

CHAP. II.

From the
Reformation to the
Union.

Scotch
legislation
in 1705.

people that Green and two others were put to death. What made the matter worse, evidence was produced affirming that Drummond was alive, and this was subsequently corroborated.¹

In anticipation of the next meeting of the Scottish Parliament, Ministers in England reinstated the Duke of Queensberry, who, however, only took the post of Privy Seal, the Duke of Argyll being appointed Commissioner. The Estates met on June 28th, 1705, and the Queen's message earnestly pressed upon their notice the settlement of the succession and the appointment of commissioners to treat for a legislative union. There were now three parties : the Jacobites, or Cavaliers ; the independent or national party led by Fletcher ; and the party of Tweeddale and his friends, called the " Squadron Volante," from its compactness, which latter frequently held the fortunes of Parliament in its own hands. Instead of acting upon the Queen's message first, the Estates considered and settled various matters affecting commerce, and appointed a council of trade. Even when the vexed settlement question was reached, they came to a stand so far as the person was concerned ; but with regard to limitations and securities they were sufficiently definite, though not going so far as Fletcher could desire. An act was passed which made on the Queen's demise the officers of state and the judges of the supreme courts elective by Parliament. A second act provided that a Scottish ambassador should be present at every treaty made by the sovereign of the two kingdoms with a foreign Power. By a further measure the Parliament was to become triennial at the end of the next three years.

Proposed
Treaty of
Union.

The Queen's Commissioner declined to give the royal assent to these acts, and indeed they took a secondary place when the all-absorbing question of the Union was introduced. Fletcher, with much eloquence and great breadth of view, introduced a new and comprehensive

¹ *State Trials*, vol. xiv., and Burton's *Criminal Trials in Scotland*.

scheme of limitations and securities, but this also fell into the background. On August 25th the first draft of an act for a Treaty of Union was brought forward. After several sittings the Court party carried an act empowering the Queen to name commissioners to treat for Scotland. This important point was gained with the assistance of the Squadrone, whose action exasperated and dismayed the opponents of the Union. The act, nevertheless, was tempered by a resolution that the Scottish commissioners should not begin to confer with the English until the clauses in the English act of Parliament making the Scotch aliens had been repealed. Another important proviso was also adopted: "That the commissioners shall not treat of or concerning any alteration of the worship, discipline, or government of the Church of this kingdom as now by law established." The first step towards a union was thus taken; and when the English Parliament met in October, the alien clauses so obnoxious to the Scots were fully and frankly repealed, at the instance of the liberal-minded Lord Somers.

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Difficulties arose in connection with the appointment of the Scots commissioners, who, like the English, were thirty-one in number. There was no attempt to represent the Scottish Church, but otherwise the list was a more representative one than the English, which consisted exclusively of peers and official personages. Hamilton and Argyll were not in the Scottish list,¹ but it included the Jacobite plotter George Lockhart, of Carnwath. Eventually, responsible commissioners were nominated, who began the requisite negotiations.

*The
Commis-
sioners.*

The joint body which sat on the question of the Union had no precedent. In one sense it was a deliberative body, in another sense two deliberative bodies, "who could transact nothing without a majority on each side in favour of every proposition adopted." Again, "it behaved

*Their
powers
and ac-
tion.*

¹ The *Jerviswood Correspondence* shows that Hamilton was purposely omitted, as, owing to his views, he might have complicated matters.

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the treaty to be so directed that the Scotsman's advantage should not lie in the good bargain he obtained over the Englishman, but in both being equal members of the same great community ; and similar in kind, though not so great in degree, was the corresponding interest on the other side. But it was not merely necessary that each nation should avoid gaining any advantage over the other : it was necessary that neither should retain any substantial element of superiority, even though the other had nothing to give in exchange for the advantage of participating in it."¹ With such problems as these before them, and previous abortive attempts to serve as a warning, the commissioners assembled in the old council chamber of the Cockpit at Whitehall on April 16th, 1706.

*Questions
for settle-
ment.*

As we have seen, the act expressly excepted the Church from the matters with which the commission was to deal ; and this wise decision to leave each nation in undisturbed possession of its own Church undoubtedly tended to smooth the path of the negotiators. Subsequently it was decided to treat the law in the same way as the Church, the Scots being left with their own system of judicature. These two formidable subjects being removed from the scope of the treaty, there remained four main questions for decision : the succession, trade, taxation, and the composition of the future Parliament. The Scottish commissioners gave way on the first, the English on the second, and the third and fourth were adjusted by a skillful compromise, the genius of Somers being the chief factor in the success of the negotiations. The Scotch proposal that the Union should be federal was set aside, and it was resolved that as the two nations had virtually become one people, united by community of interests, so they should now become one in point of law, and as they already had one and the same sovereign, so they should have one and the same legislature. The adjustment of taxation and national burdens was a matter of grave difficulty. It was pointed out on behalf of Scotland that

¹ Burton's *History of Scotland*.

before it could bear its part in the heavier imposts of England it must enjoy for some years the prosperous fruits of the Union; and it was ultimately conceded that there should be granted to Scotland an exemption from certain taxes. Among these were the window duties, a portion of the stamp duties expiring in August, 1710, and the tax on coals expiring in September of the same year. From the salt duty they were to be exempt for seven years. As Scotland would necessarily sustain an immediate loss from a uniform system of taxation, the payment of a money compensation known as "the equivalent" was discussed. The amount was finally fixed at £398,085 10s., and it was to be expended partly in payment of the public debts of Scotland, partly in compensation for losses by the coinage, and partly in recompensing the stockholders of the Darien Company with interest, the Company itself being dissolved. The surplus was to go towards the promotion of Scottish fisheries and manufactures. These financial questions gave the greatest trouble, and when they were disposed of, the political difficulties were more readily adjusted.¹

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The Articles of Union, as finally arranged, numbered twenty-five. The main provisions were—that on May 1st, 1707, England and Scotland should be united in one kingdom, bearing the name of Great Britain; that the succession to the crown of Scotland should be in all points the same as that of England, the succession of the United Kingdom being vested in the Princess Sophia and

Articles
of Union.

¹ The best and most authentic account of the Union negotiations appears in the Appendix to vol. xi. of the *Scots Acts of Parliament*. Defoe has written a ponderous work on the *History of the Union between England and Scotland*; there is another narrative on the same subject by the Rev. Ebenezer Marshall; and there is an official *Report on the Events and Circumstances which produced the Union of the Kingdoms of England and Scotland*, prepared in 1799 by Mr. Bruce, of the State Paper Office. Then there are the various accounts given by our later historians, Burton's being probably the best. A very brief but useful summary of the negotiations is given by Dr. Æneas Mackay in the article "Scotland" in the latest edition of the *Encyclopædia Britannica* (1886).

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her heirs, being Protestants ; that all privileges of trade should belong equally to both nations ; that there should be one Great Seal and the same coinage, weights, and measures ; that the Episcopal and Presbyterian Churches of England and Scotland should be for ever established as essential and fundamental parts of the Union ; that the United Kingdom should be represented by one and the same Parliament, to be called the Parliament of Great Britain ; that the number of representative peers for Scotland should be sixteen, to be elected for every Parliament by the whole body, and the number of representatives in the Commons forty-five, two-thirds of whom were to be chosen by the counties, and one-third by the boroughs ; that the Crown be restrained from creating any new peers of Scotland ; that both parts of the United Kingdom should be subject to the same duties of excise, and the same customs on exports and imports ; but that when England raised £2,000,000 by a land-tax £48,000 should be raised in Scotland, and in like proportion. A standard on which were blended the flags of both nations, the crosses of St. Andrew and St. George, which had been first projected by James VI. under the name of the Union Jack, was adopted as the national flag of the United Kingdom ; and it was agreed that the arms of the two countries should be quartered with all heraldic honours.¹

*Agitation
against
the
Treaty.*

When the terms of the articles became known in Scotland, they gave great dissatisfaction in certain quarters. The Jacobites were especially angry with them, for they saw in them the prospect of a steadily growing feeling in favour of the Union and the consequent decline of their own ideas. Edinburgh was soon in a state of great agitation, and to prejudice the treaty it was urged that there was an immediate loss to Scotland, owing to

¹ With regard to the Parliamentary representation for Scotland, it has been sometimes urged that it was not very favourable to the Scots, but if taxation, and not population, be taken as the measure of representation, they were by no means hardly dealt with. See Burton, Hallam, and Stanhope.

the abolition of its independent Parliament, the reduction of the capital to a provincial town, and the increase of taxation to pay the growing national debt. The gains which might be expected to accrue from the Union were kept in the background. There were those of course who conscientiously believed that trade would decline, instead of advance, as it did, by rapid strides ; that, in spite of the solemn guarantees, the law and the Church would yield to the dominant influences of the larger country, in which henceforth was to be the sole seat of government ; and that much of the talent and wealth of Scotland would be attracted southwards and be absorbed by the English. These considerations led to a stormy agitation, which heralded the sittings of the last Parliament of Scotland.

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The Estates met early in October, 1706, and on the 12th took the Articles of Union into consideration. While the debates were progressing, addresses were presented in considerable numbers from various counties and boroughs praying that the treaty might not be ratified, whilst scarcely any were presented in its favour. Although it could not be held that the Union was popular, a Scottish historian (Burton) observes that the addresses were no more a measure of positive national antipathy to it than the turbulence of a few Edinburgh apprentices which for a time disturbed the capital. After nearly a month spent in preliminary discussions, it was agreed on November 4th to take a vote on the first article of the Union, with a proviso, however, that it was to be dependent on the rest being carried.

Meeting
of the
Estates.

The debate furnished one of the finest oratorical displays which marked the course of the Scots Parliament. The Duke of Hamilton spoke stirringly on Scottish nationality, and Seton of Pitmedden, one of the commissioners, pleaded for the measure in a calm and statesmanlike speech. But the great feature of the debate was the eloquent oration of Lord Belhaven, a young nobleman of fiery and impetuous character, whose opposition to the Union reached a species of fanaticism. His speech formed

Great
debate on
the Union.

Lord Bel-
haven's
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an event in the history of Scotland, and was afterwards spread broadcast, in numberless editions, throughout the country. As compared with the efforts of later English orators, if examined in some distant age, "it would be found to have few competitors among them in the essentials of heroic oratory, rapid and potent diction, impassioned appeal, bold and apt illustration." Though evidently addressed to the people at large, it bristled with classical allusions. While the form of the speech delighted the cultivated, its substance alarmed those who already dreaded the effects of the Union. "What hinders us, my lord," he exclaimed in the most rhetorical portion of his speech, "to lay aside our divisions, to unite cordially and heartily together in our present circumstances, when our all is at stake? Hannibal, my lord, is at our gates. Hannibal is come the length of this table; he is at the foot of this throne; he will demolish this throne if we take not notice; he'll seize upon these regalia; he'll take them as our *spolia opima*, and whip us out of this House never to return again. For the love of God then, for the safety and welfare of our ancient kingdom, whose sad circumstances I hope we shall yet convert into prosperity and happiness!—we want no means if we unite. God blesseth the peacemakers. We want neither men nor sufficiency of all manner of things to make a nation happy." In another dramatic passage the speaker put the question of a national union of parties against the common enemy upon his bended knees, paused for a reply, and receiving none, solemnly recorded, "No answer!" Again, after rapidly sketching the contents of the treaty, he said, "Good God! what is this—an entire surrender! My lords, I find my heart so full of grief and indignation, that I must beg pardon not to finish the last part of my discourse, that I may drop a tear as the prelude to so sad a story."

The first
Article
carried.

This fervid oratory, nevertheless, failed to awe or impress the House, and it had absolutely no effect upon the division. Whatever might be the case in the country, the House was inclined to ridicule rather

than to quail before the great speech. Lord Marchmont excited laughter and cheers when he said that they had heard a long speech, and a very terrible one; but he thought a short answer would suffice, and it might be given in these words: "Behold, he dreamed; but, lo, when he awoke, behold it was but a dream." The division gave 116 in favour of the article and 83 against, the Squadrone having declared for the Union. Although the great preponderance of the majority was in the peerage, there was an actual majority in each Estate—a matter of considerable moment upon so vital a question.¹ The actual majority in each of the Estates was as follows: peers, 25; barons, 4; representatives of the boroughs, 4. In many of the subsequent articles, and especially those relating to trade, the Parliament secured modifications which were distinctly in favour of Scotland. By disturbances in the west, and projected addresses to the High Commissioner in Parliament, the party opposed to the Union now sought to prevent its consummation. But the work went forward, and additional guarantees were given to the Presbyterian Church in an act passed for "securing the Protestant religion and the Presbyterian Establishment." To conciliate the English Episcopacy and Parliament, the measure contained a balancing clause, consenting that the Parliament of England might provide as it thought fit for the security of the English Church within its own sphere.

During the discussion of the articles, an amendment that the Parliament of Great Britain should meet once each third year in Scotland was put and lost. Waiving other objections to such a scheme, the inconvenience of taking the vast bulk of the members of the House of Commons to Edinburgh once in every three years, with such defective means of transit, was, and is, manifestly apparent. A Parliament in Edinburgh would no doubt

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*Proposed
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¹ Dr. Mackay, in the *Encyclopædia Britannica*, gives the total majority as 35, but that is a mistake; the *Scots Acts of Parliament* show it to have been only 33.

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Tragic death of Lord Stair.

The passage of the articles was pushed through ; but just as the twenty-second article was carried Lord Stair expired suddenly, from the effects of anxiety and over-exertion in connection with the treaty. This nobleman, who fifteen years before had played such an unenviable part in the massacre of Glencoe, rendered great legal service as a supporter of the Union. With the passing of the twenty-second article, the treaty was safe. The discussions concluded on January 16th, 1707, when the last division was taken on the passing of "An Act ratifying and approving the Treaty of Union." It was carried by 110 to 69 votes, and on this occasion there was a satisfactory majority in each Estate. The peers in favour of the act were 42, with 19 against ; the barons 38, as against 30 ; and the burgesses 30, as against 20. The Act was thereafter touched with the royal sceptre by her Majesty's High Commissioner. Lockhart states that Seafield, the Chancellor, in signing the official exemplification of the Act, made use of a well-known Scotch simile : "And there's an end o' an auld sang." For this he has incurred the indignant remonstrances of some of his countrymen, Sir Walter Scott included.

The Treaty of Union carried.

Charges of bribery.

With regard to the charges of corruption against the statesmen of the Union, the historian Burton, after a close examination of them, came to the conclusion that there was no ground for the charge of bribery in Scotland. It is true that Lockhart makes the most express charges, and gives the amount actually distributed as £20,540 17s. 7d. ; but several of the official persons stated to have been bribed continually complained that they could not get their arrears of salary paid. Of course it would be corruption if long arrears were paid cash down as an equivalent for a vote ; but, as Burton observes, "it surely does not follow from the mere fact of arrears

being paid that such a compact has been made, nor can it be inferred from the general condition of our information on this matter." Whether money passed legitimately or as an equivalent, there are few now who would hold the Union to have been a base and sordid betrayal of the interests of Scotland.

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After the Treaty of Union had been carried, the Scots Estates still continued to sit as a sovereign legislature pending the acceptance of the treaty by England; and various questions of importance came up for solution. Seeing that the existing Parliament of England was to remain as the English portion of the united Legislature, the Estates resolved that the representative peers as well as the commoners for Scotland should be chosen from their existing Parliament. It was further decided that representatives should be elected for every Parliament, that voting should be open, and not by ballot, and that proxies should be allowed. Thirty of the forty-five seats reserved for the Commons of Scotland were apportioned to the counties, and fifteen to the towns. Edinburgh was to have the privilege of electing its representative separately, but the other boroughs, sixty-six in number, were joined together in groups to the number of fourteen. A commissioner was to be chosen by each borough, and the commissioners of each group were to meet and elect the member of Parliament. Peers were excluded from candidature for the House of Commons, and it was proposed also to exclude their eldest sons. Though the latter proposition was not carried in this form, it found indirect acceptance in a resolution to limit the representative right "to such as are now capable by the laws of this kingdom to elect or be elected." The principle of excluding peers' eldest sons from the representation of Scotch shires and boroughs, though not a very intelligible one, prevailed down to the Reform Act of 1832. In disposing of the Equivalent, the sum of £232,000, being more than half the whole, was awarded to the stockholders of the Darien Company for capital and interest. The balance was employed in

*Details of
Scotch Re-
presenta-
tion.*

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*The Treaty
in the
English
Parlia-
ment.*

Meanwhile the Treaty of Union had passed through the English Parliament. On January 28th the Queen went to the House of Lords and announced the passing of the Treaty by the Parliament of Scotland. After expressing a hope that the House of Commons would be willing to provide for the stipulated equivalent, she commended to the Legislature at large the opportunity "of putting the last hand to a happy union of the two kingdoms." In order to carry the measure, Godolphin and his colleagues determined to sacrifice some of its details, for it would not do to excite public feeling by sending the bill back to Scotland for reconsideration upon any of its provisions. But as the Presbyterians had secured their own Church, so the Archbishop of Canterbury, acting on behalf of the English Establishment, brought in a measure for the security of the Episcopal Church in England, and this was carried.

*Debates on
the Union.*

Considering the importance of the subject, the reports preserved of the Union debates in both Houses are very unsatisfactory. Only in those instances where the orator himself prepared his speech for the press is there anything like an adequate account of these Parliamentary utterances, and even such cases are few in number. On February 4th the Commons sat, as a committee of the whole House, to consider the Articles of Union and the Act of Ratification by the Parliament of Scotland. The House met, not in the performance of its proper legislative functions, but to consider a question laid directly before Parliament by the Crown. The usual method of procedure is by message, but on this memorable occasion the sovereign attended in person. Little time was lost, for the committee's report in favour of the articles was

received and adopted on the 8th. During the debate certain members complained of the careless rapidity with which the committee proceeded, describing it as "post-haste, post-haste," whereupon Sir Thomas Littleton very smartly pursued the allegory, and said "they did not ride post-haste, but a good easy trot ; and, for his part, as long as the weather was fair, the roads good, and their horses in heart, he was of opinion they ought to jog on, and not take up till it was night." Sir John Packington (erroneously supposed by some to be the original of Sir Roger de Coverley) delivered a vehement speech against the Treaty. "He was absolutely against this incorporating union," he said, "which was like the marrying a woman against her consent, a union that was carried by corruption and bribery within doors, and by force and violence without," etc. These bold expressions, which reflected alike upon the Queen's Ministers, the Scottish commissioners, and Parliament, gave great offence ; but Sir John added that in Scotland they said the Union was carried by bribery and force. An amendment for postponing the first article of the Treaty having been defeated by an overwhelming majority, the report of the committee, practically approving the whole of the articles, was received and ratified without a division.¹

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On February 15th there was a "grand" debate in the House of Lords on the Treaty of Union, the Queen lending additional weight to the deliberations by her presence. Bishop Burnet, who had done so much for Protestantism in England, and was a staunch supporter of the Union with Scotland, was called upon to take the chair on the Lords going into committee of the whole House for the consideration of the articles. In the course of the debate on the first article, Lord Nottingham took exception to the name of Great Britain, alleging that it was such an innovation in the monarchy as totally subverted all the laws of England ; but, on the judges being appealed to,

*The Lords
and the
Treaty.*

¹ *Parliamentary History*, vol. vi.

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Lord
Haver-
sham's
speech.

The
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debated.

they "unanimously declared they could not conceive that it anyways altered or impaired the constitution of this realm, whose laws, they were of opinion, must remain entirely the same as well after as before the Union, except such as were altogether inconsistent with, and directly contrary thereto."

The only lengthy speeches in the debate published in the *Parliamentary History* are those by Talbot, Bishop of Oxford (who declined to join in the hue-and-cry against the recognition of the Scotch Kirk), and Lord Haver-sham. The latter spoke uncompromisingly against the Union, and boldly lauded the statesmanship of Oliver Cromwell, who "was so wise as to abolish" the reserved hereditary jurisdictions and the privileges of the boroughs as elements in the Scottish Constitution.

A proposal to postpone the consideration of the first article was negatived by 72 to 22, and the House read and approved the first six articles. When the debate was resumed on the 19th, Lords North and Grey objected, with regard to the ninth article, to the small amount Scotland was to contribute to the land-tax. Lord Halifax in reply admitted that the amount was small, but it was all the Scots would pay. They could not expect to reap equal advantages from every article of the Treaty; and if the Scots had the better in some few, England was infinitely recompensed by the many advantages which accrued to her on the whole. The article was carried by 70 to 23 votes. At a later stage, the Earl of Thanet, perpetual sheriff of the county of Westmoreland, and the Marquis of Lindsey, Lord Chamberlain, were anxious to know how their heritable offices would be affected, whereupon the judges assured them they were perfectly safe. The Bishop of Bath and Wells remarked that he was altogether opposed to the Union, for which he could find no better comparison than "the mixing together strong liquors, of a contrary nature, in one and the same vessel, which would go nigh to be burst asunder by their furious fermentation." The Bishop, curiously enough, anticipated certain nine-

teenth-century complaints of the episcopal bench by saying that "it was always reckoned the dead weight of the House."

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When the last article of the Treaty had been read, Lord Nottingham stood up and begged their lordships' pardon for having troubled them upon almost every article. "As Sir John Maynard," he said, "made this compliment to the late King at the Revolution, that, having buried, upon account of his great age, all his contemporaries in Westminster Hall, he was afraid, if his Majesty had not come in that very juncture of time, he might likewise have outlived the laws themselves, so if this Union did pass, as he had no reason to doubt but it most certainly would, he might with as much reason, and as justly, affirm he had outlived all the laws and the very constitution of England"; and his lordship concluded with a prayer to God to avert the dire effects which might probably ensue from such an incorporating Union.

Lord
Notting-
ham dis-
sents.

On February 24th the Bishop of Salisbury reported the resolutions, which were agreed to by a great majority of the House. A number of protests were, however, entered. Lords Granville, Haversham, and Stawell dissented from every one of the articles; the Duke of Beaufort to all except the second; the Bishop of Bath and Wells to the last four; Lord Abingdon to eleven of the articles; and Lords North and Grey, Rochester, Howard, Leigh, and Guilford to the one dealing with the unequal land-tax. The same peers (with the exception of Howard) objected to the raising of an equivalent in England, instead of fixing the debt of each country on its particular revenue. Lords North and Grey, Buckingham, Leigh, Rochester, and Guilford protested that the sixteen peers from Scotland formed too large a number to be added to the peers of England generally in attendance; that, being elected peers, they suffered a diminution of dignity; and that their election was an innovation upon the Constitution. Finally, Lords Rochester, Leigh, North and Grey, and Guilford

Formal
protests.

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*Act of
Union
carried
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dissented to the last article, because, there being no enumeration of what laws were to be repealed, too great a latitude of construction was left to the judges.

When all the articles had been agreed to in both Houses, a bill was ordered to be brought in converting the Treaty of Union into a law. The question arose how to avoid a discussion upon each article, which would have afforded a fine field for the Opposition in their desire to prolong the campaign. Owing to the ingenuity of Harcourt, the Attorney-General, the bill was so cleverly constructed that it cut off all debates. The preamble was a recital of the articles as they were passed in Scotland, together with the acts made in both Parliaments for the security of their several Churches. Then, in conclusion, came one enacting clause, ratifying all. This main provision, or crucial clause, was in the following terms: "That all and every the said Articles of Union, as ratified and approved by the said act of Parliament of Scotland as aforesaid, and hereinbefore particularly mentioned and inserted, and also the said act of Parliament of Scotland for establishing the Protestant religion and Presbyterian Church government within that kingdom, entitled 'Act for securing the Protestant religion and Presbyterian Church government,' and every clause, matter, and thing in the said articles and act contained, shall be, and the said articles and act are hereby, for ever ratified, approved of, and confirmed." This strategic movement "put those upon great difficulties who had resolved to object to several articles and to insist on demanding some alterations in them, for they could not come at any debate about them; they could not object to the recital, it being merely matter of fact; and they had not strength enough to oppose the general enacting clause, nor was it easy to come at particulars and to offer provisos relating to them. The matter was carried on with such zeal that it passed through the House of Commons before those who intended to oppose it had recovered themselves out of the surprise under which the form it was drawn in had put them. It

did not stick long in the House of Lords, for all the articles had been copiously debated there for several days before the bill was sent up to them ; and thus this great design, so long wished and laboured for in vain, was begun and happily ended within the compass of nine months.”¹

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The bill, which was ordered to be brought into the Commons on February 8th, was sent up to the Lords on March 1st. Lords North and Grey proposed to add the following rider : “ Provided always that nothing in this ratification contained shall be construed to extend to an approbation or acknowledgment of the truth of the Presbyterian way of worship, or allowing the religion of the Church of Scotland to be what it is styled : the true Protestant religion.” This rider was rejected by 55 to 19 votes.

*It passes
the Lords.*

On the final motion that the Act of Union do pass, the following protest was inserted by the Dukes of Beaufort and Buckingham, and Lords Stawell, Guilford, Granville, and Leigh : “ Because the constitution of this kingdom has been found so very excellent, and therefore justly applauded by all our neighbours for so many ages that we cannot conceive it prudent now to change it and to venture at all those alterations made by this bill, some of them especially being of such a nature that as the inconvenience and danger of them (in our humble opinion) is already but too obvious, so we think it more proper and decent to avoid entering further into the particular apprehensions we have from the passing of this law.” It is interesting to note that the following peers also dissented from the Act of Union, though, as their names were only entered upon the margin of the protest, it is not clear whether they adopted the reason :—Lords Nottingham, Anglesey, Thanet, Winchilsea, Northampton, Scarsdale, Weymouth, and Guernsey.²

*Final
protest.*

The royal assent to the Act of Union was given by the Queen in person, who went to the House of Lords for that purpose on March 6th. In a few weighty and well-

*The
Queen's
assent.*

¹ Burnet's *History of His Own Time*.

² *Parliamentary History* and Thorold Rogers's *Protests of the Lords*.

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chosen sentences, the outcome of the counsels of her statesmen, the sovereign thus set the seal upon the foremost Act of her reign: "I consider this Union as a matter of the greatest importance to the wealth, strength, and safety of the whole island, and at the same time as a work of so much difficulty and nicety in its own nature that till now all attempts which have been made towards it, in the course of above a hundred years, have proved ineffectual; and therefore I make no doubt but it will be remembered and spoke of hereafter to the honour of those who have been instrumental in bringing it to such a happy conclusion. I desire and expect from all my subjects of both nations that from henceforth they act with all possible respect and kindness to one another, that so it may appear to all the world they have hearts disposed to become one people. This will be a great pleasure to me, and will make us all quickly sensible of the good effects of this Union. And I cannot but look upon it as a peculiar happiness that in my reign so full provision is made for the peace and quiet of my people and for the security of our religion by so firm an establishment of the Protestant succession throughout Great Britain." The drama was now complete, and from May 1st, 1707, England and Scotland became united in one kingdom, under the name of Great Britain.

*Supple-
mentary
legisla-
tion.*

At first the working of the Union was not very auspicious, for many of the Scots lamented the legislative absorption of their native country; and it was some time before they became even passively reconciled to the change. Two important acts of the British Parliament were soon necessitated by the Act of Union. The Scottish Privy Council, or Secret Council, as it was known in the north, was abolished. This council, which was not an indigenous portion of the Scottish Constitution, had wrought great evil in the reign of Charles II.; and being a secret, irresponsible tribunal, with undefined but absolute powers, it was felt that it might work serious mischief even under the Union. English statesmen naturally could not tolerate a body which had very little

responsibility towards the Crown, and none of an effective character to Parliament. A statute was consequently passed for its abolition; and, in order to show its close relations to the Act of Union, it was entitled "An Act for rendering the Union of the two Kingdoms more entire and complete." The Court party was against the bill, which gave umbrage also to the governing body in Scotland; and it was carried against Ministers by the independent Whigs and the Tory Opposition. Strong efforts were made to defeat it, but it passed the Commons by a great majority. In the House of Lords there was a lengthy debate. The Scots Ministers urged that the country would be in great danger without a supreme government, but the supporters of the measure held it to be an absurd thing that there should be a different administration where there was but one Legislature. The bill passed by 50 votes to 45, to the great discontent of the Court.¹ A new Court of Exchequer was also created for Scotland, upon the model of that of England; and special acts were made for the election and return of the representatives in both Houses of Parliament.

CHAP. II.

From the
Reforma-
tion to the
Union.

The
Scottish
Privy
Council
abolished.

The second noteworthy act of the British Parliament was one passed in 1709 for the assimilation of the Scotch law of treason to that of England. The measure contained no actual definition of high treason in Scotland, but it prescribed in general terms that what was law in England should be law there. The authority of the old Court of Justiciary was superseded, and the English method, by commission of oyer and terminer, prescribed. The bill was stoutly but ineffectually resisted by the Scottish members. Yet two important amendments were secured. By one the names of the witnesses who had been before the grand jury were ordered to be sent to the prisoner ten days before his trial. The other provided that no estate in land was to be forfeited upon a judgment of high treason, which agreed with a resolution introduced by Bishop Burnet.

The law
of Treason.

¹ Tindal and Burnet.

CHAP. II. The Lords deemed it wise to agree to these amendments, but with this proviso, moved by Lord Somers : that they should not become operative until after the death of the Pretender. As the latter had assumed the title of King of Great Britain, and had lately attempted to invade the country, it was not deemed advisable during his lifetime to lessen the penalties of treason. The Commons accepted the proviso, with the further addition that it should not take effect until three years after the house of Hanover should succeed to the crown. A great fight took place over this, and members were summoned from the country to vote. Ultimately the bill, with all its amendments and provisoes, was carried by a small majority, the Lords agreeing to the new amendment. The Queen then promulgated an Act of Grace, the first of her reign, to the effect that all treasons committed before the signing of the Act (which was dated April 19th) would be pardoned, those only excepted that were done upon the sea, by which proviso all who had embarked with the Pretender were of course excluded from the act. By the new legislation Scotch treason was made more definite, and less liable to extension by forced construction in the criminal courts.

*Toleration
and
Patron-
age.*

In 1711-12 some further questions of moment to Scotland were decided. A limited Toleration Act in favour of the Episcopalians was passed, permitting them to worship in private chapels. By a second act, patronage was restored in the Presbyterian Church, notwithstanding the protests of the Assembly, and this measure unfortunately proved a fruitful source of discord.

*Last de-
bate on the
Union.*

The last Parliamentary debate in connection with the Union took place in the session of 1713. It arose out of a small matter in the Commons, but it ended in an effort made in the Lords to dissolve the Union. The Lower House having decided upon the imposition of a tax of sixpence per bushel on malt, the Scots members urged that it would be an insupportable burden to their countrymen, by reason of the vast disproportion between the English and Scots malt, both in goodness and price.

Upon this the Committee reduced the tax in Scotland to threepence per bushel. The members for Wales and the northern counties of England insisted upon a like reduction, whereupon the Committee reverted to a uniform tax of sixpence for all parts of Great Britain. The Scottish members fought stubbornly, but the third reading of the Malt Bill was carried by a majority of 197 to 52.

CHAP. II.

From the
Reforma-
tion to the
Union.

The Scots peers and commoners now consulted together how best to redress their grievances. The Malt Bill, being a measure of supply, could not be directly fought by the peers, but on June 1st there was a set debate in the House of Lords on a motion for dissolving the Union. It was opened by Lord Findlater, who specified the Scottish grievances, which were four in number: the abolition of the Privy Council, the new law of treason, the incapability of Scots peers being made peers of Great Britain, and the malt tax. Some speakers urged that the Union was like a marriage and therefore indissoluble, and Lord Peterborough said nothing could be more solemn than the Treaty unless it could have come down direct from Heaven, like the Ten Commandments. He added that the Scots would never be satisfied, for they would have all the advantages of being united to England, but would pay nothing for it. The Duke of Argyle warmly replied, admitting that he had a great hand in making the Union, which he did to secure the Protestant succession; but he was satisfied that that might be done as well now if the Union were dissolved. Unless it were dissolved, "he did not expect long to have either property left in Scotland, or liberty in England." Considering the momentous issue involved, the attendance of peers was very small. The question being put, on the Earl of Findlater's motion, for repealing the Union, it was only carried in the negative by a majority of four proxies; 54 lords voted on each side, but there were 17 proxies for the negative and only 13 for the affirmative. The Malt Bill itself was ultimately passed in the Lords by 64 voices against 56. A protest was entered against it by 19 peers.¹

*Scottish
grievances.*

*Motion for
dissolving
the Union.*

*A narrow
division.*

¹ *Parliamentary History*, vol. vi.

CHAP. II.

From the
Reforma-
tion to the
Union.

*Scottish
business
in Parlia-
ment.*

The management of Scottish business in London remained with a Secretary of State for Scotland until 1746 ; but the Lord Advocate, the adviser of the Crown on all legal matters both in London and Edinburgh, gradually acquired a large amount of influence in Scottish affairs, although he was nominally a subordinate of the Secretary. When the office of the latter was suppressed, the Lord Advocate became paramount. In 1885, however, a Secretary for Scotland was again appointed, with a separate office in London, and since that time the Lord Advocate has ceased to have the charge of Scottish business in the House of Commons.

*Changes
in the
Scotch
Representa-
tion.*

In closing this account of the Scottish Parliament, the later changes in the representation must be noticed. Under the Reform Act of 1832 the number of Scottish representatives in the Commons was raised from 45 to 53, the counties, under a slightly altered arrangement, returning 30 members, as before, and the burghs, reinforced by the erection of various towns into Parliamentary burghs, 23. The second Reform Act (1868) increased the number of representatives to 60, the universities obtaining representation by two members, while three additional members were assigned to the counties and two to the burghs. The franchise was granted in counties to a £5 ownership and a £14 occupation. A householder and a lodger franchise were also fixed in burghs. By the Redistribution of Seats Act of 1885 an addition of six members was made to the representation of the Scottish counties and six to that of the burghs, the total representation being raised to 72. The Franchise Act of 1884, which assimilated the franchise in counties with that in the boroughs, added upwards of two hundred thousand voters to the Scottish register.

*Effects of
the Act of
Union.*

The Act of Union, which was the glory of Anne's reign, reflects great credit upon Godolphin and Somers. The latter statesman especially, with his far-seeing eye, perceived the danger to the throne and the nation from States united territorially yet divided in interests, and he laboured wisely and patriotically for the

Union ; while Godolphin, whose personal services were not so great, knew when and where to yield in pursuit of the same great end. The Scots foreboded ill effects from the Union, and the Jacobite rebellions no doubt retarded its beneficial effects ; but the latter half of the eighteenth century and the whole of the nineteenth, have constituted but one period of continuous prosperity for Scotland. Without losing its individuality, the Scottish race has achieved during the past hundred years extraordinary triumphs in trade and commerce, science, literature, and the arts ; and Scotsmen themselves would now doubtless acknowledge that the Union with England gave a great impetus to these remarkable developments.

CHAP. II.

From the
Reformation to the
Union.
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