customary, the Lords of the Articles were appointed on the first day of the Parliament, onto the elected core of which Queensberry added the Officers of State.³⁸ Following reciprocal nomination, the Archbishops of Glasgow and St Andrews, the Bishops of Aberdeen, Breichen, Caithness, Dunkeld, Edinburgh and Galloway as well as the Duke of Hamilton, the Marquess of Douglas and the Earls of Erroll, Mar, Marishall, Southesk, Strathmore and Tweeddale became Lords of the Articles. Of the 16 clerical and noble members all except two, the Bishops of Aberdeen and Caithness, had been present at the Convention of Estates in 1678 and the Parliament of 1681.³⁹ The Bishops of Aberdeen and Galloway, as well as Douglas, Mar, Southesk, Strathmore and Tweeddale had not been on the Lords of the Articles in 1681.⁴⁰

The shire representatives thereafter nominated by the clerical and noble Lords of the Articles were John Boyle of Kelburn (Bute), Sir David Balfour of Forret (Fife), Sir Thomas Stuart of Balcaskie (Fife), Sir David Falconer of Newton (Forfar),

³⁶HMC 44, 15th Report, 146; Wodrow, *Sufferings*, iv, 260-1.

³⁷*The Life of James II, Late King of England, Containing an Account of his Birth, Education, Religion, and Enterprizes, both at Home and Abroad, in Peace and War, while in a Private and Publick Capacity, till his Dethronement*, Jones, D. (ed), (London, 1702), 95; HMC 44, 15th Report, 147; Wodrow, *Sufferings*, iv, 262.

³⁸APS, viii, 457; HMC 44, 15th Report, 82.

³⁹APS, viii, 213, 231, 457.

⁴⁰Ibid, 235.

Sir William Bruce of Balcaskie (Kinross), Sir George Lockhart of Carnwath (Lanark), Thomas Dalziel of Binns (Linlithgow) and Colonel James Douglas of Skirling (Peebles).⁴¹ Amongst the shire representatives were some rather influential and prominent men: Boyle was Deputy-Lieutenant to Atholl and was to become instrumental during the sitting of the Parliament in opposing Argyll's forces in his position as Joint Commissary-General of the King's forces; Balfour, as one of the Lords of Justiciary, had been one of the judges at the trial of Argyll in 1681; Stuart was an Ordinary Lord of Session; Falconer had been made Lord President of the Session in 1682 and was also a Privy Councillor; Bruce, an architect, enjoyed the position of Surveyor-General of the King's Works; Lockhart, a lawyer, was Dean of the Faculty of Advocates and had been on the Articles in 1681;⁴² Dalziel was Lieutenant-General of His Majesty's Forces in Scotland; and Douglas was a Colonel of the Scots Guards and the brother of the Duke of Queensberry.⁴³

The burgh representatives of the Articles were Sir George Skeen (Aberdeen), James Smollet (Dumbarton), James Fletcher (Dundee), Sir Patrick Murray (Dunfermline), Sir George Drummond (Edinburgh), John Johnstone (Glasgow), James Boyle (Irvine) and Alexander Milne (Linlithgow).⁴⁴ As was the case with the shire Lords of the Articles, the burgh members also included highly accomplished and prominent figures in the Scottish political arena, three of whom were knights and one of which, Skeen, was to receive a knighthood before the conclusion of the Parliament. The representatives of Aberdeen, Dumbarton, Dundee, Edinburgh, Glasgow, Irvine and Linlithgow were all Provosts of their burghs. Skeen and Milne had also been members of the Articles in 1681.⁴⁵

With the exception of the Articles, which were elected by a process of reciprocal nomination, the other committees of Parliament were all chosen by Queensberry. This was along the lines established in 1663, and was the same manner in which the Committees had been chosen in 1681 by James. The first of these to be appointed was the Committee Anent Controverted Elections. Onto this

⁴¹Ibid, 457.

⁴²Ibid, 235.

⁴³*The Parliaments of Scotland*, Young, 35, 66, 75, 177, 198, 235, 433, 661.

⁴⁴*APS*, viii, 457.

⁴⁵*The Parliaments of Scotland*, Young, 67, 205, 244, 379, 496, 531, 645, 650.

Committee were placed the Bishops of Edinburgh, Ross and Dunblane, Winton, Linlithgow and Balcarras, as well as Sir James Foulis of Ridford, Sir Robert Dalziel of Glenae, the Laird of Orbiston, John Glass, John Easson and Sir Alexander Bruce.⁴⁶ Only the Bishop of Edinburgh and Dalziel of Glenae had been on the Committee for Controverted Elections at the 1681 Parliament, and only the Bishop of Edinburgh was also a member of the Articles.⁴⁷

As well as issuing warrants for new elections in Ross-shire and Perthshire, the elections of the shires of Aberdeen, Ayr, Haddington and Berwick were all addressed by the Committee.⁴⁸ Unlike the 1681 Parliament, no burghal election was disputed in 1685. The decisions regarding the shires of Aberdeen and Berwick appear to have been rather straightforward for the Committee: no grounds were recorded for their decision to favour Sir Alexander Seton of Pitmedden and Sir Charles Maitland of Pitrichy for Aberdeen, though Seton had been present at the 1681 Parliament. As far as Berwick was concerned, the simple reason that Sir Archibald Cockburn of Langtoun, who had been present at the 1678 Convention of Estates, and Archibald Cockburn of Borthwick, “had more liable and valid voters” was enough to secure their future as representatives to the Parliament.⁴⁹ In terms of the shire of Ross, a second election was needed because the son of Viscount Tarbat had been voted in by the first election. On account of his father having become a member of the nobility, it was ordained on 23 April that he could no longer represent the shire at the Parliament.⁵⁰ The shire of Ayr witnessed a series of electoral problems throughout the course of the 1685 Parliament. After a new election was ordered because the electors had not sworn the Test, a double election was returned. This prompting the Lords of the Articles to remit the matter to the Committee Anent Controverted Elections on 12 May, over two weeks after the Parliament had begun.⁵¹

⁴⁶*APS*, viii, 457.

⁴⁷*Ibid*, 236, 457.

⁴⁸NLS Adv MS 25.6.9, Note on decisions in parliament relating to controverted elections 1661-1707, ff3-4 [there is no reference here to matters relating to the election in Perthshire, though the shires of Ross, Aberdeen, Ayr, Haddington and Berwick are all addressed]; *APS*, viii, 457, 458, 461.

⁴⁹NLS Adv MS 25.6.9, f3-4.

⁵⁰*Ibid*, f3.

⁵¹*Ibid*; HMC 44, 15th Report, 119.

The double election in the shire of Haddington, with Sir James Hay of Linplum and Sir John Lauder of Fountainhall each being elected along with John Wedderburn of Gosford, was settled in favour of Fountainhall after the lawyer objected against four of the voters who had favoured his rival, on grounds such as their failure to swear the Test.⁵²

Following the approval of the Act concerning the Excise, which shall be discussed in detail later in this Chapter, Queensberry nominated a subcommittee of the Lords of the Articles to consider the regulation of the collection of the Excise. Upon this were the Duke of Hamilton, the Archbishops of St Andrews and Glasgow, the Earl of Tweeddale, Sir George Lockhart, Sir William Bruce, the commissioners for Linlithgow and Dumbarton, as well as the Officers of State as supernumeraries.⁵³ After several days of deliberation this Committee returned the verdict that the current Parliament need do nothing else in respect of the collection of the Excise, that matter being governed by the Act of 1681 which allowed the monarch to appoint collectors.

The use of subcommittees of the Lords of the Articles was in fact very common in the 1685 Parliament, all of them being nominated by Queensberry. Subcommittees were created to consider issues such as the wording of various draft acts, the guarding of Parliament close, bills of exculpation given in by suspects, trade and the mint, vacant stipends, the even allocation of the supply and the weighing of beer and meal. In total, there were 27 subcommittees of the Articles. Reflected in his choice of personnel on these committees, it is clear that Queensberry favoured using a cross-section of the Lords of the Articles. Indeed, from the minutes of the meetings of the Lords of the Articles, it can be seen that 25 of the total 32 Lords of the Articles were used in subcommittees by Queensberry.⁵⁴ Only the Bishops of Aberdeen, Caithness and Galloway, the Marquess of Douglas, John Boyle of Kelburn and the commissioners for Dundee and Irvine did not feature on any of the subcommittees mentioned in the minutes of the Articles. As well as elected Lords,

⁵²Fountainhall's *Notices*, 630; NLS Adv MS 25.6.9, f4 [only two of the voters Lauder petitioned against are mentioned in this document].

⁵³HMC 44, 15th Report, 114.

⁵⁴*Ibid*, 113-127.

Queensberry repeatedly employed Officers of State, such as the Lord Advocate, the Lord Register and the Lord Justice-Clerk, in these committees.

Proceedings of the 1685 Parliament

When the Parliament turned its attentions to business on 28 April 1685, it did so with apparently minimal diversions. The Earl of Breadalbane, who did not actually take the Oath of Allegiance until the next meeting of the Parliament, wrote of the sitting to the Duchess of Lauderdale: “I beleve our Parliament will mak quick progress for this day ther ar tuo acts passt, the on ratifieing all former laws about religion and the other is for annexing in the Croun the Excyse for ever.”⁵⁵

The 1685 Parliament, in immediately legislating an Act for the Security of the Protestant religion, was simply following the precedent set by former Parliaments. This Act did indeed include the words ‘Protestant Religion’, James having been persuaded of the necessity of this by Moray after initially having favoured the Act of Charles I as a precedent on the grounds it avoided specific mention of Protestantism.⁵⁶ Though the Act of 1685 was substantially similar to former acts for the security of religion, it notably avoided any reference to ‘Popery’, James having remained resolute on this matter. What is interesting to note, however, is that whereas in 1681 a subcommittee of the Articles had been formed with a remit to discuss what should be done in terms of securing Protestantism,⁵⁷ in 1685, despite the intention of the King to omit the material reference to Popery from the act, there was apparently no need for such a committee. In 1685 it seemed that the matter of securing religion was to be closed to debate, though, as Wodrow pointed out, by 1685 “Argyle and other patriots and protestants who bred some trouble about the test, are out of the way.”⁵⁸ In making such a comment, Wodrow was clearly referring only in parliamentary terms to Argyll being ‘out of the way’. As has already been seen, Argyll was still very much a menace to the Scottish

⁵⁵BL Add 23250, Breadalbane to Ds Lauderdale, 25 April 1685, f6. Breadalbane clearly misdated his letter, as the acts mentioned as being passed that day were actually passed on 28 April 1685; *APS*, viii, 460.

⁵⁶HMC 45, 4th Report, 52.

⁵⁷NAS Supplementary Parliamentary Papers, PA7/11/96 f1; NAS PA7/11/12, f1.

⁵⁸Wodrow, *Sufferings*, iv, 266.

administration at the beginning of the 1685 Parliament, the final preparations to his invasion being made as the Scottish Parliament first sat. Undoubtedly the absence of such individuals as Argyll, Sir John Cochrane and Sir John Cunningham, who had all proven, to varying degrees, disputatious over religious matters in the 1681 Parliament, did make the passage of religious acts easier in 1685. The draft Act for the Security of the Protestant religion was voted and approved by the Articles without ado before being offered to the full Parliament, which also accepted without question the revision to the wording which deleted reference to Popery.⁵⁹

The second act was a pledge in which it was declared that the Scottish Parliament would assist the King with their lives and fortunes. In addition, the Excise would be granted to the Crown for all time, the result, it seems, of a proposal by the Duke of Hamilton, a measure for which James asked Queensberry to pass on his favourable comments.⁶⁰ James's efforts in 1681 to bring Hamilton into the sphere of the Court evidently paid off. Having experienced political ostracisation previously, by 1685 Hamilton was clearly determined to continue his partnership with the hierarchy and ingratiate himself further with James. The preamble of the second Act of the 1685 Parliament constituted such vigorous expressions of loyalty and deference to the King's "sacred, supreme, sovereign, absolute power and authority"⁶¹ that it was clear it was enacted partially as a result of the unusual circumstances of the time, namely the presence of the very real threat of invasion from abroad. The 'Declaration and offer of Duty by the Kingdom of Scotland, with an annexation of the Excise to the Crown', in effect reaffirmed Stewart absolutism and firmly acknowledged James's position on the throne. So steadfast was the Act to James that Wodrow attributed it to the depressed state of the Scottish nation, being a perfect example of "how slavish they [the Scots] are in their politics".⁶² It was not just the declaration contained within the Act that has been seen as obsequious,

⁵⁹HMC 44, 15th Report, 112; *APS*, viii, 459; Wodrow, *Sufferings*, iv, 266.

⁶⁰HMC 45, 4th Report, 62; HMC 44, 15th Report, 107.

⁶¹*APS*, viii, 459; *The Laws and Acts made in the First Parliament of our most High and Dread Sovereign James VII, by the Grace of God, King of Scotland, England, France and Ireland, Defender of the Faith, Holden at Edinburgh the 23 April 1685* (Edinburgh, 1685), 2-3; Wodrow, *Sufferings*, iv, 266; Speck, *James II*, 86.

⁶²Wodrow, *Sufferings*, iv, 267.

Donaldson stating that “parliament, in granting him the excise in perpetuity, expressed in the most fulsome terms its belief in hereditary absolute monarchy.”⁶³ It is Rait’s view that the Parliament of 1685 exceeded even the loyalty of the 1661 Restoration Parliament when it annexed the Excise to the Crown for all time, creating for James a far stronger financial position than his predecessors had enjoyed.⁶⁴ James was certainly pleased with the Act, which motivated him to write to Perth that he hoped the Scottish Parliament would “end well having begun with so considerable an act for the advantage of the Crowne.”⁶⁵ Macauley estimated that, in addition to the Excise, which equated to around £480,000 Scots per annum, the Parliament granted other revenues to the Crown worth £216,000 Scots.⁶⁶

In accordance with the wishes of James, Queensberry had called at the outset of the Parliament for new legislation to destroy ‘fanatical dissenters’. The motivation for this as recorded in James’s *Memoirs*, was rather a desire to ensure national security rather than religious persecution.⁶⁷ Regardless of the incentive of James, the introduction of anti-Covenanting laws gained significant support amongst the Scottish hierarchy, especially the nobility. Perth publicly affirmed his personal repulsion for religious dissidents when he declared, “we have a new sect sprung up among us from the dunghill, the very dreggs of the people, who kill by pretended inspiration... whose idoll is that accursed paper the Covenant.”⁶⁸ Undoubtedly, the threat posed by the Argyll rebellion was instrumental providing some motivation to the Scottish government to do everything it could to destroy the internal threat of the Covenanters so that it could concentrate on the external menace of Argyll. That said, it is highly unlikely that the Parliament, even without the prospect of an invasion, would have ignored continued Covenanting activity. Quite simply, a solution to the enduring problem was viewed as essential by the government in order

⁶³Donaldson, G., *Scotland; James V-James VII* (Edinburgh, 1998), 380.

⁶⁴Rait, *The Parliaments of Scotland*, 89; HMC 45, 4th Report, 62.

⁶⁵NAS GD 160/529/6.

⁶⁶Macauley, T.B., *The History of England from the Accession of James II*, volume i, (London, 1849), 495; Speck, *James II*, 86.

⁶⁷Clarke, *The Life of James II*, ii, 13.

⁶⁸HMC 44, 15th Report, 147; Wodrow, *Sufferings*, iv, 262; Cowan, *The Scottish Covenanters*, 128; Paterson, R.C., *A Land Afflicted, Scotland and the Covenanter Wars 1638-1690* (Edinburgh, 1998), 277.

to preserve stability within Scotland and ensure the nation would not degenerate into domestic rebellion once more.

Several acts concerning dissenters were passed.⁶⁹ The first two acts concerned citations and witnesses in processes of treason, the second of which Burnet regarded as a tool with which to facilitate an inquisition. This was on the grounds that it was henceforth ensured that people were obliged, under pain of treason, to answer all questions posed by the Council.⁷⁰ There was also an act which made it treason to take or own the Covenants, which was reported by Wodrow to have passed without contradiction despite being ‘ungodly’.⁷¹ It was further legislated that husbands were liable for any fines imposed on their wives as a result of their withdrawal from the established church, and that it was illegal to preach at or attend field conventicles, which Wodrow saw as being, “flaming evidence of the wickedness of this time.”⁷² On 13 May the Test was extended: henceforth all “protestant heritors, liferenters ...wadsetters, tacksmen having tacks for longer time than for eighteen years, all masters of ships, and other such burgesses, and inhabitants of burghs, whether of royalty, regality or barony, as are not heritors” were required to take the Test before 1 November 1685, under threat of prosecution by the Privy Council if they failed to comply.⁷³ Though this act was approved by the Parliament on the same day that it was presented to it by the Articles, there was evidently some hesitation and stalling beforehand, the Bishops of Ross and Dunblane expressing concern about imposing oaths on ‘ignorant people’, and Sir John Lauder proposing that the Test should not be limited to those of the Protestant religion.⁷⁴ In addition, on 22 May the Act for taking the Oath of Allegiance came into force, thus facilitating the punishment, which could involve banishment or imprisonment, of those who refused to take the Oath.⁷⁵ It is perhaps on the basis of these acts that a contemporary commentator, George Pringle of Torwoodlee, went on to write a

⁶⁹APS, viii, 460-1, 471, 474; *The Laws and Acts ... James VII*, 4-5, 6, 25, 28.

⁷⁰Burnet, *History of His Own Time*, ii, 300.

⁷¹Wodrow, *Sufferings*, iv, 269, 271.

⁷²Ibid, 272.

⁷³APS, viii, 471; *The Laws and Acts ... James VII*, 25; Wodrow, *Sufferings*, iv, 274.

⁷⁴Wodrow, *Sufferings*, iv, 274.

⁷⁵APS, viii, 474; *The Laws and Acts ... James VII*, 28.

scathing indictment of the proceedings of the 1685 Parliament. In correspondence to Wodrow, he wrote that the 1685 Parliament was, “where the finishing stroak was given to the nations liberties, and the King’s dispenseing power established by law, those bloody detestable statuts enacted, that are to the indelible infamy of the propeitors a scandal to the protestant name, a terror to that age, and a wairning its hoped to all posteritie.”⁷⁶

The Act for taking the Test incited some noble resentment, not least of all from Hamilton, who had stalled for some months before finally taking the Test when it had first been introduced in 1681. Hamilton’s sentiments actually appear to have influenced James: in a letter to Queensberry, dated 9 May, Moray wrote that the King “inclyns not to haw the test furder prest upon the Heritors at this time. The rise of this uas from a letter urytin by the Dwk of Hamilton to the Earle of Arran, which he showed the Kinge”.⁷⁷ Although James had been swayed, Melfort certainly was not, writing to Hamilton on 8 May that he was “sory to find that y[ou]r Grace lay such weight on a tolleratione to fanatiques”.⁷⁸ The consequence of being shown Hamilton’s letter by Arran, was that James wrote to Queensberry on 11 May asking for advice on whether a new oath should be constructed, “binding to loyalty and allegiance, abjuring the solemne league and covenants, defensive armes, leavying of warr against us or our authority, with such other clauses as may exclude no loyall subject from taking thereof.”⁷⁹ Clearly, James was not entirely happy with the wording of the former Test Act, which also contained specifically anti-Catholic sentiments. Despite the King writing to Queensberry on this matter, and his further letter which discharged the High Commissioner from pressing on with the Test until advice had been sent relating to the prospect of a new oath, Queensberry did not receive the King’s letters until after the Test had been passed into law in its original form. Despite Hamilton’s opposition, which had sparked a seed of doubt in James’s mind, the letter from the King was too late to intervene in the proceedings of the Scottish Parliament and the Test became law as originally envisaged.

⁷⁶NLS Wod Qu XXXVI (xxxvi) ff134-140, An Account of the sufferings of George Pringle of Torwoodlee, f136; Wodrow, *Sufferings*, iv, 229.

⁷⁷HMC 45, 4th Report, 64.

⁷⁸NAS GD 406/1/9187, [Melfort to Hamilton], 8 May 1685.

⁷⁹HMC 44, 15th Report, 101.

Despite the enactment of the Test Act, Hamilton was vilified for some time for his opposition to it, writing to his son on 10 June that, although he had done all he could to serve James in the recent Parliament, “no man [was] more loaded and cried out against as a betrayer of the protestant religion and the interest of the nation then I am.”⁸⁰ Hamilton patently incurred the wrath of some ‘conformist’ Protestants on the grounds that he had threatened the very act which they regarded as being their protection. Notwithstanding such alienation, Hamilton’s enduring distaste for the Act was so apparent that Moray, who had seen Hamilton at Court in London towards the end of June, commented upon it to Queensberry.⁸¹

The Parliament also enacted various economically favourable Acts, a clear indication of James’s enduring concern for the finances of Scotland, a problem he had first tackled as Duke of York when resident in Edinburgh. A significant piece of legislation, the Act for a Commission of Trade, was enacted on 30 May as a direct result of the proceedings in the meeting of the Articles on the same day.⁸² Although there had been a previous attempt to treat for freedom of trade between Scotland and England, in 1667, this had broken off without conclusion. As such, in 1685 it was decided that a Commission should be established with a view to uniting the trade of Scotland and England. As had been agreed by the Articles, upon this Commission were placed the Archbishops of St Andrews and Glasgow, the Chancellor, Privy Seal and Treasurer, the Duke of Hamilton, the Earls of Moray, Tweeddale and Middleton, the Viscounts Melfort and Tarbat, the Bishops of Edinburgh and Dunkeld, the President of the Session, the Lords Justice-Clerk, Advocate and Balcaskie, Lieutenant-General Drummond, Sir George Lockhart, Colonel James Douglas, the Laird of Lagg, Sir William Bruce, Alexander Milne of Cariddan, Sir Andrew Ramsay of Abbotshall, Sir Patrick Murray and Sir John Falconer.⁸³ The decisions of the Commissioners of Scotland and England over trade and navigation were to have the strength of an Act of Parliament.

⁸⁰NAS GD 406/1/7516, [Hamilton to Arran], 10 June 1685.

⁸¹HMC 45, 4th Report, 80.

⁸²Ibid, 122; APS, viii, 478.

⁸³APS, viii, 478.

There are various influential writers who have bought heavily into the notion that the 1685 Parliament was docile. Whereas Burnet claimed that there was no opposition, Wodrow dubbed the Parliament, “entirely obsequious to a popish king.”⁸⁴ Donaldson echoed these views some years later by stating that “political opposition in parliament and council was quiescent”.⁸⁵ According to the rubric of a contemporary document, which argued that electoral behaviour would show whether or not dissenters chose to follow James,⁸⁶ the congenial nature of the Parliament demonstrated that voters were fundamentally loyal to the new King and therefore chose not to elect troublesome representatives. Rait, however, attributed the fact that “the Parliament envinced the most exemplary loyalty and obedience”⁸⁷ directly to it having been elected under the guidelines of the original Test Act. Moreover, control over the Royal Burghs had been extended by way of reviving the powers of the Chamberlain to inquire into their accounts concerning corporate funds, known as the Common Good, and had succeeded in subduing that group somewhat.⁸⁸ The impact of the Argyll rebellion, however, in rallying the Parliament to support the King certainly cannot be overlooked.

On the whole, the proceedings of the Scottish Parliament were welcomed by James, who “exprest a great deall of satisfaction uithe the procedings”.⁸⁹ Indeed, the King wrote separately to Queensberry and Perth on 3 May congratulating them on how well the Parliament had begun and stating that it would be a good example for the English.⁹⁰ Contemporary feeling in England after the early transactions of the Scottish Parliament mirrored that of James, the Duke of Newcastle writing to Breadalbane on 5 May, “I am very glad the parliament of Scotland has don soe great a service to his maj[es]t[i]e w[i]th out one decenting, and I hope our parli[a]m[en]t

⁸⁴Burnet, *History of His Own Time*, ii, 300; Wodrow, *Sufferings*, iv, 259.

⁸⁵Donaldson, *Scotland; James V-James VII*, 380.

⁸⁶NLS Ry 1.1.96 (2), *The Duty of Subjects Reinforc't Especially in the Choice of Their Representatives to sit in Parliament, in a letter to a friend, occassioned by His Majesties Most Gracious Declaration in Council* (London and Edinburgh, 1685), 3.

⁸⁷Rait, *The Parliaments of Scotland*, 88, 89.

⁸⁸Ibid, 88.

⁸⁹HMC 45, 4th Report, 62.

⁹⁰NAS Papers of the Earl of Perth, GD 160/529/6, James to Perth, 3 May 1685; HMC 44, 15th Report, 107.

will follow the example of yours.”⁹¹ The later unquestioned approval of the King’s prerogative in the Oath of Allegiance simply continued to affirm the loyalty of the Parliament, as did the remarkable lack of controversy, the full Parliament seemingly content to ratify the vast majority of the draft acts passed through from the Articles. In his closing speech to Parliament, Queensberry went as far as to assure the assembled representatives that they “had in loyalty and unanimity exceeded all former parliaments, so the great happiness and security of this nation and his Majesties service will be, that all succeeding parliaments take you for their exemplar.”⁹²

Rait sees there as being only one measure which was not to James’s liking, namely that which made Commissioners of Supply subject to taking the Test.⁹³ The King had given Queensberry the power to nominate, with advice from the Secret Committee, the Commissioners of Supply as well as the Justices of the Peace and the Commissioners for the plantation of churches and valuation of teinds.⁹⁴ Following earlier precedents, however, Queensberry remitted, as a general rule, the choice of commissioners and Justices of the Peace to the noblemen and commissioners for the individual shires.⁹⁵ In November 1685, much to the distaste of many of his Protestant subjects, James, in a measure which overtly contravened the law requiring that the Test be taken by the Commissioners, granted dispensations to 26 Catholic Commissioners of Supply, including the Duke of Gordon (formerly the Marquess of Huntly) and the Earls of Seaforth and Traquair.⁹⁶

The Parliament was not wholly made up of pawns of the Crown. Those Instructions concerning the regulation of the succession to estates in order to protect creditors and the renewal and enlarging of the laws for taking pledges were evidently rejected, as denoted by Queensberry’s own annotations on the original Instructions.⁹⁷ Also, when Queensberry attempted to further diminish the rights of those persons

⁹¹NAS GD 112/39/137/8, Henry, Duke of Newcastle to Breadalbane, 5 May 1685.

⁹²HMC 44, 15th Report, 149.

⁹³Rait, *The Parliaments of Scotland*, 89.

⁹⁴HMC 45, 4th Report, 66; HMC 44, 15th Report, 96.

⁹⁵HMC 44, 15th Report, 133, 136.

⁹⁶*RPCS*, xi, 212; Wodrow, *Sufferings*, iv, 347; Rait, *The Parliaments of Scotland*, 89; Miller, *James II.*, 214; Fountainhall’s *Chronological Notes*, 150.

⁹⁷HMC 44, 15th Report, 91, 92.

accused of treason, most notably by reducing the amount of proof which was required to secure a conviction, the lawyers present ensured that he was not wholly successful.⁹⁸

The rejection of the set of Additional Instructions sent to Queensberry on 25 May is a particularly interesting example of the King's wishes being overruled by those in Scotland. These Instructions included the order to procure an act which would have allowed for the forfeiture of named persons in their absence in the case of those actually in rebellion. James also required that the net be widened to cover all those *suspected* of being in rebellion which meant that they too could be forfeited in their absence. These measures were unanimously rejected by the Secret Committee of the Council, particularly by Perth, on the grounds they were "inconsistent with law, justice, and the Kings servis."⁹⁹ The Secret Committee was also responsible for the rejection of the proposed bond for the shire of Lanark on the grounds that it was impractical.¹⁰⁰ These rejections by the Secret Committee are particularly interesting. Not only was the Scottish Parliament under the extremely rigid control of the Lords of the Articles, it appears that it was also subject to the opinions of the Secret Committee. If a measure, even one proposed by the King, was not accepted by the Secret Committee, then it did not even get as far as being offered to the Articles for deliberation, let alone the full Parliament. It can, therefore, be seen that although the 1685 Parliament was effusively obedient for the most part, there were some notable occasions whereby James's Instructions were rejected.

The Political Aftermath of the 1685 Parliament: the Marginalisation of Queensberry and the Victory of the Drummond Brothers

The increasing centralisation of power in Scotland into the hands an elite group within the Council, epitomised by the creation of the Secret Committee in November 1683, was to continue throughout the next few years.¹⁰¹ Despite ridding

⁹⁸Miller, *James II*, 214.

⁹⁹HMC 44, 15th Report, 81, 97-8.

¹⁰⁰Ibid, 82, 128-9, 132.

¹⁰¹Aberdeen, Queensberry, Atholl, Perth, Lundin (Viscount Melfort from 21 April 1685), Tarbat and Rosehaugh were the members of the Secret Committee created in November 1683.

themselves of Aberdeen in the course of 1684, tensions between the remaining members of the Secret Committee abided. Fountainhall, a leading contemporary lawyer, wrote ominously of this: “There is discords amongst our great ones.”¹⁰² Over time, the particular grievances between the leading statesmen would become clear, but initial reports were rather vague, George Douglas, Earl of Dumbarton writing to Queensberry in January that “ther are som that ar not so much y[ou]r friend as they should be for severall obligations they have to you”.¹⁰³

From fairly cordial beginnings, the relationship between Melfort and Queensberry declined markedly following the latter being chosen as High Commissioner to the Scottish Parliament after the designs to have Melfort assigned that role were diverted by Middleton.¹⁰⁴ Just six weeks after assuring Queensberry of his honour,¹⁰⁵ Melfort revealed that the secretive correspondence of Dumbarton could well have referred to himself, despite the fact that he continued his civil correspondence with Queensberry. On 14 April 1685, the same day that he was created a Viscount by James, Melfort overtly vocalised his resentment towards Queensberry by stating that he “caerid now mutch higher than Dwk Lawd[erdale] did and pretended to be more absolut then ever he was”.¹⁰⁶ Just one week later, Melfort echoed this by expressing distaste at Queensberry’s arrogance in keeping his hat on in church.¹⁰⁷ From such relatively petty beginnings, the quarrel between Queensberry and Melfort gained such heights during the summer of 1685 that the robbery of the mail destined for Edinburgh from London was actually thought to have been a device of Queensberry’s to intercept the mail from Melfort to his brother.¹⁰⁸

Prior to this, Queensberry, as Treasurer, and Melfort, then Lundin, as Treasurer-Depute, had enjoyed regular correspondence with each other, a habit

¹⁰²Fountainhall’s *Chronological Notes*, 145.

¹⁰³Colquhoun, K.M. “‘Issue of the Late Civill Wars’: James, duke of York and the government of Scotland, 1679-1689” (University of Illinois, PhD thesis, 1993), 294.

¹⁰⁴Fountainhall’s *Notices*, 622; Fountainhall’s *Chronological Notes*, 125; Fountainhall’s *Selections*, 237.

¹⁰⁵HMC 45, 4th Report, 218.

¹⁰⁶Turner, *James II*, 369.

¹⁰⁷HMC 45, 4th Report, 56.

¹⁰⁸Fountainhall’s *Notices*, 654; Turner, *James II*, 369.

undoubtedly borne of their necessary relations over the treasury. Although their correspondence continued into the time of Melfort's tenure as Secretary of State for Scotland, Melfort quickly began to relish the fact that he no longer had to work under the direct leadership of Queensberry. This, coupled with the fact that Melfort resided in London and enjoyed a close relationship with James, prompted him to attempt to establish his total independence from Queensberry. Melfort, "having gained much both on his prince's ear and humor, he set up for himself, and would not receive instructions from the treasurer, saying, he was long enough under pædagogie and subjection when he was his Treasurer depute."¹⁰⁹

No actual measures to separate James from Queensberry appear to have been taken in the early stages of their squabble, wisely it would seem from James's reassurance to Queensberry on 8 May: "You need not apprehend... it is anybody's power to do you ill offices with me. Nobody has gone about it, and if they had it would only have done them harm, not you."¹¹⁰ Largely as a result of gratitude for the service done at the Scottish Parliament by his High Commissioner, James's conviction in Queensberry was sincere.¹¹¹ Nonetheless, Melfort remained intent on undermining Queensberry at Court, a design which did not go unnoticed by Moray who reported to the Treasurer on 22 June that, "Or [Queensberry's] good conducte in Z [James's] service hes produced excellent effects, tho' I assure you 07 [Melfort] turns all to ane ill sence as mutch as he can."¹¹²

Despite Queensberry receiving assurance from Lundin in January 1685 that he would endeavour to dispel the rumours of a rift between the Chancellor and Treasurer as "villanus stories",¹¹³ relations between the Drummond brothers and Queensberry became more strained as the year progressed. Indeed, the partnership of Melfort and Perth proved to be as strong as it ever was throughout the campaign they waged against Aberdeen. The crux of both Drummond brothers' resentment towards Queensberry was that the Treasurer "would have all depend on him, tho the Chancelor was the first minister of state; yet he commanding the purse drew more

¹⁰⁹Fountainhall's *Selections*, 237.

¹¹⁰Turner, *James II*, 369.

¹¹¹Miller, *James II*, 213.

¹¹²HMC 45, 4th Report, 80. The code is printed on pp 48-9

¹¹³Ibid, 210.

followers than the Chancellor".¹¹⁴ Indeed, Melfort had outlined that very objection, "that it was the purs that drive the dependents",¹¹⁵ to Moray on 14 April. When Perth's conversion to Catholicism became public in November 1685, the already fragile relations between himself and Queensberry became increasingly troubled. Although Perth maintained that his acceptance of Catholicism was purely motivated by religion and not influence, it is a powerful contention that all three conversions, Perth's and the later conversions of Melfort and Moray, were all politically motivated. Despite the timing of their conversions, however, it is pertinent to note that all three remained faithful to Catholicism for the rest of their lives.

Despite having such powerful enemies as Melfort and Perth, Queensberry was able to continue his alliance with Moray. Prior to the opening of the 1685 Parliament, Moray had advised Queensberry about the advantage of preventing Melfort or Perth from cultivating a friendship with Hamilton, so that the Duke would not side with the Drummond brothers against him.¹¹⁶ Whether as a result of his own inaction, or because of the Drummond brothers' propaganda campaign against him, Queensberry failed to gain an ally in Hamilton, who attempted to frustrate the Act in the 1685 Parliament which gifted to Queensberry most of the Tarras estate.¹¹⁷ Conversely, it was not long before the powerful Duke joined Melfort and Perth in pressing for Queensberry's dismissal.¹¹⁸ A particular point of contention between the Dukes of Hamilton and Queensberry, which was ultimately settled in favour of Hamilton, was over the Queensberry's use of lodgings at Holyrood, which Hamilton, as Keeper of the Palace, regarded as grossly exceeding his authority.¹¹⁹ Relations were so poor between Hamilton and Queensberry that Rochester felt compelled to write to Hamilton urging him to reconcile with Queensberry.¹²⁰

¹¹⁴Fountainhall's *Selections*, 237.

¹¹⁵HMC 45, 4th Report, 52.

¹¹⁶Ibid, 57.

¹¹⁷NAS GD 406/1/7516.

¹¹⁸Miller, *James II*, 213.

¹¹⁹NAS GD 406/1/7521, [Hamilton to Arran], 28 November 1685; GD 406/1/9169, Melfort to [Hamilton], 1 December 1685; GD 406/1/9167, [Melfort to Hamilton], 19 December 1685.

¹²⁰NAS GD 406/1/3366, Rochester to Hamilton, 26 December 1685.

The alliance between Hamilton and the Drummonds proved to be beneficial for both Hamilton and his son, the Earl of Arran. When he was told that he was to be given command of a regiment of horse, Arran directly credited Perth's involvement in influencing the King's decision.¹²¹ Hamilton was also added to the Secret Committee in November 1685.¹²² According to Perth, by early December 1685 James had also accepted his advice to put Hamilton onto the Session, though this appointment did not in fact materialise for some time.¹²³ Hamilton himself recognised that those who had an alliance with Queensberry would equally benefit from their association with him, writing to Arran in December 1685 that it was said that, "the king will bestow favers equally at this time betwixt the chan[cellor] and trea[su]r[e]rs friends."¹²⁴

Although Moray wrote to Perth in late April 1685, "I haw ever desired and designed a good understanding amongst all his Majesty's servants, and so far as I could, to preserve vnity and frendshippe amongst them",¹²⁵ he was suspicious of the Drummond brothers and it was Queensberry who remained his closest confidant. It was through Moray that Queensberry learned that Perth had been making recommendations and sending information to Melfort which had not been discussed in the Secret Committee.¹²⁶ In a letter of 9 June 1685, Moray assured Queensberry that "204 [Moray] eyes nothings but Or [Queensberry] good, and the interest of his faemely, which shall be always as dear to Sh [Moray] as his owne."¹²⁷ To this end, Moray shortly thereafter promised to keep close watch on Melfort and Hamilton whilst the latter was at Court.¹²⁸

Not only was Moray willing to act as Queensberry's spy in London; he was also prepared to publicly break from his fellow Secretary in various matters. Relations between Moray and Melfort were often overtly strained, with one Secretary arguing the opposite side to the other. In a ciphered letter of 2 May 1685,

¹²¹BL Add 19254, Arran to Perth, 18 July 1685, f 73.

¹²²NAS GD 406/1/7515, [Hamilton to Arran], 12 November 1685.

¹²³NAS GD 406/1/9229, [Perth to Hamilton], 3 December 1685.

¹²⁴NAS GD 406/1/7518, [Hamilton to Arran], 19 December 1685.

¹²⁵HMC 45, 4th Report, 59.

¹²⁶Colquhoun, "Issue of the Late Civill Wars", 302.

¹²⁷HMC 45, 4th Report, 75, 48-9.

¹²⁸Ibid, 80.

Moray assured Queensberry of his vehement defence of him to the King when it was rumoured that Melfort had spoken maliciously against him.¹²⁹ A further split was evident over the previously mentioned matter of the minutiae of the appointment of Claverhouse and Douglas as brigadiers. That Moray was riled by his fellow Secretary can be clearly seen by his comment that “Melfort thinks he can err in nothing”.¹³⁰ Melfort also felt the tension, which was not assuaged when Dumbarton wrote only to Moray, not to both Secretaries, in June 1685, an action which was seen by Melfort as being a clear snub which had “layd a fundatione for mor disorder and discord”.¹³¹ The friction between the two Secretaries of State for Scotland in fact continued into 1686, Moray informing Queensberry in February of that year that James had once more felt the need to stress that Moray and Melfort “live ueall together, and be united in his service”.¹³² Nonetheless, as joint Secretaries of State, Melfort and Moray were required to maintain a largely civil working relationship, particularly during the 1686 Parliament, at which Moray was High Commissioner, as will be discussed in the following Chapter.

Whilst it is certainly true that Moray’s support of Queensberry and his own frustration with Melfort was undoubtedly beneficial, if not essential, to the Treasurer’s position at Court, this did not prevent several attempts being made to undermine Queensberry. As has been noted, Melfort in particular seemed determined to sabotage Queensberry: he had spent too long with the Duke as his superior in the treasury and resented the fact that Queensberry had been chosen over him as Commissioner, despite his assurances to the contrary.¹³³ Melfort later gained the support of his brother in opposing Queensberry and Moray’s choice of Abbotshall to be Lord Provost for Edinburgh, Bailie Kennedy eventually being appointed to that position by way of royal letter after the normal election process had

¹²⁹Ibid, 61.

¹³⁰Turner, *James II*, 367.

¹³¹NAS GS 406/1/3330, [Melfort to Arran], 25 June 1685.

¹³²HMC 45, 4th Report, 97.

¹³³Ibid, 216-7; Fountainhall’s *Notices*, 622; Fountainhall’s *Selections*, 237; Fountainhall’s *Chronological Notes*, 125.

been suspended in the same manner.¹³⁴ Gradually, however, the onslaught against Queensberry was stepped up, becoming increasingly public as the months passed.

The increasing pressures between his most prominent statesmen was the source of such trouble for James that in the autumn of 1685 he called them together in London so he could hear their grievances. Perth and Atholl left for London on 12 September 1685, Queensberry already being at Court, having been called in early August.¹³⁵ That Queensberry had managed to spend some time alone at Court can be attributed to Moray having successfully argued that it would be best for James to see Queensberry by himself, “for iff any others came, it was at bottom only uithe a designe to aske bothe for them selfs and ther freinds, which uould create a great deall of unnecessary troble to him and mak noice which uear fitt to be avoieded.”¹³⁶ When others were eventually given leave to go to Court it “drew up such a troupe on the 2 sydes, that ther was above 200 Scots noblemen or gentlemen ther upon the on faction or other, which displeased the King exceidingly, beside the wast summe, calculated to more then 60,000 sterl., that they drained Scotland of, and the bad copie they did cast the English by ther discording amongs themselves.”¹³⁷

Melfort was joined by his brother, Hamilton and the Duke of Gordon in pressing for the office of Treasurer to be put into a commission of five or six men on the grounds that Queensberry had failed in the position of Lord High Treasurer.¹³⁸ Commenting to Hamilton in November 1685, Perth wrote that in a meeting held before James, “D[uke] Q[ueensberry] & all his crue spoke of the Mint and at last confest freely they did not understand one jot of it.”¹³⁹ Hamilton saw that the commission which had been ordered to investigate the claims against the Treasurer had significant shortfalls, namely that it was filled with the ‘creatures’ of Queensberry, who thus clearly retained much of his influence with the King.¹⁴⁰

¹³⁴*Extracts from the Records of the Burgh of Edinburgh, (1681-1689)*, 153; *RPCS*, xi, 188, 192, 194, 195; *HMC 45, 4th Report*, 77, 79; *Wodrow, Sufferings*, iv, 342-3; *Fountainhall’s Selections*, 239; *Fountainhall’s Chronological Notes*, 145-6.

¹³⁵*Fountainhall’s Notices*, 664; *RPCS*, xi, 135, 173; *Wodrow, Sufferings*, iv, 211.

¹³⁶*HMC 45, 4th Report*, 86.

¹³⁷*Fountainhall’s Selections*, 237.

¹³⁸*Ibid*, 217, 240.

¹³⁹NAS GD 406/1/9224, Perth to [Hamilton], 26 November 1685.

¹⁴⁰NAS GD 406/1/7521, [Hamilton to Arran], 28 November 1685.

Although the opponents of Queensberry were ultimately successful, a new Commission of Treasury being formulated in February 1686, the former High Treasurer was made a Commissioner. It would certainly not be unfair to assert that envy over Queensberry's access to the purse was a factor in pressing for a Commission: removing Queensberry's monopoly over monetary influence would undoubtedly weaken, and possibly sever, the ties that many noblemen and gentlemen had to him and so considerably weaken his political position. In addition to accusations of incompetence in treasury matters, in the autumn of 1685 Queensberry was also charged with offences such as hampering the defence of Scotland against the Argyll invasion, keeping the Parliament in session for a week after he had received the King's order to raise it, opposing the Indemnity and aiding the rebel, William Veitch.¹⁴¹

The assault on Queensberry's competence continued with his carriage as Commissioner and Treasurer being attacked in what became known as 'Lord Melfort's Lybell'. Amongst the accusations levelled at Queensberry was that he had left too much in the hands of the Council, such as the power to absolve husbands from the fines incurred due to the behaviour of their wives, and was therefore guilty of negligence in the King's service.¹⁴² Additionally, Queensberry was charged with failing to fulfil the King's Instructions, overseeing the enactment of erroneous laws and generally prejudicing James's position and prerogative in Scotland, accusations which were strenuously refuted by Queensberry, with the assistance of Sir George Lockhart.

Despite any efforts to denigrate Queensberry, James's conviction in him remained strong, issuing on 9 November 1685 a formal exoneration from all accusations of failure in public posts.¹⁴³ James's resolution to continue his support for Queensberry was even more significant in light of the fact that he had recently dismissed Halifax when he refused to support either the repeal of the Test or the

¹⁴¹Fountainhall's *Selections*, 238.

¹⁴²HMC 44, 15th Report, 135.

¹⁴³Fountainhall's *Chronological Notes*, 149-50; Fountainhall's *Notices*, 675; This letter of approbation and exoneration is incorrectly dated as 9 October 1685 in HMC 44, 15th Report, 83, though it is accurately inserted later, 151-2.

Habeas Corpus Act in England.¹⁴⁴ Hamilton commented on 12 November 1685, after arriving back in Edinburgh, that he found, “the Duke of Queensberry’s friends mightely elivate.”¹⁴⁵ The rumour that Queensberry was to be replaced by Middleton as Commissioner was also proven to be false, Middleton himself evidently having secured Queensberry’s continuation in that role.¹⁴⁶ Hamilton’s acute observation on the fortunes of Queensberry attributed much of his favour to the contemporary preferment of Protestantism to Catholicism: “even those that was no friend to him befor begins to talke that it’s better to bear his houmers then to joine in Counills w[i]t[h] a popish chan[cellor].”¹⁴⁷ If James did not put more of Perth’s friends into government, Hamilton contested that there would be little opposition to Queensberry.

Tensions within the Scottish hierarchy continued to seethe. Hamilton bore deep resentment that he was overlooked when lucrative places were being gifted: clearly referring to his involvement in securing the Excise for James, he wrote to Arran in November 1685, “its very hard other mens services ar so well rewarded and mine so litle considered, haveing w[i]t[h] out vanety done the king more service this last parl[iament] then those he has so well rewarded.”¹⁴⁸ Hamilton’s own admission to the Secret Committee did little to quell his disappointment, the Duke writing that this was “but to putt a fether in my cape for I would not gett a shilling to attend itt”.¹⁴⁹ Beseeching his son to tell Perth and Melfort his views, Hamilton specifically referred to the fact that he thought himself and Melfort had done better service to James in the recent Circuit Courts than Queensberry had.

Relations between Queensberry, Perth and Melfort had reached such explosive levels by December 1685 that the King called them together in a meeting and exhorted them to lay aside their quarrel and live civilly with one another. Although each agreed to comply with the wishes of the King, their expressions of

¹⁴⁴NLS MS 3420, Dalrymple Collection, letter from Lord Melfort to Sir Richard Bulstrode, 22 October 1685, f152, 154.

¹⁴⁵NAS GD 406/1/7515, Hamilton to Arran, 12 November 1685.

¹⁴⁶Jones, G.H., *Charles Middleton The Life and Times of a Restoration Politician* (London, 1967), 114.

¹⁴⁷NAS GD 406/1/7523, [Hamilton to Arran], 19 November 1685.

¹⁴⁸NAS GD 406/1/7515.

¹⁴⁹*Ibid.*

friendship were tenuous at best, though Melfort and Queensberry did make mutual visits after their conference with James (though each was out when called upon).¹⁵⁰ In particular, Perth continued to harbour a deep aversion to Queensberry. James was aware of this, Perth having launched a venomous attack on the Treasurer on the very day that James had initiated the congress: the Chancellor informed the King that Queensberry was “an atheist in religion a villain in friendship a knave in business and a traitor in his carriage to him and so could never have esteem or love from me.”¹⁵¹ Perhaps as a result of the fact that both Perth and Queensberry were, unlike Melfort, resident in Scotland and regularly crossed paths in the course of fulfilling their official duties, their relationship became increasingly fraught as time passed. Perth later remarked that “our [his and Queensberry’s] sham reconciliation puts me only a litle more upon my Gaird.”¹⁵² Indeed, Perth sustained his tirade against Queensberry, writing to Hamilton on 15 January 1686 that “our friend here has much resemblance to our spirituall ennemie who goes about lyke a roaring lyon seeking whome he may devore and yet (very oft) puts on the fair shew of an Angel of light.”¹⁵³ The aberration between Queensberry and Perth was to continue into the meetings of the Council, disagreements often arising over relatively minor issues.¹⁵⁴ Furthermore, the rumours continued to circulate in Scotland that the Treasurer’s office was to be put into a commission.¹⁵⁵

Despite Perth’s efforts to the contrary, Hamilton’s relationship with Queensberry took a tentative turn for the better at the beginning of 1686 when it appeared that relations between them steadily improved. On 2 January Hamilton wrote to Arran wondering how to act with Queensberry when he saw him next, having been reliably informed that Queensberry had earnestly stated that he had a good understanding with Hamilton.¹⁵⁶ On 23 January Hamilton informed his son that he and Queensberry had fostered a fledgling relationship in which they had

¹⁵⁰NAS GD 406/1/9166, Melfort to [Hamilton], 26 December 1685.

¹⁵¹NAS GD 406/1/9229, [Perth to Hamilton], 3 December 1685; Turner, *James II*, 371; Speck, *James II*, 89.

¹⁵²NAS GD 406/1/9223, [Perth to Hamilton], 10 December 1685.

¹⁵³NAS GD 406/1/9219, [Perth to Hamilton], 15 January 1686.

¹⁵⁴*RPCS*, xi, xxiii; Fountainhall’s *Notices*, 684-5, 699, 706.

¹⁵⁵HMC 45, 4th Report, 95.

¹⁵⁶NAS GD 406/1/7070, Hamilton to [Arran], 2 January 1686.

progressed to “visiting tearms”.¹⁵⁷ By 2 February, Hamilton and Queensberry were apparently “in very fair civilities.”¹⁵⁸

In addition to these infant relationships, Queensberry continued to have enduring prominent alliances; as well as Moray, who also recommended the Bishop of Edinburgh and Breadalbane to Queensberry, there was the Duke of Atholl, on account of his dispute with Perth about adjoining lands, Middleton and Tarbat.¹⁵⁹ Of Breadalbane’s alliance with Queensberry, Perth said, “the politique Blade is E[arl] Breadalbane he has the presbyterians and the Tr[easure]r and thus D[uke] Q[ueensberry] thinks he has all secure.”¹⁶⁰ It can also be argued that Queensberry enjoyed the support, albeit somewhat self-serving, of the Earl of Airlie. Shortly before Queensberry left for London in August 1685, Airlie received a letter which stated that “the Lord High Thesaurer goeth for London tis fitt therfor yo[u]r Lordship without delay come and see him and make him yo[u]r friend. He will cary the day, There will be great changes and for feare you should seem to neglect him and he may esteeme you of his contrary party and so be yo[u]r enemy.”¹⁶¹ On a British level he was supported by Rochester and Clarendon, whilst the Drummond brothers enjoyed the support of Robert Spencer, second Earl of Sunderland, and Richard Talbot, Earl of Tyrconnel.¹⁶²

Nor was Queensberry alone in facing the onslaught of the Drummond brothers. When Middleton, Secretary of State for England, stood by Queensberry during his separation from Perth and Melfort, he too came under attack, eventually resolving to steer clear of Scottish issues.¹⁶³ The well-being of Sir George Mackenzie of Rosehaugh was also feared for: Moray wrote in April 1685 that he wished that the Lord Advocate would, “learns to be mor cautious, for a verry small matter (tho as fals as Hell) may be maed uss of as a handell to serve the ends and

¹⁵⁷NAS GD 406/1/7072, [Hamilton to Arran], 23 January 1686.

¹⁵⁸NAS GD 406/4/7151, Hamilton to Arran, 2 February 1686.

¹⁵⁹NAS GD 112/39/137/12, Henry, Duke of Newcastle to [Breadalbane], 20 May 1685; Colquhoun, “Issue of the Late Civill Wars”, 303-4; Hopkins, *Glencoe*, 104.

¹⁶⁰NAS GD 406/1/9223, [Perth to Hamilton], 10 December 1685.

¹⁶¹NAS GD 16/34/246, C. Irvin to Earl Airlie, 8 August 1685.

¹⁶²Brown, K.M., *Kingdom or Province? Scotland and the Regal Union, 1603-1715* (London, 1993), 163; Speck, *James II*, 89.

¹⁶³Jones, *Charles Middleton*, 71.

humors of some people.”¹⁶⁴ Though Moray did not name those he felt would be likely to exploit any minor issues to attack Rosehaugh, one of the Lord Advocate’s biographers made it clear that his subject shared Queensberry’s enemy, Melfort, whom he termed an “evil serpent”¹⁶⁵ and whom he blamed in part for the relegation of Rosehaugh to private life in 1686. Though Melfort has had a more sympathetic press in recent years,¹⁶⁶ his political chicanery of the mid-1680s certainly merits to some extent the ill feeling his actions precipitated, from both contemporaries and historians alike.

In addition to his widening split from the Drummond brothers and Hamilton during the course of 1685, Queensberry’s relationship with Claverhouse also remained sour, having palpably declined towards the end of the previous year. In part, this was due to Claverhouse’s resentment of the way in which Queensberry handed out military commissions on the basis of venality, particularly the appointment of his own son as Lieutenant-Colonel of Claverhouse’s regiment of horse.¹⁶⁷ In December 1684 the matter was worsened when Claverhouse presented to the Council a petition on behalf of some soldiers in the regiment of Colonel Douglas, Queensberry’s brother, to which the Treasurer took offence.¹⁶⁸ This matter, however, was to prove to be the catalyst in the wider ostracisation of Claverhouse too. That Claverhouse had evidently lost his temper in Council simply succeeded in tarnishing him in the eyes of other members of the hierarchy. Following his outburst, Moray warned James, still Duke of York at the time, about the “ill consequences of the fiery temper of yong men”.¹⁶⁹ James wrote to Queensberry on 18 December 1684 that he was “sorry to heare that Clavross was so little master of himself the other day at councell”.¹⁷⁰ Lundin later wrote of Claverhouse’s

¹⁶⁴HMC 45, 4th Report, 51.

¹⁶⁵Lang, *Sir George Mackenzie of Rosehaugh*, 283, 287.

¹⁶⁶Corp, E., ‘Melfort: A Jacobite Connoisseur’, *HT*, xlv (10), (1995), 40-46.

¹⁶⁷Linklater and Hesketh, *For King and Conscience*, 122-3; *CSPD* (May 1684 to February 1685), 62.

¹⁶⁸Linklater and Hesketh, *For King and Conscience*, 122; Fountainhall’s *Chronological Notes*, 112.

¹⁶⁹HMC 45, 4th Report, 37.

¹⁷⁰HMC 44, 15th Report, 159, 212.

indiscretion, “if he will play the fool, he most drink as he breus.”¹⁷¹ Having thus lost the favour of the Duke of York and the two Scottish Secretaries as well as Queensberry, Claverhouse was ultimately moved out of Galloway in favour of Douglas and lost his place on the Privy Council on 3 March.¹⁷² The particular reason given for Claverhouse’s removal from the Council was that his marriage into the ‘fanatic’ Lord Dundonald’s family meant that he could no longer be trusted with the King’s secrets.

Despite his initial displeasure, however, James swiftly changed his mind over the removal of Claverhouse from the Council, saying that he could be restored to his place and favour if only he would acknowledge his fault to Queensberry. Moray, who later identified himself as “so far from Claverous freind”,¹⁷³ advised James against the reinstatement of Claverhouse, but he was eventually returned to the Council in July 1685 by royal command after he apologised to Queensberry.¹⁷⁴ Giving Claverhouse this reprieve was undoubtedly a direct result of the support he gained from his prolific actions against the seditious covenanters. Lundin had written to Queensberry from London in January 1685, shortly after the incident in the Council which precipitated his temporary downfall, that Claverhouse “is luckie to be always meiting uith thes fanatiques and destroying mor of them then others, which does him much good hear wher he uants not frends.”¹⁷⁵

Conclusion

Although the Scottish Parliament did not pass any particularly controversial legislation in 1685, it was witness to some outright refusals of policies forwarded by the Crown, most notably concerning the extension of the laws governing forfeitures. More subtle tactics were also employed to steer James’s policy, a prime example of which was when Moray successfully dissuaded James from pursuing his desire to

¹⁷¹HMC 45, 4th Report, 218.

¹⁷²Fountainhall’s *Selections* 146; Fountainhall’s *Notices*, 623, 633; Linklater and Hesketh, *For King and Conscience*, 124.

¹⁷³HMC 45, 4th Report, 53.

¹⁷⁴Ibid, 48; *RPCS*, xi, 72, 101; HMC 44, 15th Report, 293; Linklater and Hesketh, *For King and Conscience*, 124-6.

¹⁷⁵HMC 45, 4th Report, 203.

omit mention of the Protestant Religion in the Act which secured religion. On the whole though, the 1685 Parliament was essentially loyal to the demands of the Crown, matters of objection being more concerned with relatively minor issues rather than considerable points of policy, such as the prerogative or the authority of the monarchy. Unlike the later 1685 English Parliament, that held in Scotland in 1685 was a resounding success for James.

This can in many respects be directly attributed to the fact that Scotland was facing a simultaneous rebellion led by the Earl of Argyll. The 1685 Scottish Parliament essentially backed James VII against an external aggressor by legislating against Argyll personally, as well as his supporters. In addition, the Parliament ensured that James's powers against religious dissidents were extended. It was apparent to the government that threats to Scottish stability could come at any time, from any source. As such, the Parliament was not remiss in ensuring the authorities could protect the nation from opposition, whether that be in the form of an invasion by a rebel Earl, or from persistent Covenanting activities.

After the Parliament, there was a steady decline in the relations between the figures in the Scottish political hierarchy throughout 1685, the most notable being between Queensberry and the Drummond brothers. Although the waters had been ostensibly smoothed by the end of the year, the crux of the differences between these prominent men remained. Whereas Queensberry, Moray and Middleton formed the core of one side of the political divide, Perth and Melfort, joined by Hamilton, occupied the other. Members of the English elite also became involved through their allegiances to particular parties. Claverhouse remained on the periphery, having gradually managed to reinstate himself as an integral feature of the Scottish government after being at various times shunned by Queensberry, Moray, Lunding and James. In fact, 1685 witnessed nothing short of a succession of clashes between the most prominent Scottish statesmen, apparent reconciliations being no more than hollow shams. The likelihood of such tenuous friendships weathering the storms that 1686 would bring was slim indeed.

CHAPTER 8

James VII: Attempts at Toleration and the 1686 Parliament

J.R. shall into sadle stryde,
And furiously to Rome shall ryde,
His principles no longer hyde.¹

Introduction

The 1686 Parliament, which sat between 29 April and 15 June, was the second session of the first Parliament of King James VII. The focus of this session was on the toleration issue, a matter of great importance to James, who essentially wanted to allow freedom of religion to his fellow Roman Catholics. In part, the motivation for introducing toleration to the Parliament in 1686 came from the fact that the Scottish Parliament of the previous year had been so successful for the Crown, which had at the same time witnessed the victorious crushing of the rebellions of Argyll and Monmouth. The turning point of James VII's reign, however, came in 1686, when the Parliament blocked James's scheme to introduce legislative toleration for Catholics.

James VII and II was no dictatorial despot in terms of religion: he certainly did not want to impose Catholicism throughout his lands, nor was he intent on bringing the established churches of Scotland and England, "under Papal control", as argued by Sir John Clerk of Penicuik.² What he most desired, and indeed ultimately gained by way of the royal prerogative, was simply that freedom of religious beliefs should be allowed to subjects within his kingdoms. This was not, however, widely recognised by his contemporaries, who perceived his intentions to be significantly more sinister in nature.

Though James was especially anxious to allow freedom to those of Roman Catholic persuasion, it rapidly became clear that it would be necessary to afford the

¹ *Historical Selections From the Manuscripts of Sir John Lauder of Fountainhall, Historical Observations 1680-1686*, Laing, D. (ed) (Edinburgh, 1837), 151.

² *History of the Union of Scotland and England by Sir John Clerk of Penicuik*, Duncan, D., (ed) (Edinburgh, 1993), 81.

same liberties to all denominations in order to maximize potential support for his scheme. According to Edward Corp, once James had adopted this stance, he remained faithful to the policy of ecumenical toleration. Whilst in exile in France, although he did attempt to persuade his supporters to embrace Catholicism if they had not already done so, James did not try to impose his own religion on everyone at St Germain, and he treated Protestants with respect and clemency.³ As Eveline Cruickshanks stated, “though James II was at times under pressure from Louis XIV who disapproved of Church of England services on French soil, the exiled King never gave way, insisting that his subjects must be allowed to worship according to the dictates of their conscience.”⁴ However, the degree to which Presbyterianism was genuinely incorporated into James’s toleration has not been fully ascertained. That said, the fact that James harboured no abhorrence for Protestantism can also be seen by the fact that in 1686 he personally pledged £500 Sterling (£6000 Scots) for the relief of French Protestants who had fled to England in the wake of the revocation of the Edict of Nantes.⁵

James certainly had a history of tolerating the religious beliefs of others as long as they did not pose a threat to national security, a trait which has already been clearly demonstrated with regards to the clemency he advocated during his residency in Scotland for some religious dissidents.⁶ To further validate this argument, and to reject the notion of attributing to James the irrational fears relating to difference of religion that many of his contemporaries held, is the fact that he recommended a Quaker named Robert Barclay to Queensberry in July 1685. Though James wrote that he had, “not great reason to be well satisfyd with the Quakers in generall”,⁷ Barclay was well affected to the King and thus dignified with support. In fact, Barclay, the first governor of East New Jersey, was actually referred to as ‘a great favourite of King James’ by Sir Ewen Cameron of Locheill.⁸ Such acceptance of

³ Corp, E., *James II and Toleration: The Years in Exile at Saint-Germain-En-Laye*, (The Royal Stuart Society, Paper LI, 1997), 3-16.

⁴ Ibid, 3; Cruickshanks, E., *By Force or Default? The Revolution of 1688-1689* (Edinburgh, 1989), 40.

⁵ Fountainhall’s *Selections*, 249.

⁶ See Chapter 2, 46-7 and Chapter 5, 139-40.

⁷ HMC 44, 15th Report, 215.

⁸ Fryer, L.G, ‘Robert Barclay of Ury and East New Jersey’, *Northern Scotland*, xv,

individuals with nonconformist religious beliefs, though vexatious to some, was not to invoke any widespread alarm: it was instead James's intent on an unqualified toleration that did this.

An accurate quantification of the total populace, and in particular the number of Catholics, in Scotland in the 1680s has been notoriously difficult. Whilst the figure put on the total population rests at around one million for the late seventeenth century,⁹ the dispute over the number of Catholics still persists. Estimates range from a mere 1,000 up to around 50,000, the uppermost of which would have comprised approximately 5% of the total population. One contemporary pamphlet which was published in 1686 put the ratio of Catholics to Protestants at 1:1000.¹⁰ Keith Brown states that there were 2,000 Catholics in Scotland at the time of the proposed toleration, a figure William Mathieson and Gordon Donaldson suggest related to the numbers between the Moray Firth and the Solway and came from a report in 1677 by an envoy from Rome. In his paper, which uses a list of Catholics in Scotland from 1698 as well as an official survey from 1688, Donald MacLean accepts that the number of Catholics in Highland Scotland during James VII's reign was between 4,000 and 5,500. David Szechi, in the most recent analysis, bases his figure of 6,000 Catholics in the whole of Scotland on Alexander Webster's eighteenth century demographic calculations. At the most generous end of the scale, James Darragh approves of Walsh's estimate in his book, *History of the Catholic Church in Scotland*, that there were around 50,000 Roman Catholics in Scotland at the time of the Revolution of 1688-91.¹¹ What is clear, is that the number of

1995, 1, 6.

⁹ Smout, T.C., *A History of the Scottish People 1560-1830* (London, 1969), 240.

¹⁰ BL Add 72888, Petty Papers, *A Remedy to the fears and jealousies which the King of England's non-papist subjects conceive concerning their being forc't from their religion*, f94.

¹¹ Brown, K.M., *Kingdom or Province? Scotland and the Regal Union, 1603-1715* (London, 1993), 165; Mathieson, W.L., *Politics and Religion in Scotland 1550-1695*, Vol 2, (Glasgow, 1902), 334; Donaldson, G., *Scotland; James V-James VII* (Edinburgh, 1998), 381; MacLean, D., 'Roman Catholicism in Scotland in the reign of Charles II', *Scottish Church Historical Society*, iii, 1929, 46, 50, 52; Szechi, D., 'Defending the True Faith: Kirk, State, and Catholic Missioners in Scotland, 1653-1755', *CHR*, lxxxii (3), (1996), 399; Darragh, J. 'The Catholic Population of Scotland Since the Year 1680', *IR*, iv (1), (1953), 51-2, 58.

Catholic recusants in Scotland rose after the accession of James VII and his subsequent introduction of toleration. As short-lived as it was, the toleration provided by James allowed Catholics their only period of religious freedom in the seventeenth century.¹²

Given the abject lack of enthusiasm displayed by the Scots for any toleration of Roman Catholics, however low their numbers, it became clear to James that he would have to take the initiative to generate a climate in which there was a greater acceptance of those of his own religion. From the early stages of James's reign it had been obvious to contemporaries, including Fountainhall, that he was far more inclined than Charles to instruct, rather than consult, those involved in Scottish politics.¹³ As dangerous as unilateral behaviour had proven to his father, it was nevertheless to the royal prerogative that James also turned in order to facilitate his goal of greater leniency for Roman Catholics in the second half of 1685, and it was to this same tool that he once again relied on when the Scottish Parliament failed to adhere to his Instructions in 1686.

Towards Toleration and the Backlash Thereto

James was in the extreme minority in being pro-toleration, both north and south of the border. James had intended to use the English Parliament of 1685 to abrogate the laws against those of his own religion. In November both Houses of the English Parliament, which had until this point been most cooperative, expressed concern over James's intentions, with particular reference to his enlargement of the army and employment of Catholic officers.¹⁴ As a result of its refusal to acquiesce, the English Parliament was prorogued and was never to meet again under James II.¹⁵

¹²Macinnes, A.I. 'Catholic Recusancy and the Penal Laws, 1603-1707', *Records of the Scottish Church History Society*, xxiii, 1987, 32.

¹³*Historical Notices of Scottish Affairs, Selected from the manuscripts of Sir John Lauder of Fountainhall*, (Edinburgh, 1848), 624, 671; Miller, J., *James II. A Study in Kingship* (England 1977), 210; Speck, W.A., *James II Profiles in Power* (London, 2002), 85, 88.

¹⁴NLS Wod Qu XXXVI (lxxx), Address by the House of Commons against admitting papists, 1686 [1685], f263-4; *Princes and Peoples France and the British Isles, 1620-1714; An Anthology of Primary Sources*, M.L., Kekewich (Manchester, 2002), 242.

¹⁵*The Life of James II, Late King of England, Containing an Account of his Birth,*

The notion of removing the Penal Laws had not even been introduced to the Scottish Parliament that met in 1685, which is not particularly surprising given the sentiments of High Commissioner Queensberry, who Burnet reported as having told James that he would not get involved with altering the established religion.¹⁶

Despite the fact that the Scottish Parliament had not been forced to consider leniency to Catholics, from the autumn of 1685 the sensibilities of Scottish Protestants were to be disturbed on numerous occasions. The first grounds for this came when Sir Robert Sibbald, an accomplished doctor of medicine, converted to Catholicism in September 1685. Sibbald's conversion was particularly controversial on account of the fact that he had taken the Test Act several times and had achieved a rather high profile in the Church of England. Such factors actually led to some questioning of Sibbald's convictions, Fountainhall commenting that, "ther is too much ground to suspect any who turns now, does it with a designe to gratify the King and get præferments".¹⁷ Sibbald's adoption of Catholicism was viewed seriously by the ministers of Edinburgh, whose orations occasioned the Secretary to order the Bishop of Edinburgh to prevent any further, "seditious speeches ...tending to stir up the people to a dislyke of the King and Popish religion".¹⁸ In addition, satirical verses were written berating Sibbald for his defection to Catholicism.¹⁹

Sibbald's desertion of Protestantism was compounded by the high profile conversion of his close friend the Chancellor, whose recommendations and patronage had not only brought Sibbald prestigious appointments but also a

Education, Religion, and Enterprizes, both at Home and Abroad, in Peace and War, while in a Private and Publick Capacity, till his Dethronement, Jones, D. (ed), (London, 1702), 143; *Fountainhall's Selections*, 227-32; *The Diary of John Evelyn*, E.S. de Beer (ed), (Oxford, 1955), 489; Miller, J., *The Glorious Revolution* (London, 1990), 6; Miller, J., *James II. A Study in Kingship* (England 1977), 146-7; *The Stuart Constitution 1603-1688*, Kenyon, J.P., (Second Edition, Cambridge, 1993), 377; Ferguson, W., *Scotland's Relations with England; A Survey to 1707* (Edinburgh, 1994), 163; Jones, J.R., (ed) *The Restored Monarchy 1660-1688* (London, 1986), 37; Mullet, M., *James II and English Politics 1678-1688* (London, 1994), 52-3.

¹⁶Burnet, *History of His Own Time*, ii, 298.

¹⁷Fountainhall's *Selections*, 221.

¹⁸*Chronological Notes of Scottish Affairs from 1680 till 1701, chiefly taken from the diary of Lord Fountainhall*, (Edinburgh, 1822), 148.

¹⁹NLS MS 2257, Small Collections, verses on Sibbald's change of religion, f3.

knighthood in 1682.²⁰ News of Perth's adoption of the King's, and his own mother's,²¹ religion became public knowledge during November 1685, public reaction to which being largely perturbation: just a few years previously he had been described by an anonymous correspondent of Shaftesbury as, "highly Episcopal".²² Irrespective of the increasingly strained relations between himself and Queensberry towards late 1685 and despite public aberration over Perth's involvement in the Royal Chapel project in 1686, there proved to be enough high level support to allow him to keep his position as Chancellor.

Whilst the conversions of such elevated men as Sibbald and Perth undoubtedly increased suspicions, it was the new appointments made by James which did most to foster distrust in Protestants. One of the most feared of James's increasingly pro-Catholic measures was his predilection for employing Roman Catholics in the army by way of his prerogative, a policy which gave rise to contemporary concerns about the potential for Catholicism to be imposed by force in his kingdoms. In England, the anxieties which had surfaced as a result of James employing increasing numbers of Catholics in his expanding army were borne out in contemporary pamphlets²³ and, as has already been mentioned, were instrumental in effecting the prorogation of the English Parliament in November 1685. People displayed their angst with practical steps also: the Earls of Devonshire, Dover and Thanet resigned as Colonels on the grounds that they felt Catholic officers were being afforded most trust.²⁴ The disquiet about Catholics in the English army certainly seems disproportionate to the number of Catholics actually employed: by November 1687, Catholics made up only 11% of the officer corps.²⁵ As John Childs noted, the army was certainly not steadily and systematically being filled with

²⁰Ouston, H., 'York in Edinburgh: James VII and the Patronage of Learning in Scotland, 1679-1688'; in Dwyer, J., Mason, R., Murdoch, A., (eds), *New Perspectives on the Politics and Culture of Early Modern Scotland*, (Edinburgh, 1982), 140.

²¹Corp, E., 'Melfort: A Jacobite Connoisseur', *HT*, xlv (10), (1995), 41.

²²Jones, J.R., 'The Scottish Constitutional Opposition in 1679', *SHR*, xxxvii, (1958), 39.

²³Miller, J., 'Catholic officers in the later Stuart army', *EHR*, lxxxviii, (1973), 36-7.

²⁴Fountainhall's *Selections*, 223.

²⁵Miller, 'Catholic officers in the later Stuart army', 47.

Catholic officers.²⁶ Regardless, concern over the employment of Catholics was also evident in Ireland.²⁷ In response to Henry Hyde, Earl of Clarendon and Lord Lieutenant of Ireland's intimations about such misgivings, James stated, "As to my employing some of the Catholic natives of the country, I do not see how that does any prejudice to what is the true English interest there, so long as the Act of Settlement is kept untouched".²⁸ As for Scotland, disgruntlement followed the elevation of the Catholic Earl of Dumbarton, who was made a Lieutenant-Colonel within the military. Unconcerned, the King continued with his employment of Catholics in the Scottish army: when he added two companies to the standing forces in January 1686 he ensured that the commanders of each, Oliphant and Douglas, were both Roman Catholic.²⁹ In March 1686 James again disregarded both public opinion and the law which prohibited Roman Catholics from holding official posts and made the Duke of Gordon Master of Edinburgh Castle, further fueling concerns about the potential for a military imposition of Catholicism given that the bulk of Scotland's armaments were henceforth under the control of a Catholic.

Although the King's dismissive attitude towards resistance to the employment of Catholics could simply be seen as stubborn arrogance on his part, as evidence of his inheritance of his father's haughty manner, the charge of naïveté could equally be levelled at James. Indeed, it is likely that his failure to appreciate the intensity of suspicion throughout his lands was borne of idealism, not absolutism. Instead of recognising the validity of contemporary anxiety, James preferred to believe that by pursuing his policy of inclusion for Catholics people would ultimately come to realise the worthiness of his intentions and discard any conservatism towards the introduction of religious toleration.

²⁶Childs, J., *The Army, James II and the Glorious Revolution* (Manchester, 1980), 22.

²⁷BL Add 15893, Original Correspondence of Hyde and Clarendon, f229; BL Add 15894, Correspondence of Clarendon to Rochester and Sutherland and others, f118; *The Correspondence of Henry Hyde, Earl of Clarendon and of his brother Laurence Hyde, Earl of Rochester with the Diary of Lord Clarendon from 1687-1690... and the Diary of Lord Rochester during his Embassy to Poland in 1676*, volume i, Samuel Weller Singer (ed) (London, 1828), 350-1; *Calendar of State Papers Domestic* (January 1686-May 1687) F.H. Blackburn Daniell (ed), (London, 1964), 237-8.

²⁸BL Add 15893, f204; *The Correspondence of Clarendon and Rochester*, i, 339.

²⁹Fountainhall's *Notices*, 640, 693; Fountainhall's *Chronological Notes*, 130; Fountainhall's *Selections*, 210; Childs, *The Army, James II*, 29.

Irrespective of this, the aberration of Protestants had also been ignited when James unilaterally dispensed with the necessity of the Test Act for 26 Catholic Commissioners of Supply in November 1685.³⁰ Included in this number were the Duke of Gordon and the Earls of Seaforth and Traquair who were henceforth eligible to collect the supply in their counties despite their religion legally barring them from such employment. By January 1686 there was upwards of £144,000 Scots paid in pensions to Roman Catholics, including Sibbald, the Countess of Perth and the Ladies Erroll and Largo, which Fountainhall reported as causing much resentment amongst Protestant tax payers.³¹ The fact that Melfort announced in early 1686 that he had followed in the footsteps of his brother and converted to Catholicism simply added to the perception of steady pro-Catholic developments in Scotland.

At the beginning of 1686, several additions were made to the Privy Council, the first of which was the Earl of Lothian. This was reported by Fountainhall as causing some surprise on account of Lothian being closely related to Argyll.³² Also elevated to Councillor status were Lord Ross and Sir George Lockhart, the latter of whom was put on the Exchequer too. In addition, Lieutenant-General Drummond was added to the Secret Committee, as was the Archbishop of St Andrews when he returned from London at the end of March. Also in March the Earl of Lauderdale and Bishop of Edinburgh were admitted to the Council, and in early May so too were the Earls of Panmure and Dunfermline as well as Lord Duffus.³³

The introductory meeting of the Council in January 1686 was the first Perth had attended since he announced his conversion to Catholicism. Despite contemporary rumours to the contrary and although his letter of dispensation from James did not arrive until some time later, there was no formal protestation about his continuance in office from either the rest of the Council or indeed from the Court of Session.³⁴ The lack of challenge in the Council can be directly attributed to

³⁰*RPCS*, xi, 212; Fountainhall's *Chronological Notes*, 150; Fountainhall's *Selections*, 227; Mathieson, *Politics and Religion in Scotland*, 318; Miller, *James II*, 214.

³¹Fountainhall's *Notices*, 694; Fountainhall's *Chronological Notes*, 155-6.

³²*RPCS*, xi, 437; Fountainhall's *Notices*, 692; Fountainhall's *Chronological Notes*, 155.

³³*RPCS*, xi, 450; *RPCS*, xii, 90, 195, 209; Fountainhall's *Notices*, 689, 695, 713, 715, 720; Fountainhall's *Chronological Notes*, 156, 168.

³⁴Fountainhall's *Selections*, 242; Fountainhall's *Notices*, 689, 692, 695;

Archbishop St Andrews: when he strongly objected to Archbishop Glasgow's intention to protest against Perth, Glasgow was thus obliged to absent himself from that first meeting.³⁵ The absence of opposition from the Scottish bishops led to allegations that they were willing to accept the gradual introduction of Catholicism, not least of all because their English counterparts remained overtly opposed to any introduction of the King's religion.³⁶ Compounding what was perceived to be their questionable conduct in the presence of a Catholic Chancellor at Council, the Scottish bishops further shamed themselves when, in a bid to "terrify others",³⁷ they silenced Alexander Ramsay, an Edinburgh minister who had alluded to 'fallen stars who kept their station' during the course of a sermon. Although Ramsay was reinstated, the Bishops' actions, or lack thereof, did little to stifle the contentions that they were willing allow the establishment of popery.

After receiving orders from the King on 5 January to prosecute those Protestant heritors who had failed to take the Test, the Council accordingly appointed a committee, made up of the Archbishops of St Andrews and Glasgow, Rosehaugh, the Justice-Clerk and General Drummond, to consider the most effectual manner of doing this.³⁸ The Council then wrote to James asking that a further opportunity to take the Test be allowed to those who had not already done so merely because of ignorance about the former deadline. It soon became apparent, however, that James had redressed his stance on the imposition of the Test. On 15 January he added Archibald, Earl of Forfar, to the list of those granted dispensations from taking the Test the previous November, and by 28 January the Council was in receipt of a revised mandate from the King regarding the general implementation of the Test. This ordered that, notwithstanding earlier instructions to the contrary, the Council was not to prorogue the diet for taking the Test and was instead required to, "desist

Fountainhall's *Chronological Notes*, 156.

³⁵Fountainhall's *Notices*, 692; Fountainhall's *Chronological Notes*, 155; Mathieson, *Politics and Religion in Scotland*, 329.

³⁶Fountainhall's *Selections*, 243; Fountainhall's *Notices*, 692; Mathieson, *Politics and Religion in Scotland*, 321.

³⁷Fountainhall's *Selections*, 243; Rait, R.S., *The Parliaments of Scotland* (Glasgow, 1924), 90.

³⁸*RPCS*, xi, 437; Fountainhall's *Notices*, 693; Fountainhall's *Chronological Notes*, 155.

from pressing the Test as to heretours, liferenters and others and from doing any diligence against any person or persons who have refused it".³⁹ Though James had been vigilant in enforcing the Test Act in the aftermath of the 1681 Parliament, it had never been entirely suitable to him. Although it had been a useful tool with which to ensure the generic loyalty of office holders, James appreciated that the Test preserved the religious irregularities he so much wanted to eradicate. The last-minute inclusion of the Confession of Faith of 1567 in the 1681 Test Act devalued the principle of freedom of religion for his subjects, and precluded Catholics and strict Presbyterians alike from holding office. By laying aside the general enforcement of the Test by the Council, James was effectively embarking on gradually phasing it out altogether.

James continued to press for greater leniency in matters of religion, giving the order in mid-February that all husbands imprisoned for their wives' religious irregularities were to be set free if they were known to be of loyal principles themselves.⁴⁰ His determination to eradicate the Test, however, evidently remained one of his overriding concerns. Numerous personal dispensations were granted by James during the course of the year and by October 1686 the Archbishop of St Andrews and the Bishop of Edinburgh had been empowered to admit any conformist ministers who had resigned their positions because of the requirement to take the Test.⁴¹ After laying aside the need to take the Test in his Indulgence of February 1687, James finalised his assault on it in June of that year when he ordered everyone holding any civil or military office to lay down their commissions and take up new ones without the Test: accordingly, both the Council and the Lords of Session were required to symbolically 'reconvene' without taking the Test.⁴²

Although neither the Councillors nor the Bishops felt inclined to protest about Catholicism in general and Perth's retention of his posts in particular, the

³⁹*RPCS*, xi, 514; Fountainhall reports that James dispensed with the Test during his pleasure, *Notices*, 695, 699.

⁴⁰Fountainhall's *Chronological Notes*, 163; Fountainhall's *Notices*, 708.

⁴¹NAS CH 12/16/12, James to the Archbishop of St Andrews and the Bishop of Edinburgh, 23 October 1686; Fountainhall's *Notices*, 761.

⁴²Speck, *James II*, 94; Fountainhall's *Chronological Notes*, 216; Fountainhall's *Notices*, 796, 799.

general populace were more than willing to express their dissatisfaction. In essence, people were incensed by the fact that elements of Roman Catholicism were, albeit grudgingly, increasingly accepted, one example being when a shipment of Catholic artifacts was discovered by the customs officials who resolved not to seize them because they were destined for the Chancellor.⁴³ Inter-religious tensions in Scotland were also heightened by the introduction of a form of censorship: on the grounds that they stirred up suspicion and resentment, the publishing of books denouncing popery was discharged by virtue of the fact that henceforth licence had to be sought from the Chancellor before publication was allowed.⁴⁴ It was apparent that anti-Catholic sentiments, oral or written, were increasingly disapproved of. Ministers were rebuked for preaching against Catholicism, a prominent case being that of James Canaries.⁴⁵ James Glen, a bookseller, incurred the wrath of the Council for asking whether or not he could sell the Bible, as it “condemned Popery very directly”,⁴⁶ finally being imprisoned in November 1687. The situation was worsened by the fact that contemporaries were convinced that they were simultaneously witnessing a growing amount of Roman Catholic literature being published in Scotland, *The Papist Represented and Misrepresented*, being a particular example.⁴⁷ Basically, there was a general perception that Catholicism was being edged in to the detriment of Protestantism. Rumours that the Privy Council Chamber at Holyrood was being prepared for use as a public chapel did nothing to alleviate existing tensions.⁴⁸

Such disgruntlement from sections of the Protestant populace was evidently compounded by the increasingly apparent worshipping habits of the Catholics. Hamilton wrote that, “there is of late a strange malicious temper got into the heads of

⁴³Fountainhall’s *Notices*, 694; Fountainhall’s *Chronological Notes*, 156.

⁴⁴*RPCS*, xi, 514, 519, 557; Fountainhall’s *Notices*, 699; Macauley, T.B., *The History of England from the Accession of James II*, volumes ii, (London, 1849), 115; Fountainhall’s *Chronological Notes*, 158; Rait, *The Parliaments of Scotland*, 90; Mathieson, *Politics and Religion in Scotland*, 322.

⁴⁵*Rome’s Additions to Christianity Shewn to be Inconsistent with the True Design of so Spiritual a Religion in a Sermon Preached [by James Canaries] at Edinburgh in the east Church of St. Giles, February 14, 1686* (London, 1686); Fountainhall’s *Notices*, 709.

⁴⁶Fountainhall’s *Notices*, 699; Speck, *James II*, 90, 99,

⁴⁷Fountainhall’s *Selections*, 247.

⁴⁸NAS GD 406/1/7151, Hamilton Muniments, Hamilton to Arran, 2 February 1686.

the people against the papists seeing their worships so publicke and the apprehensions they have of that religion."⁴⁹ This led to momentous instances of anti-Catholic mob behaviour in Scotland's capital. On Sunday 24 January, a crowd consisting mainly of women and apprentices, though which included a number of soldiers,⁵⁰ shouted abusive statements at some Catholics as they left the house of a priest in Edinburgh. One week later, on 31 January, there occurred a full scale riot during which the crowd attacked houses in which Mass was said. At one point, the assembled crowd pelted the coaches of worshipers, one of which carried the Countess of Perth, who was the Earl's second wife and a sister of the Duke of Gordon, with stones and mud. During the tumult a priest was evidently captured and forced at knifepoint to renounce popery and take the Test.⁵¹ Thomas Kennedy, the Lord Provost of Edinburgh,⁵² had been warned of the prospect of such an attack on the Catholics, and had accordingly ordered the city guards to be at the ready for such an eventuality. The following day, the Council ordered that a boy who had been seized by the troops be whipped through the Canongate. As this was underway, the mob rose again and rescued the boy, a number of rioters being killed in the ensuing affray.⁵³ Such was the terror induced by the rioting that Sibbald left Edinburgh for London in fear of his life.

In the wake of the riot the Council immediately launched an investigation, during the course of which numerous depositions from suspects and witnesses were heard.⁵⁴ The Council also received orders from James that neither expense nor effort should be spared in pursuing and prosecuting the offenders, and that torture should

⁴⁹NAS GD 406/1/7121, Hamilton to Arran, 10 February 1686.

⁵⁰*RPCS*, xii, xxviii.

⁵¹Fountainhall's *Selections*, 243-4.

⁵²Sir George Drummond had been replaced by Thomas Kennedy by way of royal letter in October 1685, the same manner in which he had originally been nominated Provost himself, *RPCS*, xi, 194; *Extracts from the Records of the Burgh of Edinburgh*, (1681-1689), Marguerite Wood and Helen Armet (eds), (Edinburgh, 1954), 81, 83, 91, 130, 153.

⁵³NAS GD 406/1/7151; Fountainhall at various times stated that two and three rioters were killed, *Notices*, 700, *Chronological Notes*, 159, *Selections*, 244; Macauley, *The History of England*, ii, 116; Turner F.C., *James II* (London, 1948), 372; Mathieson, *Politics and Religion in Scotland*, 318.

⁵⁴*RPCS*, xi, 541, 544-5, 553-4.

be used if deemed necessary.⁵⁵ Accordingly, the investigation into the riot, which included an examination of the conduct of soldiers during the tumult as well as their attitudes towards Catholics, went on into March 1686.⁵⁶ As a result of the inquiries, a drummer boy was shot under martial law for saying he could run his sword through all the papists, and a fencing-master called Keith was hanged for vocally approving of the riot and drinking to the confusion of the papists.⁵⁷ When awaiting execution, Keith informed one of the attending ministers that, in return for his life, he had been pressed by unnamed persons to accuse Queensberry of instigating the riot, a deal which he refused.⁵⁸ Burnet recorded that, after passing the information on to the Archbishop of St Andrews, who in turn informed Queensberry, who complained of the matter to the Court, the minister was turned out as the “forger of that calumny.”⁵⁹ In addition to the prosecution of those involved, the city of Edinburgh was required to reinforce its measures to prevent disquiet by ordering the heads of families belonging to any incorporation within Edinburgh or Leith to sign an obligation which bound that no member of their family would participate in future tumults.⁶⁰ Significantly, “some thought [it] strange, to see Judges and Statesmen, who ware bound by law to suppress these Popish meetings, yet, to please the Chancelor, they protected them.”⁶¹ Perth certainly enjoyed the protection of James, who wrote to him on 10 February, “as for you and the rest of those who are of my perswasion where you are I will stand by you, and lett every body see I will do it.”⁶² James

⁵⁵NLS Wod Fol XXXIII (cxx), King’s letter regarding the tumult, 9 February 1686; NAS GD 124/10/417, James to the Council, 9 February 1686; *RPCS*, xii, xxvii; Wodrow, *Sufferings*, iv, 397; Fountainhall’s *Notices*, 708; Fountainhall’s *Chronological Notes*, 162.

⁵⁶*RPCS*, xi, 595-6, 603-4, 607; *RPCS*, xii, 15, 23, 68, 83, 91, 92-7.

⁵⁷NLS MS 1946, Criminal Proceedings August 1685-July 1716, f473.

⁵⁸*Bishop Burnet’s History of His Own Time from the Restoration of King Charles II to the Conclusion of the Peace of Utrecht in the Reign of Queen Anne*, volume ii, (London, 1815), 352-3; Fountainhall’s *Notices*, 710, 711-12; Fountainhall’s *Chronological Notes*, 164-5; Fountainhall’s *Selections*, 244; Rait, *The Parliaments of Scotland*, 90; Macauley, *The History of England*, ii, 116.

⁵⁹Burnet, *History of His Own Time*, ii, 353.

⁶⁰*Extracts from the Records of the Burgh of Edinburgh, (1681-1689)*, 166, 168; Fountainhall’s *Notices*, 706.

⁶¹Fountainhall’s *Notices*, 702.

⁶²NAS GD 160/529/16, James to Perth, 10 February 1686.

additionally resolved to use the riot to his own advantage by telling the English Bishops “they may now see the effects of indiscretion in the pulpits.”⁶³

Preparations for the 1686 Parliament

On 2 February 1686 Hamilton wrote to his son Arran, who was resident at Court, stating that he understood that the appointment of the High Commissioner to the next parliamentary session was under consideration, and asserting that advice from Scotland should be sought before the final decision was made.⁶⁴ It is not clear whether Hamilton was aware that Moray was a strong contender for the position, and thus hoped to frustrate any design to make him Commissioner. Relations between the two were inevitably not on the best of terms after Hamilton heard a rumour at the start of the year that Moray, in favour of elevating Strathmore instead, had tried to prevent Hamilton from becoming an Extraordinary Lord of Session, a position which Perth had thought he had secured for Hamilton in December.⁶⁵ Hamilton had subsequently surrendered his efforts for promotion, directing Arran not to trouble James any more about the Extraordinary Lord’s place for him.⁶⁶

The news presently reached Scotland that the Earl of Moray was to be High Commissioner to the 1686 Parliament. This was a lucrative position: in a letter dated 19 March Moray was given £30,000 Scots, “for charges of his equipage against the ensuing session of Parliament”, a figure which was supplemented by an additional £600 Scots per day from 13 April to the end of the Parliament, and use of apartments at Holyrood, including those of the Queen.⁶⁷ James required the Scottish Parliament to sit in order to repeal the Penal Laws against Roman Catholics and to remove the Test in favour of an oath of allegiance, thus facilitating the admission of Catholics to office. Hamilton’s thoughts were ominous: “this nation that has occasioned us so much trouble, on the disputes betwixt Episcopacy and Presbitrey

⁶³Ibid.

⁶⁴NAS GD 406/1/7151, Hamilton to Arran, 2 February 1686.

⁶⁵NAS GD 406/1/9229, [Perth to Hamilton], 3 December 1685; NAS GD 406/1/7070, Hamilton to [Arran], 2 January 1686

⁶⁶NAS GD 406/1/7072, [Hamilton to Arran], 23 January 1686.

⁶⁷*RPCS*, xii, xv, xviii.

will not easily doun u[i]t[h] greater alterationes.”⁶⁸ As such, Hamilton believed that the Parliament should be further adjourned, until October, to allow due time for consideration of the repeal of the Penal Laws.⁶⁹ Queensberry also aired his reservations about the timing of the event in a letter to Rochester dated 9 February 1686. The former High Commissioner believed events in Scotland were not being represented to James as they should be and thus did not think it advisable to allow a Parliament to meet because of “dissatisfactions and jealousies”.⁷⁰ All the same, Queensberry also appreciated that matters would probably go as James thought fit. This was a belief echoed to a degree by Hamilton, who wrote on 2 March that, “if wee be so happie not to be put on hard matters as to our religion in the nixt parliament I am confident the Kings affairs will go very well.”⁷¹

The possibility of the introduction of a toleration for Catholics had been advanced in some quarters by James before he called the Parliament and had in fact gained some notable support. George Mackenzie, Viscount Tarbat, had even, “showen him [James] the Rolls of the Members of Parliament, and pricked doune who he thought would be for it, and who against it”.⁷² Though this gives ample room to accommodate the argument that the King was simply ill-advised prior to the Parliament, it also shows the importance of parliamentary management, and indeed the potential for intimidation. Perth and Melfort also assured James that the Scottish Parliament would comply with his designs.

Other politicians appeared to be more hesitant in their agreement. In a letter to his son, Hamilton remarked that alongside himself and Queensberry, Lieutenant-General Drummond, Lockhart and Mackenzie of Rosehaugh were all of the same opinion of toleration.⁷³ Melfort actually took it upon himself to write to the recalcitrant Duke of Hamilton in March 1686 in an attempt to get him on-side, demanding him to consider, “how he should think it consistent with the King’s

⁶⁸NAS GD 406/1/7151.

⁶⁹NAS GD 406/1/7121.

⁷⁰BL Add 15893, f79.

⁷¹NAS GD 406/1/6147, [Hamilton to Arran], 2 March 1686.

⁷²Fountainhall’s *Notices*, 736; Fountainhall’s *Chronological Notes*, 181; Speck, *James II*, 92.

⁷³NAS GD 406/1/6311, Hamilton to Arran, 12 March [1686].

honour to suffer those of his opinion to be murdered or forfeited for their opinions.”⁷⁴ When James got to hear of the concerns of some prominent Scots, which revolved to a large extent around the inequity of introducing a toleration for Roman Catholics whilst continuing the ban on Presbyterianism, he summoned them to appear before him in London. This meeting was promoted by Melfort as being an opportunity for the Scots not only to hear firsthand what James desired, but also to air their views directly to him.⁷⁵ Thus Hamilton, General Drummond and Sir George Lockhart, who had taken over as Lord President of the Session after the demise of Sir David Falconer of Newton in December 1685, made their way to London less than a month before the Parliament sat.

The purpose of this meeting was essentially to allow James to personally implore them to lay aside their aversion to the repeal of the Penal Laws.⁷⁶ James was obviously acutely aware that his intention regarding the Penal Laws was not uniformly popular in Scotland, though he clearly thought it possible to persuade others to adopt his stance on the matter. By making such an appeal to Hamilton, Drummond and Lockhart, however, the King not only intended to alter their personal opinions, he also undoubtedly wanted to use their leverage as powerful representatives of the nobility, army and legal establishment to influence others in Scotland.

Whilst in London, Hamilton, Drummond and Lockhart remained firm in their belief that a toleration for Catholics would be almost impossible to obtain unless the King also provided for a toleration for nonconformist Protestants. Though James, “wanted very much that only the Catholics should be free to practice their religion”,⁷⁷ he eventually relented to the advice of the Scots, who in turn apparently agreed to, “Doe all the King Requires of them”.⁷⁸ It is, however, most significant that James’s letter to the Scottish Parliament failed to mention the prospect of a toleration for anyone other than his fellow Roman Catholics. Clearly James felt that

⁷⁴Turner, *James II*, 376.

⁷⁵NAS GD 406/1/9184, [Melfort to Hamilton], 23 March 1686.

⁷⁶Fountainhall’s *Selections*, 246; Fountainhall’s *Notices*, 714.

⁷⁷Miller, *James II*, 215; For the original French quote, see Macauley, *The History of England*, ii, 119, or Miller, *Popery and Politics*, 208.

⁷⁸Moray Muniments, Volume III, Box 7, 591, Melfort to Moray, 20 April 1686.

he, as King of Scotland, was in a strong enough position to have the Parliament pass whichever measure he desired, without the necessity of using the principle of universal toleration as an inducement.⁷⁹ Quite simply, although he had agreed in principle with Hamilton, Lockhart and Drummond, if there was any way for James to have avoided introducing a toleration for Presbyterians, he would have; if it became necessary to provide a toleration for them, he wanted to ensure he remained in control of the situation. This attitude was highlighted by Melfort in a letter to Moray dated 1 May: “Its thought that any toleratione to the Presbyterians may doe harme its referred to y[ou]r Grace And the S[ecret] Comitty and if ye think a tolleratione fitt it must be by the K[ing]’s power and not by act of par[liamen]t first becaus it will be mor easily recalled if inconvenient and nixt becaus it will make people the better aqeuinted with Dispensations and make it ther interest to assert the prerogative”.⁸⁰

In addition to assuring their compliance in matters relating to the Catholics, Hamilton, Drummond and Lockhart also agreed to propose the repeal of the Test Act.⁸¹ Although James had already sent orders to the Council to desist from pressing the Test, he wanted the Parliament to go one step further and remove it from the statue books. The three members of the Secret Committee, however, remained certain that Parliament would only rescind the Test if James was willing to unambiguously promise not to prejudice the Protestant religion, something which he resolutely refused to entertain.⁸² Despite this, Hamilton remained dutiful to James, writing to the Duchess of Hamilton from London that “the King expresses a gratitude of justice & moderation & I hope wee shall all be very happy under his goverment”.⁸³ In agreeing to propose the repeal of the Test, Hamilton left Court having once more capitulated to the persuasiveness of the King over the Test, the previous instance having been when he eventually took the Test in March 1682 only after having been prevailed upon to do so by James when he was Duke of York.

⁷⁹Turner, *James II*, 373.

⁸⁰Moray Muniments, Volume III, Box 7, 600, Melfort to Moray, 1 May 1686.

⁸¹Moray Muniments, Volume III, Box 7, 591; Moray Muniments, Volume III, Box 7, 600; Miller, *James II*, 215.

⁸²Macauley, *The History of England*, ii, 119-20; Mathieson, *Politics and Religion in Scotland*, 323; Miller, *James II*, 215; Turner, *James II*, 373.

⁸³NAS GD 406/1/8014, [Hamilton to Anne, Duchess of Hamilton], 10 April 1686.

Also in preparation for the opening of the Parliament James attempted to secure the support, or at least compliance, of the Scottish clergy. In essence, the Bishops and Archbishops who either preached sedition or failed to agree to the removal of strictures on Roman Catholics risked losing their sees on the direct orders of the King.⁸⁴ James could certainly count on the unconditional support of the Archbishop of St Andrews and the Bishop of Edinburgh who, in March 1686, signed a Declaration in which it was stated, “It seemeth reasonable and duetifull to grant what his Majestie desireth may be done for them viz to take of the sanginnarie laws touching religion in soe farr as they Inferr the pains of death or forfeiture against those of his perswasion meerlie for their religion; and that the papists have ane ease and Immunity from the execu[tio]n of the other penalties civil or Criminal Contained in the laws, meerlie and alennerlie for their religion.”⁸⁵ According to Burnet, in addition to this Declaration and also prior to the Parliament, Ross and Paterson, Archbishop of St Andrews and Bishop of Edinburgh respectively,⁸⁶ in a bid to show James how compliant they could be, actually suggested their peers in the clerical estate should sign a paper pledging support for the toleration of Catholics in return

⁸⁴Fountainhall’s *Notices*, 717; Ashley, *James II*, 189.

⁸⁵NAS GD 124/10/418, Mar and Kellie Papers, Copy of the Declaration of the Archbishop of St Andrews and the Bishop of Edinburgh, whilst at Court, March 1686; *A Collection of Letters Addressed by Prelates and Individuals of High Rank in Scotland and by Two Bishops of Soder and Man to Sancroft Archbishop of Canterbury in the Reigns of Kings Charles II and James VII*, W.N. Clarke (ed), (Edinburgh, 1848), 96-8; HMC 60, *Report on the Manuscripts of the Earl of Mar and Kellie* (London, 1904), 217. Hay, M.V., *The Enigma of James II* (London, 1938), wrongly states that the Declaration was signed by the Archbishops of Glasgow and St Andrews, [the Bishop of Edinburgh was later promoted to be Archbishop of Glasgow], 83.

⁸⁶Burnet, *History of His Own Time*, ii, 354, 355, merely says, “Rosse and Paterson”, which could potentially be the source of some confusion. Not only was Ross the name of the Archbishop of St Andrews, there was also a Bishop of Ross. That Burnet refers to Paterson by name, not clerical title, suggests that ‘Rosse’ would also be the name, not the title, of the cleric in question, ie Archbishop of St Andrews, Ross (as mentioned in Fountainhall’s *Chronological Notes*, 155) and Bishop of Edinburgh, Paterson. To further support the notion that Burnet is talking about the Archbishop of St Andrews and not the Bishop of Ross, Ramsay, is the fact that the Bishop of Ross was later threatened for preaching against Catholicism (Fountainhall’s *Notices*, 734-5; Fountainhall’s *Chronological Notes*, 180) and nearly lost his see during the Parliament, as will be discussed later in the Chapter.

for the laws against presbyterians remaining in force.⁸⁷ Middleton, however, upon being informed of this stratagem, strongly advised the Bishop of Edinburgh never to show the paper to James on the grounds that the King was resolved to implement a general toleration.⁸⁸ Nonetheless, the backing of St Andrews and Edinburgh was guaranteed, the latter using his sermon at the opening meeting of the Parliament to persuade the rest of members to support the notion of toleration.

As it transpired, however, St Andrews and Edinburgh were in an extreme minority in championing toleration. Prior to the Parliament there was overt clerical opposition to toleration from the synod of Aberdeen. In a letter to the Bishop of Aberdeen, the synod outlined its apprehensions about the effects on Protestantism of weakening the penal laws against Catholics, and beseeched him not to consent to any such alteration. To add extra weight to the plea, it was ominously asserted that, “The eye of God is upon you, and the eyes of the world also”.⁸⁹ Whether or not as a direct result of such powerful attempts at persuasion, the Bishop of Aberdeen ultimately voted against the draft act for toleration in his role as a Lord of the Articles. Mirroring their brethren in Aberdeen, the clergy of Fife also gave in, or at least designed to, a protestation against what the Archbishop of St Andrews proposed to do in the Parliament, namely support the Crown wholeheartedly. Melfort was apparently appalled by their audacity, writing to Moray that he should enquire into the incident, “and if it be true that such as Contrived or Caried it on may be made examples to posterity for this is a singular time And the prerogativ hes much to gaine or to lose.”⁹⁰

The appointment of Moray as High Commissioner effectively ended any pretensions that Queensberry was still in a position of real power in Scotland. Indeed, Queensberry evidently foresaw his demise: he wrote to Rochester on 9 February, “I’m sufficiently convinced that the Methods taken and Instruments made use of against me by D[uke] Hamilton the Chancelor and my other Mortall Enemies

⁸⁷Burnet, *History of His Own Time*, ii, 354.

⁸⁸Ibid, 355.

⁸⁹Wod Fol XXXIII (cxxii) The Humble Address of the Diocese of Aberdeen to the Bishop of Aberdeen, f209; Wodrow, *Sufferings*, iv, 358-9.

⁹⁰Moray Muniments, Volume III, Box 7, 600.

both here and there, will speedily prove effectual”.⁹¹ Although the relationship between Hamilton and Queensberry had seemed to be improving in late January 1686, as mentioned in Chapter 7, it is clear that this was merely superficial.

Although James had resoundingly backed Queensberry in the face of an onslaught by Perth and Melfort the previous year, by February 1686 Queensberry had lost all his main offices. Prior to Moray taking over as High Commissioner, Queensberry had already been replaced by the Catholic Duke of Gordon as Governor of Edinburgh Castle, “the strongest fortresse & of the greatest importance in the kingdom.”⁹² Additionally, a new Commission of Treasury, the establishment of which Melfort was credited with,⁹³ had demoted the former sole High Treasurer to one of five Commissioners of the Treasury along with Perth, who was First Commissioner, Hamilton, Tarbat and Drummond.⁹⁴ At the first meeting of this Commission it became apparent to Hamilton that there was, “no mony in cash, the brenches of the revenew in disorder, the Army a month behind of ther pay and a great many pensions and other soumes oueing.”⁹⁵ Although Queensberry was appointed to the salaried position of President of the Council, such scathing indictments of his carriage as Treasurer, as well as his downgrading in political terms, unequivocally reduced his status in Scottish politics. Reresby commented that this development, “gave warning of the changed policy which the King was soon to adopt in both kingdoms ...Perth, was to be the chief agent of the Government’s Catholic policy in Scotland.”⁹⁶ This increasing centralisation of power in the hands

⁹¹BL Add 15893, f79.

⁹²NLS Adv Ms 34.6.11, *The Portrait of True Loyalty Exposed in the Family of Gordon*, 254.

⁹³NAS GD 406/1/6147, [Hamilton to Arran], 2 March 1686.

⁹⁴*RPCS*, xii, 68, 83. There has been some confusion over whether Queensberry or Perth was First Commissioner of the Treasury. Queensberry is named as First Commissioner in HMC 44, 15th Report, 83, an assertion supported by Macauley, *The History of England*, ii, 117. On the other hand, Miller, *James II*, 213, and Donaldson, *Scotland; James V-James VII*, 381, assert that Perth was made First Commissioner. Ashley, *James II*, 189, was definitely wrong in stating that it was Melfort who replaced Queensberry when he lost his offices.

⁹⁵NAS GD 406/1/7123, [Hamilton to Arran], 6 March 1686.

⁹⁶*Memoirs of Sir John Reresby. The Complete Text and A Selection from his Letters*, Browning, A (ed), second edition, (London, 1991), 414.

of the Drummonds simply decreased the variety of advise and opinion at the pinnacle of Scottish politics.

The final blow to Queensberry appears to have been administered by the Drummond brothers in the wake of the riot in Edinburgh, which they directly attributed to him in a plain attempt to use the disturbance to lever Queensberry out of his remaining positions.⁹⁷ The ultimate success of the Drummond offensive against Queensberry has been attributed to the fact that they, unlike him, welcomed the Catholicising efforts of James.⁹⁸ Certainly the position of Catholics was of paramount importance for James, who even told Queensberry that his replacement as Governor of the Castle by Gordon was, “to make that towne have more regard for my commands and civiler to the Catholicks, by seeing it in the hands of one of that persuasion.”⁹⁹ There can be little doubt that James’s letter to Queensberry, in which the former Treasurer was assured that his many services would never be forgotten by James,¹⁰⁰ would have been of insignificant comfort to Queensberry.

The Earl of Moray, who had recently joined the ranks of those who had converted to Catholicism,¹⁰¹ had been given a set of fifteen Instructions by James bearing the date 12 April 1686 (see Appendix C). The primary, and by far the most consequential, Instruction charged Moray to, “procure an Act of Parliament for allowing unto all our Subjects of the Roman Catholic Religion, the free Exercise of their Religion in Houses... and that our Subjects aforesaid may enjoy any Trust, Office or Employment Civill or Military without any danger or molestation, or being

⁹⁷BL Add 19254, Transcripts of letters of James Drummond, 4th Earl [and afterwards Duke] of Perth, Chancellor of Scotland, to several of his relations 1688-1696, f68; Macauley, *The History of England*, ii, 116; Turner, *James II*, 372; Miller, *James II*, 213.

⁹⁸Speck, *James II*, 89.

⁹⁹Ibid, 90; Turner, *James II*, 372; Linklater, M. and Hesketh, C., *For King and Conscience, John Graham of Claverhouse, Viscount Dundee (1648-1689)* (London, 1989), 140; Lang, A., *Sir George Mackenzie of Rosehaugh, His Life and Times 1636(?) - 1691* (London, 1909), 290.

¹⁰⁰Fountainhall’s *Chronological Notes*, 168; Fountainhall’s *Notices*, 715.

¹⁰¹Moray’s conversion has been the subject of some debate, Turner, *James II*, 374, the principle refuter of Moray’s conversion being Mathieson, *Politics and Religion in Scotland*, ii, 323. It is now generally accepted that Moray converted in 1686, but kept it quiet until 1687, Cowan, I.B. *The Scottish Covenanters 1660-1688* (London, 1976), 130; Donaldson, *Scotland; James V-James VII*, 381.

obliged to take or swear any Oath inconsistent with their Religion.”¹⁰² Other Instructions, of which eight were economic in nature, pertained to such issues as passing an Indemnity for crimes, establishing a Mint and encouraging trade and manufactures. The final Instruction gave a detailed account of what James expected Moray to convey to the Scottish Parliament, which included the fact that the Crown appreciated the Parliament’s obedience and an outline of the numerous matters the monarchy had engaged in for the good of the nation.

These initial Instructions were supplemented at later dates by a series of additional individual Instructions. Although the original set of Instructions entirely omitted mention of the Presbyterians, in the wake of James’s meeting with Hamilton, Drummond and Lockhart, and his subsequent grudging acceptance of their demand for toleration for Presbyterians as well as Roman Catholics, James drafted a supplementary Instruction to Moray in which he charged his Commissioner to frame an act for the benefit of moderate Presbyterians.¹⁰³ Nonetheless, as has already been mentioned, from the very inception of this provision, there was talk in London about the easiest way to rescind it if James so wished: “the King will hav it his Oun act and not ane act of Parliament becaus ane act of par[liamen]t tho inconvenient Giv some shadow of Right to the partys Concerned even tho suspended by the King and might occation Clamor upon that accompt ...therefor it uill be most fitt this be the King’s Own act that the people hold it of him that it may sho his inclinations and terminate with his pleasure if he find it inconvenient.”¹⁰⁴

The initial design of the Court was to prevent any other measures being discussed before the objective of James was fulfilled: the King instructed Moray to prevent any act being, “touched with our Scepter or our Royall assent be[ing] given thereunto”¹⁰⁵ before the act in favour of the Roman Catholics was passed. Hamilton was possibly not alone in recognised the limitations of this policy, writing on 9 May that it would be of service to James to pass some acts, “for the advant[a]ge of the

¹⁰²Ibid.

¹⁰³Moray Muniments, Volume III, Box 7, 271, Additional Instruction to Moray, 19 April 1686.

¹⁰⁴Moray Muniments, Volume III, Box 7, 591.

¹⁰⁵Moray Muniments, Volume III, Box 7, 272, Additional Instruction to Moray, 19 April 1686.

Countrey & so take of the ill humer.”¹⁰⁶ When it became apparent that the toleration issue was both contentious and protracted, it was decided that whilst, “no publique Act must Pass if that for the King doe not ...private acts may be past Whilst ye are endeavoring to Gaine people to be mor sober but nothing most stop the Kings mater”.¹⁰⁷ Notwithstanding this order, Melfort directed Moray on 18 May that, having been deemed to be for the King’s service, two specific public acts should be allowed to pass, though the order that no public act be passed stood in general terms.¹⁰⁸

Melfort, resident at Court for the duration of the Parliament, supplemented the King’s Instructions with directions of his own to Moray. In a long and significant letter dated 20 April he clarified the King’s requirements: “the Catholiques are to hav the free Exercise of their Religione in houses and in so farr as that extends all Penal and Sanguinary Laus are taken off against both sayers and Hearers of Mass and all other laus against Catholiques and their children. The Nixt thing is the takeing off the test or at least the Giving the King the Power to put it only to such as he thinks fitt. This wold doe no good except the Oath of aleadgeance wer taken off too so the King leavs that to them to doe in it as they shal think fitt but tho they doe both thes things yet the King will not Condecend to any act Confirming the Protestant Religione for so long as the oath of aleadgeance is in force it secludes the Catholiques as much as it and the test bouth can doe.”¹⁰⁹ Melfort thus cautioned Moray against saying anything about further securing the Protestant religion, though gave him leave to point out to the Parliament that it was well secured already. The importance of the removal of the Oath of Allegiance was evidently enduring for Melfort reiterated on 1 May that no act to secure the Protestant religion would be made, “if nothing but the Private exercise of Religione be procured or the takeing off the Test”.¹¹⁰ The matter of an act to secure the Protestant religion was the source of much apprehension at Court. In his letter of 20 April, Melfort informed his fellow Secretary that James was so fearful of the Scots demanding such an act that he was

¹⁰⁶NAS GD 406/1/7203, [Hamilton to Arran], 9 May 1686.

¹⁰⁷Moray Muniments, Volume III, Box 7, 605, Melfort to Moray, 13 May 1686.

¹⁰⁸Moray Muniments, Volume III, Box 7, 613, Melfort to Moray, 18 May 1686.

¹⁰⁹Moray Muniments, Volume III, Box 7, 591.

¹¹⁰Moray Muniments, Volume III, Box 7, 600.

even prepared not to press for the removal of the Test.¹¹¹ Nonetheless, the Test remained of paramount importance to the King and Melfort: “we are hopeful to have the test taken off and pay nothing for it all art most be used that it may for it will be a Great example to England”.¹¹² As such, Melfort later intimated to Moray that the rescinding of the Test would be best approached by expounding the general benefits of its removal and not as something desired by James, a point he reiterated at the end of May.¹¹³ As the removal of the Test would benefit men such as Dundonald and Carmichael, as well as members of Hamilton’s family, who remained excluded from government on account of the Test, Melfort assured Moray that he was confident, “it will be taken away.”¹¹⁴

The 1686 Parliament (29 April to 15 June)

The Parliament which met in April 1686 was the second session of King James VII’s first Parliament, the conduct of the first session having been largely in favour of Crown proposals in 1685. As such, there was a large correlation in membership between the sessions of 1685 and 1686. In all but exceptional circumstances, such as the death of the commissioner, the commissions to the shires and burghs in 1685 remained in force in 1686. Accordingly, of the 62 burgh representatives in 1686 (Dysart having sent representation in 1685, but not the following year), 60 had been present at the 1685 session of the Parliament.¹¹⁵ The corresponding figure for the shires was that 52 out of the 56 commissioners in 1686 had also been at the 1685 session.¹¹⁶ Of the 64 clergy and nobility present in 1686, 58 had sat at the first session.¹¹⁷ Thus, excluding the High Commissioner and the two non-noble Officers of State, there were 182 members of the 1686 Parliament,

¹¹¹Moray Muniments, Volume III, Box 7, 591.

¹¹²Ibid.

¹¹³Moray Muniments, Volume III, Box 7, 621, Melfort to Moray, 27 May 1686.

¹¹⁴Moray Muniments, Volume III, Box 7, 591.

¹¹⁵APS, viii, 435, 577-8.

¹¹⁶Ibid, 452-3, 577. William Rait of Halgreen, who won the controverted election for the shire of Kincardine, but who was not included on the rolls, has been included in this figure.

¹¹⁷APS, viii, 451-2, 476-8.

four fewer than the previous year. Of these, 170, or 93%, had been at the parliamentary session held in 1685.

After arriving in Edinburgh a few days previously, Moray opened parliamentary proceedings on 29 April 1686 by reading the King's letter to the rest of the assembled members. James stated in his correspondence that he had, "made the opening of a free trade with England our particular care".¹¹⁸ Alongside this, the King indicated to the Parliament that he intended a "full and ample indemnity, for all crimes committed against his royal person and authority" to be passed in order to make clear his merciful nature. There was, however, no mistaking the issue that was of paramount importance to James when he beseeched the Scottish Parliament to consider the loyalty of his Roman Catholic subjects and consequently afford them, "the protection of our laws, and that security under our government which others of our subjects have".¹¹⁹

Free trade was certainly not introduced at the 1686 Parliament. In fact, numerous prior attempts had been made to establish free trade, not least of all by the formation of a Commission of Trade at the 1685 session of the Parliament. Yet, by April 1686, free trade had still not been successfully instituted. Thus, the issue remained open for consideration. Prior to the sitting of the 1686 Parliament James had announced that he intended to establish free trade by means of the royal prerogative, largely with a view to making the burghs, who very much desired free trade, more open to the notion of toleration.¹²⁰ James had a twofold purpose in reiterating his personal concern for the matter in his letter to the Scottish Parliament:

¹¹⁸APS, viii, 579; *His Majesties Most Gracious Letter to the Parliament of Scotland: Together with the Parliaments Dutiful Answer to His Majesties Letter* (London, 1686), f2; *His Majesties Most Gracious Letter to the Parliament of Scotland* (Edinburgh, 1686); NLS Wod Fol XXXIII (cxxi), King's letter, 12 April 1686, f209; Wodrow, *Sufferings*, iv, 360; Interestingly, in James's memoirs, it was stated that free trade with England had been James's 'principall' care, *The Life of James II King of England, &c, Collected out of Memoirs Writ of His Own Hand*, Clarke, J.S. (ed), (London, 1816), volume ii, 65.

¹¹⁹APS, viii, 580; *His Majesties Most Gracious Letter to the Parliament of Scotland*, 1686, ff2, 3; NLS Wod Fol XXXIII (cxxi); Wodrow, *Sufferings*, iv, 360; Speck, *James II*, 91.

¹²⁰RPCS, xii, xxix; Fountainhall's *Notices*, 715, 717; Rait, *The Parliaments of Scotland*, 90; Mathieson, *Politics and Religion in Scotland*, 323.

primarily, to remind the Scots how gracious a King he was, and thus provide encouragement for them to be more receptive to his aims; and, secondly, to ensure that the representatives at the Parliament were entirely aware that he could block free trade if his own objectives were not achieved. Whilst it was certainly advantageous to be seen to be advocating the commercial gains of Scotland, it would also do him no harm to remind them exactly how much he could hinder their designs if his own were refuted. Clearly, James was offering his support of the free trade scheme in return for the Parliament's acceptance of toleration for Catholics: conversely, there could have been no doubt that the Scots would sacrifice free trade with England if they failed to serve the King as he wished.¹²¹

It is Colquhoun's claim that, "it has been universally supposed that James VII merely tossed the Scots the prospect of free trade ...as a bone to help them accept his cherished plans for legislative religious toleration." She then goes on to state, "that the king was proposing free trade between his kingdoms in 1685 does not completely negate that judgment but it must mitigate it."¹²² The present research does not support her contention. Regardless of any prior attempts to introduce free trade, James only used the prospect of his intervention in the matter in 1686 as a bartering tool with which to persuade the Parliament to pass the toleration act he so craved. If the motivation for proposing free trade in 1686 had been borne, even in part, of a more altruistic cause, it would have succeeded despite the failure of the toleration scheme. That free trade sank alongside toleration is clear evidence that James simply used it in an attempt to mollify the Parliament and convince it to comply with his designs.

As has been noted, James's letter to the Parliament made no mention of the fact that he was also prepared to grant a level of toleration to the Presbyterians of Scotland. This was a terrible miscalculation: despite his acceptance of the demands of Hamilton, Drummond and Lockhart that toleration be extended to Presbyterians as

¹²¹Macauley, *The History of England*, ii, 120; Turner, *James II*, 374; Ashley, M., *James II* (London, 1977), 196; Miller, *James II*, 215; Hume-Brown, P., *History of Scotland to the Present Time*, volume ii, (Cambridge, 1911), 342; Mitchison, R., *A History of Scotland* (London, 1990), 275.

¹²²Colquhoun, K.M. "Issue of the Late Civill Wars': James, duke of York and the government of Scotland, 1679-1689", (University of Illinois, PhD thesis, 1993), 314.

well, James's letter implied otherwise and, however unwittingly, exposed him as a monarch who cared passionately about freedom of religion only when it pertained to those followers of his own faith. As this was compounded by the fact that he had failed to mention anything about the security of the Protestant religion, the atmosphere in Parliament was charged from the start.¹²³

Moray followed the King's letter with a speech of his own, largely based on the Instructions given to him thus far by James. After mention of "doing such things as may tend to the universal good", the High Commissioner promised not only that James was endeavouring to open a free trade between Scotland and England, but also that he was willing to pass any bills that were deemed to be for public benefit. Offerings included the establishment of negotiations to remove French duty on Scottish imports, the facilitation of trade with Holland, the prohibition of importing specified Irish goods, the creation of an open Mint and the regulation of the discipline of soldiers within their quarters. Crucially, Moray also promised that there was to be no more money exacted from the Scottish Parliament. In order to propound the notion that James was a 'tender hearted and compassionate father', much was also made of the fact that James had resolved to introduce an indemnity, albeit with some exceptions, for previous crimes. Only after this lengthy rendition of the King's unambiguously favourable designs did Moray finally mention giving, "ease and security to some of his good subjects of the Roman Catholic religion, who have in all times been firm to the monarchy, and ready to sacrifice their lives and fortunes for the services and security of the crown."¹²⁴

After the speeches, attention turned to committees. Due to the fact that the parliamentary session of 1686 was a continuation of the meeting of the previous

¹²³NAS GD 406/7179, [Hamilton to Arran], 1 May 1686.

¹²⁴Muniments, Volume III, Box 7, 315, Draft of Moray's speech, n.d. [April 1686]. It is possible that a previous rough draft of this speech contained a direct reference to the Act for Catholic Indulgence, as this present draft is described by the Moray cataloguer as having the Act for Catholic Indulgence omitted. If this was the case, Moray patently toned down the tenor of his speech in terms of concessions to Catholics, preferring instead to approach the subject with increased subtlety; NAS PA7/12/19, *Moray's speech to the Parliament*; Wodrow, *Sufferings*, iv, 360-1; Clarke, *The Life of James II*, ii, 67; Mathieson, *Politics and Religion in Scotland*, 324.

year, the committees as elected in 1685 remained in effect. On account of the fact that three of the Lords of the Articles, General Thomas Dalziel, Sir David Falconer of Newton and John Boyle of Kelburn, had passed away since the meeting of the last Parliament, Moray named General Drummond, Sir John Murray of Drumcairn and Innes of Cockston as their replacements on that body.¹²⁵ The fact that Moray unilaterally appointed the replacements to the Articles led to some resentment, as the new appointees should rightfully have been chosen by the clerical and noble Articles as was the customary election procedure within that body.¹²⁶

There were also a few alterations to the Committee Anent Controverted Elections, likewise made by Moray himself.¹²⁷ Two members from 1685 did not return in 1686: Earl Wintoun, who was out of the country, and Sir Robert Dalziel of Glenae, by then deceased. In 1686 the Bishop of the Isles, Earl Lauderdale, Lord Duffus, Sir Alexander Seton of Pitmedden, Sir Hugh Campbell of Calder and John Sleigh were added to this Committee.¹²⁸ The Committee thus numbered 16 members in total, comprising of four from each estate, only one of which, the Bishop of Edinburgh, was also on the Lords of the Articles. The Committee Anent Controverted Elections had relatively little to do in 1686, because the majority of candidates elected to the first session of James VII's first Parliament returned to the second session. The Committee did, however, have to be appointed so that it could rule on any arising disputes. The singular report issued by the Committee related to the debatable election in the shire of Kincardine between Sir David Carnegie of Pittarrow and William Rait of Halgreen. On the grounds that the sheriff-depute had no right to vote, the heritors had been called by a valuation-roll and the voters had failed to take the Test, the election was declared void and another called for 13 May.¹²⁹ Rait of Halgreen ultimately won the seat in Parliament but it is curious to note that, although James had charged the Council to desist from pressing the Test

¹²⁵*APS*, viii, 580; Fountainhall's *Chronological Notes*, 171; Fountainhall's *Notices*, 718.

¹²⁶Fountainhall's *Notices*, 718.

¹²⁷*APS*, viii, 580; Fountainhall's *Notices*, 718-9.

¹²⁸*APS*, viii, 580.

¹²⁹NLS Adv Ms 25.6.9, Note on Decisions in Parliament Relating to Controverted Elections, f5; *APS*, viii, 581; Fountainhall noted the name of the shire as Merns, *Notices*, 719.

onto heritors at the end of January, the Committee still felt that it was necessary for voters to have taken the Test in order to ensure a sound election. That the Test was still on the statute books meant that it was still a legal necessity as far as the Parliament was concerned.

The opening day of the Parliament additionally witnessed the formulation of a Committee to draw up a reply to the King's letter.¹³⁰ This was also nominated by the High Commissioner as opposed to being elected by the Estates. Onto the Committee, Moray placed the Archbishop of St Andrews, the Bishops of Edinburgh and Dunblane, the Dukes of Queensberry and Hamilton and the Earl of Lauderdale, as well as Lockhart, General Drummond and Sir James Foulis of Ridford for the shires and Alexander Bruce, Sir George Skeen and John Kidd for the burghs.¹³¹ Of the 12 members, six were also Lords of the Articles and four were on the Committee Anent Controverted Elections. Only the Bishop of Edinburgh was on all three Committees. After the nomination of the Committee to draw up a reply to the King, the Parliament was ordered to meet again several days later.

Given the nature of the Parliament's purpose, those at Court were under no illusions that their matter would be enacted without contention. In the early stages of the Parliament, particular concern originated from the lack of support from the Bishops who, with the exception of St Andrews and Edinburgh, all opposed toleration. Whilst airing his concerns to Moray, Melfort nonetheless felt that the acquiescence of the bishops would eventually be attained once the wheels were set in motion: "I am confident that if once they find that One is prepared to Go on step there are others who will go two and even the B[isho]ps them selves will find their Conciences the better satisfied that they hev no party to stand by them in their oppositione".¹³² Melfort also warned Moray about the destructive effects of cabals and urged him to gain private intelligence to prevent their designs and to vigorously assert the King's authority. It can be seen from Melfort's correspondence with Moray that the issue of the prerogative was of paramount importance to the Court, the Secretary urging the Commissioner on several occasions to defend the dispensing

¹³⁰Fountainhall's *Notices*, 718; Macauley, *The History of England*, ii, 120.

¹³¹*APS*, viii, 580.

¹³²Moray Muniments, Volume III, Box 7, 600.

power at all costs: if any attempts were made to introduce a debate on the matter, they were to be “Crushed at the first Motione”.¹³³

Already there was a perceptible aura of defiance in the Parliament. Hamilton informed Arran that on the opening day he had, “found all the members of parliament ware avers to grant the kings desires in favers of the Roman Catholicks ...it’s sayd there will not be ten in the parliament for itt”.¹³⁴ As had been noted, particular offence had been caused by the glaring omissions in both James’s correspondence and Moray’s speech; neither had even broached the subject of securing the Protestant religion. Just three days after writing this letter, Hamilton noted that the aversion of the Bishops and other members of Parliament was growing rather than diminishing. Hamilton wrote that, “if my advise had been folloued to have asked no more but the exercise of the Roman Catholick Religion u[i]t[h] in their houses wee had not mett the opposition it’s like to meet u[i]t[h] but the proposing the takeing of the laws & oath that all of that persuasion may be capable to come on to the Government has so alarmed that nothing les is intended but the rooting out of the protestant Religion”.¹³⁵

Hamilton’s early findings regarding the apparent hostility were substantiated when the Parliament next met, on 6 May. Incredibly, Hamilton was compelled to prevent a motion being made to oust the Chancellor on the grounds of his religion.¹³⁶ Moreover, despite having passed in the Articles without a contrary vote,¹³⁷ heated debates ensued when the blueprint of the reply to James was read to the full Parliament. The objections essentially revolved around the inclusion of the phrase ‘Roman Catholics’, the argument being forwarded that the use of the term ‘Roman Catholic’ was tantamount to legitimising that religion. Although Fountainhall suggested that the phrase became “those commonly called Roman Catholics”,¹³⁸ his suggestion was laid aside in favour of simply paraphrasing the King. The term ‘subjects of the Roman Catholic religion’ was thus carried by 37 votes.¹³⁹ Melfort

¹³³Moray Muniments, Volume III, Box 7, 610, Melfort to Moray 12 May 1686.

¹³⁴NAS GD 406/1/7179.

¹³⁵NAS GD 406/1/7180, [Hamilton to Arran], 4 May 1686.

¹³⁶NAS GD 406/1/7202, [Hamilton to Arran], 6 May 1686; Speck, *James II*, 92.

¹³⁷NAS GD 406/1/7180.

¹³⁸Fountainhall’s *Notices*, 721.

¹³⁹*Ibid*, 720-1; Rait, *The Parliaments of Scotland*, 90; Macauley, *The History of England*, ii, 120-1; Wodrow, *Sufferings*, iv, 360. In Fountainhall’s *Chronological*

reported that the linguistic debate was mocked as folly in England: "I am sorry that things should go no better and that the Par[liamen]t of Scotland should have stumbled at words all wise men hear laugh at it and are glad to have such a jest of Scotland to put in the Irish Catalogue."¹⁴⁰

Whereas the usual tenor of such replies from the Scottish Parliament to the monarch was unconditionally complimentary and obedient, the correspondence of 1686, whilst conveying the appreciation of the Parliament in terms of James's efforts regarding free trade with England and the intended indemnity to rebels, also embodied the concerns regarding the repeal of the Penal Laws. Although Parliament agreed to consider the issue, it qualified its acquiescence by stating that this was dependent not only on their consciences but also on James taking pains to secure the Protestant religion.¹⁴¹ Evidently the Scots were not prepared to obsequiously bow to the demands of their King: they had requirements of their own. The letter from the Scottish Parliament was in fact viewed by James as being so contentious that, despite the established practice, he did not order it to be published.

It rapidly became clear that the issue of toleration was not going to have a smooth passage into statute. Indeed, the atmosphere in the Articles actually mirrored that in the full Parliament to a degree. At one stage the Articles rejected the courtiers' proposal that the Penal Laws against Catholics be removed whilst an exemption was granted to all other dissenters during the King's reign and for two years thereafter.¹⁴² Notable resistance within the Articles emanated from Hamilton and Lockhart who, backed up by Drummond, provided some vocal objections to acquiescing to every minutiae of the royal will on the grounds that their consciences

Notes, 172, it is stated that 'it carried conform to Fountainhall's proposal' but this is evidently a mistake.

¹⁴⁰Moray Muniments, Volume III, Box 7, 609, Melfort to Moray, 15 May 1686.

¹⁴¹*APS*, viii, 581; *His Majesties Most Gracious Letter to the Parliament of Scotland: Together with the Parliaments Dutiful Answer to His Majesties Letter* (London, 1686), f5; Wodrow, *Sufferings*, iv, 360-1; Mathieson, W.L., 'The Scottish Parliament, 1560-1707', *SHR*, xv, (1907), 60; Mathieson, *Politics and Religion in Scotland*, 324; Donaldson, *Scotland; James V-James VII*, 381; Cowan, *The Scottish Covenanters*, 130; Rait, *The Parliaments of Scotland*, 93; Hume-Brown, *History of Scotland to the Present Time*, ii, 342.

¹⁴²*CSPD* (January 1686-May 1687), 151.

would not allow them to do so.¹⁴³ During the course of the discussions Hamilton argued that a general indulgence should be extended to all nonconformists, a sentiment which apparently alarmed Archbishop St Andrews, but which had already been remitted to the Secret Committee for consideration. Meanwhile, Lockhart forwarded the notion that any toleration should not apply to new converts after the imposition of the act. The grammatical construction of the draft act for toleration actually suggests Lockhart won this point: it only provided for “those of his majesty’s subjects, who are of the Romish religion”, thereby seemingly precluding those who should convert at a later date.¹⁴⁴ Additionally, Lockhart also suggested that all Catholics should be henceforth barred from public offices, and that not even the King should be able to overturn this without consent from the Parliament.¹⁴⁵ Naturally, that such sentiments were voiced in the normally docile Articles provided strong suggestion that there would be imminent opposition in the full Parliament.

It apparently came as quite a shock to James when he heard that there had been such objections to his toleration scheme in the Articles, particularly notable being the carriage of Hamilton and Lockhart, their suggestions during the negotiations somewhat blunting the extent of the Act as envisaged by James. James wrote to Moray, “I find D[uke] Ham[ilton] and the Pres[ident] of Ses[sion] mistook very much what was sayd to them when they went hence but hope befor this they recolected their thought and remembered a little better”.¹⁴⁶ Basing his argument on the comments of Barillon, who offered a French perspective on the meeting, that, “the King appears to be quite satisfied with him”,¹⁴⁷ Turner has argued that Hamilton left the meeting with James in London having either deliberately or unwittingly deceived him as to his intentions regarding the proposed toleration; when Hamilton agreed not to actively oppose the King’s scheme, James had taken this to mean the Duke actually supported his initiative.¹⁴⁸

¹⁴³Macauley, *The History of England*, ii, 121-2; Mathieson, *Politics and Religion in Scotland*, 327; Cowan, *The Scottish Covenanters*, 130.

¹⁴⁴Fountainhall’s *Notices*, 734; Wodrow, *Sufferings*, iv, 366.

¹⁴⁵Fountainhall’s *Notices*, 725; Fountainhall’s *Chronological Notes*, 173-4.

¹⁴⁶Moray Muniments, Volume III, Box 7, 590, James to Moray, 8 May 1686.

¹⁴⁷*Ibid.*

¹⁴⁸Turner, *James II*, 376.

It must be noted, however, that despite James's acceptance of Hamilton and Lockhart's support, there was in fact some enduring doubt at Court as to Hamilton's convictions. On 1 May Melfort wrote to Moray discussing opponents of the Court: "the King knous how Refractory folks hav bein and knous by name and surname who the scrupulus are especially such as he has in his service if they yield nou its to D[uke] H[amilton] allon the obligacione is deu for except for him the K[ing] knous ther sentiments".¹⁴⁹ Despite having acknowledged that the King did not really know Hamilton's mind, Melfort was nonetheless clearly surprised when he heard a report from Perth about Hamilton's conduct and immediately wrote to Moray commenting on the "mistakes D[uke] H[amilton] was in".¹⁵⁰

The fact that there was some sort of misunderstanding about the agreement made in London is clear from Hamilton's correspondence with his son. In a letter dated 1 May Hamilton wrote that he had recently been made aware that no favour to Protestant dissenters was to be allowed by an act of Parliament and that no act to secure the Protestant religion was to be allowed if the Parliament granted no more than toleration for Catholics in houses. Strikingly, Hamilton stated that he had been under the impression that both of these points had already been agreed upon.¹⁵¹ Just over two weeks later, Hamilton reiterated that there had been a misconception and rather grudgingly accepted responsibility for such: "I need not now debate how I understood in what tearms the Toleration was to be granted to the Roman Catholicks but I do not use to be so much mistaken it seams (since the king says so) I have been in this matter."¹⁵²

Despite the confusion, Hamilton's influence in Scotland was clearly still appreciated. Melfort beseeched Hamilton to consider that, given that others would follow his lead, the success or failure of James's project depended on what he chose to do, and later attributed Queensberry's vote to the example set by Hamilton.¹⁵³ Possibly as a result of the persuasions of his peers, but more likely because his meeting with James prior to the Parliament had reinforced his sense of duty to the

¹⁴⁹Moray Muniments, Volume III, Box 7, 600.

¹⁵⁰Moray Muniments, Volume III, Box 7, 603, Melfort to Moray, 5 May 1686.

¹⁵¹NAS GD 406/1/7179.

¹⁵²NAS GD 406/1/6312, [Hamilton to Arran], 17 May [1686].

¹⁵³Turner, *James II*, 376; Moray Muniments, Volume III, Box 7, 613.

King, coupled with the fact that he had given his word not to actively oppose toleration, Hamilton ultimately voted for the Act as formulated in the Articles and was silent during the later debates in the full Parliament. Behaving likewise were Lockhart and Drummond, again almost certainly as a direct result of their discussions with James in the run-up to the Parliament. One argument to explain their ultimate acquiescence is that they could have done more for the service of Protestantism by remaining part of the government instead of risking unemployment by speaking out.¹⁵⁴ The three men also fulfilled their promise to James to propose the repeal of the Test: on 25 May the Secret Committee, of which they were all members, wrote to Melfort recommending that the law requiring heritors, liferenters, wadsetters and burgesses to take the Test be rescinded, and that the law which required Commissioners of Supply to take the oaths of allegiance, supremacy and the Test be similarly discharged.¹⁵⁵

After numerous meetings and debates, a subcommittee of the Articles was formulated on 20 May to prepare the act “for the ease to the Roman Catholikes”.¹⁵⁶ This evidently pleased Melfort, who noted to Moray that the “Comitty for the favor to the Catholiques”¹⁵⁷ had been well chosen. The discussions about the wording of the act for the abolition of the Penal Laws went through many stages. One of the earlier drafts is composed of segments of the King’s letter to Parliament, identifiable sections being a simple reworking of his words. Appended to this draft is a clause for the security of the Protestant religion, after which is the comment, “This last clause will cause the act goe more smooth. And it is more then what his Majestie has already said in the first act of the first session of this Parliament.”¹⁵⁸ On 25 May another draft was resolved upon, ‘by the Committee’, which included the words, “no

¹⁵⁴*Dictionary of National Biography* (London, 1909), volume xii, 45; Burnet, *History of His Own Time*, ii, 355; Fountainhall’s *Notices*, 737; Fountainhall’s *Chronological Notes*, 182.

¹⁵⁵*RPCS*, xii, 227.

¹⁵⁶NAS GD 406/1/7021, [Hamilton] to Arran, 20 May 1686. Unfortunately, there is no record of the membership of this subcommittee.

¹⁵⁷Moray Muniments, Volume III, Box 7, 596, Melfort to Moray, n.d.

¹⁵⁸Moray Muniments, Volume III, Box 7, 317, Rough draft of an Act of Indulgence allowing ‘papists’ to worship according to their own ritual on their private dwellings, n.d.

papists shall have the penalties appointed by the Lawes of this Nation either Sanguinarie or penall inflicted upon them for their professing that Religion or expressing of it in privat families.”¹⁵⁹ Significantly, this draft also included specific provision that both the Test and the Oath of Allegiance should continue in full force and that papists should remain incapacitated from filling offices of public trust.

Any such inclusions, however, were subsequently withdrawn. When the draft act for toleration was presented to the full Parliament, some three weeks after discussions had begun,¹⁶⁰ it bore no specific reference to either the Test or the Oath of Allegiance. In this first official draft it was stated that, “his majesty, with advice and consent of his estates of parliament, statutes and ordains that those of his majesties subjects, who are of the Romish communion, shall be under the protection of his majesty’s government and laws, and shall not, for the exercise of their religion in private, (all public worship being hereby expressly excluded,) be under the danger of sanguinary and other punishments, contained in any laws or acts of Parliament made against the same.”¹⁶¹ Profoundly, despite it being markedly less comprehensive than was desired by James, the customarily servile Articles only approved the decision to introduce this draft act to the full Parliament by the narrow majority of 18 votes to 14.¹⁶²

It is apparent from Melfort’s correspondence that some inroads were being made for the Court in terms of turning some of the opposition, and that he remained optimistic about the position of the clerics: “I hope the Bishops will in time Consider wher things may go and not throug off the K[ing’s] protectione for a litle popular applaus and in the end ruine at Least hazard the place of the Nacione”.¹⁶³ With the

¹⁵⁹Moray Muniments, Volume III, Box 7, 250, Note of the Act Resolved on by the Committee, 25 May 1686.

¹⁶⁰Macauley, *The History of England*, ii, 124; Mathieson, *Politics and Religion in Scotland*, 327.

¹⁶¹NLS Wod Fol XXXIII (cxxiv), Act in favour of papists as passed in the Committee, 27 May 1686; Wodrow, *Sufferings*, iv, 366.

¹⁶²NAS GD 124/10/419, List of Articles who voted for and against the Act; HMC 60, 219; *CSPD* (January 1686-May 1687), 152; Turner, *James II*, 375; Rait, *The Parliaments of Scotland*, 92; Speck, *James II*, 92.

¹⁶³Moray Muniments, Volume III, Box 7, 613.

exception of St Andrews and Edinburgh, however, the Bishops remained steadfast in their resistance.

Those who voted for the Act were the Archbishop of St Andrews, the Bishop of Edinburgh, Atholl, Hamilton, Douglas, Erroll, Strathmore, Southesk, Tweeddale, Tarbat, Lieutenant-General Drummond, Lockhart, Balcaskie, Lieutenant-General Douglas, Laird Cockstoune, Lord Drumcairn, Lord Forrett and the Provost of Aberdeen, Sir George Skeen. The first three, Atholl, St Andrews and Edinburgh, had all visited London immediately prior to the Parliament in order to discuss the impending proceedings.¹⁶⁴ Those who voted against the Act were the Archbishop of Glasgow, the Bishops of Galloway, Brechin and Aberdeen, Marischal, Mar, Sir William Bruce, Sir George Drummond, the former Provost of Edinburgh, and Alexander Milne, James Fletcher, John Johnston, Sir Patrick Murray, James Boyle and James Smollet, the Provosts of Linlithgow, Dundee, Glasgow, Dunfermline, Irvine and Dumbarton respectively.¹⁶⁵

Thirty-two members of the Articles voted on the draft act. This figure includes 30 of the original 32 individually nominated Lords of the Articles. Two Bishops did not vote: the Bishop of Caithness was absent, and the Bishop of Dunkeld had already been sacked.¹⁶⁶ Atholl, Privy Seal, and Tarbat, Lord Register, voted by virtue of their status as Officers of State, which allowed them to join the Lords of the Articles. Other Officers of State were conspicuously missing from the vote on the draft act for toleration. In some instances, this can be easily explained: the office of Treasurer had been annulled in favour of a commission and the Lord Advocate had been sacked prior to the voting taking place. Other absences are more curious: neither the Chancellor, Perth, or the Justice-Clerk, Sir James Foulis of Collington,¹⁶⁷ appear to have voted on the draft act for toleration. As it transpired, the reticence of 14 of the Articles was well-founded, for the draft was met with fierce opposition in the full Parliament.

¹⁶⁴NAS GD 406/1/7121.

¹⁶⁵NAS GD 124/10/419; HMC 60, 219.

¹⁶⁶Rait, *The Parliaments of Scotland*, 92.

¹⁶⁷The Justice-Clerk and the Lord Advocate were the two non-noble Officers of State who attended the Parliament.

During the weeks in which the Articles debated, Melfort's perspective from London was most expressive. Throughout his correspondence, he could not stress enough to Moray the consequence of the issue. On 1 May Melfort emphasised the importance of the Scottish affair in England, writing that there were, "Great fears amongst the fanatiques that all will go to the King's Mynd in Scotland ...if it Doe it will be the greatest stroak imaginable to the Kings enemies."¹⁶⁸ By 27 May, the gravity of the situation was apparent: "The affairs of Scotland is nou lookt on as of the Greatest Consequence of Any in Europ for the Generall peace".¹⁶⁹ Despite the knowledge that the Scottish Parliament may refuse to enact a toleration for Catholics, both Melfort and James apparently remained confident: "the K[ing] has no fear Go maters as they uill He is and still uill be the Master through Gods Providence & assistance."¹⁷⁰ This sentiment was supported on 20 May, when Melfort wrote that he had never seen the King, "mor Cheirfull nor Contented Go things as they uill in the Parliament he has no doubt of success in his affairs and What the Parliament uill not doe his Prerogativ uill".¹⁷¹

Another consistent feature of Melfort's correspondence with Moray was his dissatisfaction with the Secret Committee. When explaining, on 5 May, why a letter had been sent to the Council regarding the diocese of Aberdeen, and not to the Secret Committee, Melfort expressed grave discontent with the Court's most elite group of advisers: "it is rather sent to the Councell then S[ecret] Com[mittee] for thats turned as bad as the Councell ever was and worse and I am Confident the King will be better obeyed by them then by the S[ecret] Com[mittee]."¹⁷² This comment was compounded on 8 May when he complained the issue of toleration for Presbyterians, which had been remitted to them in confidence, had been spoken about publicly, despite a warning that, "no Mentione should be mede of it till the K[ing]'s Desires uer over".¹⁷³ In subsequent letters Melfort continued his tirade against the Secret Committee, encouraging Moray to warn them, "that it uill not be a single ill natured

¹⁶⁸Moray Muniments, Volume III, Box 7, 600.

¹⁶⁹Moray Muniments, Volume III, Box 7, 621.

¹⁷⁰Moray Muniments, Volume III, Box 7, 610.

¹⁷¹Moray Muniments, Volume III, Box 7, 616, Melfort to Moray, 20 May 1686.

¹⁷²Moray Muniments, Volume III, Box 7, 603.

¹⁷³Moray Muniments, Volume III, Box 7, 604, Melfort to Moray, 8 May 1686.

Vote that uill gaine the Reputacione of serveing the King”.¹⁷⁴ That it was posing such a problem for the Court cannot have boded well for the carriage of the full Parliament.

Prior even to the draft act of toleration being read in the full Parliament, the Court had a good idea about how some members of the Parliament intended to vote. As a consequence of the debate on the terminology used in the Parliament’s reply to James, Hamilton wrote on 6 May that, “it’s already well enough seen who will be against it, & who for it”.¹⁷⁵ Such news rapidly spread to Court. On 8 May Melfort wrote, “It seims the K[ing’s] oun servants are Resolved to opose him as Gosford Mar and c but I kno y[ou]r Grace has made knoun to thes Gentlemen that the King will hav his servants serve him indeed and not in empty profesions. And that if any of them be so bold as to Contradict his uill he uill lett them kno whom they hav to Doe with”.¹⁷⁶ On the other hand, however, the Court was emboldened by the support of such men as Atholl and Breadalbane.¹⁷⁷

Contrary to the opinion of Hamilton, who thought it strange that a vote should be taken on toleration,¹⁷⁸ the King was determined that the matter was put to the ballot. Melfort outlined his reasons to Moray on 12 May: his Majesty “is so fully resolved to kno his frends from his ennamys that he uill hav the mater Decided by a Vote and Cannot be brought to think that he uill lose any mor by the Publiqueness of a denyall”.¹⁷⁹ No other matter was to be passed into law prior to the fulfillment of James’s primary Instruction to Moray. If the toleration of Catholics was refused, James recognised that the continuance of the Scottish Parliament was futile and consequently sent Moray an Additional Instruction, which was to remain secret, authorising him to dissolve the Parliament if the acts in favour of the Roman

¹⁷⁴Moray Muniments, Volume III, Box 7, 605.

¹⁷⁵NAS GD 406/1/7202.

¹⁷⁶Moray Muniments, Volume III, Box 7, 604. Melfort was referring to John Wedderburn of Gosford, commissioner for the shire of Haddington, and the Earl of Mar.

¹⁷⁷Ibid; Moray Muniments, Volume III, Box 7, 616; Hopkins, P., *Glencoe and the End of the Highland War* (Edinburgh, 1998), 104.

¹⁷⁸NAS GD 406/1/7202.

¹⁷⁹Moray Muniments, Volume III, Box 7, 610.

Catholics failed.¹⁸⁰ Melfort wrote, however, that the Scots should be made aware of all the ramifications of parliamentary rejection of toleration: “all man must kno this mater is such earnest as the King uill proceed upon in another manner then they fancy”.¹⁸¹ In the meantime, Moray was given orders to be vigilant in discovering disloyal correspondence and was further instructed to gather together a secret committee made up of those he most trusted with a view to formulating propositions for the future government of Scotland.¹⁸²

From the early stages of the Parliament, managerial direction from the Court favoured to a large extent making examples of wayward persons in an effort to prevent others from adopting the same stance as them. With regards to the Address of the Diocese of Aberdeen, Melfort wrote that, “the King hes sent a letter to the Councell about it ...if it be fitt to prosecute it so as may giv terror to Others for to show the least fear or to suffer such ane affront is ane instanc and encouragement to Addressing”.¹⁸³ Building on this, James thereafter went on to make several radical alterations to the government: specifically because of their reluctance to abandon the penal laws he removed Lord Pitmedden from the Court of Session, the Earl of Glencairn, who also lost his pension, and Sir William Bruce from the Council, and Mackenzie from his position as Lord Advocate. When Mackenzie shortly thereafter attempted to gain an audience with James in London, he was refused admittance.¹⁸⁴ Mackenzie had in fact been given the opportunity to remain in office in return for

¹⁸⁰Moray Muniments, Volume III, Box 7, 278, Additional Instruction to Moray, 12 May 1686; Moray Muniments, Volume III, Box 7, 605.

¹⁸¹Moray Muniments, Volume III, Box 7, 605.

¹⁸²Moray Muniments, Volume III, Box 7, 610.

¹⁸³Moray Muniments, Volume III, Box 7, 603.

¹⁸⁴*RPCS*, xii, xxi, 221; Lang, *Sir George Mackenzie of Rosehaugh*, 291; Fountainhall's *Notices*, 723, 781; Fountainhall's *Chronological Notes*, 172, 208, 220; Wodrow, *Sufferings*, iv, 401; Mathieson, *Politics and Religion in Scotland*, 325; Mathieson 'The Scottish Parliament, 1560-1707', 60. Hugh Ouston mistakenly states that the first Indulgence led to the resignation of Mackenzie, 'York in Edinburgh: James VII and the Patronage of Learning in Scotland, 1679-1688', 147. Ouston is also wrong in claiming that Mackenzie's 'successor Lockhart' also resigned. Lockhart merely officiated during the Parliament in the absence of a Lord Advocate: Mackenzie was actually succeeded by Sir John Dalrymple of Stair, who was appointed Lord Advocate in February 1687, *The Parliaments of Scotland, Burgh and Shire Commissioners*, M. Young (ed), (Scottish Committee on the History of Parliament, Scottish Academic Press, 1993), 176.

promising to support the King's proposition. Upon rejecting this offer, he was summarily sacked by way of a letter which Moray had been given in case he proved refractory. Moray had been instructed to use the letter on Perth's advice, though Melfort at one point remarked at Moray's patience in not having delivered the letter to Mackenzie sooner.¹⁸⁵ In addition to these initial sackings, Wedderburn of Gosford was also removed from the Council as well as his position as Lieutenant-Colonel of a regiment of dragoons.¹⁸⁶ According to Fountainhall, these dismissals certainly fell into the same category as the Diocese of Aberdeen: "These warning shots were to terrify and divert other members of Parliament from their opposition."¹⁸⁷ With regards to this policy, Hamilton again differed from the Court; instead of thinking that these dismissals would encourage acquiescence from the Parliament, he thought such action would only serve to make people more firm in their opposition.¹⁸⁸

Despite such scare tactics, notwithstanding contemporary rumours to the contrary,¹⁸⁹ and irrespective of the demands of James having been conspicuously attenuated by the Articles, the full Parliament proved exceptionally resistant when presented, on 27 May, with the draft act to allow for toleration for Catholics. On Melfort's recommendation, Moray made a speech before the Parliament voted on the King's measure,¹⁹⁰ but this was to be to no avail. It became manifestly apparent that the notion of toleration was repellent to the majority of the Scottish Parliament, the overwhelming consensus being extremely antipathetic to the proposed measure.

Vehement hostility was evident from the Bishops of Dunkeld and Galloway, with the Archbishop of Glasgow supplementing their opposition, albeit with more reserve.¹⁹¹ According to Wodrow, the Bishop of Ross made apparent his resistance to Catholics being admitted to places of trust during the course of a frank discussion

¹⁸⁵Moray Muniments, Volume III, Box 7, 610; Moray Muniments, Volume III, Box 7, 592, Melfort to Moray, 2 September [May], 1686; Moray Muniments, Volume III, Box 7, 613.

¹⁸⁶*RPCS*, xii, 238; Fountainhall's *Notices*, 729; Fountainhall's *Chronological Notes*, 176.

¹⁸⁷Fountainhall's *Notices*, 723.

¹⁸⁸NAS GD 406/1/6312.

¹⁸⁹*CSPD* (January 1686-May 1687), 144.

¹⁹⁰Moray Muniments, Volume III, Box 7, 605; Moray Muniments, Volume III, Box 7, 322, Draft of an Address to Parliament by Moray, n.d. [given on 27 May 1686].

¹⁹¹Burnet, *History of His Own Time*, ii, 355.

with Moray in which he also reported that a design by Perth and Melfort was already underway to replace him as Secretary with a Catholic.¹⁹² In addition, Alexander Milne, the Provost of Linlithgow and member of the Articles, openly deserted the Court, for which he later lost his place in the Customs and his Court pension.¹⁹³ Doctor Sibbald sensationally declared his intention to publicly recant and return to Protestantism on the grounds that Catholicism had offered him no salvation. In respect of this he received a multitude of favorable correspondence.¹⁹⁴ Lord Newark, having been brought to the Parliament by Balcarras to assist the Court, instead spoke out against it after consultations with Eglington.¹⁹⁵ In the event, the draft act for toleration was ultimately defeated by the Parliament, by a majority of nearly two to one,¹⁹⁶ on the grounds that they had reservations about its ability to uphold Protestantism.

In addition to actually dismissing men to induce wider conformity, the Court had made provision for the removal of others if they did not comply with the Court. A letter was sent for turning William Livingstone out of his troop of dragoons; if, however, Moray found him to be supportive of the toleration scheme, he was to remain in office.¹⁹⁷ Similarly, although warrants had been sent to remove three Bishops from their positions, Moray was directed that only one had to be made use of at that time, that, “which you think most conducing to our service.”¹⁹⁸ Accordingly, the letter sacking the Bishop of Dunkeld was read at the Council on 3 June. This was shortly after Melfort, who believed Dunkeld’s punishment was too light, had urged Moray to investigate into his sermon to see if his preachings constituted high treason.¹⁹⁹ Clearly the unused warrants were, as shall be discussed in more detail later, simply tocsins designed to keep others in check.

¹⁹²NAS GD 406/1/7182, [Hamilton to Arran], 6 June 1686; Wodrow, *Sufferings*, iv, 365.

¹⁹³Rait, *The Parliaments of Scotland*, 93, 94.

¹⁹⁴NLS MS 2257, ff4, 5, 6, 7.

¹⁹⁵Fountainhall’s *Notices*, 724, 725, 735; Fountainhall’s *Chronological Notes*, 173-4; Mathieson, *Politics and Religion in Scotland*, 326-7.

¹⁹⁶Turner, *James II*, 375.

¹⁹⁷Moray Muniments, Volume III, Box 7, 610.

¹⁹⁸Moray Muniments, Volume III, Box 7, 281, Additional Instruction to Moray, 22 May 1686.

¹⁹⁹Moray Muniments, Volume III, Box 7, 594 & 595, Melfort to Moray, n.d.; Moray

Significantly, the 1686 Parliament was played out against a backdrop of popular opposition to toleration. The actions of some seditious preachers were of enduring concern to the Court, James writing to the Archbishops about the matter in March, Melfort urging Moray to punish the guilty in late May and a proclamation against slanderers and leasing-makers being issued in June.²⁰⁰ Further, by 1 May Melfort had been made aware that, “Multitudes of people intend to be at Ed[inbu]r[gh] to influence the Par[liamen]t”²⁰¹ and thus hoped that a proclamation could be procured to order them back to their homes. Melfort’s concern undoubtedly stemmed from the fact that there had been an anti-Catholic riot in Edinburgh just a few months previously. There was an increasing volume of contemporary literature, both from the pro-toleration²⁰² and anti-toleration perspectives.²⁰³ Certainly much of the latter category remained underground because of the law preventing the publication of any anti-Catholic material. One of the most notable assaults on the proposed toleration was written and distributed, apparently at the desire of some unnamed members of Parliament, by John Hamilton, who was eventually forced to flee to Ireland as a result. Additionally, despite James’s aversion, a draft act for securing the Protestant religion was drawn up during the course of the Parliament.²⁰⁴ Emanating from an unknown source, though in all probability not the Articles, and encompassing such clauses as the rescinding of all

Muniments, Volume III, Box 7, 613; *RPCS*, xii, 237-8; Fountainhall’s *Notices*, 728.

²⁰⁰Moray Muniments, Volume III, Box 7, 621, 613; Wodrow, *Sufferings*, iv, 399-400; Fountainhall’s *Notices*, 739-40.

²⁰¹Moray Muniments, Volume III, Box 7, 600.

²⁰²*Reflections upon the Bulls of the Popes Paul the Third and Pius the Fifth Emitted against hebry VIII and Queen Elizabeth of England* (Edinburgh? 1686); *Popery Anatomised in a Letter to a Friend* (London?, 1686); HMC 60, 218; Fountainhall’s *Notices*, 726-7, 735; Wodrow, *Sufferings*, iv, 371-5.

²⁰³*Reasons why a Consent to Abolish the Penal Statutes Against Papists could not be given by any who own’d the then Government in Church and State* ([Edinburgh], 1707); NLS Wod Fol XXXIII (cxxviii), Reasons against passing the Act for a toleration to Papists, 1686, f218-9; NLS MS 976, miscellaneous papers, A Letanie and other satirical poems; BL Stowe 158, Miscellaneous Papers Relating to Scotland, “Reasons against the Abolition of the Penal Laws in Scotland against the Papists”, f51; *RPCS*, xii, 194, 204-5; Fountainhall’s *Notices*, 719-20, 739; Wodrow, *Sufferings*, iv, 367-70, 375-386; HMC 60, 218.

²⁰⁴NLS Wod Fol XXXIII (cxxv) The draught of an act for securing the Protestant religion, 1686, f213.

acts in favour of the papists and the ratification of all acts which suppressed popery, this draft went no further than the stages of inception. Nonetheless, it adequately displays that the Scots were not prepared to obsequiously bow to the demands of their King without achieving some of their own goals, namely the protection of Protestantism.

In attempting to get toleration pushed through the Parliament the Court made several errors of judgment. These included ordering Mar, Ross, Kilsyth and Sir John Dalziel back to their military posts because they were against the proposed measures, though they offered to give up their commissions in order to remain at the Parliament. Hamilton of Orbiston, another rival of the Court, was instructed to attend the Highland Commission in order to get him out of the way also. A man named Fall was also evidently ordered home by Moray. Melfort particularly appreciated this judgment, writing, “he is a pest when he Coms and in my opinione as lyk G burnett, as ane Ape to a Baboon and both as uell natured”.²⁰⁵ The Court also used intimidating behaviour in an attempt to sway people; two of Fountainhall’s servants were imprisoned and the Bishops of Ross and Dunblane were threatened. Additionally, the correspondence between Scotland and London was tampered with in an attempt to prevent the actions of the Scots giving any encouragement to the opponents of the Court at Whitehall. There was even a rumour that James intended to hasten to the Parliament himself in order to manage the affair by his own presence.²⁰⁶ All in all, such tactics won them no favours as allegations of dictatorial rule could be easily levelled in return.

The threatening of Bishops Ross and Dunblane alluded to by Fountainhall has been used by Mathieson to argue that it was likely that the unused warrants for the removal of two Bishops were intended for Ross and Dunblane.²⁰⁷ Whereas the former preached, “a sermon in the Hy-church to the Members of the Parliament,

²⁰⁵Moray Muniments, Volume III, Box 7, 616.

²⁰⁶Fountainhall’s *Notices*, 723, 734-5; Fountainhall’s *Chronological Notes*, 180; Fountainhall’s *Selections*, 249; Miller, *James II*, 215; Mathieson, ‘The Scottish Parliament, 1560-1707’, 60; Mitchison, *A History of Scotland*, 275; Mathieson, *Politics and Religion in Scotland*, 327-8.

²⁰⁷Mathieson, *Politics and Religion in Scotland*, 325-6.

which scandalized the Papists extremely,”²⁰⁸ the latter had refused to promise not to preach against Catholicism. In fact Mathieson is mistaken in his assertion.

Dunblane’s carriage was evidently not viewed as seriously as that of his peers: the three warrants for the removal of recalcitrant bishops were actually for Dunkeld, Ross and Galloway,²⁰⁹ though only the first was put to use. Whereas Dunkeld and Galloway had been outspoken in the Parliament against repealing the Penal Laws, Ross, as well as preaching a disagreeable sermon, had voiced his opposition to Catholics being admitted to places of trust. This was during the course of a conversation with Moray in which he also claimed that Perth and Melfort had already commenced a design to oust him as Secretary. The warrant for the removal of Dunkeld was ordered to be used immediately, undoubtedly because of the ferocity of his opposition in Parliament. Meanwhile, the warrants for Galloway and Ross were just precautionary measures, to be used only if their future behaviour warranted their removal. Galloway’s hostility in the Parliament would have brought him the attentions of the elite, who thus decided to make available a mechanism for his curtailment in case he made further orations against the wishes of the Crown. On the other hand, the warrant intended for Ross was almost certainly a result of his allegations to Moray, who passed on Ross’s comments to Perth, bringing him the unwelcome attentions of the Drummond brothers.²¹⁰

Significantly, there was also a hitherto unknown warrant issued for the removal of a Scottish cleric. In an undated letter which was certainly written during the 1686 Parliament, Melfort wrote to Moray that the King had, “at your Desire sent down the Letters for turning Out of the Archbishop of Glasgow to be used with all imaginable tenderness”.²¹¹ As it happened, although the Archbishop of Glasgow was one of the 14 Articles who voted against the draft act for toleration, he was not actually sacked until January 1687.²¹² Nonetheless, that Moray had felt it necessary

²⁰⁸Fountainhall’s *Notices*, 726.

²⁰⁹Moray Muniments, Volume III, Box 7, 618, Melfort to Moray, 22 May 1686.

²¹⁰Wod Fol XXXIII (cxxxiii), Representation from the Lord High Chancellor of Scotland to his Grace the Archbishop of St Andrews Lord Primate, f210; Wodrow, *Sufferings*, iv, 365.

²¹¹Moray Muniments, Volume III, Box 7, 596.

²¹²*RPCS*, xiii, xv; Fountainhall’s *Notices*, 775-6.

to procure a warrant for his dismissal is highly consequential. It is also considerable that no contemporary knowledge of the warrant for the removal of Glasgow is apparent. The implication must certainly be that Moray modified his original intentions and neither used the warrant to remove the Archbishop of Glasgow nor to threaten such an action.

Having had the initial draft of the toleration act returned to them, the Articles began work on a second. One notable debate took place between Perth and Hamilton, the latter being unwilling to have the laws debarring Catholics from government taken away. Evidently this resolution was the source of much angst for Hamilton, both the pro- and anti-Court factions seemingly resentful of his convictions: “the Chancellor & some others I beleieve thought I made those scruples to disappoint the Act absolutly and those that are against itt are more mad att me ...fearing itt may go the more easy.”²¹³ As it happened, the second draft agreed upon in the Articles did have markedly more emphasis on maintaining the laws which excluded Catholics from public offices: although Catholics were to be allowed liberty of conscience and the right to worship in their own homes, the principals of the Penal Laws, and particularly the Test, were upheld by being kept on the statute book.²¹⁴ In so doing, this draft was similar to that resolved on by the ‘Committee’ on 25 May, but which had been revised before being presented to the Parliament to omit the Test.

It is Wodrow’s contention, as Hamilton believed it was some others’, that the clause pertaining to the Test was inserted merely, “to stop the act, and counter the court’s design, to bring in papists to places of trust and power.”²¹⁵ The removal of the Test was certainly an enduring requirement of the Crown, Melfort writing on 27

²¹³NAS GD 406/1/6310, [Hamilton to Arran], 28 May [1686].

²¹⁴NAS GD 45/1/152, Dalhousie Muniments, Draft act permitting private exercise of Catholicism; NAS GD 124/10/418, Copy Act of Parliament anent Penal Laws against Papists; HMC 60, 217 [in both NAS GD 124/10/417 and the HMC Report this is wrongly dated March 1686, a date which actually pertains only to the Declaration of the Archbishop of St Andrews and the Bishop of Edinburgh, which is adjoined to the Copy Act]; Wod Fol XXXIII (cxxvi), Draft of an Act Anent the Penal Statutes, ff215-6; Wod Fol XXXIII (cxxvii), Draft of an Act Anent the Penal Statutes, f217; Wodrow, *Sufferings*, iv, 366-7; Rait, *The Parliaments of Scotland*, 93; Mathieson, *Politics and Religion in Scotland*, 327; Turner, *James II*, 375.

²¹⁵Wodrow, *Sufferings*, iv, 367.

May, “that it is of the Greatest import to hav it auay that no man be forced to take it in time Comeing nor obliged for Any office for if it and the oath of alleadgeance uer off the uork uer done but if it uer once off then the uork uer the easier uith the Alleadgeance that being ane oath mor restricted to the King then the Test Which runs most upon Religione.”²¹⁶ Nonetheless, contrary to Wodrow’s belief that the Parliament was halted because the Chancellor realised that the act would not be acceptable to the King,²¹⁷ James in fact approved the second draft of the Act as formulated by the Articles, with just a few minor amendments.²¹⁸

In so doing, it is clear that those at Court trusted that there would be no further objections from the Scottish Parliament. Melfort certainly said as much to Hamilton on 2 June; he stressed his confidence that the act would pass now that the King had, “condecended to accept of so litle”.²¹⁹ In his letter to Moray dated 3 June 1686, James authorised his High Commissioner to bring in the approved draft as quickly as possible, “if you find that ther are good grounds to beleve the same will pass in Parliament but if ther be not very good grounds to belew that the same will pass in that case you are not to bring it in to parliament but immediatly to Adjurne the parliament ...the lyke you are to Doe if it shal either be lyke to be refused in the Committy or Articles.”²²⁰ If the draft failed after being brought in on good grounds, Moray was to dissolve the Parliament. Of paramount importance to James was that, “all imaginable care must be taken to prevent our loseing of this mater by a vote so solemn a refuseall being of the worst consequence imaginable to our affairs.”²²¹ In all his sentiments, James was seconded by Melfort, whose words thus served to reinforce the gravity of the situation to Moray.²²²

²¹⁶Moray Muniments, Volume III, Box 7, 621.

²¹⁷Wodrow, *Sufferings*, iv, 367.

²¹⁸Moray Muniments, Volume III, Box 7, 291, Draft approved by His Majesty of Act of Indulgence, permitting Roman Catholics worship in private houses, 2 June 1686; NAS GD 406/1/9234, [Melfort to Hamilton], 2 June 1686; Moray Muniments, Volume III, Box 7, 295, James to Moray, 3 June 1686; Moray Muniments, Volume III, Box 7, 624, Melfort to Moray, 3 June 1686.

²¹⁹NAS GD 406/1/9234.

²²⁰Moray Muniments, Volume III, Box 7, 295.

²²¹Ibid.

²²²Moray Muniments, Volume III, Box 7, 624.

Melfort additionally offered Moray some further advice, “Arguments most be used for keeping some away Who Cannot Comply And others most Kno ther Hazard the Burroughs uold kno uhat they ly under for ther acts and What the K[ing] uill doe for such as are honest.”²²³ In an even more sinister letter, Melfort intimated to Moray that everything possible must be done to coerce members into accepting the royal will: “mony frendship or Torture can bring it and I hav some hopes of Heu Wallace against whom I will send Doun some accusations that lay him up I kno his fears”.²²⁴ Hugh Wallace of Ingliston, who represented Kirkcudbright at the 1685 and 1686 Parliament, and also held the position of King’s Cash Keeper, was in fact later removed from office by the King, who also stopped his pension.²²⁵ Again, although the Court regarded such tactics as beneficial to them, Hamilton recognised that “the very violent things ...hinted at”²²⁶ simply further convinced people that nothing less than overturning Protestantism was intended.

Despite the willingness of the Court to use varied means to procure the act for toleration, with due appreciation of the feisty atmosphere in the Scottish Parliament and with informed suspicions that the draft risked another rebuttal, the matter was allowed to drop before it got to the stage of being presented to the Parliament. Hamilton was certainly one source of intelligence for the Court, having informed Melfort that he thought it would be of the worst measure imaginable for the King’s service to allow toleration to be put to a vote.²²⁷ As it happened, both Melfort and James, having previously been determined to put toleration to the vote, came to agree with Hamilton.²²⁸ Fountainhall surmised that if the act for toleration had been brought in, it would have lost by about fifty-two votes. In order to quantify this figure he used the fact that the shires had sided with the burghs, as they evidently did in most matters in this Parliament, to defeat another disagreeable measure, that which proposed taxing burgesses for brewing ale for the use of their own families,

²²³Ibid.

²²⁴Moray Muniments, Volume III, Box 7, 594 & 595.

²²⁵NAS GD 406/1/9239, [Melfort] to Hamilton, 7 August [1686], *The Parliaments of Scotland*, Young, 713-4.

²²⁶NAS GD 406/1/7181, [Hamilton to Arran], 3 June 1686.

²²⁷NAS GD 406/1/7182.

²²⁸NAS GD 406/1/9236, Melfort to Hamilton, 10 June 1686.

which was ultimately lost by fifty-two votes.²²⁹ Rait asserted that the combination of the burgesses and the commissioners of the shires was nearly enough to outnumber the clergy and nobility.²³⁰ In fact, the voting power of the representatives of the shires and burghs was greater than that of the clergy and nobles, and the association between them in 1686 proved vital in rejecting Crown measures.

In essence, the Scottish Parliament continued to display steadfast refusal to do as the King bid them on toleration. By 10 June, such was the belligerent atmosphere in the Parliament that it became necessary to command Moray to pass all such acts as he thought would be for the King's service, without transmitting the drafts to London, so that the session could be speedily ended.²³¹ It had become manifestly apparent that the Scots would not comply with James's designs, and that another method would have to be employed to institute toleration. Melfort wrote that, "the King knous himself and His pouer too uell aither to be Allarmed or frightened uith anything that people Can Doe and Doubts not but Stedie Measures a Good Choice of Servants Secureing the Army and Castles inquiring into this Combinatione Punishing the Guilty encourageing the Good Stopping Seditious Sermons and Discourses Keeping thos who are true to him united amongst them selves and Going stedily on All this Mater may be Soon recovered uith interest."²³²

Melfort, however, remained confident that the parliamentary representatives would ultimately regret their actions: "I imagin they uill be lyke duellers uho no sooner see ther ennamy dead but they repent the quarrell Which occationed it ill is soon done but not so easy remedied and they uho Comitts it may Come to repent at leasure."²³³ In any event, on 15 June the Parliament was prorogued until 17 August, then again until 21 October, but was in fact never to meet under James VII, being dissolved on 8 October.²³⁴ Though there were numerous enactments made in 1686,

²²⁹Fountainhall's *Notices*, 729, 731; Fountainhall's *Chronological Notes*, 176-7; *CSPD* (January 1686-May 1687), 174.

²³⁰Rait, *The Parliaments of Scotland*, 93.

²³¹Moray Muniments, Volume III, Box 7, 268, Additional Instruction to Moray, 10 June 1686.

²³²Moray Muniments, Volume III, Box 7, 594 & 595.

²³³Moray Muniments, Volume III, Box 7, 627, Melfort to Moray, 10 June 1686.

²³⁴*RPCS*, xii, 372, 480; *A Proclamation adjourning the Parliament, from the seventeenth of August, to the twenty first of October 1686* (Edinburgh, 1686); *A*

103 acts, ratifications and warrants in total,²³⁵ the overwhelming majority of these were relatively bland property measures which characteristically favoured the supporters of the Court. The Scottish Parliament had successfully obstructed the more radical design of James VII to introduce toleration for Catholics.

Conclusion

By 1686 it appeared that, despite the lure of free trade, “the representatives of the towns were, almost to a man, against the government.”²³⁶ Naturally, any beneficial proposals, including free trade and the Indemnity, were laid aside in the face of the such opposition.²³⁷ Hamilton’s correspondence can be used to illuminate on the opposition from the burghs: apparently some of the burghs told Hamilton, “they wold be knocked in the head when they went home iff they should go alongest”²³⁸ with the Court. Although post-Restoration Scotland had witnessed the Scottish Parliament frustrating certain designs of the chief ministers, no instance compared to the thwarting of the repeal of the Penal Laws in 1686 in terms of magnitude. In neglecting to unreservedly comply with the King’s demands, the Parliament of 1686 acted more outwith Crown control than any Parliament since Covenanting rule. The courage of the Scottish Parliament in 1686, as Rait argued, deserves recognition for having shown, “for the first time since 1660, that there was a limit to the arbitrary power of the Crown.”²³⁹ Indeed, there was even contemporaneous recognition of this, Fountainhall commenting that, “some called this ane Independent Parliament.”²⁴⁰ This is made all the more intriguing by the fact that there was, as mentioned earlier, no great upheaval in terms of personnel between the loyal 1685 session of Parliament and the 1686 session, with 93% of those present in 1686 having also sat the previous year at the first session of the Parliament.

Proclamation dissolving the Parliament (Edinburgh, 1686); *RPCS*, xii, 371; *Fountainhall’s Notices*, 733, 736, 745, 753.

²³⁵*APS*, viii, 17-20.

²³⁶Macauley, *The History of England*, ii, 121.

²³⁷*Fountainhall’s Notices*, 733-4; *Fountainhall’s Chronological Notes*, 179.

²³⁸NAS GD 406/1/7203.

²³⁹Rait, *The Parliaments of Scotland*, 94.

²⁴⁰*Fountainhall’s Notices*, 734.

Although the actions of the 1686 Parliament have been attributed to the weakness of Moray as High Commissioner,²⁴¹ there was a more substantial reason for the, “harsh temper in the Parliament”.²⁴² To Wodrow, who had seen the 1685 Parliament as obsequious, the determination in 1686 could in part be attributed to the fact that, “the dispensing power awakened a good number [of members] out of their lethargy”.²⁴³ Nonetheless, as Fountainhall said, “it behoved to be from some higher principle that Noblemen, Gentlemen, Bishops, and others cheerfully laid down their place rather than violate their consciences.”²⁴⁴ There was a greater issue at stake in 1686. The repeal of the Penal Laws would have destabilised the basis of Protestantism in Scotland: “members are reported to have said in private that they had been reproached with having sold their King, but that no one should be able to say of them that they had sold their God”.²⁴⁵ As Gordon Donaldson observed, in introducing toleration, “James had chosen to raise what was probably the only issue that could bring down his throne.”²⁴⁶

One of James’s sympathizers, the Earl of Balcarras, later saw the attitude of the members of Parliament as sensationalist, saying that the desire to rescind the Penal Laws had led to, “jealousy beyond expression, as if some greater alterations were designed.”²⁴⁷ In some respects Balcarras was accurate in his assessment: the potential for ‘greater alterations’ was indeed the most significant source of fear for Scottish Protestants, many of whom suspected that the proposed toleration for Catholics was merely the thin end of the wedge and thus refused to expose their religion to potential compromise. In essence, the Scottish Parliament of 1686 was unswerving in its devotion to Protestantism and resolutely refused to allow any form of relaxation on the existing laws and statutes governing religion. Having witnessed some alarming trends in Europe, not least of all the revocation of the Edict of Nantes by Louis XIV the previous year, the Scots essentially refused to become complicit in

²⁴¹Clarke, *The Life of James II*, ii, 68; *Memoirs Touching the Revolution in Scotland, 1688-1690, of Colin, Earl of Balcarras*, Browning, (ed) (Edinburgh, 1841), 3.

²⁴²Clarke, *The Life of James II*, ii, 68.

²⁴³Wodrow, *Sufferings*, iv, 259, 266.

²⁴⁴Fountainhall’s *Notices*, 737; Rait, *The Parliaments of Scotland*, 94.

²⁴⁵Turner, *James II*, 374.

²⁴⁶Donaldson, *Scotland; James V-James VII*, 381.

²⁴⁷*Memoirs Touching the Revolution in Scotland*, 2-3.

allowing a Catholic monarch to follow the model seen in parts of Europe of securing Catholic hegemony at the expense of Protestant liberty. This was certainly a feature of the petition Wodrow recorded as being presented by freeholders of unnamed shires to their representatives in Parliament. Referring to European examples of ‘papal fury’, the petitioners beseeched their commissioners to “give no manner of consent, directly or indirectly, in favours of papists”.²⁴⁸

Immediately the Parliament was dissolved, both Moray and Perth hastened for London in order to blame each other for the failure of James’s toleration scheme: the Privy Council wrote a letter in favour of each, though it was said by Fountainhall that the Chancellor’s letter was more fulsome in its praise.²⁴⁹ Despite the mutual condemnations of Moray and Perth, the resistance of the Scottish Parliament was also attributed by contemporaries to the workings of the cabals in London and even to the Dutch.²⁵⁰ Individuals who bore the brunt of the blame included George Mackenzie, Viscount Tarbat, on the grounds that he gave James spurious advice when indicating likely supporters of toleration to James.²⁵¹ Regardless, the members in 1686 had successfully blocked James’s design to introduce statutory toleration. As the parliamentary strategy had failed, James was forced to use alternative means to implement his radical scheme.

²⁴⁸Wodrow, *Sufferings*, iv, 386.

²⁴⁹Fountainhall’s *Chronological Notes*, 185.

²⁵⁰*Memoirs of Sir John Reresby*, 429, Miller, J., *Popery and Politics in England 1660-1688* (Cambridge, 1973), 208.

²⁵¹Fountainhall’s *Notices*, 736; Fountainhall’s *Chronological Notes*, 181.

CHAPTER 9

Epilogue

In the wake of the 1686 Parliament several meaningful developments were made. In a final blow to his career, Queensberry was stripped of all his offices and pensions and ordered to remain in Edinburgh until the Treasury accounts had been examined and approved for the period of his administration.¹ It was during the course of this investigation that it became known that Queensberry and Perth had paid £27,000 Scots to the Duchess of Portsmouth in 1684, “to get out the Earle of Aberdeen from being Chancellor.”² Hamilton swiftly capitalised on Queensberry’s dismissal from the Session by asking his son to remind James of his desire for such a place.³ Shortly after Hamilton was duly elevated onto the Session, he recognised that Queensberry bore him unrivalled malice.⁴ Queensberry’s significantly diminished status in Scottish politics coupled with the extremely protracted investigation into the Treasury accounts were such that he became immensely disillusioned. Whilst in London in November 1687 he wrote to an unknown correspondent, “I designe not to stay in this place many days, haveing noe other bussines but to take leave of the Court for ever which is noe great mortificatione upon many accownts.”⁵

Additionally, for their disapproval of any relaxation of the Penal Laws, various other notable persons were purged from their offices, the intention to “Clear the Councill” having been decided on as early as 12 May.⁶ Adding to the list of those laid aside during the sitting of the Parliament, several Privy Councillors were sacked: Mar, Dumfries, Kintore, Lothian and Lord Ross all lost their places on the Council, Lothian and Ross having only been promoted to that body at the beginning of the year. Significantly, they were subsequently replaced as Councillors by the Presbyterian Earl of Dundonald and the Catholic Duke of Gordon and Earls of

¹ *RPCS*, xii, 275, 278; Macauley, *The History of England*, ii, 126; Fountainhall’s *Notices*, 740; Fountainhall’s *Chronological Notes*, 185; Mathieson, *Politics and Religion in Scotland*, 329.

² Fountainhall’s *Notices*, 745.

³ NAS GD 406/1/7185, [Hamilton to Arran], 21 June 1686.

⁴ NAS GD 406/1/7190, [Hamilton to Arran], 16 & 17 August 1686.

⁵ NLS MS 6406, Pitfirrane Papers, f156.

⁶ Moray Muniments, Volume III, Box 7, 610.

Seaforth and Traquair.⁷ Fountainhall also recorded the admission to the Council of “Nidry, a Papist”.⁸ Although Mar had voted against the Act for toleration in the Articles, he wrote to James in June 1686 imploring him to believe in his loyalty and explaining his actions thus: “by reasonne of my religion & some oaths of a special nature I wes not frie to advyse or consent judiciallie to what otherwayis I wes to acquiess in if done by yo[u]r Ma[jes]tie wherin I humblie presumed I did what a good subject and a christian should doe.”⁹ The belief at Court, however, was “that no man may liv on his [Majesty’s] Charge to oppose his Royall Will.”¹⁰ Accordingly, as well as being sacked from the Council, Mar was also deprived of his office as Keeper of Stirling Castle, a direct result of James’s conviction that in return for his “favor in the affaire of Sterling” Mar owed him support with regards to toleration.¹¹ Robert Innes, Writer to the Signet, who had been earmarked for the position of Lyon-Clerk, was not promoted on the grounds that he voted against the Court. Hamilton of Orbiston and the Provost of Glasgow were actually imprisoned: though these incarcerations were ostensibly on other grounds, Fountainhall denounced the given grounds as ‘pretences’.¹²

Conversely, supporters of the Crown’s policy of toleration for Catholics generally faired well following the 1686 Parliament. The Earls of Tweeddale and Balcarras and the Duke of Gordon were made Commissioners of the Treasury and Melfort and Charles Murray were both gifted Earldoms.¹³ Strathmore, Erroll and Bishop Edinburgh, who had all been Lords of the Articles, were included on the list of pensions in September 1686.¹⁴ In addition, the Bishop of Edinburgh was added to

⁷ *RPCS*, xii, 275, 425, 454, 511, 524; Fountainhall’s *Notices*, 740, 748, 750, 759, 762.

⁸ Fountainhall’s *Notices*, 772.

⁹ NAS GD 124/15/184, Mar to James VII, June 1686; HMC 60, 219.

¹⁰ Moray Muniments, Volume III, Box 7, 594 & 595.

¹¹ Moray Muniments, Volume III, Box 7, 590; *The Scots Peerage*, volume 5, Sir James Balfour Paul (ed), (Edinburgh, 1904), 627.

¹² NLS Adv MS 34.6.11, 256; Fountainhall’s *Chronological Notes*, 181, 184-5; Fountainhall’s *Notices*, 737, 739.

¹³ *RPCS*, xii, 412; *RPCS*, xiii, xxvii, xxx; *The Scots Peerage*, volume 6, 66; Fountainhall’s *Notices*, 747, 748; Fountainhall’s *Chronological Notes*, 189, 190.

¹⁴ BL Add 32095, list of pensions September 1686, f234. Others on the list of pension were Balcarras, who was also present at the 1686 Parliament, Middleton, Airlie, Arran, Colonel Whitford, Ancram, Kincardine, Traquair, Montrose and

the Secret Committee in December 1686 and was ultimately promoted to the vacant see of Glasgow.¹⁵ Lockhart and General Drummond, whose grave reservations about toleration had seen them summoned to London, but who ultimately voted for the Act for toleration in the Articles, also benefited. In September 1686 Lockhart was admitted as a Commissioner of the Treasury and Drummond was elevated to Viscount Strathallan.¹⁶

Nevertheless, the fortunes of Lockhart and Hamilton, who had aired their reservations about toleration in the Articles, were somewhat mixed. Having officiated as Advocate during the Parliament after Rosehaugh was sacked, Lockhart ultimately missed out to Sir John Dalrymple when the time came to permanently confer that position.¹⁷ Additionally, although Hamilton was put onto the Session, he believed that Tweeddale and Balcarras were brought into the Treasury purely to lessen his own interest there.¹⁸

Although James had previously concerned himself with the elections of Town Council representatives, such as when he suspended the election in Edinburgh and named Thomas Kennedy as Provost in the autumn of 1685,¹⁹ the degree of interference he commanded increased significantly in the wake of the failed Parliament of 1686, a policy which had actually been decided upon before the Parliament had been prorogued.²⁰ In a letter dated 12 September 1686, and reiterated in August 1687, James thus suspended all elections in Royal Burghs with a view to making the appointments himself. This was most likely because the, “Burrows ware the brazen wall the Papists found hardest.”²¹ James’s direct interference was subsequently witnessed in the appointment or continuance of office holders, some of whom were entrusted with the power to nominate the rest of the

Dumbarton, the amounts given ranging from £1800 to £8400 Scots.

¹⁵*RPCS*, xiii, xiv, xv.

¹⁶*RPCS*, xii, 412; Fountainhall’s *Notices*, 747, 748.

¹⁷Moray Muniments, Volume III, Box 7, 259, James to Lockhart, 24 May 1686; *RPCS*, xii, 228; *RPCS*, xiii, xv; Fountainhall’s *Notices*, 728, 783.

¹⁸NAS GD 406/1/7190.

¹⁹*Extracts from the Records of the Burgh of Edinburgh*, (1681-1689), 153; Fountainhall’s *Chronological Notes*, 145-6.

²⁰Moray Muniments, Volume III, Box 7, 594 & 595.

²¹Fountainhall’s *Notices*, 727.

Town Council, in numerous burghs including Aberdeen, Stirling, Linlithgow, Glasgow, Edinburgh, Haddington, Perth, Dundee, Dumfries, Ayr, Culross, Kirkcaldy, Kinghorn, Burntisland, Arbroath, Queensferry, Dumbarton, Dunbar, St Andrews, Cupar, Dunfermline, Dysart, Inverkeithing, Pittenweem, Inverurie, Anstruther, Rutherglen.²² This policy ensured that more pliable members would be present at the next parliament, if another were to be called, and allowed the Crown to rid themselves of such anti-toleration figures as Alexander Milne. Conspicuously, a number of James's appointees were either Catholic or Presbyterian. The King could thus be confident of their support for his objectives.

Though such electoral interference had been witnessed in England,²³ never had it been previously been experienced on such a scale in Scotland, the net effect simply being to increase resentment over the apparent disregard of James for democracy. It actually appeared that James's meddling in elections would not have had his desired effect of producing a compliant Parliament. Hamilton commented to his son in January 1687, when it was rumoured another Parliament would be called, "for all that is done in the Elections of the Magistrats of the burghs, it will be found the succes will be as the last".²⁴ Nonetheless, the Scottish Parliament was not to meet again under James VII.

As the parliamentary strategy had clearly failed, James turned to other means of promoting Catholicism in Scotland. In a letter dated 21 August James commanded the Scottish Council, judges and ecclesiastics to disregard the penal laws against Catholics, who should be henceforth maintained in their rights and privileges and be allowed, "the free private exercise of their religion in houses".²⁵

²²*RPCS*, xii, 454, 491-3, 511, 514, 524, 526, 540-3, 552; *RPCS*, xiii, xiv, xv, 42-3; Fountainhall's *Chronological Notes*, 195, 199-200, 202, 205, 207, 212; Fountainhall's *Notices*, 755, 759-60, 763-4, 773, 776, 779, 789, 792; *Burgh of Stirling; Extracts from Records 1667-1752*, Renwick, R. (ed), (Glasgow, 1889), 392; *Extracts from the Records of the Burgh of Edinburgh, (1681-1689)*, 182, 188-9; Turner, *James II*, 375.

²³Fountainhall's *Selections*, 230.

²⁴NAS GD 406/1/6161, [Hamilton to Arran], 15 January 1687.

²⁵NAS GD 112/43/15/17, Breadalbane Muniments, James to Privy Council, [21 August 1686]; NAS GD 45/1/450, James VII to Council, 21 August 1686; NLS MS 2617, Single manuscripts and small collections, f6-7; NLS MS 3426, King's letter to Council, of Scotland, 21 August 1686, ff7-14; NLS Wod Qu XXXVI (lxvii), Copy of

When this correspondence was finally read in the Council in September, the reason for the delay being unknown, a debate ensued as to whether the King's prerogative should be styled a 'legal security', a term objected to by Hamilton, and thus replaced with the phrase 'sufficient security'.²⁶ A reply was then issued by the Council and was such that it fully acknowledged James's wishes. Interestingly, this was signed by all the present Councillors including the Archbishop of Glasgow who had voted against the draft act for toleration during the Parliament.²⁷ "Thus the Council granted what the Parliament refused"²⁸ when it acknowledged James's right to be an absolute sovereign, unaccountable to any but God. One of the effects of this Indulgence was that an estimated 700 people attended a chapel at Huntly.²⁹

The bitterness of Scottish Protestants was further aggravated by James's requirement that the Council Chamber in Holyroodhouse be henceforth used as a private chapel, a move that has been described as turning Holyrood into, "a bastion of Catholicism".³⁰ To this end certain refurbishments were to be made, including internal restructuring, and the Chancellor spent lavishly adorning the Chapel with an altar, candlesticks and other ornaments as well as priests' garments.³¹ From his private resources, James gifted £200 per annum for the support of the Royal Chapel.³² The success of James's scheme can be seen in the fact that the King's Chapel was opened on St Andrew's day 1686, and at Christmas of the same year a Mass was sung along with an evening service consisting of a hymn, a psalm and the

the King's Letter to the Council, 21 August 1686, f228; NLS Wod Fol XXVII (lxii), King James's letter about liberty, August 1686, f138; Wodrow, *Sufferings*, iv, 389-390; *RPCS*, xii, 434-5; Fountainhall's *Notices*, 750; Macauley, *The History of England*, ii, 126; Mathieson, *Politics and Religion in Scotland*, 328.

²⁶Fountainhall's *Notices*, 750-1; Fountainhall's *Chronological Notes*, 192-3.

²⁷NAS GD 45/1/151, Council's reply to James, 16 September 1686; NAS GD 112/39/140/14, Copy of Council's letter to James, 16 September 1686; NLS MS 3426, Reply of the Council, ff18-24; *RPCS*, xii, 434-5.

²⁸Fountainhall's *Chronological Notes*, 192-3.

²⁹Forrester, D., & Murray, D., *Studies in the History of Worship in Scotland* (Edinburgh, 1984), 120.

³⁰Halloran, B.M., *The Scots College Paris, 1603-1792* (Edinburgh, 1997), 62.

³¹Rogers, Rev. C., *History of the Chapel Royal of Scotland with the Register of the Chapel Royal of Stirling* (Edinburgh, 1882), ccxxi; Fountainhall's *Notices*, 763; Fountainhall's *Selections*, 241.

³²Walsh, J., *History of the Catholic Church in Scotland* (Glasgow, 1874), 473.

litany of Our Lady.³³ During the Christmas Day Mass, Catholic soldiers from Dumbarton's regiment were placed at the chapel to ensure no disturbances would take place on the anniversary of the students' riots.³⁴ James later, "resolved to bestow the Abbay Church of Holy-Rood-House upon the Knights of St Andrew to be the Chapell of their Solemnitys"³⁵ and in addition allowed the establishment of a Jesuit school and a printing press. Such disputatious adjustments to the use of Holyroodhouse met with grumbling opposition, particular offence stemming from the fact that the alterations had been sanctioned by James with no consultation to the Council. As to the resolution regarding the Knights of St Andrews, Fountainhall remarked that the Abbey Church was thus, "the first Protestant Church tane away from us."³⁶

This was compounded when James issued, on 12 February 1687, a formal Declaration of Indulgence by virtue of his royal prerogative. By this, all of the disabilities of the Catholics were removed along with some of those of the Quakers, who were granted the right to meet and worship in any place appointed for such purposes, and the Presbyterians, who were permitted to worship in the confines of their own homes. The Indulgence also withdrew all Tests as formerly imposed, replacing them instead with a new oath which bound the subscriber to renounce rebellious principles and uphold all of the existing rights of the Crown. Preaching in open fields was expressly forbidden for all groups and only ministers who accepted the Indulgence were authorised to be heard.³⁷ The reasoning behind the introduction of toleration by royal prerogative in Scotland prior to England apparently stemmed

³³Forrester & Murray, *Studies in the History of Worship in Scotland*, 120; Fountainhall's *Chronological Notes*, 202; Fountainhall's *Notices*, 764.

³⁴Fountainhall's *Chronological Notes*, 204-5; Fountainhall's *Notices*, 772. For analysis of the students' riots see Chapter 2, 42-4.

³⁵Baxter, J.H., 'An Unpublished Letter of James Drummond, Duke of Perth', *SHR*, xxiv, (1927), 161.

³⁶Fountainhall's *Notices*, 809.

³⁷NAS GD 157/1641, *A Proclamation by the King, 12 February 1687* (Edinburgh, 1687); NAS GD 26/7/22, Leven and Melville Muniments, James VII to the Council, 12 February 1687, with the Council's answer; BL Stowe 158, f59; NLS Wod Qu XXVIII (xxiii), f64; *RPCS*, xiii, xv, 123-4; Wodrow, *Sufferings*, iv, 417-9; Fountainhall's *Notices*, 783.

from the fact that the King's absolute power had been upheld by the second act of the 1685 Scottish Parliament.³⁸

Again, despite the refusal of the 1686 Parliament to unequivocally tolerate Catholics, the Privy Council was surprisingly meek in its response to James's Indulgence. Indeed, the Council's retort to the Indulgence's removal of all barriers which prevented various individuals from holding offices was to formally acknowledge that James had the right to make appointments to civil and military offices as he saw fit.³⁹

Nonetheless, obedience was not universal. The Duke of Hamilton and his two sons-in-law, Dundonald and Panmure, did not sign the Council's reply to James. After Hamilton had been shown the King's proclamation by Perth, he resolved not to attend the Council when it was read.⁴⁰ Perth, however, persuaded him to attend a meeting of the newly appointed Secret Committee, consisting of Perth, Gordon, Tarbat and the Bishop of Edinburgh.⁴¹ At this meeting it was decided that the words "w[i]t[h] Advice & Consent of the Council"⁴² be removed before presenting the Proclamation to the Council. Regardless, Hamilton still objected to the Council's reply to James on the grounds that it implied that the King could secure the Catholics beyond his own lifetime, a notion that Hamilton was sceptical of on the grounds that subsequent monarchs may choose to alter the laws once more.⁴³ Hamilton later enlisted the help of Arran in explaining his situation to James, writing on 8 March that he was incredibly thankful that James had believed that he had not refused to, "concurr in that letter on any account, but what I really told yow to inform him of".⁴⁴ Hamilton's projection of the situation, which was essentially that he could not comply on technical grounds, coupled with his 'promise for the future' was sufficient to save him from ejection from the Council. However, Dundonald and Panmure both lost their status as Councillors for their insubordination.⁴⁵

³⁸Clarke, *The Life of James II*, ii, 107.

³⁹NAS GD 26/7/22; Wodrow, *Sufferings*, iv, 423; *RPCS*, xiii, 124.

⁴⁰NAS GD 406/1/6168, [Hamilton to Arran], 17 February 1687.

⁴¹NAS GD 406/1/6161.

⁴²NAS GD 406/1/6168.

⁴³NAS GD 406/1/6170, [Hamilton to Arran], 24 February 1687.

⁴⁴NAS GD 406/1/6201, [Hamilton to Arran], 8 March 1687.

⁴⁵*Ibid*; NLS Wod Fol XXXIII (cxxx), King's letter, 1 March 1687, f228; NAS GD

From James's Declaration of Indulgence, and his letter which accompanied it in which he urged the Council to root out field conventiclers,⁴⁶ it can be clearly seen that he continued to view the Scottish Presbyterians as the most significant potential threat to national security, undoubtedly a result of having witnessed firsthand the destabilising effects of the efforts of the more fundamental Presbyterians. Not only were the Presbyterians alone in being confined to worship within their private houses but they were also not exempted from the condition that they only heard ministers who accepted the Indulgence and its requisite oath, regardless of its inconsistency with the Presbyterian faith. Accordingly, there was a marked degree of reticence from the Scottish Presbyterians, including the exiled cleric Doctor Gilbert Burnet, which was in part borne out by ample contemporary literature in which multifarious reasons for not removing the Penal Laws were given and every aspect of the Indulgence criticised.⁴⁷

In the same correspondence, dated 1 March, in which Hamilton was chastised and Dundonald and Panmure removed from the Council for refusing to sign the reply to the ordinance of 12 February, James elucidated on his intentions for the Presbyterians in Scotland, maintaining that preachers were required to take the oath as contained in the proclamation of Indulgence.⁴⁸ As such, it remained a criminal offence to either preach without having taken the oath, or to hear a sermon given by a minister who had not taken the new oath which recognised the absolute power of

124/10/421, James to Council, 1 March 1687 [this letter is a copy and has been misdated, reading 10 March 1687]; HMC 60, 219; Wodrow, *Sufferings*, iv, 423; Fountainhall's *Notices*, 789; Fountainhall's *Chronological Notes*, 211, 212; *RPCS*, xiii, vi, xv, 124; Speck, *James II*, 93; Donaldson, *Scotland; James V-James VII*, 383; Mathieson, *Politics and Religion in Scotland*, 332.

⁴⁶Wodrow, *Sufferings*, iv, 417.

⁴⁷Gilbert Burnet, *A Collection of Papers Against Popery and Arbitrary Government*, (Amsterdam, 1689); BL Stowe 305, Collection of Tracts and Poems, "Reflections on his Majesty's Late Proclamation of the 12th of February for a toleration in Scotland", f28; BL Lansdowne 817, observations on the late Scotch proclamation, f2; *Some Reflections on his Majesty's Proclamation of the 12th of February 1686/7 for a Toleration in Scotland* [Edinburgh 1687]; *A Protestation against Toleration* [Edinburgh] (1770), 1-9; Wodrow, *Sufferings*, iv, 420-2; Fountainhall's *Notices*, 792-3, 794.

⁴⁸*RPCS*, xiii, lx; HMC 60, 219; Wodrow, *Sufferings*, iv, 423; NAS GD 112/43/15/18, Copy of James's letter to the Council.

the king and his successors and forbade the subscriber from taking up arms against the King under any circumstances. As this concept was diametrically opposed to their fundamental religious beliefs, few Presbyterian preachers came forth to accept the oath. When it rapidly became apparent that there was significant and enduring religious resistance to James's Declaration, a fact which acutely impeded the ethos of toleration, James ultimately relaxed his stance towards the Presbyterians and in successive letters between 31 March and 28 June, the last of which was read at the Council on 5 July, ordained that their ministers should be allowed to preach without having taken the oath as formerly required.⁴⁹ By the beginning of July 1687 complete toleration had thus been extended to all moderate Presbyterians in Scotland, allowing all forms of worship except field conventicles, and the Test had been expressly dispensed with for everyone. Similarly, James's English subjects were also granted liberty of conscience at the beginning of April.⁵⁰ Birkeland has asserted that James's toleration to Presbyterians was an attempt to disguise his earlier toleration to Roman Catholics.⁵¹ The reality, however, was simply that James had to grant a toleration to Presbyterians if that for the Catholics was to be enduring. By extending religious liberties to all denominations of peaceable Christians within his realms, James was in effect trying to secure the longevity of Catholic security under the umbrella of general toleration.

James's toleration to the Presbyterians certainly won the support of significant elements of that persuasion.⁵² However, that James had only allowed concessions to 'moderate' Presbyterians, whilst the Catholics had no such subjective

⁴⁹NAS CH1/5/118, second letter of Indulgence of James VII, to which is affixed the following contemporaneous note, "while attempting to rule through the Privy Council"; *A Protestation against Toleration* [Edinburgh] (1770), 18-21; *RPCS*, xiii, xv, xvii, lx, 138-9, 156-8; *English Historical Documents 1660-1714*, Browning, A. (ed) (London, 1953), 621-2; Wodrow, *Sufferings*, iv, 424-7; *Fountainhall's Notices*, 792, 806.

⁵⁰*His Majesties Gracious Declaration To all His Loving Subjects for Liberty of Conscience, 4 April 1687* (London, 1687); *Princes and Peoples ...An Anthology of Primary Sources*, Kekewich, 184-6.

⁵¹Birkeland, M., "Politics and Society in Glasgow c.1680-c.1740", (University of Glasgow, PhD thesis, 1999), 64.

⁵²NAS GD 157/1641, *The Humble Address of the Presbyterians Presented to the King ...with his majesties Gracious Answer* (Edinburgh, 1687).

restriction imposed on them, and continued the ban on field conventicles, served to further alienate from the establishment the more radical sections of the Presbyterian population. Such was the persistence of conventicles that the Council was forced to issue proclamations against them in October whilst simultaneously stepping up their search for the most notorious Covenanters. Despite the heightened state of alert of the authorities, Renwick and his followers continued to hold field conventicles in defiance of the law and publicly condemned the fundamentals of James's convictions by publishing *A Testimony Against Toleration* in January 1688. Of particular concern to the Council was the continued freedom of Renwick, who evaded capture until February 1688, after which he was swiftly executed.

In terms of the more moderate Presbyterians, the implications of the Indulgence were far reaching, despite the fact that their activities were subject to monitoring by the authorities.⁵³ The bulk of Presbyterians were effectively henceforth afforded freedom to practice their religion on a scale they had not experienced for several years. The net results of the Indulgence thus included an influx of exiles from Holland and the release of many ministers from prison, as well as a decline in the number of people attending the established parish church in various counties, including Ayr, Dumfries, Kirkcudbright, Lanark, Renfrew and Wigtown, all of which had traditionally been actively involved in supporting the Covenanting movement.⁵⁴ The activities of the newly unburdened Presbyterians were instantly witnessed: in July 1687 Louis Innes, who was in Scotland searching for funds for the Scots College in Paris, wrote, "I fear the Presbyterians will shortly cutt out new work enough their was 10 conventicels last Sundai in Ed[inbu]r[gh] and the country is full of them."⁵⁵ By November 1687 Innes was increasingly alarmed: the Presbyterians had begun, "to insult already and give out everywher openly that Papists are Idolaters, that Idolatry is against the law of God, and that nothing lesse

⁵³Birkeland, "Politics and Society in Glasgow c.1680-c.1740", 65.

⁵⁴Cowan, *The Scottish Covenanters*, 131, 134; Wodrow, *Sufferings*, iv, 437; Donaldson, G., *Scotland; James V-James VII* (Edinburgh, 1998), 382; Hume-Brown, *History of Scotland to the Present Time*, ii, 344; Birkeland, "Politics and Society in Glasgow c.1680-c.1740", 63-4, 66-7.

⁵⁵Halloran, *The Scots College Paris*, 63.

than the blood of the guilty can expiate the cryme of the tollerating of it".⁵⁶ On the other hand, by November affairs in Ireland were reported as being, "in perfect peace and quiet" on account of the fact that the King had, "granted to the Scots in the North of Ireland free exercise of their religion."⁵⁷

In reality, James's continual revisions over the position of Presbyterians in Scotland did him few favours, those of other religious persuasions resenting the increasing liberties being allowed to their spiritual enemies, and the Presbyterians themselves remaining steadfast in the belief that theirs' should be the only legitimate religion throughout the nation. When the Order of the Thistle was revived in June 1687 and Catholic peers were abundantly more favoured than their Protestant counterparts, the notion that Catholics benefited incomparably from toleration was reinforced.⁵⁸ It was anxiety borne of such developments that called into question the true intentions of James and ultimately served to unite multifarious forces against him.

Having begun slowly, James's increased use of his prerogative, to the point that the unmitigated removal of the Penal Laws had been imposed on Scotland, was to prove instrumental in increasing hostility towards him and thus in facilitating his demise just a few short years after his succession to the throne of Scotland. Though the events in 1686 and 1687 did not directly result in the Revolution and ultimate removal of James VII, they did contribute enormously to increasing the reservations of the Scottish people. Above all, and notwithstanding the progressive ideology of James, the Scots were simply apprehensive about what the future held. Although his regime did not immediately collapse, its foundations were irreparably damaged by the toleration issue. Regardless of the support James had long since enjoyed in Scotland, a religious revolution was neither welcomed by the bulk of the establishment nor the wider populace.

⁵⁶Ibid, 63.

⁵⁷CSPD (January 1686-May 1687), 313.

⁵⁸Speck, *James II*, 95.

CHAPTER 10

Conclusion

This thesis provides a detailed examination of the impact of James VII, both as Duke of York and King, on Scottish politics between c.1679 and c.1686. The vast majority of the existing historiography on James has been written from an English perspective: though the experience of Scotland has been afforded some consideration,¹ there has remained an enduring need for an extensive, thorough, analysis of Scottish politics under the management of James. In offering an intensive study of James and the conduct of Scottish politics between c.1679 and c.1686, this thesis supplements the numerous anglocentric works on James VII and II.

The impact of James on Scotland between c.1679 and c.1686 was enormous. From the moment he arrived in Edinburgh in November 1679, James became the central force in Scottish politics, an influence he maintained to a large extent even after he resumed permanent residence in England in May 1682. The natural deference of the Scots to James's role as heir to the throne certainly played a part in allowing him to manage Scottish politics, as did the fact that he provided a welcome alternative to the notorious factionalism of Lauderdale. The pivotal role James achieved in Scotland was, however, also a direct result of his own endeavours. James launched himself into involvement in the politics of Scotland: the main channels through which he asserted his influence were the Privy Council, which he virtually unfailingly attended, and his later role as High Commissioner to the 1681 Scottish Parliament. After he returned to England, James remained closely acquainted with Scottish affairs through his new political appointees and regular communication with them. The subsequent alterations within the Scottish political hierarchy were sanctioned by James and at the time seemed to have no detrimental

¹ For some examples, see Callow, J., *The Making of King James II: The Formative Years of A Fallen King* (Gloucestershire, 2000), 282-97; Miller, J., *James II. A Study in Kingship* (England 1977), 107-9, 210-19; Speck, W.A., *James II Profiles in Power* (London, 2002), 28-33, 85-98; Turner F.C., *James II* (London, 1948), 171-96, 366-78.

effect on his grip on Scotland, but in reality simply reduced the breadth of opinion in elite Scottish politics.

Embodied in this thesis is the systematic analysis of numerous themes with which James was closely linked. In many respects, it provides a rehabilitation of James, one of the more maligned monarchs both north and south of the border. When resident in Scotland, James guided the Council in focusing on the interrelated issues of attempting to reform the militia and settle the peace of the nation, particular concern being to establish enduring stability in the Highlands. Not only did James direct policy when he lived in Edinburgh, but he continued to work on potential resolutions to the problems he perceived after he returned to England. His dedication and continued commitment to Scottish affairs resulted in numerous developments, the institution of two Secretaries of State and the implementation of the Commission to Secure the Peace in the Highlands, to name but two of his successful schemes.

Particularly after James returned to Scotland in October 1680, the government spent an increasing amount of time on the threat posed by the renewed offensive of the radical Covenanters. Although James demonstrated rigorous intentions to quash the military activities of the Covenanters, he viewed less serious crimes with leniency. He was certainly not the atrociously vengeful creature as portrayed by writers such as Burnet, Wodrow and Macauley. His ultimate failure as a monarch made it all too easy to attack him without risk of recompense. As such, James became a scapegoat for the embarrassing actions of the Scottish government in the early- to mid-1680s. Although James cannot be absolved from all culpability in terms of the harshness of the early 1680s, he does not deserve the blame for instigating the 'Killing Times', and his clemency and moderation deserve attention.

As well as assessing James's key role in enforcing the 1681 Test Act, which was used in various instances as a tool with which to deprive or prevent disagreeable people from offices, his relationship with the Scottish Parliament has been thoroughly investigated. Between the 1681 Parliament, in which James was High Commissioner, and the 1685 and 1686 sessions of the Parliament James held as King, his fortunes spanned the entire spectrum of success. Although there were

numerous debates and displeasing motions made in 1681, including that made by the Committee Anent Religion, which James himself appointed and ultimately had to dismiss, the 1681 Parliament can be viewed as a personal accomplishment for James. Through intelligent use of parliamentary time and generally astute appointments onto committees, James ensured the 1681 session passed a number of congenial acts for the Court. It is entirely probable that he would have experienced significantly more opposition if he had not chosen to embrace Hamilton as an ally and institute him as an integral feature of the government. The first session of King James VII's first Parliament was also a great success for the Crown, which can in many respects be directly attributed to the concurrent Argyll rebellion, which produced a level of loyalty that would have been impossible to replicate in peacetime.

The discernible turning point in James's relationship with the Scots, however, came in 1686, when he obstinately pressed for toleration for his fellow Roman Catholics. Though James was advised that the measure would likely pass in the Scottish Parliament, his survey of political opinion was clearly not broad enough. Both Queensberry and Hamilton expressed reticence about the timing of the Parliament, the latter in particular believing that due consideration to the issue had not been afforded before the decision to call a Parliament had been made. Though the Scottish Parliament, a body which had formerly been so deferential to the Court, denied his designs, James persisted with his scheme to introduce toleration for Catholics. In so doing, he alienated a substantial portion of the Scottish people, who recognised his policies as increasingly authoritarian. James VII ultimately lost his Crown for similar reasons that his father lost his head: he introduced unpopular religious measures by way of the royal prerogative.

APPENDIX A

Draft of the Act for the Security of the Protestant Religion, 1681¹

The draught of ane act intended to have been past in the Scots parlia[men]t held in the moneth of August 1681 for securitie of the protestant religion against poperie & a popish King, but which wes then laid asyde and other two acts put in place th[e]r[e]of and past in that session of parliament.

Our Soveraigne Lord out of his great zeall and princely care for the maintenance of the protestant religion and to demonstrat to the world the firm and unalterable resolution of a due and vigorous prosecution of the many excellent and good lawes that have been made by his Ma[jes]tie and his Royall ancestors against papists and being fully det[er]mined that the protestant religion shall be settled & secured upon solide and sure & lasting foundations that his subjects may have no just occasion of fear or jealousie and that they may be fully secured aga[ins]t all encroachments that any way may be designed & attempted for altering the protestant religion in tyme comeing And that the protestant subjects of this his auncient kingdome may rest fully satisfied and secured in the enjoyment of their religion and that they may be united enabled and encowraged to maintain his Ma[jes]ties monarchy under qch they and th[ei]r ancestors have been so longe & happily protected and governed and that the same protestant religion in the puratie of its faith doctrine and worship may be vigorously asserted inviolably preserved & faithfully maintained w[i]t[h]out any innovation or alteration in all tyme comeing and his Ma[jes]tie with all considering that the chieff and fundamental poynts of the protestant religion are asserted established & confirmed by aut[horit]ie of King and parlia[men]t dureing the reigne of his Ma[jes]ties Royall Grandfath[e]r King James the 6th in the first parlia[men]t in the year 1567 being intituled the confession of faith and doctrine believed by the protestants in Scotland exhibited to the estates of the samen in parlia[men]t and by th[ei]r publick votes authorized as a doctrine grounded upon the infallible word of God & qch is subjoyned to the s[ai]d act of the said first parlia[men]t Theirfor his

¹ NLS Adv MS, 31.6.15, ff206-11.

Ma[jes]tie with advyce and consent fo his estates of parlia[men]t duely ratifie approve and confirm the s[ai]d confession of faith in the wholl heads articles and clauses yrof as the samen are yrin sett doun And his Ma[jes]tie for him and his successors statutes declares & ordaines that thesse who profess the doctrine of the Gospell contained in the said confession of faith and communicat in the sacraments as they are administrated conform to the s[ai]d confession are the members of the true Chwrch of Chryst w[i]t[h]in this kingdome And that thesse who disown the heads of the said confession of faith are no member of the s[ai]d true Chwrch And his Ma[jes]tie with consent forsaid ratifies and approves the publick worship of this Chwrch as it is now used and exercised and declares that th[ei]r shall be no alteration made yrin but by a nationall synod and ratified by the King and parlia[men]t And his Maj[esty] w[i]t[h] consent forsaid statutes and ordaines and declares that all persons who shall be promoted or admitted to any office or trust w[i]t[h]in this Kingdome Civill Ecclesiastick or military shall att th[ei]r entrie and admission yrto subscribe the Confession of faith above-specified and declare upon oath that they signe the same and assent yrto according to the plain literall words genuine sense and ordinarie meaning yrof wtout equivocation mentall reservation dispensation or any other evasion whatsoever and spe[cific]allie but prejudice of the generality forsaid all persons who shall exerce any office or enjoy any benefice in this Church or who shall be Regent tutor or Governour to any King or Queen of this realme or shall be members of parlia[men]t of privie Counsell Session Excheq[er] officers of State and croun justice Generall Commissioners of justiciarie Admirall, Admirall-depute or oy[er] members of that court Chamberlands S[he]reffs Stewarts bailzie of Royaltie Regalitie or barrony Deacons of trades justices of peace Commissioners of militia assesment or excyse all Commissioners to parlia[men]t and th[ei]r electors or any depute or substitute in any of the s[ai]ds offices Clerks or Fiscalls yrof Advocats wryters to the Signet procurators or Dependents yron masters of Colledges or Schoolls Chaplains & pedagogues and all persons who receive any degrees in universities or Colledges officers of the Standing forces militia or oth[er] forces w[i]t[h]in this kingdome and ordaines it to be insert as a part of the military oath to be administrat to common souldiers that they shall maintain the true protestant

religion established in this kingdome by law against popery qch oath will common souldiers who are now in service shall take betwixt & the [blank] day of [blank] And any common souldiers who shall be raised and employed in tyme comeing shall swear the same att ther entrie Certifieing such persons as shall enter to the offices or employments forsaid w[i]t[h]out subscriybing the said confession of faith and Common souldiers who shall not take the said military oath they shall be punished by confiscation of th[ei]r here[ta]bl[e] and move[a]bl[e] estate And each of the persons present in the judicatories att th[ei]r admission shall be lyeable in a years valued rent of th[ei]r wholl estate qch shall belonge to and be employed for the uses after mentioned viz a 3d part of the moveable soumes to the poor of the paroch qr the person transgressing does reside for the tyme And a 3d part of the move[a]bl[e] goods land and @rents to the poor of the parcoh qr these lands goods or @rents lye respective Anoth[e]r 3d part of the said confiscation & years valued rent for the use of universities and Colledges as followes viz these of the Diocies of Aberdeen and Murray to be applyed for the uses of the Colledges of Aberdeen: The rest w[i]t[h]in the province of St Andrews to the Colledge of St Andrews excepting these w[i]t[h]in diocie of Ed[inbu]r[gh] qch are to be applyed to the Colledge of Ed[inbu]r[gh], And these w[i]t[h]in the province of Glasgow to the Colledge of Glasgow; And the oth[e]r 3d part to be employed upon publick works in the shyre qr the p[er]son transgressing resides to be uplifted or applyed by the s[he]reff or justices of the peace or Commissioners of the excise qr th[e]r[e] are no justices of peace; and if the p[ar]tie transgressing reside in a burgh to be uplifted and applyed be the M[agist]rat[e]s of the burgh for publick works w[i]t[h]in the same And declares that the s[he]reffs Commissioners of excyse and M[agist]rat[e]s of buroghes and Masters of Universities and Colledges to the bodies of the Societies abovementioned incase they doe no diligence for recovering and applying the s[ai]ds confiscations following And incase after entrie of the said p[er]son to the fors[ai]d office he come to be suspect and th[e]rupon be reqyred to take the fors[ai]d test and refuse the same he shall be lyeable in the lyke confiscation of his estate here[ta]bl[e] & move[a]bl[e] and to belonge and be applyed in manner abovementioned: And further his Ma[je]stie with consent forsaid statutes and ordaines that all persons now in publick

trust or in any of the forsaid offices or employments subscribe the fors[ai]d confession of faith and oath abovewritten subjoyned th[e]r[e]to in on of the cowrts to qch they relate betuixt and the [blank] day of [black] And in any oth[e]r cowrts qrof they are members so soon as they shall have occasion to be present th[e]r[e]in and th[at] w[i]t[h]in 40 dayes after the subscribeing th[e]r[e]of they report to the Privy Counsell a testificat under the hand of the Clerk of Cowrt bearing that the s[ai]ds p[er]sons have subscribed the confession of faith and taken the fors[ai]d oath subjoyned th[e]r[e]to qch oath shall be insert in the testificat qch is to be recorded in the bookes of privy-Counsell and ane extract th[e]r[e]of given by the Clerks to the [] gratis With certification if they failzie in reporting the s[ai]d testificat they shall incurre the pain of confiscation forsaid And his Ma[jes]tie w[i]t[h] consent fors[ai]d statutes & ordaines that no jesuit priest or others in orders of monastick vowes of the Church of Rome presume hereafter to say mess nor preach w[i]t[h]in this kingdome nor be found w[i]t[h]in the same after the [blank] day of [blank] under the pain of death being legally convict th[e]r[e]of; And his Maj[esty] w[i]t[h] consent forsaid statues & ordaines that non of his subjects of whatsoever degree or quality hear messe or willingly resett and entertain by the space of 3 nights together or three nights att se[ver]all tymes any excommunicat jesuit and others in orders and monastick vowes of the Church of Rome under the paines following viz being convict of the same their goods shall be escheitt for the first fault, They shall omit and lose the 3d p[ar]t of the lyfrent of th[ei]r lands goods and gear for the 2d fault and being accused shall resett and entertain any jesuits seminary preists excommunicat papists and oth[e]rs in orders or monastick vowes of the Church of Rome being given up by the presbitries or kirk session to be resetters and harbourers of such persons and being charged not to resett th[e]m they shall notw[i]t[h]standing doe the same they shall be lyeable in the paines following viz ane Earl in the soume of 1000 lb Scots, a Lord 1000 m[ar]ks a barron 500 lb every freeholder 300 m[ar]ks a yeoman 40 lb and ane burgess according to the wedification of the privie=Councell to be applyed in manner abovewritten And his Maj[esty] w[i]t[h] consent forsaid ordaines the Archbisshop and bischops to cause the ministers in th[ei]r respective diocies att each diocesian synod to give up lists upon oath of all papists or persons

suspect to be papists and to cite these p[er]sons befor th[e]m and to endeavour to reclame th[e]m to the union and submission to the confession of faith & ordinances of the Church and incase of th[ei]r not appeirance or not giving obedience that the s[ai]ds bischops proceed to excommunicatne and that they send the names of the absents disobedients or relapse to his Majesties privy-Counsell justice G[e]n[er]all or Commissioners of justiciary under the paine contained in the acts of parlia[men]t made th[e]ranent to be applyed in manner forsaid Which persons being excommunicat as s[ai]d is shall be charged w[i]t[h] letters of horning by delyverance of the Lords of privy-Counsell or session 40 days after the excommunication to reconceall themselves to the kirk and shall be denounced th[e]rupon that Caption and oth[er] excells may pass upon th[at] same and th[at] th[ei]r escheitts falling th[e]rby and a 3d part of lyfrent shall appertain and be applyed to the ends and uses forsaid in manner and by the division abovewritten and for the better discovery & punishment of the saids jesuites priests and oth[er]s in orders & monastick vowes of the Church of Rome and who are suspect to be such and of th[ei]r residence and haunt and hearers of th[e]m say messe or preach His Maj[esty] w[i]t[h] advyce forsaid ordaines all shreffs stewarts bailzies of Royalty regality and M[agist]rats of burghes to take the oathes of the oth[er] members of the Kirk Sessions w[i]t[h]in th[ei]r respective jurisdictions except the ministers what p[er]sons are repute to be preists & oth[er]s in orders or in the monastick vowes of the Church of Rome th[ei]r residence & haunts and who are suspect to be the resettors or hearers of th[e]m say messe or preach w[i]t[h]in th[ei]r re[s]p[ect]ive jurisdictions yearly betwixt and the first of November each year and who are suspect to be papists and who are the witnesses that can instruct the premisses and to report the same yearly to his Ma[jes]ties privy-Counsell in the said moneth of November And lykewayes that they give ane accompt to their respective bischops of these w[i]t[h]in th[ei]r se[ver]all diocies that they may proceed against th[e]m w[i]t[h] Ecclesiastick censure in manner forsaid and that they doe exact diligence to apprehend and imprison the p[er]sons of all priests & jesuites and oth[er]s in order or monastick vowes of the Church of Rome who shall be so deleted and in case they be not found that they cite th[e]m befor th[e]m by witness and oth[er] evidences as aforsaid and aga[ins]t the

resetters or hearers of th[e]m say messe or preach and that they proceed to sentence and execution aga[ins]t th[e]m and aga[ins]t excommunicat papists and report to his Ma[jes]ties privie Counsell the sentences and decreits aga[ins]t such as shall be apprehended or convict by probatione in manner fors[ai]d and of th[ei]r diligences to put the sentences in execution in the s[ai]d moneth of November yearly beginning in November next w[i]t[h] certification that if the saids Wrats failzie in the premisses they shall be lyeable in that years rent in qch shall belonge and be applyed to the uses and ends forsaid: And his Ma[jes]tie being desyreous fully to setle and confirm the mynds of his good subjects as to th[ei]r securitie of the true reformed protestant religion his Maj[esty] w[i]t[h] advyce and consent forsaid statutes and ordaines and declares Thatt all Kings and Queens who shall succeed to the imperiall croun of this Kingdome in tyme comeing att th[ei]r entrie to the government and also att th[ei]r coronation shall promise and swear in presence of the eternal God whom they call as judge and witnes of th[ei]r sincere meaning and intention to observe w[i]t[h]out dispensations from any creature the oathes contained in the 8th act of the first parlia[men]t of K[ing] J[ames] 6th And also shall swear that they shall not endeavour to nor consent to any alteration or change of the s[ai]d protestant religion That they shall protect th[ei]r protestant subjects in the full and free exercise and professionn of the same and that they shall not be molested or troubled for the same and that they shall preserve and defend the Church in the just rights and priviledges th[e]of as now by law established that they shall give no grants of any trust office or employment w[i]t[h]in this kingdome but to such qho they beleive to be of the true protestant religion and that they shall alwayes allow and never hinder the standing and executing of the lawes amde by his Maj[esty] or his Royall predecessors for removeall of preists or others in orders or monastick vowes of the Church of Rome out of the kingdome or any of the communion of the Church of Rome out of any of the saids offices places and capacityes and shall inviolably preserve the liberty & propertie of the subjects of the Kingdome as the Lord and fath[e]r of mercie shall be mercifull to th[e]m And ordaines that any Regeant tutor or Governour that shall be named to any King or Queen of the Kingdome shall take the sayd oath att entrie to the government qch oath shall be written and subscriybed att the tyme of the taking

th[e]rof abovewritten and shall be regrat and recorded in the bookes of parlia[men]t privy-Counsell and session And further to the effect this present act and all former lawes and statutes aga[ins]t papists may receive due and full execution but prejudice or derogation th[e]rto his Ma[jes]tie w[i]t[h] advyce and consent forsaide does by this presents ratifie and approve the 2d act of the first parlia[men]t of K[ing] J[ames] 6th intituled act anent the abolishing the pope and his usurped authoritie and the 3d act of the said parlia[men]t intituled act anent annulling the acts of parlia[men]t made against Gods word & maintenance of Idolatrie As also the 5th act of the said first parlia[men]t anent the abolishing of the mess and punishing all that heares and sayed the same and the 6th act of that parlia[men]t intituled anent the true and holy kirk and of them that are decalred not to be of the same and also ratifies the eight act of the said first parlia[men]t anent the Kings oath to be given att the Kings coronation As also ratifies the 104 act of the 7th parlia[men]t K[ing] J[ames] 6th aga[ins]t passing in pilgrimage to chappells wells and croces and the superstitious observants of diverse oth[er] papisticall rites; and the 9th act of the s[ai]d first parlia[men]t as the same is more fully explained in the 5 act of the 20th parlia[men]t K[ing] J[ames] 6th dischargeing any person to bear any office bot thesse who profess the true religion The 24 act of the 11th parl[iament] K[ing] J[ames] 6th Entituled anent the tryall & punishment of the adversaries of the true religion The 164 act of the 13 parlia[men]t K[ing] J[ames] 6th aga[ins]t sayers of mess or reseters or entertainers of excommunicat papists; the 18 act of the 16 parlia[men]t intituled ratification of the act anent jesuite preists excommunicat and traffiqueing papists The first act of the 19 parlia[men]t aga[ins]t sayers and wilfull hearers And the 5th act of the 20 parlia[men]t Entituled act aga[ins]t jesuits seminary preists sayers and hearers of mess papists and reseters of them The 45 act of the 3d parlia[men]t K[ing] J[ames] 6th Intituled papists relapse and not communicating should be adminished and they remaining obstinate are infamous And the 8th act of the first session of his Ma[jes]ties first parlia[men]t in ano 1661 Intituled act aga[ins]t papists preists & jesuites And ratifies and approves all oth[er] acts lawes and statutes made aga[ins]t Jesuites seminary preists & traffiqueing papists nad reseters of th[e]m in the heall heads articles and clauses of the forsaid acts and the paines & penalties imposed

th[e]rby Restricting alwayes the lyfrent escheatt when the same shall fall to a 3d part
th[e]rof And his Ma[jes]tie w[i]t[h] advyce fors[ai]d declares the ratificatione to be
also valide effectuall and sufficient as if everie on of the acts abovementioned wer
att length ingrossed herein.

APPENDIX B

The Test Oath to be taken by all persons in public trust¹

I _____ solemnly swear, in presence of the eternal God, whom I invoke as judge and witness of my sincere intention in this oath, that I own and sincerely profess the true protestant religion, contained in the Confession of Faith, recorded in the first parliament of King James VI and that I believe the same to be founded on and agreeable to the written word of God: and I promise and swear, that I shall adhere thereunto during all the days of my life-time, and shall endeavour to educate my children therein, and shall never consent to any change or alteration contrary thereunto; and that I disown and renounce all such principles, doctrines, or practices, whether popish or fanatical, which are contrary unto, and inconsistent with the said protestant religion, and Confession of Faith: and, for testification of my obedience to my most gracious sovereign Charles II I do affirm and swear, by this my solemn oath, that the king's majesty is the only supreme governor of this realm, over all persons, and in all causes, as well ecclesiastical as civil; and that no foreign prince, person, pope, prelate, state, or potentate, hath or ought to have any jurisdiction, power, superiority, pre-eminency, or authority ecclesiastical or civil, within this realm: and therefore, I do utterly renounce and forsake all foreign jurisdictions, powers, superiorities, and authorities; and do promise, that from henceforth I shall bear faith and true allegiance to the king's majesty, his heirs and lawful successors; and to my power, shall assist and defend all rights, jurisdictions, prerogatives, privileges, pre-eminencies and authorities belonging to the king's majesty, his heirs and lawful successors: and I further affirm and swear by this my solemn oath, that I judge it unlawful for subjects, upon pretence of reformation, or any pretence

¹ *APS*, viii, 243-244; Wodrow, R., *The History of the Sufferings of the Church of Scotland*, iii, (Glasgow, 1829), 296-7; *Memorials or, the Memorable Things that fell out within this island of Britain from 1638 to 1684*, edited from the manuscripts of Charles Kirkpatrick Sharpe, Law, R. (ed), (Edinburgh, 1818), 204; *The Life of James II, Late King of England, Containing an Account of his Birth, Education, Religion, and Enterprises, both at Home and Abroad, in Peace and War, while in a Private and Publick Capacity, till his Dethronement*, Jones, D. (ed), (London, 1702).

whatsoever, to enter into covenants or leagues, or to convocate, convene or assemble in any councils, conventions, or assemblies, to treat, consult, or determine in any matter of state, civil, or ecclesiastic, without his majesty's special command, or express license had thereunto, or to take up arms against the king, or those commissionate by him; and that I shall never so rise in arms, or enter into such covenants or assemblies, and that there lies no obligation upon me from the national covenant, or the solemn league and covenant (so commonly called) or any other manner of way whatsoever, to endeavour any change or alteration in the government, wither in church or state, as it is now established by the laws of this kingdom: and I promise and swear, that I shall, with my utmost power, defend, assist, and maintain his majesty's jurisdiction foresaid, against all deadly; and I shall never decline his majesty's power and jurisdiction, as I shall answer to God. And finally, I affirm and swear, that this my solemn oath is given in the plain genuine sense and meaning of the words, without any equivocation, mental reservation, or any manner of evasion whatsoever; and that I shall not accept or use any dispensation from any creature whatsoever. So help me God.

APPENDIX C

Instructions sent to Alexander, Earl of Moray, High Commissioner to the Scottish Parliament, 12 April 1686¹

- 1) You shall endeavour to procure an Act of Parliament for allowing unto all our Subjects of the Roman Catholick Religion, the free Exercise of their Religion in Houses, And that they shall not be questioned nor punishable for the same, or any part thereof. And that they our Subjects aforesaid may enjoy any Trust, Office or Employment Civill or Military without any danger or molestation, or being obliged to take or swear any Oath inconsistent with their Religion. And this Act to be as full as can be devised for securing these ends proposed.
- 2) You are to pass an Act confirming to the Possessors of Church Lands their respective Possessions according to the Laws already made in that behalfe if it be insisted on by them.
- 3) You are to leave to the Parliaments choice the restoring of ther Summar Session.
- 4) You shall passe an Act such as our Parliament shall advise for adjusting of Trade betwixt our Burroughs Royall and those of Barony & Regality, by which the Burroughs Royall may not be prejudged of that Trade for which they pay so considerable Cesse, by those who are not lyable to any upon that account.
- 5) You are to passe an Act of Indemnity, Indemnifying & Remitting all Crimes & others to be therein mentioned, according to a Draught to be sent up by our Secret Committee, and to be approved by Us under our Royall Hand.
- 6) A Mint & free Coinage in Scotland being of great concernment to all Merchants & Others employed inn Trade, you are to passe an Act establishing the same. The Parliament giving unto Us one halfe per Cent of interest by retention to defray the necessary Charge thereof, and giving Us ten pence Sterline per ounce in lieu of the Bullion now paid.

¹ Moray Muniments, Volume III, Box 7, 299, Instructions to the Earl of Moray, 12 April 1686.

7) Seing all Cesse lyes now heavy on the Land Rent, you are to passe such an Act as may be for the ease & reliefe thereof by any other equivalent, such as Hearth-money &c not diminishing the Quota.

8) You are to passe and Act for the further encouragement of Trade and Manufactures.

9) You are to intimate to the Royall Burroughs, that you are impowered to receive all such Propositions as they shall think fir to make for the advancement of Trade in that our ancient Kingdome, and such as are probably fit for our Service in that behalfe you are to transmitt unto Us, To the end you may know our Royall Pleasure thereupon.

10) You are to passe such Acts regulating the Trade of the Netherlands, and rectifying the Staple, as the Royall Borroughs shall think fit.

11) You are to ratify the laws prohibiting Irish Cattle, Horse and Meale to be imported into that our Kingdome, with such Additions as the Secret Committee shall advise. And you are to enquire into bypast Abuses in that matter.

12) You are to passe an Act ordaining the Fishery Company to enquire into the Packing & Marking of Herrings for the Reputation of that Trade, as it was at first established.

13) You are to transmitt unto Us, the Draughts of all Acts to be past, before you shall give our Royall Consent to them; To the end you may have our Approbation aswell of the form as of the matter. And if any Proposition shalbe made for Acts not herein mentioned, you are to signify the same to Us, To the effect you may receive our Royall Pleasure concerning them.

14) You are to give our Royall Consent to any Amendment that shalbe thought fit to be made of any Act past in the last Session of this current Parliament, namely, the ninth, twelfth, thirteenth, sixteenth, seventeenth, twenty-eighth, thirty-third, thirty-sixth, forty-second and forty-fifth of the printed Acts, and such of the unprinted acts as the Secret Committee shall advise: which unprinted Acts you & our said Secret Committee are to review for that effect.

15) At the first meeting of the ensuing Session of Parliament of that our ancient Kingdom, to which Wee have sent you our Commissioner, you are to show them,

That the great Sense Wee have of their Duty & Zeale for our Service, their great affection to our Royall Person exprest at their last Meeting, made Us againe desirous to meet them, That as on their part they have done all that was possible for them to demonstrate their love & obedience to Us, so Wee on ours might not be wanting to show our Paternall & Royall Care of them our ancient & loving People, by giving them opportunities of doing such things as may tend to the Universall good of the Nation.

You are to show them the Care Wee have taken to open a free trade with England, as one of the surest wayes to relieve our Royall Burroughs from the totall Ruine threatened by the decay of Commerce; And Wee shall on our part leave nothing undone that may promote a Work so beneficial unto them.

You are to show them, that Wee have againe instructed out Envoye at Paris to take all imaginable Paines for getting off the Fifty Sols per Tun, and for recovering their other Priviledges there.

You are to show them that we conceive the Burghs of Barony & Regality enjoy more of that Trade for which the Burghs Royall bear the Sixth part of the Cesse of the Nation, than does justly fall to their share, and therefore have instructed you to give our Consent to such Regulations in that affaire as they shall think Just and Equitable.

You are to inform them, that some Complaints having been made unto Us of the trouble which Merchants meet with in the matter of the Staple & Trade to the Netherlands, Wee have fully instructed you to give our Consent to what they shall advise as reasonable in that matter for the time to come.

Whereas Wee are informed of the Vast prejudice done to the growth of the countrey, by the Importation of Irish Cattle, Horse and Meale, you shall let them know, That Wee have fully instructed you not only to give our Consent to whatever may free them from that abuse in time coming, but also to enquire into the Abuses of those who had the Charge of it in time past, and to see them punished according to Law.

You shall show them in our name how Wee have been informed, that the want of a Mint is a Sensible Prejudice to the Traffique of the Nation, and therefore have Sufficiently instructed you to give our Consent to what they shall think reasonable upon that point.

You shall show them, that Wee are not at this time to demand any more Supplies or Impositions of any kind, being fully convinced that their affection has already prompted them to give all that is convenient for them: In return whereof Wee are resolved to doe all that lyes in our Power for the advancement of the good & encreasing the Riches of the Nation; a thing that Wee are sensible of a long time has been too much neglected: For Wee conceive the Welfare of our Royall state inseperable from the hapinesse & Flourishing of our People.

You shall tell them, that wee are sensible how heavy the Cesses lye upon the Land-Rents; To that Degree, that if they were not absolutely necessary aswell for the safety as the Support of our Government, Wee would willingly discharge some part thereof: But seing this is impossible, That Wee have fully instructed you to passe any Law (with their advise and consent) that may give ease in that matter, without diminishing the Quota.

You are to show them, that Wee have taken speciall care fully to instruct you for giving our Royall Consent to all such Laws & Regulations as may Secure to the Countrey exact payment both from officers and souldiers in times coming, and to see exemplary punishments inflicted upon all such as in times past have been guilty of the contrary.

And for the easing the Commons of many Oppressions alledged to be committed by Commissars, That Wee have fully instructed you to passe an Act by their advice & consent for regulating that matter.

You shall let them know, That to settle the minds of our People, and once againe to drive away their Fears and to free them from the inconveniencies that many of them lye under, Wee have thought fit to instruct you fully to passe our full & ample Indemnity for all past Crimes & Misdemeanours whatsoever, whereby Wee will let them see, That it is our delight by leinty & mercy to bring them to their Duties, and that nothing but their own perversnesse can force from Us that severity which is so contrary to our Royall Inclinations.

You shall show them, That after the having pardoned so many of our Enemies and freed so many Criminals from further prosecution, if Wee desire their Advice & Consent to give ease & security to some of our good subjects who have at all time

been firm to the Royall interest, and been ready to sacrifice their Lives and Fortunes for the Crown, It cannot be much wondered at; nor (Wee hope) will any amongst them blame Us or scruple their consent.

For doing all which, This shalbe your Warrant. Given under our Royall Hand & Signett at our Court at Whitehall, the 12th day of April 1686, and of our Reigne the 2d year.

JR

By His Ma[jes]t[y]s Comand,
Melfort

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Add MS	35125	Lauderdale Papers
Add MS	37951	Miscellaneous Autograph Letters
Add MS	38140	Heraldic Collections of Sir William Dugdale
Add MS	41822	Middleton Papers
Add MS	43347	Aberdeen Papers
Harley	7006	Miscellaneous Papers

Lansdowne	817	Miscellaneous Articles
Lansdowne	1152	State Papers
Lansdowne	1236	Letters by Royal, Noble and Eminent Persons
Stowe	142	Miscellaneous Historical Letters 1375-1810
Stowe	158	Miscellaneous Papers Relating to Scotland
Stowe	197	State Letters
Stowe	199	Original Letters Chiefly on Scottish Affairs
Stowe	305	Collection of Transcripts of Political Tracts

PUBLIC RECORDS OFFICE

SP	8/1, /2, /3, /4	King William's Chest
SP	9/251/175	Pamphlets
SP	30/G	Parchments and Pamphlets 1678-1688
SP	45/12	Proclamations 1660-1688

2. CONTEMPORARY PAMPHLETS

GLASGOW UNIVERSITY SPECIAL COLLECTIONS

Gilbert Burnet, *A Collection of Papers Against Popery and Arbitrary Government*
(Amsterdam, 1689)

A Discourse of Monarchy, more particularly of the Imperial Crowns of England, Scotland and Ireland, According to the Ancient, Common and Statute-laws of the same, with a close from the whole, as it relates to the succession of His Royal Highness James Duke of York (London, 1684)

A Letter to the King when Duke of York Perswading him to Return to the Protestant Religion, wherein the chief Errors of the Papists are exposed and the Tendency of their Doctrines to promote Arbitrary Government proved
(London, 1688)

A Modest Apology for the Students of Edenburgh Burning a Pope, 25 Dec 1680, Humbly Rescuing the Actors from the Imputation of Disloyalty and Rebellion, with which they were charged in a letter, & c, Feb 1681 (London, 1681)

- A Representation to the High Court of Parliament, of some of the most Palpable Grievances in the Colledge of Justice Sir George Mackenzie [Edinburgh, 1686]*
- A Short Compend, or a Description of the Rebels in Scotland, 1679 (Edinburgh, 1681)*
- A Speech in the House of Commons, Upon Reading a Bill against the Duke of York, May 1679 (London, 1679)*
- A True and Exact copy of a Treasonable and Bloody Paper Called the Fanaticks New-Covenant, 3 June 1680 (London, 1680)*
- A True and Impartial Account of the Examination and Confessions of several Execrable Conspirators Against the King and His Government in Scotland. Together with the Proclamation Issued upon that Occasion by the Lords of His Majesties Privy Council of that Kingdom (London, 1681)*
- A True and Perfect Account of the Earl of Argiles Landing in the North of Scotland With the Particulars of that whole Transaction (London, 1685)*
- A True and Short Narrative Account of the Horrid Murder of the Reverend Father in God, James, Archbishop of St Andrews, Primate, and Metropolitan of all Scotland and one of His Majesties most Honourable Privy Council, on the Third of May 1679 (London, 1680)*
- An Abstract (with remarks) of Dr. Scott's Sermon preached at Chelmsford Assizes August 31 1685 Wherein the Doctor Prophetically gives his opinion of the Consequences of the late Revolution, concluding with an excellent Character of James the Second (London, 1693)*
- An Act by His Royal Highness, His Majesties High Commissioner, the Lords of the Privy Council, Establishing the Order of the Ryding, &c, at the opening of the Ensuing Parliament, and several Circumstances relating thereto, conform to the antient practice of the kingdom of Scotland, appointed to be Recorded in the Books of the Privy Council, & the Lyons Books, at Edinburgh (Edinburgh, 1681)*
- An Ode on the Death of the Late King James (London, 1701)*

Captain Thorogood; His Opinion of the Point of Succession, to a Brother of the Blade in Scotland, 3 Jan 1679 (London 1679)

England's Safety or the Two Unanimous Votes of the Last Good Parliament Concerning the Duke of York being a Papist with Their Address to His Majesty. To be revenged on the Papists in case His Majesty come by a Violent Death, 25 March, 1679 (London, 1679)

His Majesties Gracious Letter to the Parliament of Scotland with the Speeches of the Lord High Commissioner and the Lord High Chancellor, together with the Parliaments Answer to His Majesties Letter (Edinburgh, 1685)

His Majesties Late Letter in Vindication of himself, dated at St Germain en Laye, the 14th January 1689 (London, 1689)

His Majesties Most Gracious Letter to the Parliament of Scotland: Together with the Parliaments Dutiful Answer to His Majesties Letter (London, 1686)

Popish Cruelty Represented in a Sermon Occasioned by the Present Rebellion in Scotland Prech'd September 22nd 1745, to the Scots Church in Swallowstreet, Westminster, to which is added an appendix concerning The Sufferings of the Protestants in Ireland during the reign of James II (London, 1745)

Proposals Concerning The propagating of Christian Knowledge in the Highlands and Islands of Scotland and Forraign Parts of the World (Edinburgh)

Scotch Politicks in a Letter to a Friend (London, 1682)

Some farther Matter of Fact Relating to the Administration of Affairs in Scotland under the Duke of Lauderdale Humbly Offered to His Majesties Consideration in Obedience to His Royal Commands. (That the Duke of Lauderdale was concerned in the Desine of Bringing in of Popery and Arbitrary Government, may appear by these following Particulars.) (London, 1679)

Some Particular Matter of Fact Relating to the Administration of Affairs in Scotland under the Duke of Lauderdale Humbly Offered to His Majesties Consideration in Obedience to His Royal Commands (London, 1679)

The Antiquity of the Royal Line of Scotland Farther Cleared and Defended Against the Exceptions lately offer'd by Dr Stillingfleet, Sir George Mackenzie,
(London, 1686)

The Case of Protestants in England under a Popish Prince If any shall happen to Wear the Imperial Crown (London, 1681)

The Commons Address Against the Duke of Lauderdale, Presented to His Majesty, May 9 1679 (London, 1679)

The Copy of a Letter from Scotland to His Grace The Lord Archbishop of Canterbury, Subscribed by Eight Archbishops and Bishops of that Kingdom
(London 1682)

The Declaration and Testimony of the True-Presbyterian, Anti-Prelatick, and Anti-Erastian, Persecuted-Party in Scotland, given at Sanquar 22 June 1680
(London 1680)

The Declaration of the Rebels in Scotland (Edinburgh, 1679)

The Grand Question Resolved: viz a King Having Protested To Defend to the utermost of his Power, the True Protestant Religion with the Rights and Liberties Of All his Subjects: But if they, fearing that he will Violate this his Protestation, take up Arms to prevent it, what may be Judged hereof?
(London, 1681)

The Kings Majesties Gracious Letter to his Parliament of Scotland, 28 July 1681, with His Royal Highness The Duke of Albany &c, His Majesties High Commissioner, His Speech to Parliament After Reading of the Letter
(Edinburgh) [1681]

The Laws and Acts made in the First Parliament of our most High and Dread Sovereign James VII, by the Grace of God, King of Scotland, England, France and Ireland, Defender of the Faith, Holden at Edinburgh the 23 April 1685 (Edinburgh, 1685)

The Laws and Acts made in the Second Session of the First Parliament of our most High and Dread Sovereign James VII By the Grace of God, King of Scotland, England, France and Ireland, Defender of the Faith, Holden at Edinburgh the 29 of April 1686 (Edinburgh, 1686)

The Laws and Acts of the Third Parliament of Our Most High and Dread Sovereign Charles the Second, By the Grace of God, King of Scotland, England and Ireland, Defender of the Faith, Holden at Edinburgh the 28 day of July 1681 (Edinburgh 1681)

To the Right Honourable James Earl of Perth, Lord Drummond, and Stob-Hall &c. Lord High Chancellor of His Majesties most Ancient Kingdom of Scotland. The Congratulatory Poem of an Obliged Quill (Edinburgh) [1684]

Two Letters Written by the Right Honourable Edward, Earl of Clarendon, late Lord High Chancellor of England: One to His Royal Highness the Duke of York: The other to the Duchess, Occasioned by Her embracing the Roman Catholick Religion [London, n.d]

NATIONAL LIBRARY OF SCOTLAND

A Proclamation signifying his Majesties pleasure that all men being in offices of Government at the decease of the late King, his Majesties dear and entirely beloved brother, shall so continue, till his Majesties Further Direction, dated 6 February 1685 (London, 1685)

A Proclamation containing his Majesties Gracious Indemnity, dated 26 February 1685 (Edinburgh, 1685)

The Day being the Festival of St George, the Coronation of their Sacred Majesties King James the Second and Queen Mary, was performed at Westminster in manner following... (Edinburgh, 1685)

Caledonia's Farewell to the ... Earl of Perth ... and Duke of Queensberrie ... March 1685 (Edinburgh, 1685)

A Proclamation Discharging the Exporting of Meal and Oats off the Kingdom of Scotland till further notice, dated 25 May 1685 (Edinburgh, 1685)

A Proclamation Requiring all members of Parliament to wait on and attend His Majesties High Commissioner at the Palace of Holy-rood-house, the 23 April 1685, dated 14 April 1685 (Edinburgh, 1685)

A Proclamation for Putting the Kingdom of Scotland in a Posture of defence against the enemies of the King and Government, dated 28 April 1685 (Edinburgh, 1685)

A Proclamation requiring all the Heritors and Freeholders and Militia of the Kingdom of Scotland to be in readiness to come out in their best arms and provided (upon advertisement) for His Majesties Service (Edinburgh 1685)

A Proclamation for a Thanksgiving throughout the Kingdom of Scotland for the late defeat of the King's enemies, dated 16 July 1685 (Edinburgh, 1685)

A Proclamation for Securing the Peace of the Highlands, dated 20 July 1685 (Edinburgh, 1685)

A proclamation continuing the adjournment of the current Parliament from the first Thursday of April next, to the twenty ninth of that month (London, 1686)

His Majesties Most Gracious Letter to the Parliament of Scotland (Edinburgh, 1686)

A Proclamation adjourning the Parliament, from the seventeenth of August, to the twenty first of October 1686 (Edinburgh, 1686)

A Proclamation dissolving the Parliament (Edinburgh, 1686)

His Majesties Gracious Declaration To all His Loving Subjects for Liberty of Conscience, 4 April 1687 (London, 1687)

Reasons why a Consent to Abolish the Penal Statutes Against Papists could not be given by any who own'd the then government in Church and State [Edinburgh] (1707)

A Protestation against Toleration [Edinburgh] (1770)

Rosebery Collection

Ry 1.2.111 (11) *A Letter from Amsterdam to a Friend in England (London, 1678)*

Ry 1.2.116 (2) *A True Narrative of the Proceedings of His Majesties Privy Council in Scotland for Securing the Peace of that Kingdom in the Year 1678 (Edinburgh, 1678)*

Ry 1.2.116 *A Word in Season or, a Letter from a Reverend Divine to a Justice of the Peace in London (Edinburgh, 1679)*

- Ry 1.2.115 (7) *A Letter Written Upon the Discovery of the Late Plot* [London, 1679]
- Ry 1.2.111 (12) *A Letter to a Person of Honour, Concerning the Black Box* (London, 1680)
- Ry 1.1.48 (2) *Some Particular Matter of Fact relating to the Administration of Affairs in Scotland Under the Duke of Lauderdale Humbly offered to His Majesties Consideration, in Obedience to His Royal Commands* (Edinburgh) [1679]
- Ry 1.1.48 (3) *An Act by His Royal Highness, His Majesties High Commissioner, the Lords of the Privy Council, Establishing the Order of the Ryding of the Parliament, and several Circumstances relating thereto, conform to the Ancient Practice of the Kingdom of Scotland, 25 July 1681* (Edinburgh, 1681)
- Ry 1.1.48 (4) *The King's Majesties Gracious Letter to His Parliament of Scotland, 28 July 1681, with His Royal Highness The Duke of Albany & co. His Majesties High Commissioner His Speech to the Parliament After Reading of the Letter* (Edinburgh, 1681)
- Ry 1.1.48 (5) *Proposals Concerning the Propagating of Christian Knowledge in the Highlands and Islands of Scotland and Forraign Parts of the World* (Edinburgh, 1681)
- Ry 1.1.48 (6) *A Brief Account of His Sacred Majesties Descent in a true Line Male, from King Ethodius the First, who began to Reign Anno Christi, 162* (Edinburgh, 1681)
- Ry 1.1.41 (2) *An Answer to the late Pamphlet; Entituled, A Charachter of a Popish Successor, and What England ,ay expect from such a One* (Edinburgh, 1681)
- Ry 1.1.41 (3) *Three Great Questions Concerning the Succession and the Dangers of Popery, fully examined, in a letter to a member of this present Parliament* (Edinburgh, 1681)

- Ry 1.6.136 *Prophesys Concerning the Return of Popery into England, Scotland and Ireland* (London, 1682)
- Ry 1.6.137 *A Sermon Preacht at Holy-rood-house, 30 January 1682 before Her Highness the Lady Anne, by Thomas Cartwright, D.D. Dean of Ripon and Chaplain in Ordinary to His Majesty* (Edinburgh, 1682)
- Ry 1.2.114 (15) *A Vindication of His Majesties Government and Judicatures in Scotland from some Asperations thrown on them by scandalous Pamphlets, and News-books, ans especially with relation to the late earl of Argiles Process* (Edinburgh 1683)
- Ry 1.1.41 (5) *The Fanaticke Indulgence Granted, Anno 1679, by Mr Ninian Paterson [poem to James]* (Edinburgh, 1683)
- Ry 1.1.41 (6) *A Sermon Preached Before Their Majesties King James II and Queen Mary at their Coronation in Westminster Abbay, April 23 1685* (London and Edinburgh, 1685)
- Ry 1.2.115 (19) *The Declaration and Apology of the Protestant People, That is of the Noblemen, Barrons, Gentlemen, Burgesses, Commons of all sorts, Now in Armes within the Kingdom of Scotland* (Edinburgh) [1685]
- Ry 1.2.117 (1) *Toleration and Liberty of Conscience Considered, and Proved Impracticable, and, even in the opinion of Dissenters, Sinful and Unlawful* (London, 1685)
- Ry 1.1.95 (1) *A True and Plain Account of the Discoveries made in Scotland of the Late Conspiracies Against His Majesty and the Government Extracted from the Proofs Lying in the Records of His Majesties Privy Council and the High Justice Court of the Nation* (Edinburgh, 1685)
- Ry 1.1.95 (2) *The Tryal and Process of High Treason and Doom of Forfaulture against Mr Robert Baillie of Jerviswood* (Edinburgh, 1685)

- Ry 1.6.151 *An Ode on the Death of Our Late Sovereign Lord King Charles II of Blessed Memory* [London] (1685)
- Ry 1.6.152 *To the King: A Congratulatory Poem* (London and Edinburgh, 1685)
- Ry 1.1.96 (1) *The Coronation of their Sacred Majesties King James the Second and Queen Mary* (London and Edinburgh, 1685)
- Ry 1.1.96 (2) *The Duty of Subjects Reinforc't Especially in the Choice of Their Representatives to sit in Parliament, in a letter to a friend, occassioned by His Majesties Most Gracious Declaration in Council* (London and Edinburgh, 1685)
- Ry 1.2.115 (20) *The Declaration of James Duke of Monmouth, and the Noblemen, Gentlemen and others, now in Arms, for Defence and vindication of the Protestant Religion, and the Laws, Rights and Priviledges of England, from the Invasion Made Upon them: and for Delivering the Lingdom from the Usurpation and Tyranny of James Duke of York* (London, 1685)
- Ry 1.6.150 *Rome's Additions to Christianity Shewn to be Inconsistent with the True Design of so Spiritual a Religion in a Sermon Preached at Edinburgh in the east Church of St. Giles, February 14, 1686* (London, 1686)
- Ry 1.2.117 (2) *A Reply to the Answer Made Upon the Three Royal Papers* (London, 1686)
- Ry 1.2.115 (18) *Popery Anatomised in a Letter to a Friend* [London] (1686)
- Ry 1.2.115 (21) *Reflections upon the Bulls of the Popes Paul the Third and Pius the Fifth Emittted against hebry VIII and Queen Elizabeth of England* [Edinburgh] (1686)
- Ry 1.6.146 *Some Reflections on his Majesty's Proclamation of the 12th of February 1686/7 for a Toleration in Scotland* [Edinburgh 1687]

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- A Source Book of Scottish History*, volume iii, W.C. Dickinson and G. Dickinson (eds) (Edinburgh, 1961)
- Acts of the Parliament of Scotland*, T. Thomson (ed), volumes vii and viii, (Edinburgh, 1814-1820)
- Bishop Burnet's History of His Own Time from the Restoration of King Charles II to the Conclusion of the Peace of Utrecht in the Reign of Queen Anne*, volume ii, (London, 1815)
- Burgh of Stirling; Extracts from Records 1667-1752*, Renwick, R. (ed) (Glasgow, 1889)
- Calendar of State Papers Domestic, January 1st 1679-May 1687*, 9 volumes, F.H. Blackburne Daniell, Francis Bickely and E.H. Timings (eds) (London, 1915-1964)
- Chronological Notes of Scottish Affairs from 1680 till 1701, chiefly taken from the diary of Lord Fountainhall* (Edinburgh, 1822)
- Cobett's Complete Collection of State Trials*, volume x, 1680-1685 (London, 1811)
- The Correspondence of Henry Hyde, Earl of Clarendon and of his brother Laurence Hyde, Earl of Rochester with the Diary of Lord Clarendon from 1687-1690... and the Diary of Lord Rochester during his Embassy to Poland in 1676*, volume i, Samuel Weller Singer (ed) (London, 1828)
- The Diary of Alexander Brodie of Brodie, and of his son James Brodie of Brodie, consisting of extracts from the existing manuscripts and a republication of the volume printed at Edinburgh in the year 1740* (Aberdeen, 1863)
- The Diary of John Evelyn*, E.S. de Beer (ed) (Oxford, 1955)
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- Extracts from the Records of the Burgh of Glasgow 1663-1690* (Glasgow, 1905)
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- HMC 44, Report 15, appendix part viii, *The Manuscripts of his Grace the Duke of Buccleuch and Queensberry, K.G., K.T., Preserved at Drumlanrig Castle* (London, 1897)
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- Letters and the Second Diary of Samuel Pepys 1656-1703*, R.G. Howarth (ed) (London, 1933)
- Letters Illustrative of Public Affairs in Scotland, Addressed by Contemporary Statesmen to George, Earl of Aberdeen, Lord High Chancellor of Scotland, 1681 to 1684*, Dunn, J., (ed) (The Spalding Club, Aberdeen, 1851)
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- Memoir of Sir James Dalrymple First Viscount of Stair, President of the Court of Session in Scotland*, Mackay, A.G.J. (ed) (Edinburgh, 1872)
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- Memoirs Touching the Revolution in Scotland, 1688-1690, of Colin, Earl of Balcarras*, Browning, (ed) (Edinburgh, 1841)
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- Observations on the Acts of Parliament made by King James the First [and his successors to the end of the reign of] King Charles the Second*, Sir George Mackenzie of Rosehaugh (Edinburgh, 1687)
- Original Papers: Containing the Secret History of Great Britain from the Restoration to the Accession of the house of Hanover to which are prefixed extracts from the Life of James II as written by himself*, volume i, James McPherson (ed) (London, 1775)
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