

QUEEN ANNE'S MINISTERS
AND
THE ADMINISTRATION OF SCOTLAND,
1707 - 1714.

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SUMMARY.

The Union left the future of Scottish administration in the hands of the Queen's ministers. The methods adopted by Godolphin and Harley differed, partly because their political problems were different and partly because of temperament. Godolphin tried as far as he could to rule Scotland in the old way, through Queensberry's Court Party. He hoped to strengthen the Court at Westminster with the Scottish representatives elected under influence. When the abolition of the Privy Council upset his full scheme he strove to keep the channel of administration between England and Scotland in the hands of the Court Party.

Harley also wished to strengthen the Court at Westminster but he could not rule through a homogeneous Court Party in Scotland since he was hoping to draw support from too wide a field to risk giving offence. To solve the problem he tried to administer Scotland himself through the financial departments, advised by personal agents. He hoped to make the secretary's office redundant. The scheme proved to be largely a system of centralised procrastination. Opportunity was provided for Bolingbroke as a secretary of State to expedite business in a bid for interest amongst the Scots. In self defence Harley had to appoint Mar as third secretary.

As far as revenue departments were concerned Godolphin kept to the proper channels of business, observed precedent and set much store by official opinion. Patronage he left

largely to the commissioners which probably meant putting it in the hands of the Scottish ministry. Harley trusted the revenue commissioners far less and was much less a respecter of the proper channels and forms of business. And, although it was done informally, patronage seems to have been directed much more from the Treasury under Harley.

LIST OF ABBREVIATIONS.

All works cited are referred to more fully
in the bibliography.

- Add. MSS. Additional Manuscripts in the British Museum.
- Annandale Book. The Annandale family Book of the Johnstones....
- A.P.S. Acts of Parliament of Scotland.
- Bolingbroke Corresp. Letters and Correspondence of Henry
St. John, Viscount Bolingbroke.
- Burnet. Bishop Burnet's History of His Own Time.
- C.J. The Journals of the House of Commons.
- Clerk's Memoirs. Memoirs of the life of Sir John Clerk of
Penicuik.
- Court and Society. Court and Society from Elizabeth to Anne.
- Cowper's Diary. The Private Diary of William, first Earl
Cowper.
- Cromartie Corresp. The Earls of Cromartie - their Kindred,
Country and Correspondence.
- Cobbett. Parliamentary History of England.
- C.T.B. Calendar of Treasury Books.
- C.T.P. Calendar of Treasury Papers.
- D.N.B. Dictionary of National Biography.
- Foster. Scottish Members of Parliament: Foster.
- G.R.H. General Register House.
- Harley Papers. The Harley Papers in the British Museum.
- Hist. View. Historical View of the forms and powers of the
Court of Exchequer in Scotland.
- Jerviswood Corresp. The Correspondence of George Baillie of
Jerviswood.
- L.J. The Journals of the House of Lords.
- Lockhart. Memoirs and Commentaries upon the affairs of
Scotland

- Luttrell. A Brief Historical Relation of State Affairs
- M & K. MSS. Historical Manuscripts Commission Report on the manuscripts of the Earl of Mar and Kellie.
- Mackenzie's Works. The Works of Sir George Mackenzie.
- Marchmont. A Selection from the Papers of the Earls of Marchmont
- Marchmont Papers. The Papers of the Earl of Marchmont in the General Register House.
- Melville and Leven Corresp. The Melvilles, Earls of Melville, and the Leslies, Earls of Leven.
- Morton Papers. The Papers of the Earl of Morton in the General Register House.
- N.L.S. National Library of Scotland.
- P.C. of D.M. The Private Correspondence of Sarah, Duchess of Marlborough.
- Port. Historical Manuscripts Commission Report on the Manuscripts of the Duke of Portland.
- R.C.R.B. Records of the Convention of the Royal Burghs of Scotland.
- Returns. Official Returns of Members of Parliament.
- Seafield MSS. Historical Manuscripts Commission Report on the Manuscripts of the Countess Dowager of Seafield.
- Seafield Corresp. Seafield Correspondence from 1685-1708.
- Swift Corresp. The Correspondence of Jonathan Swift.
- Vernon Corresp. Letters Illustrative of the Reign of William III Addressed to the Duke of Shrewsbury by James Vernon.
- Votes 1718/19. Several Reports By the Commissioners for Taking and Stating the Debts due ... to Scotland
- Wemyss Memos. Memorials of the family of Wemyss of Wemyss.
- Wentworth Papers. The Wentworth Papers, 1705-1739.

In addition, manuscripts in the Public Record Office are

referred to by their list numbers which are given in the bibliography with the titles of manuscripts. Reports of the Historical Manuscripts Commission are referred to by abbreviated titles, for example, Dartmouth MSS.

INTRODUCTORY NOTE.

It is perhaps necessary to indicate the limits of this subject. The thesis is not meant to be concerned with "pure" administrative history, if, indeed, such a thing exists. Nor has the aim been to explore the whole field of Scottish administration. The intention has been to note the most important changes in administration which came about in the first seven years of the Union, to explore the reasons for those changes and to attempt to point out their significance. Since some of these changes were dictated by political considerations it has seemed necessary to give some attention to political matters. Only when viewed against the political background does the significance of some of the administrative developments appear. The setting up of the new customs and excise departments in Scotland and their early problems have been dealt with in some detail for several reasons. For one thing they illustrate the difficulties at all levels which attended the introduction of English laws and methods into Scotland. Again it is hoped that an examination of the Treasury setting out to write on an almost clean slate will shed some light on its attitude to the revenue departments and its problems. Finally an attempt has been made to show that Godolphin and Harley had each a different approach in dealing with patronage in the revenue services just as they differed in their methods of handling Scottish government as a whole.

Finally, this seems a suitable time to place on record

my thanks and deep gratitude to Dr. R.W. Greaves, my supervisor, for the guidance and the many kindnesses I have received from him.

1. THE UNION.

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By 1704 England and Scotland were facing serious trouble. The two kingdoms had pushed and jerked each other into an intolerable position. For England the matter at issue was the question of security. The succession to the throne of Scotland could not be allowed to fall into hands that could be dangerous. But that was only the appearance of the problem. That was only the head to which long working troubles had been brought. At bottom the English ministry was faced with a problem of administration and political management. It was the crisis resulting from this which drove the English ministry to take up the cause of union instead of just thinking about it.

For Scotland union was an economic necessity. Some Scotsmen had seen that for long enough but even by these it had been looked upon as a kind of constitutional cold bath - beneficial in theory but its advantages not immediately attractive. Delay was due to Scottish national pride which saw in Union something like degradation.

Scotland had suffered from the English connection. The Scots bitterly resented the subordination of their commercial interests to those of England. The interests of the two kingdoms were very different. England was concerned with the export of manufactures; Scotland lived by the export of raw materials. Two different patterns had developed in tariffs and trade restriction. James I had tried to abolish tariff

barriers between his two kingdoms. His failure showed that uniform trade and tariff policies were necessary before that could take place. English merchants were too afraid of Scottish competition to allow one without the other. Nor did they favour Union because it did not seem that Scotland could be of any benefit to England. For political reasons union was brusquely achieved during the Interregnum. It showed that union would mean hardship until Scottish trade had worn new grooves for itself. Uniformity of all tariffs and restrictions ruined the Scottish economy. Devastated by war, Scotland's commerce lacked the resilience to develop new channels of trade and she fell in debt. Only the salt men of northern England suffered from Scottish competition. Unhampered by restrictions the Scots could undersell them any day - and did.

Divergence of interests was blatantly exhibited after the Restoration. Commercial policy in England was regulated by Parliament. Prevailing mercantile notions held supremacy. If the closed colonial system were to function efficiently no loophole had to be left. Scotland was regarded with particular suspicion and animosity. Her geographical position was admirable for illicit trade. She had commercial ties with the Dutch. Above all England feared that Scotland might develop a trade to the plantations; the mercantile principle was that the benefit of the plantations should go to England alone and not "unto or amongst the subjects and inhabitants of the Realme of Scotland, or of any Forraigne Realms or

States."¹ Hence Scotland, for the purpose of the Navigation Acts, was regarded as a foreign country. Her ships and goods were discriminated against. She was legally cut off from plantation trade.

The royal conscience had qualms over this. Charles II tried to do something for his Scottish subjects. Pending an enquiry into whether Scotland could be relieved he suspended the application of the Navigation Act to Scotland. The answer to that question, provided by the Customs Commissioners, was plain. If the colonial system was to be maintained efficiently, an independent kingdom could not be allowed privileges within it. The only possible solution was indicated by the Lord Keeper in 1669. The negotiations, he said, had left only "a Conviction of the Difficulty if not impossibility of settling it in any other way than by a nearer and more complete Union of the two Kingdoms."²

Charles had commissioners appointed to treat for Union but there was no English enthusiasm for that. Scotland was of little benefit to England. Nor, in spite of her attempt at reprisals, could she do much harm. There was no mind in England to benefit the Scots as long as they could do nothing in retaliation. There the matter rested. James II could do nothing but promise to do his best for Scotland. Such

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1. 12 Car II. c.32. quoted Keith p.87-9. Commercial relations between England and Scotland 1603-1707. 1910. See for all pre-Union trade relations.
 2. qtd. Keith op. cit., p.93.

small privileges as were granted to individual Scottish subjects roused strong English protests. The Customs Commissioners represented that the trade of only two Scottish ships to the colonies would lose £7,000 to the revenue.¹ So it was demonstrated that a King of Scotland could do little to mitigate discrimination on the part of his other kingdom. The more notorious Darien episode showed something even more sinister. A Scottish King could be driven into seconding attempts to strangle Scottish enterprise in the interests of England.

The Scottish attempt to found an American colony was born of national pride and commercial interest. Scotland vitally needed foreign markets. Since the English colonies were legally barred the Scots dreamed of starting a Scottish colonial system. The project was ill planned and badly executed and so perhaps doomed to failure. But a significant part was played in ensuring its failure by English opposition. That opposition at bottom had little to do with fear of giving offence to Spain. The cries of the East India interest were only sectional. What aroused opposition was the whole idea of a Scottish settlement on the American mainland. The English Customs Commissioners and the merchants of London and Bristol had long been worried by the extent of illegal Scottish trade carried on with the New England colonies. Now the fear was that that trade would be increased if the Scots

1. Keith op. cit., p.116-118.

acquired a base closer at hand. The Customs Commissioners announced themselves to be "humbly apprehensive of this growing mischief, for the Trade between Scotland and the Plantations is now about to be more openly carried on under Colour of a Law lately passed in Scotland."¹ The concern of the House of Lords was the same and the subsequent "Act for preventing Frauds and Regulating Abuses in the Plantation Trade" was aimed at the Scots.² It seemed to the Scots that their enterprise would always be opposed by England and that their monarch would have to side with England. Scotland was at England's mercy. The situation was intolerable, but when it was a choice between English and Scottish interests William could do nothing but side with England and bequeath the project of union to both kingdoms. Even then the English were heedless of Scottish difficulties and resentments. Early in Anne's reign the project collapsed through English opposition and apathy. This drove the Scots into a determination to hurt England and make some mark on her. It was this determination which produced the constitutional crisis which had its root in the Revolution settlement.

There was never any doubt in anyone's mind that Scottish decisions were made in London. When Hamilton and the Country Party wanted a new Parliament on the accession of Anne they went to make application in London and did not waste time

1. Qtd. Keith op. cit., 125-8.

2. Keith op. cit. 173-5. 7 & 8 Wm.III. c.22.

arguing with the Scottish ministry. When William was alive he had taken decisions relating to Scotland as a matter of course. His decisions had been subject to the needs of English policy. Under Anne the power rested with her ministers. For Scottish decisions to be made by English ministers aggravated the grievance. Godolphin seems to have realised this and had a proposal for a combined council of Englishmen and Scots to advise the Queen on Scottish affairs.¹ This was intended to preserve some Scottish dignity. Seafield was against it because it was an official admission that Scottish matters had been in English hands before, which some people had been saying for a long time.²

The task of carrying through the policy laid down for Scotland was that of the Scottish ministry. These men were chosen for their influence, their willingness to carry Court measures and cooperate with each other. These men shared between them the various offices available. Most important in dignity was the post of Lord High Commissioner, delegated to represent the sovereign at the meeting of the Scottish Parliament. To him, on appointment, the instructions of the English ministry were given. His function then was to concert with the rest of the ministers suitable plans for carrying the policy in Parliament, giving them the royal assent to such measures as were approved. The rest of the ministers were the Officers of State: the Chancellor, the Keeper of

1. 24 May 1704. Godolphin to Seafield, Seafield MSS. 200.

2. 3 May 1704. To Godolphin. Add. MSS. 34180 f.38.

of the Privy Seal, the Lord Clerk Register, the Lord Advocate, the Justice Clerk, the Treasurer, the Treasurer-Depute, the Secretary or Secretaries and the President of the Council. When the Treasury was in commission Lords of the Treasury were appointed. Most of these officers had tasks in connection with their own functions which were widely varied. The Chancellor had custody, in theory, of the Great Seal, but that was in practice done by deputy. More important was his power of presiding in any of the Courts in Scotland with the exception of the Treasury when the Treasurer was present. In a kingdom where the judicature was an important factor in political influence this made him in power and dignity one of the chief ministers. The Keeper of the Privy Seal also functioned by deputy. Officially the task of the Clerk Register was to register and publish all acts, statutes and legal decisions. In fact he appointed the clerks of session who did this, acting also as clerks of Parliament when need arose.¹ The Lord Advocate was a law officer who acted for the Crown in legal matters; the Justice Clerk was a judge. The Queen's formal will in relation to Scotland was made known through the secretaries. Such were the officers who formed the Scottish ministry.

As a ministry they had two collective functions. As Officers of State they were present in Parliament to put

1. Milne-Home MSS. p.270, gives a list of officers and clerks nominated by the Lord Register.

and try to carry government measures. Then, through the Privy Council, they were the executive of the country. This Privy Council of Scotland was a powerful body. It was "chiefly employed about publick affairs and judges of Riots and any Disturbance given to the Peace of the Kingdom."¹ In the absence of Parliament it had undisputed control of the country and its administrative "acts" had sometimes amounted to fresh legislation. By these two collective means, the Scottish ministry had to govern the country and manage Parliament.

But the Scottish Parliament had become very difficult to manage since the Revolution. By itself the Parliament had never developed an efficient method of dealing with business. The Stuart kings had done it for them and had their own way in Parliament by a committee known as the Lords of the Articles. Ingeniously chosen to ensure its docility and having a strong official membership, this body had the sole right of initiating business in Parliament. It was delegated by Parliament to draw up legislation. This legislative labour was then presented to Parliament in the form of a report which was usually passed in a very short time.² Such a mode of transacting business was efficient but, not surprisingly, resented. In 1689 the Convention had in mind the destruction of royal influence and were not worried about

1. Qtd. Rait p.11. R.S.Rait: The Parliaments of Scotland, 1924, is important for this section. A clear account of the powers of the Privy Council is given by Sir George Mackenzie, Works ii, 196-200.

2. Rait, op. cit., p.8.

dispatch of business. The Claim of Right declared "The Committee of Parliament called the Articles is a great grievance to the Nation, and there ought to be no Committees of Parliament but such as are freely chosen by the Estates to prepare motions and overtures that are first made in the House." William assented to this but still tried to retain the Committee. He was compelled to drop the idea but the Committee could have been useful in providing guidance in business for the amorphous Scottish Parliament and in providing a liaison between it and the Crown. Something of the kind was indeed necessary where the Parliament had such powers as being able to ratify or reject grants from Crown property or revenue.

Other means had been adopted for reducing the power of the Crown. Attempts were made to deprive of influence the Officers of State who sat in the House. Those who were peers sat in Parliament in their own right. Others sat ex officio. There was suspicion of their influence so the motion was made that no Officer of State could sit ex officio on any committee unless specifically elected to it. Since committee men were elected by their own estate and since an Officer of State sitting ex officio was not a member of any estate the possibility of their being elected was removed. Something was done to modify this by the Act of 1690 which allowed the Crown to nominate them to committees but they were not allowed to vote. But Parliament remained suspicious of ministerial

1. Qtd. Rait, op. cit., 386.

influence. In the last session of the Scottish Parliament, when it became apparent that ministers were establishing some control by influencing elections to committees, then committees themselves were mostly avoided and legislation was thumped out in full Parliament.¹

This great reduction in the extent of ministerial influence was serious. In any legislature having the powers of the Scottish Parliament some method of accommodation between its claims and those of the executive was a necessity. In England it was provided by ministers and placemen being in Parliament to lead, persuade and manage. The patronage of the ministry's disposal was used to create a proper disposition in the House. Even when ministers were on the spot, able to sense the feeling of members, affairs could be difficult. But attempts to control the executive by proxy at a distance of seven or eight days were impracticable. The English ministry was sometimes not fully informed of the situation in the Scottish Parliament and a ministry was appointed which could not manage it, as Godolphin appointed the New Party administration in 1704.

However, had Scottish ministers been working directly under a Crown, unhampered by other considerations, some workable system might have been evolved. As it was they were hamstrung by having to receive orders from London and ask for instructions from thence when matters reached deadlock.

1. Rait, op. cit., p.393;

In 1703, for instance, all ministers thought assent to the Act of Security was unavoidable but Queensberry as Commissioner had to sit in silence whilst people challenged him to give assent or say that he was not allowed to give it.¹ Almost all matters were referred to London. Measures for managing and carrying the Union were to be sent to Godolphin when they were concerted.² Favours for particular individuals were requested by ministers from Godolphin because they were necessary for carrying on business.³ In an earlier ministry Seafield complained that favours were being distributed from London without reference to Scottish ministers.⁴

This lack of discretion produced a very difficult situation and the reduction of ministerial influence aggravated it. Scenes were generated in Edinburgh which caused the Scottish Parliament to be compared with a "Polish Diet." But things could have been worse and indeed would have been worse if Scottish Court politicians, notably Queensberry, had not evolved a scheme of influence bordering sometimes on bribery. And, incredibly, the Parliament itself was not incapable of restraint upon occasion. Even so, the state of affairs had become too unsatisfactory to live with for very long.

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1. 2 Sept.1703. Seafield to Godolphin. Add.MSS.³⁴43180.f.17; 11 Sept.1703. Seafield to Godolphin. ib., f.19-22.
 2. 21 Sept.1706. Mar to Godolphin. M.& K.MSS. 280.
 3. 19 Oct.1706. Godolphin to Mar. M & K.MSS.295; 8 Oct.1706, Godolphin to Mar. ib. 286.
 4. 9 June 1704. Seafield to Godolphin. Add.MSS.34180. f.50-51.

The crisis developed in the Parliament which met in 1703. It was smarting with all the injured dignity of Scotland and brooding on her economic wrongs. It was determined to do all in its power to hurt England until she squealed - and practically regardless of consequences. National pride, resentment at Scotland's ill treatment and, in some quarters, a desire to embarrass the ministry were the motives. In the minds of some the idea of forcing England to consider Union was quite definite. First there was the act which allowed the importation of French wines, in the name of increasing the revenue. This annoyed England, by then at war with France. Then, in spite of the manufacturers' complaints, the export of wool was again allowed from Scotland. Amongst other things, this meant that English wool was certain to be smuggled into Scotland and exported for the use of England's competitors. The Scots were set on their course. "If we neglect this Opportunity we oblige the English more than we are sensible: If we make use of it, besides the money it will bring into the Country, it may be one of the reasons will oblige them to drive an Equal Union."¹

The English resented both measures but more serious was the question of security. Scottish participation in the war had been taken for granted. The "Act anent Peace and War" was an affirmation of the Scottish Parliament's right to decide whether or not war should be declared on future

1. Keith, op. cit., p.189.

occasions. The final blow was the Act of Security which provided for the separation of the Crowns on the death of Anne. This was definitely in part an attempt to wring commercial concessions from England. Godolphin at first refused to allow royal assent to be given to the Act. But Queensberry could not manage Parliament which refused supply. A dangerous situation was threatened with a possible French invasion close at hand and the pay of the troops in arrear. In view of Scottish feeling it would have been inviting violence to send money from England. Finally consent was given and the Act became law on the fifth of August 1704. Relations between the kingdoms became critical. The Revolution itself seemed to be threatened. Godolphin was heavily criticised in the Lords.

Throughout this period Godolphin had been perturbed by the serious turn of events in Scotland. He had been writing to Seafeld in terms which indicated that England would conquer Scotland rather than allow separation.¹ The crisis of government had arrived and some way out had to be found.

Scotland's trade grievances had forced the Parliament to make trouble. They had to be dealt with. But certainly they could not be granted any "communication" of trade until England had administrative control over Scotland. The Customs Commissioners had made it clear that two conditions must

1. 17 July 1703. Seafeld MSS. p.198; 9 Aug.1705 he was still writing in the same strain. ib. p.207.

accompany Scottish admission to the plantation trade: uniformity of trade regulation and English power over Scottish subjects to ensure that regulations were obeyed.¹ It was now certain that if Scotland were to be efficiently managed the Scottish Parliament had to go. The English ministry decided that union was the only way out of the deadlock. The Alien Act was passed through the English Parliament to force the Scots into formal discussion and it succeeded in doing so. On the motion of the Duke of Hamilton the choice of commissioners to represent Scotland in the negotiations was left to the Crown. Men were chosen who, with the exception of George Lockhart, could be expected to support the principle of Union.

The Union, from the English point of view, had to leave the power of decision in London and make it effective. Scotland had to be brought under control from the Treasury and the nuisance caused by the Scottish Parliament eliminated. So if there was going to be a union it was going to be a complete one - an "incorporating Union" as the jargon of the time expressed it. To this determination on the part of the English Commissioners the Scots had to yield. Despite Lockhart's strictures on the surrender they had no option. The situation was too dangerous to risk any breakdown in the negotiations and the English were decided. Federal union was put outside the range of discussion. In return for this surrender the

1. Keith, op.cit., 113-4.

Scots were to be given equality of trade within the English system. This decision on the two vital principles formed the basis of the Union. The agreement comprehended most topics from the proportion of land tax to be paid to the question of the seal to be kept in Scotland after the Union and the adoption of a union flag. But it was explicit only in matters of immediate importance and matters in which controversy was hardly likely. The retention of Scottish courts was not challenged and could therefore be made the basis of an explicit statement. Likewise uniformity of weights, measures and coinage could be adopted without much argument. Nor was anyone likely to argue about the seal to be kept in Scotland. The Scots saw to it that vital matters were safeguarded. Private rights were to remain as before the Union, for instance. If they had been tampered with there would have been little hope for the Union in Scotland. Representation had obviously to be settled; Scotland was allowed sixteen peers and forty five commoners. In matters of trade and taxation which touched the Scots very nearly, points were haggled over and defined with great precision. The land tax was to be in proportion to the amount raised in England with a maximum of £48,000 when the tax was at four shillings in the pound. Express exemptions and reliefs from some duties were obtained by the Scots in consideration of Scotland's depressed condition and to enable her to make the

transition with greater ease. The taxes on stamped paper, vellum, malt and salt used for home consumption were included in this relief for a period of seven years. These concessions were obtained by haggling. In particular the conditions under which salt exemption was granted were very closely defined - the English Commissioners having consulted the salt department.¹ The Scots were very careful to get explicit definition of what was allowable and what was not.² They asked for the same "eases, drawbacks and premiums" for Scottish fish exporters as those in England had, and this was granted.³ An equivalent in money for what Scotland would have to pay in taxation towards settling English debts from before the Union was calculated with apparent exactness. These were the matters over which the Scots were concerned and over which they were prepared to haggle. Likewise all amendments to the agreement, save one, carried in the Scottish Parliament were concerned with more favourable tax remissions for Scotland or closer definition of the same to prevent later doubts. Ale or beer was not to pay more than two shillings in duty on an English thirty four gallon barrel.⁴ Duty on malt was not to be applied to Scotland in any event during the duration of the war which meant a longer exemption if the war lasted so long.⁵ Scottish cattle taken to England were to pay

1. A.P.S.11. App. 173.

2. ib., 183.

3. ib., 185.

4. A.P.S. 11. 338-9.

5. ib., 346.

no more duty than cattle transported within England.¹ And so on. These amendments were allowed by England rather than run the risk of wrecking the treaty.

So the matter of complete Union was decided. What seemed to be every detail of the trade agreement was settled and closely defined. Details of Scottish representation and the distribution of the Equivalent was left to the Scots themselves as was proper. But nothing was said of the way in which Scotland was to be administered. Indeed, it was no function of the treaty to do so save in so far as settled institutions were concerned. The seals, for instance, other than the Great Seal of Scotland, were to be kept, but the seals and their keepers were to be subject to the future regulation of the British Parliament. A new Court of Exchequer was to be set up but the old one was to continue until that time. But nothing could be said about the channels through which the Queen's business was to run. That was left to the English ministry and, as will be shown, in some measure to the British Parliament.

In the passing of the Act of Union, the problem of administering Scotland, as far as Godolphin was concerned, had radically changed. The nuisance of the Scottish Parliament had been eliminated. Now the government of Scotland was more directly the concern of the central power. New administrative methods had to be carried into Scotland to

1. ib. 356.

cope with the new trade regulations and new revenue system. Efficiency had to be combined with methods to ensure that the Treasury in particular was not over-encumbered with Scottish business.

There was another factor. The advent of the Scots to Westminster would mean an additional complication of the kaleidoscope of groups already flourishing. Scottish representation could be useful but could be a nuisance depending on how it was handled. It became therefore the policy of all ministries to manage Scotland to keep its representation amenable to Court influence and in support of its policy - a valuable addition to the "Queen's friends."

In pursuit of these aims Godolphin's policy can be seen to have had two main objectives. In the first place he attempted to preserve with as little modification as possible the separate Scottish administration. Secondly, it was left as far as he could ensure it, in the hands of the Scottish Court party. Preservation of the old administrative framework meant that Scotland could be ruled in very nearly the same way - major decisions made in Whitehall and put into effect in Edinburgh, save that now there was no Scottish Parliament to upset things. It also meant that as few people as possible lost their places which was an added advantage. Godolphin only made changes of necessity when they were forced upon him or when he wanted to preserve the old system under a new guise. He had to introduce new revenue boards but they

were after a time allowed to function largely untroubled in Scottish surroundings and amenable to the Scottish ministry's influence. When the old Privy Council had to go, attacked by the "Squadron," he made changes to preserve the Court party's influence as far as he could. But that was Godolphin's limit.

His ideas were on the whole more satisfactory to general Scottish opinion than any scheme of innovation would have been, as Harley discovered. For Harley was the innovator. Harley might have followed Godolphin's policy of preserving a Court party in Scotland if he had been able. Harley's problem was to decide what the Court party was under his ministry. The group which supported him in 1710 was not a solid, coherent group. To rule by a Court party would have meant alienating the Tories in Scotland, or ruling through them and alienating everyone else. Furthermore Harley was more inclined than Godolphin to listen to the beguiling schemes of administrators for simplifying administration and ruling from the centre. His policy was to fail for two reasons. For one it put more work on him as Lord Treasurer than he could carry which meant neglect of business and resultant discontent, with attempts by Bolingbroke to take over the work and the influence. For another it was not understood by the Scots who had known where they stood under the old system but did not know under Harley. These reasons caused the breakdown of his system and his reversion to the earlier

one as far as he could go. His successors in 1714, in spite of their earlier opinions on Scottish government, showed no tendency to try out experiments. It might have been because they had learnt from Harley's experience: it might have been because they were at last in control.

But in 1707 matters had still to be dealt with. The various groups in the Scottish political world were manoeuvring to get in the best possible position within the frame of the Union. Their pressures were to have effect on the development of the Union settlement.

Of the Jacobites - or Cavaliers as they were usually called - little need be said at this point. They played at Scottish politics with their own ulterior motive in view; they did not really accept the rules of the game. They had opposed the Union as a betrayal of Scottish interests, so they said, but also because it made their objective seem more distant. Their immediate programme was to encourage discontent with the settlement and hope for better things. In opposition to the Union they had been joined by members of the Country Party, men of independent outlook who were suspicious of most things done by the Court. Their nominal leader was Hamilton and he, with Annandale and many like him, were motivated by dislike of Queensberry to some extent - sometimes one suspects it was their dominant motive. Others were men of undoubted Revolution principle who were genuinely opposed to an "incorporating Union" - men like John Forbes

of Culloden, Sir Gilbert Elliot of Minto or Sir James Stuart, Lord Advocate. Then there was Andrew Fletcher of Saltoun who had a high plane of political morality which he alone inhabited. But in 1707 those who had opposed the Union were personæ non gratae in Court circles and, save for occasional exceptions, were allowed no share in management or reward.

The Court Party at the time of the Union really consisted of the Duke of Queensberry's interest and such as were prepared to cooperate with him. He was the leading figure of the Court Party, having served the Crown in various offices since 1684 and succeeded in retaining favour. His ability in management and the confidence of the English ministry served to make him the leader of a political interest in Scotland. This never ceased to astonish some of his opponents. His only period of eclipse had been during the resentment caused by his taking up the story of the 'Scots Plot' to the detriment of the Duke of Athol's character. This was so great that he had to be dropped from the ministry.¹ As the permanent landmark in the Court Party he attracted the allegiance of other courtiers who were not personally tied to him. Such men as Mar, Wemyss and Northesk were prepared to serve with him, although pretending to some interest of their own. In another category, Morton adhered to Queensberry because he had power. But these were not Queensberry's especial concern as for instance were Glasgow and Leven.

1. 27 April 1704. Seafield to Godolphin. Add.MSS.34180.f.32-5; 30 May 1704. Seafield to Godolphin. ib. f.40; 22 July 1704. Athol to Godolphin. Add.MSS.28055.f.105-6. for feeling against him at this time.

Queensberry was the dominant, but not the only, interest in the Court Party. Others depended on the English ministry and so for that reason cooperated with him. A large claim to be considered a prominent figure of the Court Party could have been made by the Earl of Seafield. His political prominence had begun under William. In some special way he was attached to Godolphin. When in Scotland he invariably corresponded with Godolphin. During the crisis of 1704 he played a large part in negotiating the change of ministry on Godolphin's behalf. Thereby he accomplished the considerable feat of serving with Queensberry, supporting his overthrow, cooperating with his enemies and remaining in the Ministry on Queensberry's return.¹ Seafield's ability in law and politics made him a great asset in any ministry but he was sometimes not altogether trusted even by those who cooperated with him.

The other considerable interest in the Court Party at this time was John Campbell, second Duke of Argyll and Earl of Greenwich. His support and interest were valuable. His discretion was less to be relied on. His ambition and insatiable appetite for honours was a by-word even amongst his political allies. Pride, impatience and a hot temper combined with an exaggerated idea of his own ability to make him a difficult ally. He had no doubts about his importance and

1. Add. MSS. 34180 and Seafield MSS. for his correspondence with Godolphin. For the 1704 episode see particularly Add.MSS.34180.f.32-5; f.40; F.54-5.

the respect due to him. At the time of the Union his language and attitude were typical of his usual disposition. The ministry needed his support in the Scottish Parliament. For all they or he knew it might have been vital. But Argyll wanted promotion in the army. He wrote to Mar: "I am extremely sorry that all my friends should desire me to do what for aught I can as yet see I shall not be able to comply with. My lord, it is surprising to me that my Lord Treasurer, who is a man of sense, should think of sending me up and down like a footman from one country to another without ever offering me any reward My Lord, when I have justice done me here and am told what to expect for going to Scotland, I shall be ready to obey my Lord Treasurer's commands"¹ When Marlborough promised to make him a major-general Argyll promised to go to Scotland and support the Union.² Indeed he had become enthusiastic to the extent of wanting proceedings put off until his late arrival; if this could be done to enable him "to shew his inclinations and us his intrist for so good a cause under the cair of his best frinds, it will be most axceptabell."³ Even so there was almost another hitch over the elevation of Lord Archibald Campbell, his brother, as Lord Islay which was the price of his support. The court feared losing the support of them both but they went through with it and Argyll

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1. 18 July 1706. Argyll to Mar. M & K. MSS. 270.
 2. 17 Sept. 1706. Sir David Nairne to Mar. M & K. 279.
 3. 28 Sept. 1706. David Campbell to Mar. M & K. MSS. 282.

characteristically took a good deal of the credit for the passing of the Union and pretended to great influence in the post-Union settlement.

The decisive factor in carrying the Union was the decision of the group in Scotland called the "New Party" or more commonly by their nickname of "Squadron Volante." This interest had been formed in 1704 when the group composed of Roxburgh, Rothes, Baillie of Jerviswood and their various connections separated from the Country opposition to form a ministry, promising to carry the Succession in the Scottish Parliament. At that time they were under the nominal leadership of the Marquis of Tweeddale. After their failure they concentrated on keeping together to preserve their own separate interest. This aim, through which they hoped to increase their influence, was an important factor in their manoeuvres. It would be unfair to say that they were without principle. They were firm adherents of the Protestant Succession and enemies of Jacobitism. The leading figures of the group and a surprising number of their adherents were linked by blood or marriage. There was a tradition amongst them of having stood by Whig principles during the persecuting days. But within this framework of general principle they were prepared to promote measures to increase their power and extinguish, if possible, that of their opponents. They became distinguished from other groups because of their comparative solidarity and the fact that their opposition

to the Court interest tainted them with suspicion of opposing the influence of the Crown. Others were loath to cooperate with them. After the Union, therefore, they were driven to form an alliance with the Junto to achieve their Scottish aims at the expense of the Scottish Court Party and incidentally of Crown influence. Their attitude to the Union illustrates their approach to political questions. It can be summed up by saying that if Union was going to be popular they had better be associated with it, otherwise it was better to keep out of it and leave the blame to the Court¹. They feared in some things the success of the Union. It might fasten upon them the rule of the Court Party for a long time to come² ".....To oppose good things, or to set up our enemies, are equally hard. One of them will be our case...." wrote Baillie when he was concerned with this problem.³ They saw the influence of the Court in everything. They feared the abolition of the Scottish Parliament because it would leave the Court of Session as absolute disposers of their property and vacancies in that Court were filled by the Crown.⁴ However, they were finally convinced that Union was the best course and supported it. Now they wished to shape the administration of Scotland to reduce the power of the Court. Partly as a step in that direction they wanted their maximum share of rewards.

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1. 13 Nov.1705. Baillie to Roxburgh. Jerviswood Corresp.135-6.
 2. 28 May 1705. Roxburgh to Baillie. ib. 97-8.
 3. 3. Dec.1705. Baillie to Roxburgh. ib. 139-140.
 4. 29 Dec.1705. Baillie to Roxburgh. ib. 143-4.

All these groups saw different possibilities in the Union and hoped for different things from it. The Cavaliers were going to pose as outraged patriots to incense Scotland to the point of rebellion. The Court had in mind the gradual elimination of Squadrone influence and then with control in Scotland a strong Scottish interest could be presented at Westminster. The Squadrone were waiting for their opportunity and to destroy the Queensberry influence when the time came.

Godolphin certainly knew of the divisions in the Scottish Parliament. But the Scottish Parliament must have seemed very remote from London. There was going to be far too much to do in administering Scotland during the transitional period in addition to normal conduct of business for Godolphin to worry overmuch about Scottish party divisions. The whole method of governing Scotland for the time being had to be decided somehow. A completely new revenue system had to be set up. And all the time the war was going on. Small wonder then that only two groups were distinguished: those who had supported the Union and those who had opposed. Only those who had done the Queen's service were for the time being to be concerned in the new administration. The only complication in this was that it embraced the Squadrone as well as the Court Party. But promises had been made - by the Court Party - and those who were likely to have representatives at Westminster had to be kept free of resentment.

There were severely practical limits to what Godolphin could attempt. Several considerations caused him to keep the old administrative framework of Scotland intact. One of the most important seems to have been sheer pressure of business which accounts for a good deal at this time.¹ Delay in putting into effect necessary measures caused an unfavourable impression in Scotland and were commented on in England

1. There was an impression that the Court regarded the Union as a nuisance since it upset the normal routine of administration. 4 Mar.1707. Jerviswood Corresp. 190.

by people favourable to the Union.¹ Hitches in arrangements for trade regulation stopped the flow of Scottish trade. The Equivalent was very slow in being sent to Scotland. Yet there is no doubt of Godolphin's good will towards the Scots and anxiety to ease the effect of the Union.² The explanation most probably is the burden that was involved. Therefore to attempt, immediately after the Union, to simplify Scottish administration in the sense of making it more centralised would have meant not only the burden of decision but also more work at the centre. Furthermore, he probably thought that the future provision to be made by Parliament for the government of Scotland was a good reason for not innovating. Other factors reinforced this disposition. Immediate changes might unsettle the Scots which he was anxious to avoid. But further, simplification meant that some people would lose their offices and that would cause irritation. He had no desire to upset the Court interest since he was doubtless hoping for an increased support for the government. Everyone had to be fitted in somewhere.

It seems clear now that there was really no other course for Godolphin to follow. But there was anxiety at the time. Mar was very worried about his subsistence but his own affairs were always a worry to him. His estate was encumbered and

1. Burnet V. 333-4; Onslow's note to Burnet V.334 n.
 2. 17 April 1707. Godolphin to Harley. Bath i. 169;
 4 July 1707. Godolphin to Governor and Director of Bank of England. T17/1.60; 15 July 1707. Seafield MSS.221.

he needed the job.¹ Godolphin sent him a general assurance of his service which probably disturbed Mar even more. But he need not have worried. Godolphin had already been trying to share the burden of decision.² The month before he suggested a committee of the Privy Council to decide on Scottish arrangements till Parliament made provision.³ Nothing came of this idea but a man who suggests a committee is not likely to be contemplating major changes. What he did was to keep the old framework and fill in the details with the help of those Scottish ministers who had come up to London.

Some matters had been put beyond the decision of ministers by the Act of Union itself. Justice was provided for in that the Courts of Session and Justiciary were to continue "in all time coming." The Admiral of Scotland and his court were to remain although henceforth subordinate to the Lord High Admiral of Great Britain.⁴ For the rest things were left largely untouched and matters worked themselves out rather than being decided. There seems to have been little formal discussion.⁵ The Lords of the Committee and

1. 17 Jan.1706/7. Mar to Godolphin. Marchmont iii.442; 3 May 1707. Mar to Godolphin.M & K.MSS.390. A common motive for taking part in politics, apparently. See 2 June 1709. Wemyss to Cromarty. Wemyss Memoirs. iii. 176.
2. There was talk of a third secretary, like the later arrangement, but it came to nothing. 4 Mar.1707. Jerviswood Corresp. 190.
3. 22 April 1707. Godolphin to Harley. Bath i. 170.
4. 6 Anne cap. 11.
5. Harley seems not have been interested if there was. No mention of Scottish business in his Cabinet Minutes (so-called Privy Council Minutes). Harley MSS. List 4. 29/9. passim.

necessary decisions connected with the revenue and finances were pushed on to Godolphin.

The seat of power now clearly rested in London. But the Scottish administrative bodies were to carry on with delegated authority. Advice on how this could be managed was taken from the small group of Scottish ministers in London.¹ The old Scottish Treasury was continued but a new commission was issued giving the seven Treasury Lords the power to function only according to instructions received directly from the Lord High Treasurer of Great Britain.² It had then become a subordinate body. In this condition its existence was brief - it lasted only for one year, until the new Court of Exchequer was set up. During that time, apart from giving some practical advice to the new Customs and Excise Commissioners and having some effect on the appointments they made, it does not appear to have done much but state the very considerable public debts of Scotland. After this labour it became inactive. Its inability to meet the cost of Scottish government for the rest of 1707, as agreed by the Union, probably led to more direct control from London during the rest of its brief existence.³

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1. 13 May 1707. Mar to Glasgow. M & K.MSS. 392.
 2. SP57/27. 38-42. This **ex**cepted 'gifts' which would be notified presumably by a secretary of state.
 3. However, appearances were preserved. When Godolphin was called to Kensington, papers that he should have presented in committee were presented by Glasgow, presumably as Treasurer Depute. 2 Mar.1707/8. Godolphin to Mar. M & K. MSS. 429.

the Cabinet Council seem, if anything, to have prepared merely formal business for the Privy Council's more detailed concern¹. The Privy Council issued formal proclamations and appointed a Committee to busy itself with the design of a new flag and a seal and to decide the precedence of the Lord Lyon.² Token surrenders to satisfy the law were made in the Privy Council. Cowper surrendered the Great Seal and received it again as Lord High Chancellor of Great Britain.³ Godolphin surrendered his staff for a similar purpose. The Lord Privy Seal and the secretaries took the oaths again and received new signets to complete their change of style.⁴ But these were technical changes only. Godolphin had to be legally empowered to take care of Treasury matters for the United Kingdom and the secretaries to act for Scotland if need be. It is clear that any discussion and rejection of great innovations must have taken place in private if there were any, which is unlikely.⁵ Everything seems to indicate that only formal matters were handled in the councils and that

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1. e.g. ib.42 with Harley's marginal note "great seal Scotland" 7 Mar.1706/7. Privy Council Committee on heraldic changes set up 13 Mar.1706/7. P.C.2/81.313; 23 Mar. Day of Thanksgiving appointed ib.42; Privy Council approved proclamation for Day of Thanksgiving. 27 Mar.PC2/81.329. Other examples passim.
 2. 13 Mar.1706/7.PC2/81.313; 17 Mar.ib.317; 29 Mar.ib.338; 17 April 1707.ib.342 and passim.
 3. 4 May 1707. PC2/81. 359.
 4. 23 June 1707.ib.387; 1 July. ib.395.
 5. The only possible ground for doubting this is Harley's cryptic marginal note to a page of minutes: "Scot - dis-course single ministry." The minute was dated 28 June 1707 when matters had been decided for the time being. Harley MSS. List 4. 29/9. 45.

The English Privy Council had Scottish members added and was restyled the Privy Council of Great Britain. But the Scottish Privy Council, in accordance with the Act of Union, had to be continued until Parliament decided otherwise.¹ This meant that although important matters were decided in London, their execution was left to the Scottish Council. It continued to be the only body in Scotland to issue proclamations, as before the Union. The proclamation for the new Parliament, for instance, was delayed until the Scottish Privy Council had met.² Henceforth until the later abolition of the Council, it made proclamations by order of the British Privy Council.³ Apart from this it continued its normal function of preserving the peace in Scotland.⁴

Of the great officers of State only Seafield as Lord Chancellor of Scotland was affected. This does not seem to have been intended in the first place. He was given a new warrant as Chancellor with precedence in all the Courts of Scotland save the Treasury when the Lord Treasurer was present, in accordance with the usual form.⁵ And he took his place in the Courts as Chancellor without complaint.⁶ But doubts were raised in Scotland about the validity of his

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1. 20 May 1707. PC2/81. That day the Queen told the Council she was going to grant a commission for a Scottish Privy Council "conform to the Act of Union." Mar to Glasgow. M & K.MSS.393. 21 May 1707.
 2. 21 May 1707. Mar to Glasgow. 239.
 3. 20 Nov.1707. PC2/81. 476 e.g.
 4. See below; account of its abolition.
 5. 20 June 1707. SP57/27. 18-21.
 6. 15 July 1707. Mar to Seafield. Seafield Corresp. 434.

commission since there was already a Lord Chancellor of Great Britain.¹ However, he was still styled Chancellor in March 1708 but probably his functions were just quietly dropped since he was appointed Lord Chief Baron of the new Court of Exchequer in the following May.²

Mar's uneasiness was relieved when he and Loudon were continued as "Secretaries of State within Scotland."³ These secretaries were of great administrative importance since they were the channel of communication between the Queen and her Scottish Privy Council, and her Scottish subjects. They were empowered to act for Scotland only and normally dealt with all Scottish business. In duties they took turns and acted for periods of roughly a month, probably to share the fees.⁴ Their duties were wide. All Scottish warrants were prepared by them and countersigned.⁵ The Queen's pleasure was conveyed to her Scottish officers through them.⁶ In frequent correspondence they kept ministers in Scotland abreast of developments in London.⁷ Scottish petitions were

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1. 13 May 1707. Harry Maule to Mar. M & K.MSS.392; Clerk's Memoirs. p.
 2. Warrant for his salary as Chancellor and Lord of the Treasury. 27 Mar.1708. T17/1. 326-7.
 3. 20 June 1707. SP57/27. 26-30. Each countersigned the other's commission. Harry Maule, however, was seeing Mar's commission through the seals earlier than this. 31 May 1707. Maule to Mar. M & K.MSS. 396.
 4. This appears from examination of the warrant book for that time. SP57/27. Letters were sometimes addressed to "The Secretary of State attending for the time." 24 July 1707. R.C.R.B. 1677-1711. 416-417.
 5. SP57/27. passim.
 6. e.g. 29 July 1707.ib.66-7. All Scottish ministers in Scotland to reside in Edinburgh for the time being. 21 May 1707. ib.9. All Scottish Privy Councillors to constitute themselves.
 7. Mar's letters to Glasgow, e.g. 13 May 1707. M & K. MSS.392; 21 May 1707. ib.393.

sent to them for presentation.¹ Particularly about the time of the Union and just after they were regularly consulted by English officers about the correct procedures to be adopted in Scottish matters.² They were always numbered amongst the "Scotch Lords" consulted by the Council on occasion.³ Apparently they were not to deal with military matters, at least that was the intention, according to the Queen. She turned very fierce with Sir David Nairne, the Under Secretary, and told him she would take advice only from the Earl of Leven as Commander in Chief in Scotland since English secretaries never meddled with the army.⁴

But for the rest the Scottish secretaries handled all Scottish business other than military matters or Treasury affairs.⁵ That was the regular procedure and the few exceptions were due to extreme emergency or absence of the secretaries from London.⁶ However, the Earl of Mar was employed in the Queen's service. He had an official position with a

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1. e.g. Bishop of Glasgow for payment of £300 promised him. 15 April 1707. M & M.MSS.387; also 24 April. ib.388; Seafield sent a memorial directly to Godolphin because the secretaries had gone "to the bath." 17 Aug.1707. Add.MSS.34180.f.100.
 2. 5 Jan.1708/9. Godolphin to Mar.M & K.MSS.478; 2 June 1707. T17/1.27-8. Asked to whom standard weights and measures should be sent.
 3. Times were appointed for them to wait on the Council. 11 May 1707. Harley MSS.List 4.29/9. 44.
 4. 17 Sept.1707. Nairne to Mar. M & K.MSS.415-6.
 5. Harley did note on the Scottish estimates: "That to be signed by the Secretary of that nation." 16 Nov.1707. Harley List 4. 29/9. 49.
 6. e.g. 9 March 1707/8. SP54/4.16. Sunderland to Leven, about the "invasion"; 28 Aug.1707. Maitland to Godolphin. Add. MSS.28055. f.420; 30 Aug.1707. Godolphin to Seafield about security against Jacobites. Seafield MSS.208.

salary, his opinion was regularly asked and he was in the Court circle. That was his highest satisfaction.

For the Scottish ministry as a whole, times were changing. They had lost the task of managing the Scottish Parliament. For the time being they retained that of administering the country through the Privy Council of Scotland. That was still important, particularly with the country so unsettled. In July 1707 all the ministers remaining in Scotland were ordered to Edinburgh to use their influence to correct wrong but popular ideas about the Union.¹ Even later when more opinions were wanted in London to prepare measures before the members of Parliament came up only Montrose, Glasgow and Sir David Dalrymple were sent for. The rest were explicitly ordered to stay behind to quieten the disturbance caused by delay in sending the Equivalent.² Seafield, as Chancellor, took charge in Edinburgh and seems to have been much exercised over security measures.³ But when Parliament was in session it was clear that the government would need the support of the elected peers, ministers or not, at Westminster, to vote and help to manage the Commoners. The government of Scotland would be in the hands of any officers of

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1. 29 July 1707. M & K. MSS.407.
 2. 21 Aug. 1707. Loudon to Seafield. Seafield MSS.222.
 3. 21 Aug. 1707. Sir David Nairne to Seafield. Seafield Corresp. 435; 25 Aug.1707. Seafield to Godolphin(?) Add.MSS.34180. f.98-9.; 30 Aug.1707. Godolphin to Seafield. Seafield MSS.208; 25 Sept.1707. Seafield to Harley. Portland iv. 452.

State left behind. The task in the first session seems to have fallen on the Lord Advocate who was not a member of Parliament,¹ and the Justice Clerk.²

The Officers of State were taken care of. They remained as before.³ The Scottish ministry remained as it had been, mainly in the hands of the Court Party. Nobody could really complain about the situation although they disliked the men. They had done the Queen's service and had not offended. Queensberry was enjoying great popularity in England since he had steered the Union through the Scottish Parliament. He remained as Privy Seal. But in lesser spheres rewards might be looked for. There was the new Privy Council and the commission to administer the Equivalent. The whole structure of the revenue services was still to be built. There was scope for jealousy enough here.

The Squadrone had supported the Union as a separate interest and had a claim to some qualification as a group. In the high offices they were not well represented. Montrose was Lord President of the Council but Montrose was not always at one with the rest of the group, tending to have in mind,

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1. 20 Jan. 1707/8. Sir James Stuart to Seafield. Seafield Corresp. 440.
 2. Later under Oxford Justice Clerk was distributing letters from the Lord Treasurer and whipping up the M.P.s to Parliament. 13 Feb. 1712/13. Harley XLIX.1208. Northesk sent his proxy via the Justice Clerk. 23 Feb. 1713/4. Harley XLVlll. 935.
 3. Leven, as Commander-in-Chief was not an officer of State. He lost the post of Scottish Master of Ordnance which was abolished at the Union. 1713. Leven to the Queen. Harley Papers LI. 1845.

rather than follow, a course of his own. Adam Cockburn of Ormiston was Justice Clerk but the rest of the Squadrone certainly did not look upon him as a steady member of their interest. So after the passage of the Union they pressed anxiously for some share in the general distribution of rewards. They feared lest they should be squeezed out. They strongly suspected the Court of having other than Whig interests. The differences began to show as the Scottish Parliament was coming to an end.

Some arrangements had been left to be settled by the Scottish Parliament: the distribution of the Equivalent, the scheme of representation and the election of representative peers and commoners to the first Parliament of Great Britain. The election was not to be a general one. It was thought safer to elect members from the old Scottish Parliament rather than risk unsympathetic opinion in the country making itself felt.

By the time these matters came up for settlement the sands of temporary unity were starting to shift. Argyll in particular was in loud voice against the Squadrone and made no secret of his intention to discredit them. He did not doubt his ability to do so. Baillie felt the Court were becoming evasive over their obligations to the Squadrone. "Since concluding the Union," he wrote to 'Secretary' Johnston, "the Ministrie have not dealt by the new Partie as formerly . . ."¹ There was a real difference between the

1. 1 Feb. 1706/7. Jerviswood Corresp. 183.

Court and the Squadrone over giving allowances to the Commissioners who had taken part in the two sets of Union negotiations and giving them priority in the Equivalent. Argyll was a prime mover in this. On his motion larger allowances had been voted for the Commissioner of the second negotiation than Baillie, Adam Cockburn and others thought necessary. The Squadrone were setting up as champions of the smaller public creditors - a role they maintained in the British Parliament.¹ Then, in full knowledge that the Squadrone in general disapproved, the ministry brought in a motion to give allowances, in addition, ^{to} the Commissioners of the first negotiations. The Squadrone were not even given warning. Baillie for one thought this was an ominous indication of the Court's future intentions. He urged on Roxburgh the need for a precise agreement on the Squadrone's share of the representation but Roxburgh did not seem to think it necessary. Baillie did not relish the resultant situation of being dependent on Queensberry's good will.² "... the Ministrie are masters," he wrote, "and overawed by Argyle, who pretends not only to a good share, but to exclude others"³ His suspicions led him to see in the ministry's proposal to hold the election after the commencement of the Union a plot to get Tories

1. 21 August 1707. Cromarty to Mar. Cromarty Corresp. ii.41; Burnet, v, 297. Argyll's proposal was for £1,000 to each nobleman and £500 to each of the rest. Baillie proposed £500 for noblemen, £300 for a baron and £200 for a burgh representative.

2. *ib.*

3. 6 Feb. 1706/7. Baillie to Johnston. *ib.* 186.

elected to Parliament and he did persuade the Court to drop this proposal.¹

For the election the Court concerted a list of sixteen peers which they hoped would be carried. Five Squadrone peers were included. Roxburgh saw the list and seems to have accepted it. Baillie complained that it was selfish of him and the others in the list not to insist on the inclusion of Haddington and Marchmont when Queensberry had promised they would all be in. Nor had they insisted that the Court supporters should be made to vote for all Squadrone men in the list. That omission resulted in Rothes not getting in. Crawford replaced him. He had a knack of getting in by accident. So the outcome was that only four Squadrone peers were amongst the sixteen: Montrose, Roxburgh, Tweeddale and Sutherland.² Out of the forty five commoners the Squadrone share was at least eleven, perhaps slightly more.³

The remainder of the sixteen peers were solidly Court men with the exception of Argyll's brother, Islay, who had not been very happy in league with Queensberry from the start, but obviously was included to satisfy his brother.⁴ Of the

1. *ibid.*

2. 13 Feb. 1707. Baillie to Johnston, *ib.*188.

3. Burnet has it not more than 15 v.298; R.Walcott, p.233-5, makes it 13 including William Morrison of Prestongrange and William Nisbet of Dirleton seemingly on the basis of their relationship to William Bennet. I have come across no evidence that they were Squadrone. Morrison was a Union Commissioner and the Squadrone seems to have been excluded from that.

4. e.g. 8 Oct.1706. Mar to Godolphin. M & K.MSS.286; Mar to Nairne of the same date. *ib.*288-9.

commoners the rest were of groups supporting the Court with one or two moderate independent Whigs.¹ All with two exceptions had supported the Union. So, in fact, on a count of heads, the Squadrone had not come out of the election badly, in spite of their complaints. In the Scottish Parliament they were estimated at twenty four, full strength. It is true, of course, that their votes had been vital to the passing of the Union but that argument could have lead a long way. Queensberry and party could not be expected to accept it.²

In the membership of the other councils and commissions they did no better, and sometimes worse. Few Scots were added to the Privy Council of Great Britain and they were all Officers of State. That was a matter decided by the English ministry in consultation with the Scottish ministers in London.³ Finally they decided that the two Scottish Secretaries, Mar and Loudon, would be made privy councillors, together with Seafield as Chancellor, Montrose as President of the Scottish Privy Council and Queensberry as Scottish

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1. Walcott puts it at 4 but one of them, Sir David Ramsay, seems to have had connections with Seafield although he voted against the 1st. Article of the Union and abstained on ratification. 5 Aug.1708. Seafield to Godolphin. Add.MSS. 28055. f.416.
 2. Mathieson says 24. Scotland and the Union. p.129; Lockhart i.98. gives 27 names but says Belhaven left the group when it was put out of office.
 3. 2 May 1707. Sunderland to Harley. Portland iv.405. The Lord Treasurer, Lord President, Lord Keeper, the two secretaries and the Scottish lords were to be present to decide.

Privy Seal.¹ It seems as though the decision was to take in only the great Officers of State - that is Officers of State who were peers.²

The question of the Scottish Privy Council was left to the Scottish ministers in London.³ They seem to have decided that some general rule was necessary to govern its composition since the number of claimants was likely to be too large. Members of the old Privy Council were retained, unless they had been against the Union. Those who had opposed the Union were removed. Nobody was added save those who were former privy councillors and who had supported the Union. This decision was to take away grounds for complaint and was in line with the policy of rewarding those who had been for the Union and punishing the opposition. But the Court lords can hardly have been blind to the fact that the Squadrone did not fare very well under this rule. Of the seventy two councillors⁴ only twelve were commoners as distinct from peers, their eldest sons and lords of Session. Nine of the noble members were of the Squadrone proper or had leanings towards them. For the rest there was only the Justice Clerk and two commoners who supported the Squadrone. The quorum was to be six

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1. 21 May 1707. Mar to Grange. M & K.MSS. 393; 20 May 1707. PC 2/81. 361; Queensberry not sworn until 5 June, *ibid*.
 2. Some offices of State were by customs held by peers and these were styled great Officers of State.
 3. 30 April 1707. Harcourt to Harley. Port.iv. 405.
 4. This does not include Montrose as the President or the the nominal membership of Prince George.

to correspond with that of the British Privy Council.¹

On the new Treasury commission Montrose was the only Squadrone representative out of seven lords. The other lords were Queensberry and five safe Court men.² The Exchequer commission, which was larger, included all the Squadrone peers of importance save Montrose and Sutherland and no more than five others - ten in all out of forty one.³

The only other comparable commission to be set up was that for administering the Equivalent.⁴ Some difficulty was found in filling this commission. The more farsighted and experienced seemed to have divined that their task was not likely to be congenial and would probably be a drain on their time. Baillie, for instance, declined to serve although his name appeared in the commission.⁵ Sir John Clerk was very reluctant to be included but Queensberry persuaded him to serve by promising something better, when opportunity arose.⁶ In the commission were twenty five members of whom sixteen were members of parliament. For that reason no salary was specified.⁷ Gratification was certainly in the minds of the Scots who decided the membership. They decided that only commoners would be included and that they should be

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1. 21 May 1707. Mar to Glasgow. M & K. MSS.393; Warrant: 20 May 1707. SP57/27. f.6-9. Later in the year Mar got his brother on the Privy Council. 10 Nov.1707. SP57/27. 92-3.
 2. 23 June 1707. ib.38-42.
 3. 23 June 1707. ib. 34-8.
 4. See below: section on Equivalent.
 5. Warrant. 2 June 1707. T17/1; 6 June 1707. Mar to James Erskine. M & K. MSS. 397.
 6. Clerk. Memoirs. 67-8.
 7. 6 June 1707. Mar to James Erskine. M & K. MSS.397.

those without any other post of value in the administration. Four members were nominees of the Bank of England, Englishmen, and of the rest no more than six were Squadrone men. Apart from the Englishmen only four had not been members of the Scottish Parliament.

An examination of this post-Union scattering of largesse makes certain things clear. The loudest voice heard in deciding what people were to have was that of the Court Party. The only Squadrone voices amongst the Officers of State were in Edinburgh, when such matters were being decided in London by Queensberry, Mar and Loudon.¹ The Squadrone share seems to have been essentially a matter between them and the Court Party which gave them such attention as they felt obliged - no more. In other words the administration remained mainly in Court hands and the Squadrone had only edged so far in because of the Court's moral obligation to them. It was advisable to avoid a justifiable charge of ill treatment. Nor did it cost much to give Scottish dukedoms to Montrose and Roxburgh. That had no great effect on the real power. It became clear that with Godolphin supporting the Queensberry interest in Scotland the only impression the Squadrone could make would be at Westminster. They determined to make it when opportunity arose.

1. Montrose was in London on 29 April 1707, according to C.T.B.xxi. 29, though in Scotland in July. 29 July 1707. M & K. MSS. 407.

3. GODOLPHIN AND THE CUSTOMS COMMISSION.

Some problems of the Union were the Treasurer's alone. Royal assent to the Treaty was given on the 4th of March 1707. Little more than a week later an order in council from St. James's placed in the hands of the Lord Treasurer, with almost off-hand brevity, a mound of decisions to be made. The matter of weights and measures, the proposed Court of Exchequer, the reorganisation of the Scottish Mint and collection of revenue were to be considered and he was "to give the necessary Directions therein."¹ Complaint was understandable. Scarcely had work commenced when Godolphin told Harley: "I foresee a thousand difficulties and inconveniences during this whole summer and perhaps longer of making the management of the revenues of that kingdom but tolerably practicable."²

The problems sweeping in on the Treasury were mountainous and the knowledge of Scotland it could muster was a dim light indeed to play upon them. But Godolphin did not set himself to amass detailed information as did Harley. He directed the problems of Scotland into the right channels for solution. He left those with knowledge to make up their minds and he decided between one proposal and the next.

One great asset helped the Treasury. At its disposal was the great fund of knowledge amassed by the revenue departments. The Commissioners of Customs, of Excise and

1. PC.2/81. 313. 13 Mar. 1706/7.
2. 22 April 1707. Bath I. 170.

Salt were the heirs to an expert method of working. The daily business of collecting revenue and disputing causes with merchants and brewers had hammered out a procedure and accumulated a body of precedent. Amongst the inferior officers a tradition of service had been born. The Treasury could ask and be told how the revenue should be collected according to law and experience. As a liability it knew nothing about Scotland. So advice was taken from the Scottish ministers in London but in framing the new revenue system the main burden lay upon the English revenue boards.

Work on Customs and Excise was soon begun and both at the same time. Instructions were sent to the Commissioners of Customs to " propose what officers are proper to be appointed,¹ by what authority, with what salaries and instructions."² Competing ideas seem to have been circulating in administrative circles. There was doubt about reproducing in Scotland the English revenue system. The expense would be too great. A heavy cost of collection and a likelihood of small return did not bed easily together. Ways of limiting the superstructure were canvassed. There was, for instance, a suggestion that Scotland be incorporated in the English outport system, under the same commissioners. All the weight of experience rested with them, was this argument, together with the greater prestige which accompanies it, the better to withstand unpopularity at the outset. The Commissioners

1. In Scotland.

2. C.T.B. xxi. 209. 18 March 1706/7.

would take turns to serve in Edinburgh for supervision, the Scottish ports being too far from London.¹ But there were reasons against this. A commission so extended might have its efficiency impaired throughout and collection in England be crippled. And such imposition would madden the Scots whose national pride was already raw. It was well rejected for this alone.

After a few days for consideration the Customs Commissioners reported¹. They too had been concerned to limit the superstructure for economy and recommended a single board to manage both customs and excise, following Irish precedent.

Godolphin rejected this plan and in Scotland he set up separate boards. Opinion in the Treasury ran in favour of specialisation for in 1702 the salt collection had been transplanted from the Excise Office. But the experience of Ireland was not happy. Likely too that Godolphin had some inkling of the task that awaited the revenue departments in Scotland. Both boards had work and problems enough when their duties began.

But in the internal mechanics of customs collection Godolphin accepted the Commissioners' opinion. He took their advice and was content unless they proposed a complete break with English practice. Then doubt and caution gave him pause. For the present, however, such matters did not need attention. The Commissioners advised on outport collec-

1. A memorial given to Godolphin. T1/104. 10.

2. T17/1. 12-13. 22 Mar. 1706/7.

tion competently and technically. A minimum of officers was required by law. Each outpost must have a collector, comptroller and surveyor with a number of landwaiters who could at the same time hold warrant as searchers. Instructions to these officers would be the same as in England. But this could be settled later. Other matters were more pressing for the Union was to date from the first of May and the security of the revenue had to be guarded. For this the Commissioners thought a surveyor-general should be sent to Scotland to visit the ports and advise on what officers were needed until a full establishment was prepared. A decision of this kind caused little strain and was soon taken. One afternoon, four days after their report, the Commissioners were called to the Treasury and he at once gave the order for a surveyor to be sent to Scotland.¹ And at that the matter seemed to sleep for some time.

In London the Scots were arriving. The Duke of Queensberry made his triumphal progress from the north. Others posted down in a fever, fearing their usefulness might not survive the Union. Defoe was disgusted and to Harley he could afford to speak his mind about Scottish peers. "...The great men are posting to London for places and honours, every man full of his own merit and afraid of everyone near him: I never saw so much trick, sham, pride, jealousy, and cutting of friends' throats as there is among the noblemen"²

1. C.T.B. xxi. 23. 26 May 1707.
 2. 3 April 1707. Portland iv. 398.

There was truth here. But for those as anxious about their places as Mar the only road led to London. The future of Scotland was not going to be decided in Edinburgh.

Godolphin was pleased to have some Scottish ministers in town.¹ Little was known of how the Scottish customs worked, collection being the affair of the farmers. It was urgent to know how the existing system could be at once adapted to enforce the new regulations. With late April came the last possible time for a decision. In the revenue departments there was sudden activity. Godolphin arranged a meeting between the Scottish ministers and the Commissioners of Customs. They met at Queensberry's lodgings on the 21st of April. On the following day the Commissioners wrote to Godolphin of their visit.² The Scottish lords had told them it would be best for existing officers to be continued until further notice by sign manual. People could be told of the new methods of collection by proclamation from the Scottish Exchequer. It would be best, they thought, that the five largest ports of Leith, Glasgow, Aberdeen, Dumfries and Inverness should be managed by officers of the "best capacity and experience."³

On this advice orders were rapidly issued. The morning

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1. Lords of the Scottish ministry in London were continually called upon under Godolphin for advice. 28 Mar. 1708. Sunderland Cabinet Minutes. Cl-C16. A1; 5 Jan. 1708/9. Godolphin to Mar. M. & K. MSS. 478; 1710. Sunderland Cabinet Minutes. Cl-C16. 341.
 2. T17/1. 14.
 3. The proclamation was made. 29 April 1707. Proclamation anent the Customs and Excise.

of their report, the Commissioners were called to the Treasury and told to send English officers to the principal Scottish ports. These men were to help in the collection from the first of May until further order. The necessary literature and stationery was to be provided from England.¹ So, at short notice, five English customs officers moved up to Edinburgh to report to the Earl of Glasgow, Treasurer-Depute of Scotland, and receive his instructions. Two of these at least were collectors: Lionel Norman of Berwick and Warwick Arthur of Bridlington. A third, John Colequill, was deputy comptroller of Chester. For all these services the Scottish Board later received the bill.²

These emergency measures gave Godolphin time to think about a permanent arrangement. Again the knowledge of the English Commissioners was used to the full. They were told to prepare a summary of the English Customs Commission and its powers. This was to be the basis of that for Scotland.³

No time was lost over the commission. By the next day the Board had summarised its own commission and marked the clauses which could be omitted.⁴ On the 29th April draft commissions of both customs and excise were ready. Montrose, Seafield, Loudon, Mar and Sir David Dalrymple with the Attorney-General were at the Treasury to hear them read.

1. 22 April 1707. C.T.B. xxi. 27.

2. Totalling £862.9.11d. including the cost of passing the patent. 15 Jan. 1708/9. T17/1. 475/6.

3. 25 April 1707. C.T.B. xxi. 28; 248.

4. T17/1. 16.

The Scots were allowed to keep the commissions (to consider them) till next day when they were again at the Treasury. They agreed with the wording of the commissions and blanks were left for names and salaries.¹ Filling in the blanks was Godolphin's business, and much would depend on his decision. The efficiency of the new customs service would rest in the hands of the men he chose to appoint.

Godolphin knew, doubtless, the trouble he would have before places were settled. At his elbow were places enough to cause violent stirring amongst the Treasury's clientele. Competition would be loud and clamorous and not easy to ignore. Pressure on the Treasurer in daily business was continuous to provide for the well-intentioned or to save suppliants from ruin. Now, all who had rested on Godolphin's word that only opportunity was lacking would believe their time had come. As an administrator, Godolphin had opposed political changes in the revenue services under William, realising well the dangers. As a politician his temptation must have been great.

When a department controlled its own appointments the defence against such pressure was firm. In their branch the Commissioners of Excise were secure, such power being included in their patent and confirmed by act of Parliament.² But in the Customs the position was weaker. A definite right

1. 29 April, 30 April 1707. C.T.B.xxi. 29.

2. Hughes. Studies in Finance and Administration. Manchester, 1954. p.269.

to appoint the many "patent" officers lay with the Treasurer. And in 1671 the Customs Commissioners had lost the power to appoint officers without Treasury warrant. They resented their inferiority in this and on occasions raised their voices against it, alleging one reason or another. In 1689 they feared that interference from the Treasury "... might tend greatly to the prejudice of the revenue by setting them¹ loose from their duty and their dependence on the Board." They thought ".... that a due knowledge and choice of officers is one of the most essential parts of the duty of this Commission"² A further cry was raised in 1702. Promotion by experience was for the encouragement of officers - that was the theme. Interference with ordered promotion would have the reverse effect.³

The Treasury held its ground in this but was not above using the department as a shield for its own ends. Such an administrative earthwork was thrown up in 1696. The Commissioners were told by the Treasury "... that frequent and earnest solicitations have been made to my Lords (and they believe the like to the Customs Commissioners) for persons to be appointed officers in ports where their abode has been, which my Lords think inconvenient and prejudicial to his Majesty's service" The Commissioners were asked to make a regulation against this. They were to protect the Treasury

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1. The officers.
 2. quoted by Hughes op. cit., p.269.
 3. Hughes, op. cit., p.269-70.

against such solicitations, in fact.¹ A history of such departmental sparring was the prelude to the Scottish affair.

There were to be five Customs Commissioners in Scotland. Godolphin concerned himself with three only so it had probably been agreed that the Scottish Treasury appointed the remaining two. The course of his proceeding in this affair is mysterious. He seemed at first to be passing the choice to the Customs Commissioners. This may have been in the cause of efficiency. Or he may merely have been providing himself with an excuse to turn away place hunters. However, in view of what followed it is likely that the Commissioners had made verbal or otherwise unrecorded representations.² Such an assumption gives point to what occurred later. Godolphin sent to the Commissioners petitions for employment and asked them to find three fit persons to be commissioners in Scotland.³

The presentments made by the Commissioners show a desire to promote their own officers to have been uppermost in their minds. Jobbery was at a minimum for their list was provisional, one man not wishing to go and others not having been consulted.⁴ So efficiency seems to have been the main consideration. As commissioners, they put forward three collectors, Hugh Mason of Hull, James Clough of Whitehaven,

1. Hughes, op. cit., p.270.
2. Harley's Cabinet Minutes. 9 Mar.1706/7. List 4.28/9.42. shows that Godolphin was exercised with the problem then and the Commissioners had made presentments.
3. 30 April 1707. C.T.B.xxi.p.254; 2 May 1707. ib.p.266; 6 May 1707. ib.p.267; 10 May 1707. ib.p.276.
4. 5 May 1707. T17/1. 21-2.

and Lionel Norman of Berwick, the last-named being already in Scotland and helping with collection.¹ All three were recommended as men of great experience.

Also involved in this curious passage were the senior custom house officers. In their first report the Commissioners had said that senior accounting officers in Scotland should be men well-versed in English methods. The practical reasons for this were obvious but it made certain the appointment of Englishmen and it was not relished by the Scots.² The Commissioners were told to propose as senior officers in Scotland men "conversant in the law and practice of the Customs here" saying what salaries they should be given.³ The Commissioners seem to have chosen from officers known to them to have suitable training and experience. As secretary they proposed Charles Carkesse, a clerk in the secretary's office at the London Custom House. Others had been in employment similar to that proposed for them. John Pope, collector of Rochester, trained in the Comptroller General's office in London, was named Accomptant General. As Receiver General they chose Charles Graydon, seven years under the Receiver General in London where he had acquired a reputation for "sobriety, honesty and diligence." As Solicitor they brought in Charles Eyre, a clerk from the Court of Exchequer. The Comptroller General was John Crookshank, said to be an

1. See above.

2. Lockhart i. 34.

3. 25 April 1707. C.T.B. xxi. 28; 248.

able accountant. He also proved to have a sharp eye for short cuts to promotion, but lost his way.

Finally, however, Carkesse and Pope decided not to go to Scotland and on the 21st May Godolphin told the Commissioners to meet him with names of men to fill their places. A week before he had spent some time trying to settle the board and officers for Scotland.¹ Since Carkesse had declined the Secretary's post was vacant. Defoe, of all people, was a candidate. He was then the Ministry's agent in Edinburgh. His claims were well known to Godolphin. He had been trying hard for reward and felt sure of Queensberry's support and of backing from Harley. But Harley had no intention of providing his secret service with security. It was left to Godolphin to reject him and the blame was put on Lowndes.² Wittingly or not, Lowndes seems more than once to have played Jorkins to Godolphin's Spenslow. Defoe was entertained with hints of more suitable service elsewhere.³

The men chosen by the Commissioners for the Scottish Board had also gone down. Godolphin must have been under strong pressure, from within the ministry as well as outside. One John Henley had been supported in his efforts by Harley and although Henley's petition for employment had at first been sent to the Commissioners who did not think fit to propose him, Godolphin appointed him.⁴ At the same time he

1. Godolphin to Harley. 14 May 1707. Portland iv. 407.

2. *ib.*

3. 19 June 1711. Defoe to Harley. Portland v. 13.

4. 30 April 1707. C.T.B.xxi. p.254; 14 May. Portland iv. 407.

had appointed two more outsiders. On the 20th of May the Scottish Commission was said to consist of Sir Alexander Rigby, John Henley, James Isaacson, Sir Robert Dixon and William Boyle.¹ So were rejected all three Custom House presentments and no experienced customs man was on the Board.

Dixon and Boyle were Scots and not Godolphin's immediate concern. The customs men had been set aside for Rigby, Isaacson and Henley. Obligations of various kinds underlay this decision. Both Rigby and Isaacson had fallen on lean years and had been at the Treasury door for some time. Rigby was a Lancashire man of some standing with a reputation for unpleasantness. He had had an estate at Burgh but his business lay in the Italian trade which he carried on from London. In his time he had been High Sheriff of Lancashire and once member for Wigan in Lord Stamford's interest. But the seizure of English ships at Leghorn in 1697 by the Grand Duke of Tuscany was the virtual end of him as a business man. Sooner or later he arrived at the Treasury in search of a job and Godolphin took this opportunity to get rid of him. He accepted office in Scotland on being given a promise of a better place in time.² Rigby was also acquainted with

1. Luttrell. vi. p.173.

2. 1691 High Sheriff of Lancs; 1701 M.P. for Wigan; contested Wigan election unsuccessfully 1695 and 1698; Knight Bachelor 1696. See: Returns I, 595; W.W.Bean: Parliamentary Representation of the Six Northern Counties pp.449-50; Pink and Beavan: Parliamentary Representation of Lancashire p.76, p.231; C.T.B.ix.p.483; 3 Feb.1689/90; C.T.B.xii.p.47. 14 May 1697; H.M.C.Kenyon MSS. p.384. 24 Sept.1695; p.424, 8 Feb. 1697/8. ; Walcott: English Politics in the Early Eighteenth Century. Oxford.1956. p.163. p.176. p. 208.

Harley. He introduced Morrison of Prestongrange to him by letter.¹

Isaacson had land in Wales but his interests lay towards the centre of things. He followed the tracks in the undergrowth between the financial jungle and the administrative clearing. In a small way he was a "projector".² When a duty was put on paper and parchment in 1694 the scheme was Isaacson's; he was given a part in its management by way of reward. He was made a Stamp Commissioner.³ Then, in July 1698 he was returned as a member for Banbury⁴ and swelled the number of revenue commissioners who sat, with ministerial connivance, illegally in Parliament.⁵ His tenure was short-lived. Alarm was spreading in the Commons at the presence of revenue commissioners and in February of 1699 an attack was begun, aimed at expelling them. Isaacson must have had enemies for he was singled out by the movers. After a long debate he was expelled and a few days later four others with him.⁶

1. 10 Oct. 1707. Port.iv. 455.

2. For his part in Friendly Societies see C.S.P.D.1698.p.337; for suggestion that he was a London stockbroker and an account of his possible connections see W.R. Williams: Parliamentary History of the County of Oxford, 1213-1899, p.180-1; he held office of customs warehouse keeper in London at least in 1697 and still in 1699, C.T.B. xi.p.350.

3. C.T.B. 1557-1696. p.335; C.T.B. x.pt.ii, p.618; Luttrell iii. p.311.

4. Returns I. 582.

5. The only statutory exceptions to exclusion were Treasury Commissioners and those of Customs and Excise. See Hughes op. cit., p.281.

6. Carried 164-111. Luttrell iv. p.482. 11 Feb.1698/9; Hughes p.282.

Some time later Isaacson took a chance which he must have regretted. He resigned his place in the Stamp Office and put up again for Parliament.¹ He was defeated and was soon asking for a job. Since he was a kind of administrative casualty Godolphin was willing to do something for him.² A few weeks casual work was put in his way in 1702,³ but the Scottish Customs Commission seemed to provide the first proper occasion. Over-haste was a charge seldom laid against the Treasury. Small wonder if Isaacson had become importunate during his five-year wait.

Finally it was for Rigby and Isaacson that the nominees of the Customs Board had been dropped. Defoe took their appointment as a personal slight but he was jealous.⁴ The Customs Commissioners put no thoughts on paper but their reaction was prompt and significant. Almost at once, Norman was presented as Secretary - an apparent attempt to ensure competent guidance for the secretary could carry much of the burden. Another of the five officers sent to Scotland, Jessop Boughton, was put forward as Accomptant-General, being, they asserted ".... very skilful in computing the duties"⁵ It is likely that they voiced a decided opinion for they

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1. Luttrell iv. p.482; C.T.B. xviii. pt.i. p.446.
 2. His petition was minuted: "My Lord shall be glad to provide for him when there is any proper occasion." C.T.B.xvii. pt.i. p.446.
 3. C.T.B. xvii. p.303. 14 July 1702.
 4. 10 June (wrongly dated May) 1707. Defoe to Harley. Portland iv. p.417-8.
 5. 23 May 1707. T17/1. 22.

gained some ground. At the last moment Henley decided not to go to Scotland and in his place Norman became a commissioner.¹

From the next day the Treasury began to issue warrants for the senior officers. They strengthened suspicion that some accommodation had been reached with the Board. Not only was Norman a commissioner but Boughton was warranted as secretary. All the others had been recommended by the Customs Commissioners save for the accomptant-general, John Short, who had not been mentioned before.² Godolphin had realised that someone had to run the business. So the Commissioners had had a good deal of their own way. Then, the appointments made, consultation between the Treasury and the Commissioners became more technical. And the officers from England began to wind up their affairs before setting out for the north and the hostility which awaited them there.³

In Edinburgh, the Union did not seem to be popular. Vocal patriotism, if nothing more, was anti-English. Those accustomed to bawling out things in the streets and breaking windows were doing both. The Customs had got off to a bad

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1. 23 May 1707. T17/1. 23-4; Luttrell vi.176. 29 May 1707. Norman was appointed partly by the interest of Glasgow. Add.MSS.30229. Glasgow certainly recommended him to be Comptroller-General of the Customs. 1 May 1707. C.T.P. 1702-7. 504.
 2. 24 May 1707, T17/1. 26-7; 31 May. ib.26; 4 June. ib.28; The Secretary, Comptroller-General and Accomptant-General had £200 p.a. each with £100 p.a. each for clerks. The Solicitor had £150 p.a. with £50 p.a. for clerks. The Receiver-General had £300 p.a. with £250 p.a. for clerks.
 3. C.T.B. xxi. p.34-5; T17/1. 39, 43.

start. Large imports had been rushed through the ports with the connivance of the farmers at low duties to be ready for the English market after the first of May. It had been a kind of national trade conspiracy. The lack of respect shown to regulation of trade at this time characterised what was to be the national attitude after the Union.

But Customs affairs in Edinburgh seemed to be in the hands of Norman with help from the Earl of Glasgow, kept in Scotland by his duties as Treasurer-Depute.¹ Some semblance of revenue collection was being carried on with the existing officers continued by proclamation. Great efficiency was impossible since everyone was stranger to the new laws, but legal clearance of shipping had to be provided to prevent hindrance to trade - but not very successfully, as it happened.

The two Scottish Commissioners were likely to have been fairly soon on hand. Glasgow's official position had kept him from London but it had compensations. The appointment of his brother, William Boyle, as a commissioner, showed a proper regard for his family interest. Other appointments followed and the Boyles became a power in the Scottish Customs. Of the other Commissioner, Sir Robert Dixon, nothing is known,² save his zeal for the Hanoverian Succession,³

1. For Norman's correspondence with the Treasury: C.T.B.xxi, p.311. 6 June 1707; T.17/1. 90. 11 June(?)

2. A Sir Robert Dixon of Inveresk sat in the Scottish Parliament for Edinburghshire and supported the Union.

3. 13 Mar.1708. C.T.P.1708-14. p.20.

With the arrival of Rigby and Isaacson, all the commissioners were in Edinburgh, looking for a suitable office. They could not find one, so they took a temporary place for four months to give them time to look round. Then, when all five commissioners had qualified themselves at the Scottish Treasury The Scottish Customs Board met for the first time on the 2nd. of July, 1707.

Throughout this episode - the appointment of the key officers of the new Customs service - Godolphin showed a keen awareness of administrative opinion and a respect for it. It is true that he had to balance the claims of efficiency against the demands of politics and political considerations were bound to weigh heavily at that time. But he must have considered his choice as partly counterbalancing the threat to efficiency. Isaacson was an administrator. Rigby was a man of business who presumably knew what was required - or could quickly learn. The rest of the Custom House staff were solidly of Customs choosing. It would not have seemed to Godolphin that administrative efficiency was likely to suffer.

4. THE SCOTTISH CUSTOMS BOARD AT EDINBURGH.

The new board began its life with every disadvantage. Three of the members were unknown in Scotland before the Union and were unwelcome because of their nationality. There was not much customs experience amongst them. Norman's long but parochial experience is known for fact. Isaacson had some talk of experience¹ but it is not likely to have been extensive and professional as far as the Customs was concerned. For the rest it does not appear that they had any experience. Yet in the application of English law to Scottish conditions they were faced by difficult technical problems. They were often unable to act without seeking advice from England. So the commissioners at their first meeting had no prestige attaching to them. They were on trial and the Scottish merchants watched with critical interest.

But in spite of disadvantages the Board began very briskly. Procedure at Edinburgh would follow that of the London Customs House, they decided, and a letter was sent to Savage, the secretary there, to find out what it was. It seems odd that no-one knew.

Rigby and Isaacson had arrived with the importance of men fresh from the Treasurer's side and were weighty with his injunctions.² Rigby in particular seems to have arrived

1. 5 May 1709. Add. MSS. 30229.

2. 3 Commissioners seem to have attended the Treasurer 5 May 1709. Add. MSS. 30229. Who the other one was is not clear.

with the manner of a satrap.¹ Godolphin had given them a general instruction about avoiding over-strictness and making people "easy" since the duties were new to the Scots.² A minute was made of this instruction. They then decided to work six hours a day, from nine to twelve in the morning and three to six in the afternoon. Then they considered the outports. From their earliest letters bursts great confidence that investigation would set all to rights. They placed great faith in 'transires' and asserted ".....if this point be rightly managed we hope to trace either great or small parcels though taken entering South Britain and come from the obscurest place in the Orkneys."³ They obviously were not at that time in touch with the problem at all.

The Treasury was anxious to be fully informed of developments in Scotland and to see revenue collection there effectively working. A general directive was sent on the 8th of July to both Scottish revenue boards. It was at once an assertion of Treasury supervision and a setting up of a proper and regular channel of advice. Until further

1. 5 May 1709. Add. MSS. 30229. This "Short History of Custom House Affairs of North Brittain ..." was an indictment of Rigby written in self-justification by Isaacson, Dixon and Boyle. Its language is violent and it makes gross accusations. It would seem exaggerated were it not borne out circumstantially by other accounts and facts both about the Scottish Customs and Rigby's character. Allowing for a certain vehement licence due to men getting something off their chests it seems to be substantially true.

2. Ibid.

3. 15 July 1707. T17/1. 96-8.

notice Godolphin told them to report to him every week on the state of the revenue and all points needing decision or authority from Whitehall.¹

Certainly there was great doubt on many things. It was necessary to have some ruling to maintain smooth working at the ports. Delay would cause chaos there, influence trade and affect the attitude of the merchants. Did Scottish prohibitions on imports dating from before the Union still hold? Could Irish horses now be imported into Scotland as to England? Could Scottish merchants still be made to answer questions on oath at the customs or was that to stop now English law was in force? Were customs collectors to give bond according to Scottish or English form? Queries such as these were put to Scottish law officers at Edinburgh and the collection of opinions began.² Frequently they differed, being themselves unaware of English customs law³ and English opinion, usually asked for as a matter of course, was taken as final. But seldom did the Treasury itself hazard an opinion. All queries were passed to the English Commissioners or to the Attorney and Solicitor-General. When their views were received at the Treasury they were sent to Edinburgh with an order that they should be adopted. This role of intermediary was more than a routine for the Treasury. It was insisted that all correspondence between

1. 8 July 1707. T17/1. 63-4.

2. Nat. Lib. Scot. MSS. 10. 1. 6.

3. C.T.B. 1702-7. p.527.

revenue departments, and from them to other officials, should go to the Treasury Chambers first. When the Scottish Customs Commissioners once ventured to write directly to the Admiralty the Treasury told them about it and firmly instructed them in what was proper.¹

The Scots were waiting for the new establishment. A large number of places had to be filled and the possibilities caused some apprehension. The appointments made were going to be looked on as a key to future developments; the customs establishment was the first full-scale distribution of patronage since the Union. Its direction would be noted, not by those in hope only, but by those seeking one gloomy proof after another of how far the country had been sold. There was some cause to fear opinion. Signs of jobbery or an English invasion were likely to cause loud protest. It was criticism Mar was afraid of when he urged that anything like jobbery be avoided because it would cause scandal as opinion then was. When at the same time he recommended people for employment one doubts what Mar meant by 'jobbery.' Fear of public opinion was general in the ministry.² Glasgow's worry was the same. He knew the country would be provoked if English officers were brought in. But at the same time he thought it unavoidable for in Scotland they were "a parcel of very insufficient waiters."³ It was a large nettle that the Commissioner had to grasp.

1. 29 June 1708. C.T.B. xxii. p.293.

2. Mar to Glasgow. 10 May 1707. M & K MSS. p.391.

3. 1 May 1707. C.T.P. 1702-7. p.504.

At the time of the Board's first meeting, the twenty ports or collections of the country were being controlled by the old officers continued by proclamation for the time being. There were between 180 and 190 of them. From the Union they had been helped by the five English officers who had been sent there. But Norman had been made Commissioner and Boughton secretary so there were only three working in the ports. A permanent establishment was urgently needed and if it was to be efficient a stiffening of trained English officers would have to be employed.

The Commissioners said very little to the Treasury in official correspondence about their selection of officers. In solemn phrases, heavy with paraded duty, they told of the qualifications they were seeking. "... Whoever is admitted into the Establishment shall first obtain a certificate that he is affectionate to her Majesty's Government, Queen Anne, that he is clear of the taxmen or late Farmers, that he is of sober life and conversation and is not concerned in trade (a thing not hitherto regarded in those [sic] parts) nor in the keeping of any public house or anything else that may divert them from her Majesty's service."¹ They made sententious utterance on the topic of salaries. "Encouragement adds much to inclination and nothing hurts the service more than to make it contemptible. It is our humble opinion hitherto that cost what it will it is for the service of the revenue to have officers watchful and discreet, it being

1. T17/1. 96-8. 15 July 1707.

easy to discern that otherwise goods, Customs free, will by one serpentine strategem or other be diffused not only into all parts of the six northern counties [of England] but perhaps to London itself."¹ And to the Treasury that was all they said. But upon their proceedings was fixed the excluded and indignant eye of Daniel Defoe. ".... The Commissioners of Customs are sitting every day and fitting up the places with persons as usual supplied with more friends than merit"² That they had friends we can believe. Others were to say the same thing more rudely. Time showed that he was right about their incompetence.

One must admit that the Commissioners could not suit everybody. Some they had to suit. Great men in Scotland and men of interest in England had recommendations to make which were difficult to ignore. But there was no reason to ignore them. Such recommendation was the conventional evidence of respectability, like a modern reference, and about as reliable. The Commissioners, in making some of their early presentments, cited as credentials the connections of their nominees.³ Later, in their own defence, they declared they had appointed none save those who had "many and powerful Recommendations, or such as some of the Commissioners reposed special trust and confidence in"⁴

1. Ibid.

2. To Harley. 19 July 1707. Portland iv. 427-8.

3. T17/1. 96-8.

4. T1/123. 4A. Commissioners to Lord Berwick. 31 May 1710.

Such interests as appear bear this out in one sense or another. There are no surprises. At first those who supported the Union - Seafield, Mar, Marchmont and the like - had their wishes attended to.¹ Glasgow was at hand to see that his recommendations were not overlooked. His opportunities were not wasted and the Boyle family made great strides. With his brother William made a commissioner he had one foot placed firmly in the Customs House door. Two of the earl's uncles were put in the first establishment: Patrick Boyle as a collector and John Moor as a general surveyor. As principal officer at Islay was a James Boyle who is likely to have been a relative. George Maxwell, married to the earl's cousin, was principal officer at Campbeltown. From this strength the family interest increased. Although Glasgow was not in communion with the new powers in 1710 his brother was still in office.² In 1712 Patrick Crawford, a brother-in-law, became land surveyor at Kirkaldy. Maxwell had been promoted to collector at Glasgow Town and Moor was comptroller at Port Glasgow. Patrick Boyle went in 1714 but was succeeded as collector at Irvine by Glasgow's son, Charles. By this time there were those prepared to assert that "there is none of the ports in the West of Scotland whereat he has not several under officers of his own

1. T1/104. 15; 10 Oct. 1710. Harley MSS. xlvi. 820; T17/1. 122-3. 4 Aug. 1707. People like Lockhart had a voice after 1710 when Harley wanted their support. 5 April 1715. Morton to Montrose. Morton Papers. Box 113.
2. Not remarkable however since Glasgow retained his post as Lord Register also.

putting in."¹

Other claims, also, were met, savouring more of deserved award or compensation than the political or family appointments. Lord Chief Baron Smith put in a word for his former clerk and crier left unprovided for by the Union,² On the word of the Scottish Parliament, one Thomas Lockhart was given £60 a year as land surveyor at Leith in reward for his work on a revised book of rates before the Union.³

Then the Commissioners fulfilled their family and other obligations. Boyle's efforts in this direction have been noted. And in the first establishment was, apart from the Commissioner, another Isaacson, Charles of that name, as 'register of seizures' with £70 a year.⁴ But all this is nothing beside the allegations made against Sir Alexander Rigby. He seems to have arrived in Edinburgh, bursting with his own importance and contempt for the Scots, with loud talk of his interest at Court. He made great play with the fact that he was first-named in the Commission and seems to have so overawed Norman and the Scots that they acquiesced in his

1. Semphill and Houston to Lord Treasurer. 14 May 1714. Harley MSS. XLVII. 808.

2. 27 July 1708. C.T.P. 1708-14. p.55.

3. 1711. Harley MSS. xlvii. 708.

4. T17/1. 388-94. Likely to have been of the same family because of Rigby's animosity towards him. He got him suspended on a charge of having an illegitimate child which was in fact Rigby's own. Add. MSS. 30229.

5. He did get his cousin Thomas a riding officer's post at £50 a year. The place was given to Thomas's brother when he died. 3 May 1709. C.T.P. 1708-14. p.113. Rigby to Lowndes; T17/2. 153. 5 April. 1710.

extravagant demands. Isaacson, knowing more about Sir Alexander's circles than the rest, was isolated and apparently ignored. The result is worthy of quotation: "Hence all the Court was made to Sir A.R. and Crowds of people from Lancashire and other parts attended him for posts and preferences some his near relations who had suffered in their Estates Considerably by him, one his apprentice with whom he had 500 L., some Bankrupts, some infirm and others dismissed officers from the Revenues of the Customs and Excise of South Brittain in so much that it has been taken notice of that he has put in Most unqualified persons and more officers than all the rest of the Commissioners and many of them having supplied the best places instead of some Gents. who had behaved themselves well in the Revenue under the late Taxmen and of whom there was no other cause of Dismission than to make roome for these his Friends. This began to raise Clamours among the Scots they looking upon it very hard in their own Country to have their Bread taken from them to give to Strangers when they were as well if not better qualified than they who possessed their posts."¹

If all this is true, and it seems to be, it explains a good deal. It provides a reason for the dismissal of so many Scottish officers without apparent cause and it accounts for exaggerated Scottish stories of the new customs officers.

1. Add. MSS. 30229. Memorial of Boyle, Dixon and Isaacson.
5 May 1709.

The first half of July saw the establishment list completed. To serve throughout the country the Commissioners had appointed 271 officers. Included in this number were four general surveyors and twelve riding officers. Of the men in the new establishment between 80 and 100 had worked for the farmers and their duties in the ports were never interrupted. Their service was continued by proclamation until they found themselves on the new establishment, no more than thirty or perhaps fewer than that being moved to another port. The rest were dismissed.¹ At Alisonbank there was some reason, the job of guarding the Border having finished at the Union. Almost all the officers there were removed from the service.² On the official word of the Commissioners there was no complaint against them and often great hardship followed dismissal; so if some of the Commissioners themselves had not explained this it would have been difficult to account for.³

We can well believe that all those employed were well recommended in one way or another. What other qualifications were looked for is doubtful. The Board might have been overawed by Rigby, and "Mr. Isaacson in vain opposed all his irregular proceedings" but they could not admit that they had not done their job at all. And to the later charge of having employed incompetent officers they were not at all

1. 80 at the lowest reckoning.

2. According to Add.MSS.30229 they had no pay from 1 May to 1 Aug. when they were dismissed.

3. For the establishment lists compare T1/107.p.33 and T17/1388-94.

decided what to say. At one time they asserted that all the men were examined before being employed.¹ But a short time later they implied that the shortage of skilled officers had meant a lowering of standards.² Certain it is that many officers were incompetent. And the blame might be safely laid at the door of the Edinburgh Custom House where it belonged. The rest of the Commissioners could blame Rigby as they liked but the fact was they had not done their job and were inclined to make excuses.

There was some feeling in Scotland against the new establishment. Lockhart said ".... all or most of the officers of the customs and excise were sent down from England."³ That probably reflects the Scottish impression of what happened.⁴ It is not true, however. Whether more than a hundred of the new officers were English is very doubtful. Possibly there were fewer than that.⁵ All the collectors were Scotsmen seemingly with the exception of Colquill, one of the officers sent north with Norman, who was made collector of Leith. Of the twenty collectors serving before the Union,

1. 11 May 1710. C.T.P.1708-14. p.180.

2. Tl/123. 4A. 31 May 1710. This after their remarks on the dismissal of Scottish officers "as well if not better qualified than they who possessed their posts."

3. Lock. i. 223.

4. The same reflected in Adam Cockburn's complaint about "English ignorant forners." 8 Mar.1709. To Montrose. Montrose MSS. 371.

5. For what it is worth a close examination of surnames shows 42 with names that are not Scottish, 165 either certainly or probably Scottish and 64 completely doubtful. Oldmixon possibly exaggerates in saying that the English were not one fifth of the whole. p.208-9.

seven kept their old ports and one more was left at his old port as principal officer, Fort William not at first having a full collector. Laughlan McIntosh, collector of Perth, was removed in 1707 but returned to the port as collector in 1714. The "scum and canalia" of England, Lockhart called the new English officers.¹ The expression has an abusive ring. But again it might well have been true in part. Unless very high standards of selection were enforced, customs posts in Scotland - very remote in 1707 - might well attract people with undesirable qualities. And the standards set by the Scottish Customs Board were not very high.²

In Whitehall Godolphin was intermittently conferring with the English Commissioners over differences of opinion affecting the Scottish establishments. The Commissioners seem to have been trying to remove obstacles to efficient working in Scotland. The Treasury was reluctant to depart too far from traditional practice. Before the Scottish Board had been formally constituted Norman wrote from Edinburgh to canvass certain possibilities of economy. He thought that senior officers in the ports should be allowed fees on the issue of coquets and transires so that they could serve for small salaries.³ The English Board spoke its mind abruptly on this matter. It declared that officers

1. Ib. 34.

2. For all foregoing details see: List of customs officers employed by proclamation: T1/107.33; The establishment of 1707: T1/102. 101; Salary Bill of 26 June 1708. T17/1. 388-94.

3. 11? June 1707. T17/1. 90.

should have suitable fixed salaries without fees from merchants "which in experience hath been found to create too dangerous an intimacy between them, in consequence whereof it is to be apprehended that bribes may frequently be taken under colour of fees."¹ This argument seemingly impressed Godolphin for he ordered the Scottish Board to propose salaries sufficient without fees.² In this matter the important point seems to be this: that the English Commissioners were ready to oppose the introduction into Scotland of practices they thought wrong despite the fact that they had to put up with them in England. It is possible that they were trying to establish a series of precedents for the changes they wanted in England. Such suspicions are strengthened by the second question at issue.³

The Commissioners had made a point of advising, in their report of the 22nd of March, that there should be no patent officers in Scotland. Later they gratuitously repeated this in writing and doubtless said so at the Treasury.⁴ In England the offices of collector, or customer, comptroller and searcher had always been granted under patent which brought their appointment under Treasury control. The Commissioners resented this opening for Treasury interference,

1. T17/1. 90-1.

2. 2 July 1707. T17/1. 59.

3. This idea was not novel. The Commons hesitated to put the Scottish militia on an equal foot lest it should be taken as approval of the English system. 14 Dec. 1707. Vernon to Shrewsbury. Vernon corresp. iii. 294.

4. 27 June 1707. T17/1. 90-1.

not because the dangers of systematic political interference were apparent, but because they wished to be, as the Excise Commissioners were, masters in their own house. Departmental jealousy explained much then as now. So they tried to put matters on a different foot in Scotland.

This was too much for Godolphin. He was chary of making such a break with traditional practice. He doubted even whether it was legal. Consultation took place between the Treasury and the Customs. But into this on the 19th of July came news that the Scottish Commissioners had taken matters into their own hands. Faced with the problem of revenue collection by hand to mouth methods whilst Godolphin debated the establishment they issued deputations to all proposed officers. These were to come into effect on the 1st of August. Eyebrows in Whitehall were raised at this but having to choose between withholding approval and the consequent delay and confusion, and ratifying the Commissioners' action, in the interests of the revenue collection, Godolphin agreed to what they had done. There were, however, qualifications: "... 'tis to be observed that there is still a greater irregularity in your appointing of Customers or Collectors and Comptrollers and Searchers which have always been officers granted by letters patent under the great seal." Godolphin referred this question and that of fees to the law officers. What their opinion was does not appear but doubt

must have been more than local for over a month later the Commissioners were still being told: "... the offices of Customer, Comptroller and Searcher have always been patent officers in England and 'tis likely they ought to be so with you."¹ But the matter was not allowed to drop and senior officers in the Scottish ports were appointed, as were the rest, by the Board's deputation issued on a Treasury warrant. So the English Commissioners had their way, though it did them little good for no change took place in England.

Formal approval was given to the establishment at the beginning of September.² The Treasurer gave instructions about a number of things necessary for a routine to be established. Salaries were to be paid from the first of August and for the future salary lists were to be sent every quarter for the Treasurer's warrant.³ When vacancies occurred the Commissioners were to present to the Treasurer such as they thought "fitly qualified to fill the place." This was how things were done in England and so they were carried on in Scotland.

The settlement of the Scottish Customs establishment would have been of significance for England too had the English Commissioners had their way, but Godolphin was too

1. 22 Sept. 1707. T17/1. 125.

2. 4 Sept. 1707. T17/1. 120.

3. 19 Aug. 1707. C.T.P. 1702-7. p. 527. Additional pay was given to officers sent from England since they had set out at the beginning of June. This was done on the Commissioners' plea. They were paid on incidents from 24 June. This was later said to be due to Rigby's solicitude for his friends. Add. MSS. 30229.

conservative for that. His method in this had been to attempt to follow established English procedure in Scotland when possible. His surrenders seem to have been due to the necessities of the service and the sheer bother of insisting on the point. The fact that he did ~~not~~ concede the point suggests that patronage was not the point at issue or it would not have been surrendered; rather was it a case of Treasury unwillingness to make a departmental concession. This is borne out also by the wide freedom of patronage enjoyed by the Commissioners in Scotland with little Treasury interference.¹

1. See below on relations between the Commissioners and the Treasury under Godolphin.

5. THE EXCISE COMMISSION OF SCOTLAND.

Lowndes had written to the Commissioners of Customs and Excise on the same day.¹ The direction was the same to both: to " propose what officers are proper to be appointed [In Scotland], by what authority, with what salaries and instructions."

The Excise Commissioners took longer time to think but their report was more detailed. It also showed a more acute appreciation of the difficulties than the Customs Commissioners' report. And because they were administering a more flexible law they were better able to cope with them.

They made no suggestion for economising in the management of the revenue. They recommended that a Scottish Excise Commission be appointed to manage the duties in Scotland. This may have been because they thought the work would need a separate commission; but it is difficult not to see in it traces of departmental feeling when they state expressly that the Commission should have the power to appoint officers for charging, collecting and accounting. The Customs had no such power although they would have liked it. The Irish Revenue Board had no such power either. The chances are that the Excise Board was jealously defending its position on the extreme perimeter by preserving their powers for the new Board, thus preserving efficiency and preventing any precedents being created.²

1.C.T.B.xxi. 209. 18 March 1706/7.

2.Precedents were in mind just after the Union, in the Commons' attitude towards militia settlements, for instance.

They made more allowance for the strength of national feeling. A difficulty would be the shortage of trained officers. Even if they could be provided they would have to be English and that would cause uneasiness. This thought underlay the rest of their observations on personnel. They proposed to appoint a Cashier, a Comptroller and an Auditor but made it clear that they did not expect them to be English for they proposed sending an accountant from England to instruct them in English methods. The same point was made in their recommendation that certain experienced officers¹ should be sent to Scotland to instruct such Scotsmen "as the commissioners there shall approve of."

Because of this initial shortage of trained officers the usual methods of excise collection would have to be modified. Only Edinburgh and one or two other large towns were at first to be put under survey as in England. The rest of the country could be provided for by composition for six monthly periods, thus providing frequent opportunities to raise the composition or impose surveying methods. Since this method was allowed in excise law and was used in remote parts of England it could be put into effect in Scotland without any change in law. Books of excise law and instructions and specimens of records kept were to be sent up from England; likewise some specimen liquid measures.

1. 2 collectors, 2 supervisors, a surveyor of the London brewery and distillery, 6 gangers, and 10 country officers.

English salaries were detailed¹ but since salaries were lower in Ireland where provisions were cheaper, they thought Scottish salaries were better left to the Scottish Commissioners to fix according to food prices there.

The difficulty lay in the judicial administration of the law of excise. According to the law this was in the hands of justices of the peace. And this was the point where the Commissioners' appreciation of possible difficulties broke down. They did not know whether justices existed in Scotland but if not they thought they should be appointed throughout the kingdom. Thus incidentally was proposed a radical judicial innovation in Scotland.²

As in the case of customs Godolphin referred these proposals to the people most likely to judge their value. The Commissioners were sent round to Queensberry's lodgings in Pall Mall to talk things over with the Scottish ministers there. It was the 21st of April and the Customs Commissioners were there on the same day.³

The Commissioners were given the impression that their proposed methods would not be as strange to Scotland as they had first thought. It seemed that Edinburgh and some of the other towns were under survey as in England although everyone paid by compositions of three or six months. The Scottish ministers approved their proposals in general but they agreed that certain things should be done at once. A

1. Accomptant-general £200 p.a. plus £60 for clerks; collectors £120 p.a.; supervisors £90 p.a.; gangers £50 p.a.
 2. 27 Mar. 1707. T17/1. 4-6.
 3. C.T.B. xxi. 244.

Scottish Excise Commission should be set up as soon as possible to empower the present officers to continue and compositions to be made. All that could be done in addition to this was to send up books of instructions and some stationery. For the time being nothing else could be done by way of Excise management,¹

Godolphin heard this on the 22nd of April and gave some immediate instructions.² Authority to the existing officers to continue collection until further notice was to be sent at once to Scotland. Meanwhile a commission was to be prepared to be passed on the first of May - the first legal date.

The appointment of the Excise Commissioner for Scotland is more obscure than that of the customs but appearances suggest it was less attended by clashes of interest and principle. For one thing there is no record of the English Commissioners being asked to recommend "fit persons" as in the Customs. Godolphin did send them three petitions for employment he had received, from William Delarose, John Whetham and David Ross.³

The Commissioners were blunt about Delarose. He was not fit for any post in the Excise at all.⁴ Whetham was

1. 22 April 1707. T17/1. 15.
2. 22 April 1707. Tsy. Minute. C.T.B. xxi. 27.
3. 27 Mar. 1707. T17/1. 9; 30 April 1707 ib.; referred: 30 April 1707. C.T.B. xxi. 254; 7 May 1707. T17/1. 10.
4. He had been dismissed from a collectorship in Hants. and Wilts. and had not been restored in spite of Mr. /Richard?/ Hampden speaking to Godolphin and in spite of Godolphin's promise to "speak to the Commissioners."

fit for any post. He had been an exciseman for twenty three years and ten years a collector. He was then a collector in Surrey.¹ Ross had been in the excise for eighteen years and had been for seven years a general surveyor of the London brewery. The Commissioners commended his "knowledge, integrity and behaviour" and said he was very fit to be employed.²

So Whetham and Ross were made commissioners. The commission was not ready as quickly as had been hoped.³ They did not receive it until the 24th of May, and after qualifying in haste on the next two days, began their journey on the 27th of May.⁴ The three other commissioners were Scots: William Douglas, Alexander Wedderburn and John Montgomery.⁵ Of Montgomery and Wedderburn, nothing can be said with certainty. William Douglas of Dornoch was a relative of Queensberry, either his father's cousin or his second cousin, and had sat for Dumfriesshire in the Scottish Parliament.⁶ It was really some time before this commission was settled. Douglas refused to serve and another of

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1. Brother of Maj.-Gen. Thomas Whetham. Son of Nathaniel Whetham of Inner Temple and Elizabeth, daughter of Adrian Scrope of Wormsley. He married in 1695 Mary, widow of another Adrian Scrope of Inner Temple. 30 April. 1707. T17/1.9; Luttrell vi.173; Burkes Landed Gentry 1952.p.2695.
 2. 8 May 1707. T17/1. 11.
 3. Charge of passing commissions was paid by the English commissions and later repaid by Scots. Total £427.1.0³/₄d. 13 Oct.1707. T17/1. 154-5; 11 June 1707. T17/1. 57.
 4. They each obtained £120 on petn. for the cost of removing themselves and their families in haste. 25 Mar.1708. T17/1.331; 12 April 1708. ib. 334.
 5. Warrant 15 May 1707. T17/1. 23.
 6. Burke P.B.K. 1949. p.1643; Foster p.103.

Queensberry's relatives was appointed - Sir William Douglas of Kelhead.¹ He began with six months sick leave² and then refused to qualify.³ He was replaced by one Alexander Forbes who is likely to have been Accomptant General of the English Excise.⁴ And Forbes remained until 1715. But when the Board first met in Edinburgh on the 9th of June they were one short.

The English Commissioners had recommended to the Treasury a list of officers to be sent to Scotland to instruct new officers. Godolphin at once ordered their movement to Edinburgh.⁵ Twenty four excise officers were involved, and all, with two exceptions, from collections in the north of England.⁶

In the appointing of senior officers the English Commissioners were asked for their opinion.⁷ Their recommendations make it clear that interest had been at work although the men in question were perfectly well qualified.

1. 5 Aug.1707. T17/1. 106; a cousin of Queensberry's father. Burke. R.P.B. 1949. p.1643.
2. Sir 'Alex' Douglas wished to demit because his father had died. He wanted to let a Mr. Erskine have his post with whom he could make a transaction about it - a friend of Queensberry who will speak about it to Godolphin. N.L.S. 3112. f.7. Mar to Godolphin 23 June 1708. Godolphin obviously would have none of this.
3. 3 July 1708. C.T.P. 1708-4. p.50. Commissioners to Ber.
4. 30 Aug. 1708. T17/1. 426-7; Aug.Nat.1707. p.503. & ib.1710. p.505. Sent to Scotland in the first place to put their accounts on an English footing. 13 Oct.1707. T17/1. 154-5.
5. 8 May 1707. C.T.B. xxi. 273.
6. The exceptions were a supervisor from Hereford and a general surveyor of the London Distillery. Their subsistence money was later ordered to be paid by Scottish Commissioners at the request of the English Commissioners. 30 May 1707. T17/1.12; 30 May 1707.C.T.P.1702-7.511; 6 June 1707. C.T.B. xxi. 311.
7. 17 May 1707. T17/1. 7.

George Tilson, for instance, was proposed as auditor. His qualifications: he had been well recommended and was known to some of the commissioners. His experience was treated of very generally. "He had a very liberal education and we are informed is well skilled in numbers." In addition to this recommendation he had been Register to the Commission of Excise Appeals, a clerk in one of the secretary's office and was at that time secretary to Lord Raby.¹ Apart from all this he was a brother of Christopher Tilson, a senior clerk in the Treasury, and was moving in circles which obtained for him the post of undersecretary to Boyle just before he was due to go to Scotland. The outcome of it was that he stayed in London and sent a deputy to Edinburgh.²

They thought that one man could do the job of secretary, solicitor, clerk of securities and correspondent. Richard Dowdeswell was proposed³. He was a supervisor of the Excise and had had legal training. He was not without influence, for later, if not at this time, he was married to a niece of John Smith, a baron of the English Exchequer and soon to be Lord Chief Baron of the Scottish Exchequer Court.⁴

An English excise accountant, Thomas Sadler, was proposed for the post of Comptroller⁵ but he was an only son and his relatives were reluctant to let him go to Scotland

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1. 19 May 1707. T17/1. 7-8.
 2. 14 Feb. 1707/8. SP54/3.f8. Tilson to Commissioners.
 3. 19 May 1707. T17/1. 7-8.
 4. 15 Dec. 1713. Smith to Oxford. Harley Papers. List 2. Official Papers II. 3. 715 D.
 5. T17/1. 7-8.

so he declined.¹ John Parsons, who had been a clerk in the comptroller's office in London for seven years, was proposed instead.² All three were appointed.³ Parsons and Dowdeswell left for Edinburgh but Tilson stayed in London in Boyle's office and sent a deputy.

The impression one gains from the whole of this transaction is that Godolphin's attitude to the Excise Commissioners was rather different from the one he held to the Customs. Certainly he had not taken the Customs nominations so unquestioningly, as those of the Excise. The Customs fought for their nominees. It seems that the Excise Commissioners did not have to. Possibly ~~due~~ to their different powers in relation to appointments there was a different tradition in dealing with the two sets of Commissioners which would become apparent in this probably unique situation.

The Commissioners held their first formal session in Edinburgh on the 9th of June. The state of affairs was not encouraging. Officers sent up from England had been trying to gauge the brewers' utensils in Edinburgh but had met with great opposition. As a result progress had been slight.

1. 23 May 1707. T17/1. 11.

2. ib.

3. Warrants. 31 May 1707. T17/1.24-5; 10 June 1707. C.T.B. xxi. 315. Auditor at £200 p.a. plus a reasonable allowance for clerks; Comptroller at £200 p.a.; Secretary etc. at £200 p.a. The Commissioners had been reluctant to recommend salaries since produce in Scotland might not admit of salaries they might deserve. 20 May 1707. C.T.B. xxi. 262.

The arrival of the Commissioners made them feel they were receiving support and improved their morale.¹

A proper survey of Edinburgh and precincts was made so that comparison could be made between proper charges and those made by the old officers. The disagreement was considerable and such that they did not think it advisable to make charges on the higher scale until all the other larger towns could be surveyed. The Earl of Glasgow seems to have urged caution in this. To comply with the law they had drawn up an account of the new duties with as many penalties as could be squeezed into the length of a proclamation and the Privy Council had it printed and published at the market crosses.

The Commissioners, of course, had complete control over appointments. For this reason they cannot be investigated in detail for the Treasury was not consulted and so no record remains. Only in relation to salaries was Treasury approval sought.² Fifteen country collections were established and Scottish gentlemen were appointed collectors. They picked those they found most acceptable to the victuallers and others. What criteria of selection they had may be judged by their appointment of James Boyle, a cousin of Glasgow, as their cashier at £200 a year for himself and

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1. 15 July 1707. T17/1. 99-101. for this and other details of early measures.
 2. There was one Treasury recommendation in the whole of the seven years following the Union - for a Mr. Powry to be a surveyor of the new candle duty if one were needed. 20 June 1710. T17/2. 186.

his clerks.¹ Glasgow's advice seems in some matters to have been more particular than general. It may safely be assumed that the collectorships at £70 a year were shared amongst such interests as made themselves heard. The five men appointed as general surveyors were supervisors sent from England whilst the supervisors were English officers.²

All the collectors were given instruction in accounting method by a supervisor who had been a collector in England and were sent out when qualified. Those appointed as gaugers were similarly instructed but proved more intractable material since they were "unacquainted with figures." In August, in spite of all efforts, there was not one capable of undertaking business. By September, however, some effect had been made and officers were being certified every day as fit for duty.³

For some areas special arrangements had to be made. Shortage of officers made it impossible, for instance, to lay the ports under survey. To overcome this difficulty they had received assurance of help from the Customs. And in some of the islands such as Lewis and Zetland it was impracticable to include their collection in any of the

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1. They did ask Treasury approval for this. Boyle was son of James Boyle of Montgomerieston, merchant and provost of Irvine 1681-2 and 1685-6. Foster p.33; Scottish Peerage iv.p.197-8; Ayrshire Families i.p.135. Boyle was later made a commissioner in place of Montgomery.
 2. Other salaries: General accountant £80; accountants £50; 5 general surveyors £120; supervisors £55; gaugers £30; supernumeraries £25.
 3. 21 Aug. 1707. C.T.P.1702-7. p.528; 25 Sept.1707.ib.537.

mainland divisions because they were cut off for most of the winter. On account of this they deputed a "substantial inhabitant" of each island to compound with the victuallers and he was allowed a poundage as collector.

The Commissioners did need Treasury approval for the cost of the establishment. It was December before they sent the list in because they did not want officers on the establishment until there was something for them to do and things were slow in getting under way. Then they just presented such officers as were necessary for the office in Edinburgh, giving only numbers and salaries.¹ The full establishment was a thing of slow growth. Officers were sent out when trained and where needed. No full establishment list was submitted until November 1710 when it was most likely asked for,² when the Treasury changed hands. Then, for the collection of excise throughout Scotland the Commissioners were employing 237 officers. Of these 48 were in Edinburgh and included in that number were the senior accounting officers. In addition to these four more officers were employed for the candle duty which came under the Commissioners' management and another dozen for the duty on houses. The total annual cost of the establishment in salaries was £11,700. The rate of increase was not great; nor did it need to be. The Excise Commissioners were not facing the coast guard

1. 18 Dec.1707. T17/1. 199. Warrant. 7 Jan.1707/8. ib.

2. T17/2. 241-2. This is the first Treasury record of the establishment which appears.

problems of the Customs. Officers were added only for the purpose of collecting some new duty or an extended old duty. There was no great increase until 1725 when the malt duty required another 101 officers.¹

Unlike the Customs Commissioners whose difficulties crept upon them unaware, the Excise Board was beset with troubles at the beginning. Things were so difficult they doubted whether they would get ⁱⁿ enough money to pay their necessary charges. Until justices of the peace were appointed with excise powers they expected difficulties to continue. Apart from this they looked for little revenue from the brewing of ale. There was little brewed which could be charged at more than twopence the barrel. The "small drink" was of such poor quality that it was given away by brewers to the poor people or sold for less than the duty would amount to. They feared violence if this were stopped.

Godolphin promised to do something about the appointment of J.P.s.² Their appointment was a legal necessity if the existing excise law was to remain unchanged for Scotland. The English Commissioners had mentioned the matter in their

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1. T/45. 1. In 1710 and 1711 another 6 supervisors and 13 gaugers were appointed to cope with the duties on candles and hides.
 2. 24 July 1707. T17/1. 102; he had been sent all this information in response to a request for weekly reports. 8 July 1707. T17/1. 99-101. A warrant had been sent to the Privy Council to appoint JPs to exercise authority according to Scottish law and English law when it applied especially in matters of customs and excise. 15 July 1707. SP.57/27. 51-3.

first report. They made the same point again when Godolphin asked them about any changes that would have to be made in excise law to meet Scottish conditions.¹ The existing law appeared to be sufficient as far as collection went, for operation in Scotland. It permitted (save in the case of vinegar) collection by survey or composition. Difficulties arose when the Board sued for penalties. According to the law of England, cases were brought before any of the Courts of Record or before J.Ps. or in some instances before Courts of Record at Westminster. Since the last-named was forbidden by the Act of Union it left a lack of jurisdiction, which would be more severe if J.Ps. were slack. The Commissioners urged that J.P.s in Scotland should be given equal power to those in England. The lack of jurisdiction would be supplied by the new Court of Exchequer when it was set up.² The only other necessary change was a practical one for safeguarding the revenue. Since no duty was to be paid on malt in Scotland till the end of the war, a duty equal to the English duty should, they thought, be levied on all malt brought from Scotland into England.

As weekly reports were sent in to the Treasury the situation in Scotland became clearer. It must have seemed as though the worst was happening. The Commissioners were taking all possible steps to ensure collection from an

1. 22 Oct. 1707. T1/103. 28.

2. This was achieved by the first Act for improving the Union and the Act setting up a new Exchequer Court. See below.

administrative point of view. Officers were sent to other large towns like Dundee, Aberdeen, Stirling and Dumfries to extend the survey there. Collection for the first three months of the Union was timed to begin on the first of August. New officers were going round with the collectors of the old form to get to know the victuallers.¹ But the work was being done in the teeth of opposition. Trouble had been expected at Glasgow and when the officers went to put it under survey a battalion of infantry had been marched there from Edinburgh to prevent disorder.² Montgomery, one of the Commissioners, had gone to Glasgow to exert his personal influence, possibly with the corporation.³ This had the effect of preventing trouble in the town and gaining the support of the magistrates. In Dundee, Aberdeen, Stirling and Dumfries some persuasion had been used and the officers had been well received and assisted by the magistrates.⁴ The trouble then centred round Edinburgh and Leith. In Leith an excise officer on survey was chased by a wild crowd of women and boys. He was an Englishman, they said, and they would have his blood. He had to be protected by a brewer and escorted to his lodging by troops.⁵ In Edinburgh the mob had gone round the city and put out all the brewers' fires. Each English officer had to take a

1. 22 July 1707. C.T.P. 1702-7. p.522.

2. Cromarty said that excise men durst not go to the W. without troops. 31 May 1707. To Mar. Cromarty Corresp. ii. 33.

3. 22 July 1707. C.T.P. 1702-7. p.522.

4. 7 Aug. 1702. C.T.P. 1702-7. p.523.

5. 29 July 1707. ib. p.522.

Scotsman with him to avoid some of the unpleasantness.¹

Money was consequently very slow to come in. Seafield reported at the beginning of August that nothing could be expected from the customs or excise.² By the 21st of August the Commissioners had only £2000 in hand from the collection of duties since the Union.³ Some improvement followed because by the 25th of September they had remitted £4500 to the English Commissioners.⁴ This failure in the produce of Excise led in part to the deficiency in the Scottish Treasury making them unable to pay the army for the rest of 1707 which was a Scottish obligation under the Union. The British Treasury supplied the deficiency out of the Civil List and credited it to the Scottish Excise Commission so that they could pay their receipts directly to the Scottish Treasury. But between October and December they were to pay £16000 to the Scottish Treasury and their cash receipts were not enough.⁵ They had to give Exchequer notes promising to exchange them when cash came to hand because the paymaster of the army refused to accept notes.⁶ However receipts continued to come in, for during the "intended invasion" of 1708 the Treasury was able to call on the Excise to supply any cash in their hands to the Earl of Leven to victual

1. 7 Aug. 1707. *ib.* p.523.

2. 8 Aug. 1707. Seafield to Godolphin. Add.MSS.34180. f.96.

3. 21 Aug. 1707. C.T.P. 1702-7. p.528.

4. 25 Sept. 1707. *ib.* p.537.

5. 9 Oct. 1707. C.T.P.1702-7.p.539; 11 Dec.1707. *ib.*p.556.

6. 6 Nov.1707. *ib.*p.546; 11 Dec.1707. *ib.*p.556.

Edinburgh and Stirling and meet other pressing needs.¹ From the 13th of March when this order was made and the 6th of April when it was revoked, £1000 was paid, a sum the commissioners were trying to clear in their accounts for some time.² But although the revenue for the first year amounted to £34,688³ for the time being collection was slow work.

One cause of the trouble was that the people feared interference with their cheap drink - low grade ale and spirits drawn from brewers' "wash". The Board admitted this was worth less than half the charge they had to make by law.⁴ Other things made the Commissioners unpopular. During the forming of the excise the brewers had been allowed to pay their charges in instalments and as a result some were twelve months in arrear. The Board tried to put an end to this.⁵ The brewers bided their time having discovered that they had allies in the justices. Their expectation of support from that quarter made them tolerant of excise surveys when they felt the duty would not have to be paid.⁶ They raised formal objection to the duties before the justices.⁷ Their hopes were not disappointed. The Board were soon complaining of the decisions.⁸ In a decision on brewers' allowances

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1. 13.Mar.1707/8. T17/1. 324-5.
 2. 12 Mar.1708/9. C.T.P.1708/14.p.103; 1708.SP54/3.149; T17/1.
 3. Votes 1718-19. B.M. 333
 4. 22 July 1707. C.T.P.1702-7. 522.
 5. 21 Aug. 1707. ib. 528.
 6. 14 Aug. 1707. ib. 526.
 7. 25 Sept. 1707. ib. 537.
 8. 2 Oct. 1707. ib. 538.

the brewers were favoured.¹ Then there was the question of the size of the barrel. The standard barrel for excise charges was the 34 English gallon barrel or the 12 Scottish gallon barrel which were taken as equivalents. The justices decided that a barrel containing one sixth more was to be used for calculating the duties. This was a loss to the revenue and against the law. The Lord Advocate's advice was sought on how to get this judgement reversed but meanwhile the brewers refused to pay on any ale brewed since the 20th of July.²

The Lords of the Treasury stopped this decision from taking effect but everything seemed to go wrong and provide grounds for the brewers to object. Matters were brought to a pass in which everything rested on the size of the standard barrel which had to be tried.³ The result was disconcerting. A great disparity was discovered between English and Scottish measure. The twelve gallon Scottish barrel varied from thirty five and a half to thirty seven English gallons. "This difference in measures makes the brewers very obstinate in all matters relating to the Excise," wrote the Commissioners. They feared the brewers would "...make but slender payments notwithstanding we use our utmost endeavours to bring them to pay."⁴ A farcical element entered

1. $\frac{1}{6}$ allowed instead of 1/10 for 'wash and waste.'

2. *ibid.*

3. 9 Oct. 1707. *ib.* 539.

4. 16 Oct. 1707. T17/1. 153.

the situation when it was discovered that the standard English quart was disproportionate to the English gallon. Four quarts were more than one gallon. And the Commissioners welcomed this because by law the duties were in law charged on the ale quart and they hoped the brewers would see it was to their advantage.¹ The Commissioners obtained a warrant from Godolphin to collect on the standard ale quart.² The main point of difference was that the brewers wanted to be charged only on the nominal capacity of their barrels whereas the Board wanted to charge on actual capacity and were asking one sixth more. Reliance was placed by the brewers on the J.P.'s judgment that they need not pay; the Commissioners were bound by law. The Lord Advocate said there was no court in Scotland competent to settle it.³ It was referred to Godolphin who thought it was not worth bothering about. His policy was to give Scotland every possible ease in such matters.⁴ But the Commissioners thought he had missed the point which was that the measures were different so they kept bringing the matter up.⁵ Finally they tried to get a parliamentary remedy but still without success.⁶ Their trouble with the J.P.s continued. There was no doubt

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1. 16 Oct.1707.C.T.P.1702-7. 540; 31 Oct.1707.T17/1. 161.
 2. 1 Nov. 1707. T17/1. 161.
 3. 16 Oct. 1707. C.T.P. 1702-7. 540.
 4. 1 Nov. 1707. T17/1. 158.
 5. 11 Dec.1707. C.T.P.1702-7.556; 10 April 1708. T17/1.344; referred to the English Commissioners 19 April 1708.
 6. 12 Mar.1708/9. C.T.P.1708-14. 103; 18 Nov.1710. C.T.P. 1708-14. 224.

that the justices were against the Excise department. They discharged the distillers for instance from paying duty on low wines on account of their weakness and asserted that they were to charge themselves on oath regardless of the charge made by surveying officers.¹ The Board had to ask the Justice General and the Lords of Justiciary to put pressure on the J.P.s to act with more regard for the interest of the revenue.²

There was one other major worry for the Board. The question of private rights was a difficult one for both Customs and Excise. There were not, however, so many Excise exemptions. Only two were given any prominence: the proprietors of the sugar manufactory at Glasgow claimed exemption from duties on low wines and spirits and John Forbes of Culloden claimed exemption from the duties on liquors produced on his land at Ferrintosh.³ These cases were passed about and reported upon in legal and administrative quarters but the whole question of private rights had not been settled by 1719.

These teething troubles of the new department show in a more concentrated form than those of the Customs the difficulties of effecting a smooth transition in Scotland from the old administration to the new. The difficulties

1. 16 April. 1709. ib. 111.

2. 23 April 1709. in. 111.

3. Above the value of 400 marks p.a. 14 Aug. 1707. C.T.P. 1702-7. 526. Forbes considered it as being very important. Lord Ross gave him to understand he could get the exemption upheld and tried to trade that for Forbes' interest in the 1708 election.

they had suggest that a large part of the trouble was due to the contrast between the easier collection of duties by the farmers who had been content to take what they could being not too particular about the terms on which they compounded and the stricter and more legalistic approach of the new Board. The new Commissioners were in no position to waive anything, being strictly bound by law. Godolphin seems not to have been too worried and to have let the Commissioners work out their own salvation, permitting the maximum possible relaxation in the interests of peace and order in Scotland.

Gradually the administration of Excise got into its stride and worked to the Treasury's satisfaction. The Commissioners on their appointment were given £300 a year each.¹ In the November following their appointment they were given an extra £100 for their care, prudence and good management in bringing the collection into good order despite difficulties.² In the seven years following the Union they received two further increases - £100 in 1711 for managing the leather duties and £100 in December 1714 for their encouragement.³

This indicates satisfaction with Excise management but further proof is the absence of reference to the Excise in Treasury correspondence. The quarterly salary bill for the Excise office in Edinburgh came in regularly to be warranted.

1. 15 May 1707. T17/1. 23.

2. 9 Nov. 1708. T17/1. 443-4; 12 Nov. 1708. ib. 445.

3. 2 June 1711. T17/2. 239; 22 Dec. 1714. T17/3. 227-9.

Nothing much else was said save when Robert Sinclair, the cashier¹, was found indebted to the extent of nearly £1000 and neither he nor his securities were able to pay. This crisis was weathered, however.² Apart from this, complaints were few and then confined to a passing grumble from the people who were clamouring about the Customs. And, of course, those with an interest in the increasing Equivalent had reason to be thankful for the Excise revenue which gave them the only argument they had for payment of their claims. They made the most of it.

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1. He followed Boyle who was put in the Commission on 21 Mar. 1708/9. (T17/2.16) in place of Montgomery.
 2. £922.2.9 $\frac{1}{4}$ d. Commissioners thought it no longer safe to employ him. Mar said he was "broke and gone off". He spoke for one Cadle but the job was already given to one James Gregory. 1 July 1713. T17/9.430; Port.x.468. Mar to Oxford.

6. THE COURT OF EXCHEQUER.

The Exchequer of Scotland seems to have developed in a similar fashion to that of England, but more slowly, tending to follow the English pattern.¹ Its growth was completed by the time of Charles I when its powers were defined as "undoubted power, warrant and authority to sit, cognosce, and decide all the causes concerning his Majesty's property and others depending thereupon²" The Court had been continued at the Restoration after a break during the Interregnum. A succession of acts of Parliament had expanded and defined the powers more closely. Customs and excise were put under Exchequer control and all prosecutions related to them were to be brought before the Exchequer.³ All these accumulated powers were included in the commission of the fifth of February 1705. This was made up in the fashion which had become usual since the Restoration. The commission consisted of twenty six "noblemen and gentlemen" with a quorum of five but the Lords of the Treasury had also to be present. Those responsible for the Crown's financial administration were also judges in financial matters, therefore.⁴

1. Especially after the return of James I from England. See "Historical View of the Forms and Powers of the Court of Exchequer in Scotland" by Sir John Clerk and Baron John Scrope (written 1727-52 but unpublished till 1820)^{for this} and other details of Exchequer Court.
2. Act Charles I. Part I. cap.18. quoted in Hist. View p.110.
3. Validity of infeffments were to be decided by the Court of Session.
4. Hist. View. p.122.

In the Union Treaty general provision was made for a new Court of Exchequer in Scotland. Some care was needed in drafting article 19 on which the constitution of the Court was afterwards to rest. The new Court had to meet the needs of Scottish circumstances and the introduction of an English fiscal system. The article provided ".....that there be a Court of Exchequer in Scotland after the Union for deciding questions concerning the revenues of customs and excise there having the same power and authority as the Court of Exchequer in England and that the said Court of Exchequer in Scotland have powers of passing signatures gifts tutories and in other things as the Court of Exchequer at present in Scotland hath" The existing court was to function until provision was made by the **British** Parliament.¹

So, on the Union, a new commission was issued to the rather large number of forty one persons to exercise the same powers as the Exchequer before the Union.²

1. 6 Anne cap. 11.

2. 23 June 1707. SP57/27. 34-8.

The size of the commission was probably large for the purpose of gratifying the largest possible number of people who supported the Union. ~~is~~ No provision was made for the exercise of new powers required by the importation of the English revenue system. Godolphin seems to have been prepared to let things slide during the initial period if his instructions to the Customs Commissioners to make the people 'easy' are any indication. For the rest a Treasury commission was issued¹ to function, presumably in Scottish fashion, but according to instructions received from the English Treasury. So in effect a very difficult situation was created in which, on the surface the Scottish financial system, administrative and judicial, operated as usual but were in fact inhibited by English control and at the same time a sense of being only temporary. And a large gap was left in the judicature, the boards of customs and excise being able to do very little in the way of prosecution, opinions having to be sought from every legal officer capable of giving one. Some people were disquieted about the possible nature of the coming change.²

Later in 1707 provision was finally made in the "Act for settling and establishing a Court of Exchequer in the North Part of Great Britain called Scotland."³ This act

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1. SP.57/27. 38-42. To 7 persons.
 2. 14 June 1707. Cromartie to Mar. Cromartie corresp.ii. p.34. "...I have herewith transmitted one signature ... and intreats and hopes that it may be sent whilst our present exchequer continues, who are acquaint with these maters"
 3. 6 Anne. c.26.

settled the constitution and powers of the Court for the time to come. The powers were quite extensive. All powers concerning revenue causes held by the English Exchequer Court were communicated to that of Scotland.¹ Revenue collection itself was put under the supervision of the barons. They were given control of the number and status of ports and their adjuncts: members and creeks. In addition all powers of the Scottish Treasury before the Union with regard to revising, compounding and passing signatures, gifts and the like were given to the Court. Such were the original powers of the Court.²

The Scottish Exchequer Court had in some respects greater and in others less power than the English Court. The jurisdiction of the English/^{Exchequer}Court was threefold. There was a court of revenue for settling causes between taxpayers and the Crown or its accountants. This function was transmitted to the Scottish Exchequer. Then in England there was the Exchequer as a court of equity - a rather obscure function.³ The Scottish Court also took up this function. But the English Exchequer also functioned as a court of

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1. These were enumerated in the act although Clerk and Scrope said they were framed with English rather than Scottish law in mind. Provision for actions under English law was made. Jurymen to be qualified for the first time.
 2. Others were given later. See below.
 3. Holdsworth. Vol.i.p.231-2. only quotes Blackstone: "Any person may file a bill against another upon a bare suggestion that he is the King's accountant but whether he is so or not is never controverted."

common law in certain restricted causes. By a legal fiction its jurisdiction had been extended to private creditors' proceedings. At the same time it had exclusive jurisdiction in all matters over its own officers and their servants. This latter power was not vested in the Scottish court since all subjects in Scotland were subject to the Court of Session.¹ But the Scottish Exchequer had peculiar powers in the granting of signatures and gifts, derived from the old Scottish Exchequer, which were not shared by the English court. Sir John Clerk and John Scrope noted that although this collection of powers seemed very great it was in fact no greater than that possessed by the Scottish Exchequer at the Union.² The difference was to be in the use of those powers. Now they were to be wielded by professional judges backed by the English Treasury. The difference was felt in some circles and resented.³

There were to be five barons of the Court, one being the Lord Chief Baron. Some were to be appointed who were trained in Scottish law and others were to be English lawyers with knowledge of customs and excise laws.⁴ The final

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1. Presumably to avoid trespass on rights of the Court of Session, safeguarded at the Union.
 2. Hist. View. p.124.
 3. 25 Dec. 1711. Grange to Mar. Harley Papers XLVIII.1048. And below. Grange refers to them as "these our lords and masters."
 4. Clerk's Memoirs.p.70-1; says Seafield, Maitland and himself "were very unskilled in the Laws of England, therefore to remedy this defect, Mr. Baron Smith and Mr.Scroop were appointed...." Also Treasury Minute.2 May 1707. C.T.B.xxi.p.29. refers to earlier commission but need for revenue knowledge would remain.

choice was three Scots and two Englishmen. Seafield was Lord Chief Baron and the obvious choice for that post. He had always stood very well with Godolphin, so much so that at times before the Union he had almost appeared in the guise of Godolphin's private representative in Scotland.¹ Since the Union his position as Chancellor had been open to doubt and whether his warrant had officially been revoked or not he was not functioning. Hence he was the only important figure of the Union transaction to be out of a job.² The chance to compensate him came with the setting up of the new Court.³ Clerk seems to have been very sure of his place as baron through his standing with Queensberry. He had supported the Union in the Scottish Parliament and been returned to the first Parliament of Great Britain with expectation of some reward. Queensberry had talked him into being a Commissioner of the Equivalent and had promised him that he would "be afterwards better provided for."⁴ His time came with Seafield's.⁵

Over the other Scottish appointment there was a stir.

Mar had been trying to get the place of baron for David

1. See above. Sir D. Dalrymple expected this. He grumbled to Queensberry who blamed the Squadrone. 25 April 1708. Roxburgh to Baillie. Jervis Corresp. 192. Junto and Squadrone annoyed because Seafield a sitting peer. June 1708. M & K MSS.448. Notes of ^{Sunderland's} letter to Roxburgh.
2. Especially since Scottish Treasury wound up at same time thus robbing ^{him} of his job as Lord of Treasury.
3. His warrant 13 May 1708. SP.57/27.
4. Memoirs 67-8.
5. Memoirs. p.70. "My good friend the Duke of Queensberry took care that I should be one of them."

Erskine of Dun and had obtained a promise from the Queen.¹ Godolphin, Queensberry and Loudon had all agreed to waive any other ideas they might have had. But when the time came Argyll pressed for the appointment of Alexander Maitland,² a Scottish member of Parliament, to such an extent that it seemed necessary to let him have his way to keep Argyll in friendship with Queensberry's Court group for the forthcoming election. So Mar gave way and submitted to the embarrassment of telling Erskine he was not appointed after all.³

The English barons proved to have been appointed for more purely businesslike reasons. John Smith was already a baron of the English Exchequer when he was appointed to Scotland. It seems likely that he was Godolphin's own choice to keep an eye on things in Scotland.⁴ For the appointment of John Scrope the credit is uncertain. That they chose well is beyond doubt. His arrival in Scotland proved to be an event of great administrative importance. His role as Walpole's right hand lay in the future but in his early years in Scotland he exercised his peculiar faculty for making himself indispensable. The administrative correspondence of this time is ventilated by Scrope's opinions on

1. See Brunton & Haig. p.491. Erskine became a Lord of Session in 1710 and a Lord of Justiciary in 1714. He had opposed the Union.

2. See Foster, p.328.

3. 20 Aug.1710. Mar to Harley. Portland x. 329-30.

4. Godolphin certainly pushed him into the post of Chief Baron when Seafield resigned. 14 Dec.1708. T17/1. 403.

sundry topics, precise and unimpassioned.¹

The only change after the first seven years took place very shortly. Seafield found himself cut off from politics by his judicial office. His vote at the peers' election was successfully challenged and declared invalid, although he had largely managed the election of 1708 and was himself elected. It seems that he thought it better to chose between being a representative peer and remaining the Lord Chief Baron. He resigned his office and it was whispered that there was some satisfaction in high quarters.² Possibly it was felt that Smith's promotion increased the judicial and administrative element at the expense of the political. Clerk said Godolphin wanted an Englishman as Lord Chief Baron.

The vacant judgeship was filled at the behest of Loudon, by George Dalrymple, who since supporting the Union in the Scottish Parliament had been holding posts in both customs and excise, as a result of direct Treasury intervention as far as concerned the customs.³ Mar again renounced his pretensions on behalf of Erskine in deference to Loudon's claim.⁴

The barons seem to have been rather proud of the fact⁵ that they were not removable on the accession of a new

1. He was possibly appointed by Cowper's interest since he asked for Scrope's extra £500 to be assured in view of his having left a profitable practice. 21 May 1708. C.T.B.1708-14. p.39. i.e. shortly after Scrope's warrant of 13 May 1708.
2. Clerk. Memoirs. p.73.
3. See Foster. p.90.
4. 20 Aug.1710. Mar to Harley. Port.x. 329-30.
5. which seems difficult to account for.

sovereign as were barons and judges of England. As evidence for this is cited the circumstances that they did not have their patents renewed on the accession of George I nor on that of George II.¹

The reference in the act to the appointing of officers in the Court was vague. There were to be in the Court ".... The several officers following that is to say the office of Queen's remembrancer, the office of Lord treasurer's remembrancer, the office of clerk of the pipe and such other offices now in being in the Court of Exchequer in England or are now in being in Scotland relating to signatures gifts and tutories as the Queen's Majesty her heirs and successors shall from time to time think fit and proper to be constituted and appointed"

There were some curious appointments. Two of the offices were shared by two men - one English and one Scottish. This might have been put down to a mere division of profits - to spread largesse especially since the appointment was usually for life and with the power of deputation. But the two Englishmen were given extra salary as compensation for leaving their practices in London. With one exception nothing is known about any of them. William Stewart and John Tarver were to fill the office of Queen's Remembrancer for life.² William Allanson was Treasurer's

1. Hist. View. p.7.

2. £200 between them and the whole to the survivor and in addition the fees appointed by the Barons. 18 May 1708. SP57/27. To Tarver an extra £100 p.a. for leaving his practice. 30 April 1709. T17/2. 130. Stewart was a follower of Argyll and was M.P. 1713-41.

Remembrancer for life.¹ The office of clerk of the pipe was shared by one Colin Mackenzie and John Tyas for life.²

In addition to these officers there was a solicitor, two attorneys and a person deputed to keep the Exchequer seal. In addition to the office of hereditary usher³ there was the usual complement of deputy usher, messenger and doorkeeper.⁴

The setting up of such a court in Scotland created some uneasiness because it was new and because there was bound to be a certain vagueness about its powers and forms. It is true that it had been created expressly not to leave any lacuna in the Scottish legal system. It was competent to deal with all the matters which had come before the old Exchequer. But it was also designed to bring certain things in line with English practice. Its procedure was to be English in pattern as was its constitution.⁵ So there was scope for working out in practice the procedure, standing and general tradition of the court in relation

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1. 18 May 1708. SP57/27. £100 p.a. initially with an addition of £100 because that was insufficient. 17 Jan. 1709/10. T17/2. 131.
 2. 18 May 1708. SP57/27. £200 between them in addition to fees. Tyas had an extra £100 p.a. for leaving his practice in London. T17/2.131. Mackenzie had held Exchequer office previously. His appointment was obviously compensation for loss.
 3. Held by Lord Bellenden at £11.10.0. p.a. T17/2. 72-5.
 4. T17/2. 75.
 5. They even imported the accounting style of the English Exchequer, Roman numerals and all but dropped that, in some records at least, about 1727.

to the other courts and administrative departments. The barons seem to have been aware of this and been determined to start as they meant to go on. It showed in their speeches in court and in their action. Mr. Baron Smith observed: "... that their Commission was very large and Grounded upon the Act of Parliament"¹ There was the matter of Tilson's patent as Auditor of Excise. He had qualified himself in London in 1707 and had his patent passed under the Great Seal. When the new Exchequer Court was set up doubts arose over the legality of his patent since the Act seemed to imply that his patent had to pass the Seal of Scotland and that he should be qualified before the Exchequer Court. It may have been only a desire for legality which made them give their opinion that he should take the oaths before them in Scotland when actually he was in London and performing his duties by deputy. But it seems also that they were concerned to prevent any precedents harmful to their powers.² In the end he was made to get a new patent but was allowed to send down a certificate of his having qualified.

There was the
Decision that Sir James Mackenzie and Sir Thomas Moncrieff had not a right to ^{the} place of Register of Seizures which ought to be kept in Remembrancer's Office. Sir James Mackenzie thought this unjust because it was never a branch

1. Philipson to Tilson. 23 Nov.1708. SP54/3. 113.

2. Philipson to Tilson. 12 Feb.1708/9. SP54/3. 147; 2 July 1709. ib.182; ib. 215; ib. 217.

of Exchequer and his title was in law.¹

From the beginning they were rigorous in stopping gifts or grants not countersigned by the Lord Treasurer and took an elevated view of their duties in this direction.² Mar as Keeper of the Signet had powers to present and countersign gifts and signatures and had not troubled in some cases to get Treasury approval.³ The Barons therefore stopped them and referred the matter to Godolphin who gave his approval since "... they are but two or three and because 'tis probable the persons concerned might not be acquainted with the forms the⁴ Court is to use. Nevertheless in all like cases for the future the method lately signified is to be observed...."⁵

The form of procedure adopted was for all questions arising in relation to Scottish financial matters, such as petitions, complaints, requests for gifts and compositions and the like to be referred by the Treasury to the Exchequer in Scotland for the barons to consider it and report. If a gift were to be granted the barons were asked to advise on the best way of granting it. By 1713 warrants for gifts seem to have contained as a matter of course the information that they were made with the advice of the Lord Treasurer and the Barons of Scotland. The barons saw to it that their advice was no formality. When George Lockhart of

1. 25 Jan.1708/9. Sir J.Mackenzie to Cromarty. Cromarty Corresp. ii.87.
2. Hist. View. p.129.
3. 7 July 1711. Scrope to Harley. Harley MSS. List 2. Corresp. S-So.
4. Scottish Exchequer.
5. 14 Dec.1708. T17/1. 403.

Carnwath tried to get two commissions rushed through the seals to strengthen his interest in the shire of Edinburgh for the 1713 election the barons stopped the warrants because they were not countersigned by the Lord Treasurer as well as Bolingbroke.¹ The Lord Treasurer's warrant was required for adding their names to the civil list in place of those removed. Bolingbroke asked for the Treasury warrant and excused himself: " Mr. Lockhart of Carnwath did solicit these grants here, and I look upon this omission as a point of form which he was not acquainted of."² If Bolingbroke is to be believed,³ then Lockhart must have collected the warrants at the Secretary's office, acting as sponsor to hurry them up, and had unwittingly by-passed the Treasury. It must have upset his interest for he was still pleading for the warrants after September 1713.⁴

The barons were aware of their powers and duties in this respect. They were also ready to take seriously their duties in matters of the revenue. Clerk and Scrope thought that " ... the Barons in Scotland have very justly taken upon them to give their advice and opinion to the Commissioners of Customs and Excise in relation to their management."⁵

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1. SP54/5. 164. The warrants were for Alexander Brand and James Oliphant to be Her Majesty's Underfalconer and First Underkeeper of the Wardrobe in Scotland, respectively. 19 May 1713. SP57/29. 20-26.
 2. 22 July 1713. Bolingbroke to Thos. Harley. SP57/29. 32.
 3. It is possible that Bolingbroke was trying to bypass the Treasury.
 4. SP54/5. 164. i.e. when Mar was Secretary.
 5. Hist. View. p.145.

They felt this advice to be necessary because the Scottish revenue commissioners were at a great distance from London and could not easily get advice from there and anyway not in matters particularly relating to Scottish conditions. Not a great deal of evidence for this survives in Treasury correspondence but ^{it} certainly seems to have taken place if the commissioners' obsequious attitude to the Court of Exchequer is an indication. Certainly the barons' good favour was sought when application was made to change the status of a customs post.¹ And on occasion the Treasury gave the Court specific tasks relating to the revenue: to examine the fitness of a candidate for a customs post, for example, or to propose methods of stopping illegal importation of Irish foodstuffs.²

The barons were on several occasions given extra powers under the privy seal. These powers were designed to ease the general working of the Exchequer by eliminating delays caused by formalities and to reduce obstacles to the smooth running of trade. They were authorised to compound or discharge coast bonds, to compound or mitigate fines or customs seizures and "to allow vouchers irregularly made out when it was apparent that no fraud was intended." All this gave the barons certain necessary discretion in the day to day conduct of business in the court.³

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1. June 1711. Lord Justice Clerk to Mar. Harley MSS. L.1452. An attempt to get Alloa promoted from being a creek to being a member.
 2. ← SF54/4. 268. 4 Dec.1712.
 3. C.T.B. XXII.263. 8 June 1708; T17/1. 412-3. 9 Aug.1708; T17/2. 352-3. 26 May 1712.

It becomes plain that the Scottish Court of Exchequer was made heir to the functions of both Scottish Treasury and Exchequer. The barons were given both judicial and administrative powers. The judicial powers belonged to the Court whilst the administrative powers were mainly delegated by the Treasury. The power of supervising the revenue collection was bestowed by act of Parliament. Its power of considering grants and gifts and returning them for reconsideration was inherited from the old Scottish Exchequer. But then there were functions it could perform when specifically delegated to do so. Some of these were really Treasury 'odd jobs' like supervising the repair of Holyrood House put upon it by Harley.¹

The biggest administrative responsibility placed on the Court was that of administering the Scottish Civil List. This did really make the Court into a kind of subordinate Treasury, and the decision was Godolphin's.

The first impression the Treasury must have had of the Scottish Civil establishment was that it was very large and that none of the people on it seemed to have been paid. It remained for a year in some confusion but over a period of a year steps were taken to make it accountable. The first step had been taken at the Union by the Scottish Parliament when all arrears dating from before the Union were made a charge of the Equivalent and forgotten by all save the creditors and the Commissioners appointed to pay them.

1. T17/2. 457. 30 Sept. 1713.

For the rest payment was made from the British Exchequer by a series of warrants as the Treasury had arrears brought to its notice. The Scottish great officers of state had their salaries paid half yearly out of the British Exchequer.¹ Arrangements to pay the Scottish Barons regularly out of the British Exchequer were made.² The Lords of Session were paid their additional salary for six months.³ Then it was discovered - or made known - that the rest of the civil establishment had had no pay since the Union - some of them not before but that was the Equivalent's charge. Hence they were paid.⁴

But all this was hand to mouth. It was necessary to have some settled fund and there was none. The only part of the civil list which had a permanent appropriation in Scotland was £26000 Scots of the salaries of the Lords of Session which came out of the Customs. It caused some trouble when they claimed it after the Union. The Customs Commissioners knew nothing about it and refused to allow it on their own responsibility. The Treasury took the opinion of the law officers. They declared against priority out of the customs revenue generally but considered it should come first out of what was appropriated for the civil list.⁵ Godolphin allowed the claim in spite of this

1. 22 Mar.1707/8. T17/1.326-7; 20 Aug.1708. T17/1. 418.

2. 12 May 1708. T17/1. 356/7.

3. 9 Nov.1708. T17/1. 444.

4. 24 Dec. 1708. C.T.B.1708. p.467.

5. 25 Aug.1708. T1/108. 50.

to cause no ill feeling in such an influential body.

It was difficult to know the funds available in Scotland, as matters were. And apart from that it was not certain what the extent of the civil list was. Godolphin sought for some system of confining the Civil List within specified limits and delegating its administration with a minimum of discretion. This was put into effect in 1709 after some fumbling. The civil list itself was to some extent pruned and consolidated. A whole group of servants was eliminated as far as the Treasury was concerned. The pre-Union establishment had included a phalanx of the servants of various officials: the Lord Advocate's servant, the Deputy Keeper of the Great Seal's servant, and so on. But the President of the Court of Session and the Lords had an increase of salary whilst the salaries of the new barons of the Exchequer were included in the civil list as the old Lords of the Treasury had not been. The new officers of the Exchequer were also put on the establishment. The result of this reorganisation was to increase the civil list from £11,766.6.0d to £17,960.9.0d. This does not include the salaries of the great officers of state which were paid directly from the Treasury, nor the various pensions enjoyed by pastholders of great officers.² These

1. Compare T1/109.12 with T17/2.72-5, the latter being the civil establishment warranted 23 June 1709.
2. Salaries of the great officers were put on the civil list by the next administration which brought the total to £29,293.2.4d. 23 Dec.1714. Establishment Lists.Vol.1. Exchequer Records in the General Register House.

were frequently paid out of the proceeds of the Post Office - called in some circles "the Scotch Office" for that reason.

By a privy seal of May the obligation of making out a quarterly list of salaries due was placed on the Barons of the Exchequer.¹ But the method of payment was complicated because Godolphin apparently envisaged Scottish revenue being remitted to the British Exchequer. The privy seal provided for the money to be paid out of the Receipt of the Exchequer to the Receiver-General in Scotland.

Shortly afterwards the system was changed. Godolphin put into effect a method for keeping Scottish revenue and its commitments in this field separate. It meant more responsibility for the Barons. They were to receive back the establishment list warranted by the Treasurer. They then had to order the receivers-general of customs and excise to pay enough money to Archibald Douglas, the paymaster, to meet the salaries for the Courts. Other payments were to be made from the receipts of Crown rents and other casualties. The idea seemed to be to avoid unnecessary remitting of money and reduce the role of the British Exchequer to an accounting one. As far as the Auditor of Receipt was concerned it was a bookkeeping transaction. It was soon pointed out that Crown rents and casualties were not enough so the Barons were further empowered to

1. 16 May 1709. T17/2. 33-6.

order payment from compositions and seizures to meet the charges of the establishment.¹

So to this extent, having the discretion to order payment from funds produced in Scotland, the Barons were functioning as a subordinate Treasury. This was as far as Godolphin went. The Court of Exchequer had replaced the old Scottish Treasury and Exchequer so it seemed natural and in common sense to use it for such purposes. Godolphin was never in any danger of confusing financial administration and government. Perhaps it never occurred to him since very largely he preserved what went before. Harley was the innovator and that mistake was left to him.²

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1. Privy Seals of 30 June 1709 and 24 Feb. 1709/10. T17/2. 137-8.
 2. A picture of the Exchequer Court's business is provided by the minute book of the King's Remembrancer in the General Register House. Vol.1. 1709/1719.

7. THE SQUADRONE'S ATTACK ON THE MINISTRY.

The arrival of the Scots at Westminster caused interest. Efforts were made to show they were welcome. Francis Montgomery seconded the motion for Speaker and led him to the chair. This aroused general gratification. The Scottish Secretary Depute noted that the members of both houses had "a very agreeable reception."¹ But such moments were fleeting. Underneath all the civilities were other feelings towards the Scots. There had been thoughts that men who "sold their country" were not of the best.² Sir John Pakington had given utterance to the view that the Scots were corrupt and would come down and corrupt the British Parliament also.³ But this animosity was not aired immediately. More to the point was what the Scots would do now they were at Westminster. They were new men. Neither their abilities nor inclinations had been judged. When they spoke, therefore, they were heard with interest.

All but the eleven members of the Squadrone had Court connections, belonging to the Queensberry group or Seafield or Argyll. These were a great comfort to Godolphin. On arrival they had little to say on English affairs,⁴ but their votes were a welcome addition to the Court's strength. The Court needed it for Godolphin was sometimes hard put

1. 25 Oct.1707. Sir David Mairne to William Carstares. Laing MSS.ii.144.
2. 25 Feb. 1706/7. Johnston to Baillie. Jerviswood Corresp. 189; 4 March 1706/7. ib. 190.
3. 8 Feb. 1706/7. ib.
4. 6 Dec.1707. Vernon to Shrewsbury. Vernon Corresp.iii.285.

to it to carry on business with the interests then in the ministry. For some time he had been able to carry war measures only with the help of the Junto. This fact was to dominate the later history of the ministry. If Godolphin wanted the Junto's support he would have to be prepared, as they were making clear, to pay the Junto's price. They wanted a greater share of places for themselves and their followers. It was a price Godolphin and Marlborough were reluctant to pay. They were trying to get the Junto's support in Parliament with the minimum amount of satisfaction. But for some time they had been compelled to spread sail in the ministry to catch support from the Whig groups. In 1705 Smith had been the Court's nominee for the Speakership. Cowper had become Lord Keeper. Neither of these concessions could be considered extreme but were an indication of the direction of drift. More significant had been the appointment of Sunderland as Secretary of State. This had been directly forced on the ministry and then on the Queen as the price of Junto support.

x The moderate Tory interests, centred round Harley and in support of the ministry, were taking alarm at these concessions. Nor were they happy about the lack of direction in the conduct of the war. Marlborough and Godolphin had been driven to an uneconomic use of effort in order to please their European allies. The ministry was in fact moving in a direction which Harley and St. John could not take.

X Godolphin had not officially embraced the Whigs. He had been buying their support. He was notoriously regarded as 'close' and uncommitted. Some felt he was as likely to go one way as the other. The balanced character of his 1707 changes showed he was not wholly forced, as yet, to accept the dictates of the Junto. But, given his belief in the necessity of carrying on the war, there was really only one way he could go. If the Junto wished to be awkward he could not carry on, although for the moment bringing down Godolphin was not practical politics. The session of 1707-8 in the first Parliament of Great Britain demonstrated his dependence on Junto support and Scottish affairs were partly the occasion. Pressure was being put on the ministry.

The Junto made a determined effort to wring some satisfaction out of Marlborough and Godolphin. There was the business of the three vacant bishoprics, for instance. Exeter, Norwich and Chester had fallen vacant and under pressure Godolphin had decided that two Junto nominees, Trinnell and Kennet, should have two of the bishoprics. Without saying anything to Godolphin the Queen had decided otherwise, and had disposed of two to High Church nominees of the Archbishop of York. To the Junto's chagrin and Godolphin's discomfiture she refused to change her mind. The Junto decided on a firm line to get their way over Norwich, the remaining bishopric. They threatened that

unless Marlborough and Godolphin made all possible efforts to get their way in this they would go into opposition and in particular attack Marlborough's brother at the Admiralty. Trinnell got Norwich in January 1708 but not without great efforts.¹

This was a difficult time for the ministry. At the end of 1707 and the beginning of 1708 they were continually in trouble between the various interests. The promised attack on the Admiralty came in the Lords during the debate on the Queen's speech. The Junto began it but when they discovered that embarrassing support had been stirred up Halifax contrived to get the matter smothered by a committee of enquiry. In the Commons the attack failed because it was recognised as a Junto strategem and lacked support.

More serious for the Ministry was the debate on Scotland, involving at once a radical change in Scottish administration and the defeat of the Court. For the Scottish ministry it was a serious crisis. In England the affair was closely followed because of the divisions indicating the strength of the interests in revolt.

Certain matters had to be arranged in Scotland to give the administration there a less temporary look.²

1. Walcott. 121-4.

2. In addition there were certain legal changes necessary, for instance, changes in the Regency Bill. 13 Jan. 1707/8. Vernon to Shrewsbury. Vernon Corrsp. iii. 303; 31 Jan. 1707/8. ib. 331; 24 Jan. 1707/8. ib. 321; 27 Feb. 1707/8. Charlwood Lawton to Harley. Port iv. 478.

It was desirable that the British Parliament should be brought to ratify certain arrangements as soon as possible for the security of the government. Certainly the Court contemplated nothing revolutionary, although it is uncertain what exactly they had in mind. For one thing the institution of J.P.s in Scotland had to be strengthened, for Excise purposes if nothing else. A militia of some kind was thought a necessity. Also a new Court of Exchequer had to be set up but it is doubtful whether that was to be attempted straight away. But such general tidying up as this was probably in the mind of Queensberry and Godolphin in considering changes in Scottish administration. Both had every wish and motive for seeing the Scottish Privy Council retained.

The Privy Council of Scotland was the executive of the Kingdom. It was the chief organ of government. Before the Union all proclamations had emanated from the Council but since, it had published them on order from the British Privy Council.¹ What gave it most influence were the judicial powers which it wielded. In cases brought to its notice by petition or violence it could act at once and did so without overgreat respect being paid to other jurisdictions. By this means the peace could be maintained and the law upheld without the customary long-winded legal

? 1. The Solicitor was responsible for distribution when issued. After the Council's abolition proclamations were sent to him from London. 21 Mar. 1707/8. PC 2/82. 23; 20 Sept. 1708. ib. 163.

redress. Through such powers successive Scottish ministries had ruled the country and preserved their influence by threats. Scottish justice was not so pure that a man out of sympathy with the prevailing powers could unreservedly trust it. So the Scottish ministry was concerned to keep the Council functioning for it was the one body through which they could act collectively as a ministry and bring pressure to bear. It gave them ministerial as distinct from individual influence at election time. By the rigorous employment of its powers they might hope to purge Scottish representation of uncongenial influences.

Godolphin's interests were, as he saw them, identical. The easiest way to secure Court influence in Scotland was to leave it in the hands of a Court group that could manage it. Then the whole country could see where favour lay and be suitably impressed. A united front had to be presented in the interests of Crown influence.¹ It was in the interest of the Crown and ministry that as large a proportion of the forty five members as possible should be ready to support the Court, especially with the parliamentary position as it then was. Godolphin knew that men put in by Queensberry and Seafield could be relied upon

1. See Dartmouth. Note to Burnet. v.362 n. on this topic. He concludes Godolphin was ruling Scotland like a colony in which his avowed principle was to rule via a governor and council and uphold them as much as possible. "...all complaints against them from other people should be discouraged as much as possible, or the plantations would soon be independent of England."

to support the Court in Parliament. Hence he was not likely to have entertained thoughts of abolishing the main prop of this influence.

The Squadrone's view was violently opposed to this. They were never likely, within a closed Scottish system, to control the Privy Council. For them it was an instrument of preserving Court predominance. The qualms they had felt in supporting the Union sprang from a fear of perpetuating government by a clique of their opponents. The continuance of the Privy Council was designed to have just that effect. So having entered into the Union, it was in Squadrone interest to break down the differences between Scottish and English administration to reduce the power of the Scottish ministry. Now the time had come for them to show fight and they hoped for support in a British Parliament.¹

This policy had become associated with certain of the Squadrone. Some had espoused the cause of Union so heartily that they wanted no relic of a separate administration to appear. Marchmont was one of these. He pedantically corrected Sir Andrew Hume, his son, for speaking of "Officers of State" after the Union.² But few inside the Squadrone carried it to Marchmont's lengths. Within it was a principle.³ Others saw it as a strategic move.

1. Burnet v. 362. Dartmouth's note.

2. 23 June 1707. Marchmont Papers. G.R.H. Letters to Sir A.H. 1695-1718.

3. Outside, Cromarty agreed with him in theory. He wanted no relic of separate kingdoms. 10 July 1707. To Mar. Cromarty Corresp. ii. 36.

If Scotland preserved any vestige of a separate administration which gave ministerial power it would, as likely as not, be in the hands of Queensberry. For one thing the Squadrone looked upon this as oppression. For another they scented Jacobitism. Hence their salvation was to be sought in the virtual abolition of a Scottish ministry and a greater dependence on the central British government. In Westminster the total balance of parties would be different. The chances were that the Whigs would control the United Kingdom and that might let in the Squadrone. So in centralisation and uniformity they were seeking security from Jacobitism and the Queensberry clique. Baillie in particular was spoken of as a "zealous promoter of reducing all to conformity with England."¹

The Queen's speech mentioned the question of "rendering the Union more complete." The matter was considered by a committee of the whole house. Here the blow was struck. Squadrone members proposed the abolition of the Scottish Privy Council as unnecessary since the British Privy Council had jurisdiction in Scotland. The debate was at first left to the Scots. The rest listened for a while in silence but then others spoke. Harley, Harcourt and Walpole spoke for keeping the Privy Council. It was clearly ministerial policy. The argument put forward for retention at this stage was that it was not to be permanent but only

1. Vernon correspon: iii. 285.

until the unsettled period of the Union had passed. The retort was that to retain the Council any longer meant forty five members for the ministry and they would support retention. It would then be more difficult to abolish the Council. All this put about the suspicion that the Court was strengthening its own position which was in fact true. Also it seemed a good chance for dissident groups to line up against the ministry.¹ At this point the majority for abolition seemed so great that a division was not thought necessary.

Then the question of J.P.s and circuit courts was brought up. This was intended to strengthen the judicial power to fill the gap left by the abolition of the Privy Council.. Some concession was needed to counter the argument that people would be left exposed to the mercies of enemies of the Union and the Revolution when deprived of the Council's protection.²

The motion that J.P.s should have the same powers in Scotland as in England came from John Haldane of Glen-eagles, for the Squadrone. An issue here was whether this was an infringement of the heritable jurisdictions which were safeguarded by the Union Treaty. Under Scottish law these jurisdictions were given fifteen days to deal with any matter which arose before any other jurisdiction

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1. 6 Nov. (wrongly for Dec?) 1707. Addison to Manchester. Court & Society. ii. 266.
 2. 9 Dec. 1707. Vernon to Shrewsbury. Vernon Corresp. iii. 288.

could take cognisance although the Privy Council had on occasion ignored it. An attempt was made to add the qualification "in so far as the same is not contrary to or inconsistent with the twentieth and the one and twentieth Articles of the Union."¹ This was defeated.²

Haldane also proposed that the militia in Scotland should be on the same footing as in England. The opposition to this came only from those who wanted changes in the English militia and did not want to prejudice their chances of success.³ This resolution was also accepted.

By this time Queensberry's opponents were in high delight with visions of disaster overtaking the Scottish ministry. Lord Ross announced that deliverance from Queensberry's yoke was at hand.⁴ Annandale was making no secret of his satisfaction and looked upon it as a mortal blow to Queensberry.⁵ Alarm in Scottish Court circles was correspondingly great. Mar was full of annoyance and expressed fears for the Union. Grange consoled him with talk of the unpopularity of the resolutions in Scotland.⁶ The Squadrone were referred to as "levellers"⁷ since they were attacking the power of the Crown.

1. 11 Dec.1707. Vernon Corresp.iii.290; 14 Dec.1707.ib.294)

2. 149-113. 11 Dec.1707. C.J. xv.

3. *ibid.*

4. 9 Dec.1707. To John Forbes. More Culloden Papers. ii.10.

5. 20 Dec.1707. Grange to Mar. M & K.MSS.423.

6. 9 Dec.1707. M & K.MSS.420-2.

7. 11 Dec. 1707. David Erskine to Mar. M & K.MSS.422.

However, the five resolutions were accepted by the Commons. The one concerning the militia was reserved for separate passage as a money bill. The others were to form one bill. Significantly there were five Scotsmen on the committee to draw up the bill and four of them were members of the Squadrone.¹

During the passage of the bill the Court and its supporters kept up a running fight against the bill. They tried to gain a major tactical point over the date of the Council's abolition. 1708 was an election year and the date when the Council would cease to function was important. An amendment proposed to end the Council on the first of May 1708. This was before the elections to eliminate the Council's influence. It was carried by a majority of 61.² The Court tried to change this date to April 1709 on the third reading. This was defeated by the same combination that just before had defeated the Court on recruiting measures, joined by Whigs like Sir Joseph Jekyll and Sir James Montagu.³ The Squadrone were being backed up by the Junto and supported in it by the High Tories to embarrass the government.⁴

In the Lords the story was the same. The combination was much as expected. The Junto and Rochester's adherents

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1. 11 Dec. 1707. C.J. XV.
 2. 23 Jan. 1707/8. 179/118. C.J. XV.511.
 3. 29 Jan. 1707/8. Addison to Manchester. Court & Society. iii. 274.
 4. For opposing the Court on one of these votes Bennett lost his job. 18 July 1708. Roxburgh to Baillie. Jerviswood Corresp. 193.

were for abolition. Of the Scottish peers only the four Squadrone lords were for abolition, Montrose, Roxburgh, Sutherland and Tweeddale. Argyll had at first been against the Council, some said out of pique because his brother had not been provided for at once after the Union. Whatever the cause of his first opinion he changed it when he discovered that the bill, in the matter of J.P.s, was against the interests of heritable jurisdictions. Since he never embraced any cause by halves he was led into high words with Rochester during the debate. Both had a reputation for violent language. The abolition of the Council was carried on the second reading. In Committee the Court again tried to postpone the abolition by changing the date to the first of October 1708. If this were carried the Council could function during the elections. But it was defeated by five votes.¹ So the fate of the Privy Council was settled when the bill became law in February 1708 in spite of all the Court could do.² The various elements in Parliament had shown that they could bite and there was speculation about whether it would force Godolphin to throw in his lot with one side or the other.³

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1. 2 Dec.1707. Mar to Grange. M & K.MSS.420; Feb.1707/8. Addison to Manchester. Court & Society ii.278; 5 Feb. 1707/8. Mar to Grange. M & K.MSS.426-7; 6 Feb.1707/8. Addison to Manchester. Court & Society ii.275; 7 Feb.1707/8. Vernon Corresp. iii. 341.
 2. C.J. XV. 543.
 3. 6 Feb.1707/8. S.Edwin to Manchester. Court & Society ii. 276.

The Squadrone were jubilant. Their first aim had been achieved. Alarm was felt elsewhere and not only in Court circles. With some the Privy Council might have been unpopular but it was regarded as the only effective executive power in Scotland. Somers could argue in the Lords that any powers the Privy Council had for maintaining the peace could be lodged in some other Scottish judiciary or the British Privy Council.¹ But the British Privy Council was remote, nor was it an executive in the sense of the Scottish Council. Nor was it desirable to give executive power to the Court of Session. The Kirk particularly was uneasy. There were parts of Scotland where effective backing was necessary to enable the Kirk to maintain its legal position since local influences were not well disposed. For that reason they feared the vacuum that was going to be left. The Privy Council had been dealing with such complaints since the Union.² The apprehension was that there would be intrusions and disorders which would go unchecked if there were no authority which could be appealed to at once.³ The Principal of Glasgow University, a man of influence in the Kirk, told Seafield that the Privy Council was "judged necessary for the peace of the country and welfare of the Church." He was told that "the disaffected boast already that

1. Hardwicke State Papers ii. 473-8.

2. Warrants of the Privy Council 1707/8. G.R.H.

3. 15 Dec. 1707. G.Meldrum to Seafield. Seafield Corresp. 436.

there will be no Council to complain to."¹ Amongst people connected with the problem there seemed agreement that although legal power for dealing with breaches of the law it would be more difficult to invoke it.² It was probably to quieten such fears that a proclamation was issued later in the year for enforcing the acts against intruding into churches and manses.³

To some extent these criticisms were well founded. The abolition of the Council did leave an administrative hole. Scotland had been accustomed to accept rule from the Privy Council. The various ministries of Scotland had maintained an executive through the Council. A great weight of administrative and judicial work fell upon the Council. It acted in matters of security - seizures of arms and apprehending of suspected French agents. It gave warrants for arrest and search and took security in cases of threatened violence. In the event of violence having occurred they gave decisions, usually awarding damages or ordering restitution to be made.⁴ Now the dissolution of the Council ended the collective executive power of the Scottish ministry. There was now only an assemblage of Ministers whose office did not in most cases

1. 6 Mar.1708. John Stirling to Seafield. Seafield Corresp. 450.
2. 30 Dec.1707/8. Loudon to Carstares. Carstares' State Papers. 770-2; 9 Mar.1708. Cromarty to ?. Cromarty Corresp. ii. 59.
3. 20 Sept.1708. PC2/82. 163; Court opinion had had in mind a commission to replace the Privy Council. 24 Jan.1708. Cockburn to Montrose. Montrose MSS. 370.
4. Warrants of Privy Council 1707/8. G.R.H.

include executive power. That power now rested with the British Council and that was very remote.

The outcome seems to have been that some business came before the British Privy Council, but obviously it could not do all of it. For the rest the maintenance of law depended on the Lord Advocate who had to be quick to take action on the part of the Crown. The position of Lord Advocate became correspondingly more important. He was frequently responsible for bringing matters to the notice of the central government and receiving orders for dealing with them. His correspondence was usually with a secretary of state.¹ He sent information concerning imports of arms and received instructions for seizing them.² He asked for such things as a reprieve for a convicted man and was told when it was granted.³ In some matters, when his particular interest was aroused, a Lord Advocate could show more energy than the Privy Council had done. Sir James Stuart was an ardent Presbyterian and caused great feeling by his vigorous enforcement of the law against episcopalian ministers. His zeal in this direction, despite the Lords' decision in the Greenshields case, was one of the reasons which caused the Tories to

1. See letter books e.g. SP44/112; SP44/113; SP44/114.
Also State Papers Scotland.SP54/4; SP54/5.

2. SP44/112. 162. Dartmouth to Lord Advocate. 16 Aug.1711.

3. SP44/113. 16. Dartmouth to Lord Advocate. 13 Mar.1711/2.

press for the Toleration Act of 1712.¹ But even when this new method of government had been worked out some work did not get done, however energetic the Lord Advocate.² A great deal of business was delayed or did not get done. This lack of government was complained of in 1710 and after and led to Harley's attempts to provide some government which came closer to Scotland,³ and replaced in some ways the Privy Council. The failure of his government in Scotland was in part due to his failure in this direction.

The end of the Privy Council made a great difference generally to the position of the Scottish ministry. Before the Union they had tried to carry government measures in the Scottish Parliament and had governed Scotland through the Privy Council. The Union ended the former task; the abolition of the Council ended the latter. The task of preserving the peace devolved upon the Lord Advocate. The rest of the ministry lost their administrative functions as a body. Their significance became one of favour merely.⁴ They held office to secure their support and interest at Westminster and to show the electors

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1. 15 Mar. 1709. Sir James Stuart to Morton. Morton Papers. Box 105 shows his attitude. 28 Jan. 1711/2. Rev. James Greenshields to Oxford. Harley Papers. L.1423.
 2. One reason was the need for the Lord Advocate to request instructions constantly which was difficult. When Stuart was reappointed in 1711 he asked Oxford's permission to send such news and information as he thought fit. 20 Oct. 1711. Harley Papers. L.1477.
 3. see below: Commission of Chamberlainry.
 4. James Erskine as Lord Justice Clerk wrote in 1714 that since the changes of the Union his post was now that of a judge only. Feb. 1713/4. Harley Papers. Miscellaneous MSS. 38.

where favour lay, and through which channel other favours would be forthcoming or "where application must be made" in the expression of the time. Before the Union and up to May 1708 the normal channel through which gifts were passed was the office of "secretary of state within Scotland". The Council's abolition seems to have changed that.

Some legal connection seems to have existed between the secretaryship held by Mar and Loudon and the Privy Council, so that the abolition of one meant the end of the other.¹ It is certain that the Squadrone looked upon the end of this office as a beneficial side effect when the Council ended.² Some, like Marchmont, looked upon the question as one of principle - the separate secretaryship being an obstacle in the way of complete Union.³ For others it was a dangerous administrative channel to be left in the hands of their opponents. It was their immediate administrative policy to get rid of it, at any rate whilst it was in alien hands. They thought they might fare better if the channel became controlled by Whig Secretaries of State in Whitehall.

Godolphin also seems to have been aware of the importance of the office of secretary. He had his

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1. Ormond. Lord Advocates of Scotland. Edinburgh 1883. Vol.i. p.281. says the office was legally Secretary to the Privy Council which was the post held by Lauderdale under Charles II.
 2. 13 July 1708. Hamilton to Sunderland. Add.MSS.9102.f149-50
 3. 12 Feb. 1708/9. Marchmont to Baillie. Marchmont Papers iii 342; 19 Feb.1708/9. Marchmont to A Cunningham ib.346.

parliamentary difficulties and his dependence on Junto support was apparent after they had helped the government to smother Tory inquisitiveness over the number of effective troops at Almanza. His dependence on the Junto became greater after the removal of Harley in February 1708. But he was by no means wholly committed. He was still trying to use their support without embracing them completely. It was significant that the Junto proper obtained little real benefit from Harley's going. Boyle and Walpole who succeeded Harley and St. John were neither of them extreme Whigs. Furthermore there was an election approaching and it was in Godolphin's interest to put forth his greatest possible effort to increase Court strength to keep his independence of the Junto in the next Parliament. A good solid return of Scottish members in both houses prepared to support the Court as such might make all the difference.

So Godolphin had done all he could to keep the power of the Scottish Court Party and had tried to retain the Privy Council. But he had failed and one great prop of the Scottish ministry had been lost. It was obvious that the Scottish Court Party's influence would be decreased. Another danger seems to have been apparent to Godolphin.¹ The end of the Scottish secretaryship meant that Scottish business, including Scottish warrants, would have to go

1. To judge from his policy.

through the Secretary of State's offices. The danger was that this business might fall into the hands of Sunderland who was not a favourite of Godolphin and was one of the Junto. He had no reason to welcome such a potentially menacing situation - the Squadrone in alliance with the Junto and in possession of an administrative channel of that importance. Scottish interest would naturally turn towards the apparent channel of favour, as the 1708 election showed. The Scottish ministry would have nothing to set against this.

Godolphin seems to have decided to do what he could in Scotland to redeem this situation and prevent Squadrone gains in the elections. He wanted to bolster up the hold of the Court Party on Scotland. Therefore, although changes of about the same time in England had a Whig complexion about them¹ in Scotland Godolphin reorganised the ministry to show favour to the Queensberry group, and attempted to keep the channel of favour in their hands.²

There were some casualties to be provided for. The Scottish Treasury was closed so the Lords of the Treasury were out of their places. Glasgow as Treasurer-Depute had become unemployed. Some lords received pensions. Glasgow, it was understood, was going to be provided for. Until that time came he asked for and was given his old salary.³

1. Montague as Attorney-General, Cholmondeley as Comptroller, Smith as Chancellor of the Exchequer.
2. He was thinking of this as early as March. 29 Mar.1708. Mar to Grange. M & K.MSS.435.
3. 15 April 1708. Glasgow to Mar. M & K.MSS.437.

Seafield became Lord Chief Baron of the new Court of Exchequer, much to the disgust of some, particularly Sir David Dalrymple, who thought he had a claim to it. It was, however, sheer optimism on his part to think he could prevail against Seafield's interest.¹

Queensberry was confirmed in his place as Keeper of the Privy Seal.² Loudon, who had become unemployed with the end of the Scottish secretaryship, became Keeper of the Great Seal in Scotland.³ Mar, the other secretary, was made Keeper of the Signet. In this last appointment there was more than there seemed.⁴

The Signet was always kept by the secretary or secretaries. Since the secretaryship no longer existed a keeper had to be appointed. Mar was given the job. That seemed innocuous enough. Yet it was said later of Mar's commission that "... except the name ... [he] had almost all the power that belonged to the Scottish Secretaries. He in virtue thereof presented and countersigned all sorts of papers which gave some uneasiness to the Barons of the Exchequer...."⁵ Furthermore, Sir David Nairne, who had served as secretary-depute under Mar and Loudon, notoriously disliked by the Squadrone⁶ was appointed Underkeeper of the Signet to act whilst Mar was absent.⁷

1. 25 April 1708. Roxburgh to Baillie. Jerviswood Corresp. 192.

2. 13 May 1708. SP57/27. 160-2.

3. The seal appointed to be kept in Scotland. SP57/27. 154. £2000 p.a. and fees.

4. ib. 156.

5. 7 July 1711. Scrope to Oxford. Harley Papers Corresp. S-So.

6. 10 June 1704. Cromarty to Godolphin. Add. MSS. 39953. f. 37.

7. SP57/27. 159.

This points to one thing. An attempt was being made to retain the channel formerly provided by the Scottish secretaryship under another name. The influence attaching to the old office was to become attached to the Signet by virtue of its new function as a channel of patronage. There seems no other reason for appointing an underkeeper to act in Mar's absence from London, when the seal itself was in the hands of deputies in Edinburgh, apart from the normal secretary's business which was being transacted. Moreover the significance seems to have been recognised in some quarters. There was the dispute when the Court of Session was sending up its address of congratulation ^{ende?} after Ramillies. Annandale - no lover of Queensberry or his adherents - and Lauderdale wanted the address to be sent up to Sunderland to be presented. The reason was that such addresses had always been sent to the secretaries and now there were only two, for Great Britain. Loudon, with a majority of the Court, wanted it to go to Mar, or Nairne if Mar were absent. Hamilton wrote bitterly of this: "So it seems we shall still have secretaries incognito or that we must have nothing to go out of the Road of that Channel."¹

1. 13 July 1708. Hamilton to Sunderland. Add.MSS.9102. f.149-50. Scottish correspondence, however, was handled by Boyle and Sunderland whilst Mar was in Scotland. 6 July 1708. Nairne to Mar. M & K.MSS. 459-60.

The fundamental fact in dealing with Scotland had been realised by Godolphin. It was necessary to show quite clearly which party had royal favour. By that means Scotland could be governed and influenced. The will of the sovereign or the English ministry signified by her Scottish Secretary to the Privy Council had been clear enough. Things were not so easy since the abolition of the Council. Apart from giving offices to the right people there had to be some recognisable channel for Scottish business and it had to be in the right hands. So Godolphin did what he could on the eve of the election to support the Court party by his device of the Signet. He was criticised by the Scottish Court for not having given them enough support. But he was clearly supporting the Scottish ministry in the election.¹ Had he not reorganised the ministry on the lines he did they would have suffered more from the activities of Sunderland which, as it was, created doubt about the real will of the Queen. But Sunderland only had the success he did because of the accident of the "attempted invasion" of 1708 which gave him unlooked for support. Otherwise Godolphin's measures would have been adequate.

1. 7 May 1708. Godolphin to Mar. M & K.MSS. 439.

8. THE SQUADRONE'S BID FOR POWER.

So the Squadrone and the Whigs succeeded in their first attack on the entrenched position of the Scottish ministry. The days of the Scottish Privy Council were numbered. The defeated consoled themselves by brooding on the disasters which could spring from the lessening of executive power. Then the invasion scare of March 1708 seemed about to justify all their prognostications. It also brought about a situation in which the power of the Ministry could be seriously threatened.

The invasion, incredibly, caught the government on the wrong foot, the garrison of Scotland dismally below strength and the castles without stores. With this realisation some concern was understandable. Rapid, and possibly panic, security measures were set afoot. Stanhope's bill for reducing the dependence of the clans upon their chiefs was tackled by the Commons in a hurry.¹ Justices were ordered to tender the oaths to suspected persons.² A swift round up was made of Scottish nobles and gentry known or suspected to be disaffected.³ Men like the Marquis of Huntley, the Earl of Seaforth and the Earl of Breadalbane were either imprisoned or confined to their own houses. The most seriously involved were five lairds of Stirlingshire who had been caught prematurely riding about with parties of armed men. None of this

1. 16 March 1707/8. Addison to Manchester. Manchester MSS.

2. 21 March 1708. PC2/82. 23.

3. 8 March 1708. ib.12. Warrant to Leven for taking them up.

was to be wondered at. The trouble began with the next step.

In what seemed to be a mistaken excess of zeal an order was sent to Leven to send up some of the Scottish prisoners to London.¹ The Cabinet advised sending them to London because after the dissolution of the Privy Council there was no body in Scotland of sufficient authority to examine them.² This order aroused bitterness and resentment amongst the Scots. Some felt that, notwithstanding what they might have done given the chance, they were still uncompromised at the time of their arrest. But a good deal of anger was felt at taking the prisoners to London when all that was necessary could have been done in Scotland. The blame had to be put somewhere and opponents of the Scottish Ministry were quick to place it on their shoulders. Some plausible reasons were given.³ Only Scotsmen could have known the names of prisoners in detail. The Ministry was getting rid of its election opponents. Such were the reasons given. But certainly the Court group was not responsible⁴. Some of the

1. 15 April 1708. ib.53. The warrant was signed: Canterbury, Sunderland, Cowper, Newcastle, Queensberry, Montrose, Seafield, Mar and Loudon. The warrant was to send up all the prisoners save Fletcher of Saltoun but some others e.g. Aberdeen, Bute, Balmerino and Athol were not sent up. Sunderland made use of the situation which arose but he is not likely to have planned the whole scheme from the start.
2. 16 April 1708. Mar to James Erskine. M & K MSS.437-8.
3. Lockhart:i.293; 15 June 1708. Nairne to Mar. M & K MSS. 448.
4. This is clear from: 14 June 1708. Mar to Queen. M & K MSS. 445; 13 Jan.1708/9. Mar to James Erskine.ib.479.

responsibility seems to have rested with Sunderland.¹ Later he did not deny it but at the time he was equivocal on the subject, giving the impression he knew nothing about it.²

The first prisoner to arrive in London was the Duke of Hamilton. He seems to have had a reasonably open mind on the subject of whom to blame for his imprisonment. His immediate aim was to gain his liberty and there lay the germ of the Squadrone scheme.

Hamilton asked the Court for bail at once. This was more than Mar and Queensberry felt able to do straight away for fear of being branded as Jacobites by the Whigs. So Hamilton approached the Junto by way of his brother, the Earl of Orkney, going to see Roxburgh. It was a question of pure expediency as far as the duke was concerned. If the Whigs would give him what he wanted he would join them - if not he would go along with the Court.³ Somers was approached and he spoke to the other Whigs. Their difficulty was the same as the Court's but they showed themselves more flexible in dealing with it. Hamilton was to apply for bail and they were to connive at it but not appear openly in it to avoid all ill odour that might otherwise be created. The whole idea was suddenly clear

1. 13 Jan. 1708/9. Mar to Erskine. M & K MSS. 479.

2. 15 July 1708. Mar to Leven. M & K MSS. 460.

3. 25 April 1708. Roxburgh to Baillie. Jerviswood Corresp. 192.

in Roxburgh's mind. On the 25th of April he had been despondent but by the 27th he saw the staggering possibility of an alliance between the Squadrone and the Jacobites to overthrow the Queensberry clique.¹

It was an unsavoury alliance from any angle save that of pure expediency.² All that can be said for Hamilton was that he really believed the Court was responsible for ordering the prisoners to London³. He had other motives and the most powerful of these was his jealousy of Queensberry which was usually a stable factor in determining Hamilton's alignment. He wrote a letter to Sunderland which reeks of jealousy and he said that he could never get on with Queensberry "and he created a peer of Great Britain first, where my family is elective"⁴ Hamilton himself had "some uneasiness to go thro'" he said but still went on with it.⁵ Marlborough was incredulous⁶.
 X The Duke of Athol, himself in confinement, expressed no surprise at Hamilton joining the Squadrone, since, he

1. 27 April 1708. Roxburgh to Baillie. Jerviswood Corresp.192
2. "I will assist the Squadrone and that it is (sic) principally for their friends' sakes the Whigs above," he wrote later to Sunderland. 19 May 1708. Hamilton to Sunderland. P.C.D.M.ii. 260-263.
3. Hamilton does not seem to have thought the Whigs responsible, at least. 8 May 1708. Hamilton to Sunderland. P.C.D.M.ii.256-260; Lockhart thought that both Court and Whigs shared the blame for different reasons. Memoirs. i. 293.
4. 19 May 1708. Hamilton to Sunderland.P.C.D.M.ii.260-263.
5. 19 June 1708. Hamilton to Sunderland. Add.MSS.9102.f61-3.
6. 31 May N.S.1708. Marlborough to Sarah. P.C.D.M.i. 125.

said, "his politicks have been most unaccountable for some years"¹

For the Squadrone the alliance meant the chance to overthrow an opposing clique and get in power thereby securing themselves against any possibility of a Jacobite coup - an ever-present fear amongst the Scottish Whigs. The Junto were anxious to secure sixteen peers from Scotland who would cooperate with them in the Lords.² But it was Hamilton's shift which created the big effect in Scotland together with the doubt created by Sunderland about where favour was likely to be.

In Scotland, Court preparations for the election had been quietly going on in spite of the invasion scare and the imprisonments. Glasgow urged the release of some of the Tories on bail to retain their support.³ Mar asked Cromarty to remain free of engagements until the Court had organised its list.⁴ The Squadrone representatives in Scotland, Haddington, Rothes and Montrose, began to put about the story of the Court's responsibility for taking up the prisoners to London but little attention was paid to them.⁵ Glasgow still represented the Cavaliers as to a man for the Court.⁶ The Court countered the

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1. 2 June 1708. Athol to Mar. M & K.MSS.443.
 2. 1 June 1708. Montrose to Townshend. Add.MSS.9102. f.5.
 3. Particularly Aberdeen, Bute, Balmerino and Dugald Stuart. 15 April 1708. Glasgow to Mar. M & K MSS.437; 17 April 1708. Glasgow to Mar. ib.438.
 4. 20 April 1708. Cromarty Corresp. ii. 63.
 5. 1 May 1708. Glasgow to Mar. M & K.MSS.438.
 6. *ibid.*

Squadrone story by blaming them and the Whigs in their turn.¹

But Hamilton's move created a big effect and scared the Earl of Mar who had been sent orders cancelling the sending up of the later groups of prisoners. The new orders were not acted upon and Hamilton, going post up to Scotland, met all the prisoners on their way to London and left them indignant against the Court. Most of the prisoners concerned applied to the Junto for release, as instructed by Hamilton.² They then went straight back to Scotland to vote against the Court, although some, for instance, Marischall and Kilsyth, had already given proxies for the Court list to the Earl of Leven before starting out. In Edinburgh, Hamilton and the Squadrone used the same tactics but with less success. They began to realise the difficulty of breaking into the administration from outside. They complained bitterly of irregularities and threats on the part of Leven and others of Queensberry's friends.³ Queensberry, they said, had only had those sent to London who were likely to oppose him.⁴ But the Squadrone alliance had opposing them the Court

in general, the Queen, Marlborough and Godolphin. Hamilton

1. 8 May 1708. Hamilton to Sunderland.P.C.D.M.ii.256-260.
2. Lord Nairne was the exception.
3. 1 June 1708. Montrose to Sunderland. Add.MSS.9102.ff.3-4;
27 May 1708. Hamilton to Sunderland.P.C.DM.ii.271.
Other allegations of threats by the Court: 1 June 1708.
Marchmont to Sunderland(?) Add.MSS.9102. f.10.
4. 22 May 1708. Hamilton to Sunderland. P.C.D.M.ii.265-268.
This is untrue since Marischall and Kilsyth e.g. were for him before they were sent down.

complained: "Mar and Loudon are both here and very busy: they have great advantages, for all the smiles and power is lodged with them and Seafield. So that it is very hard to make bricks without straw."¹ Montrose, Orkney and Hamilton pressed Sunderland urgently to do something to show that they had some share of favour: to dismiss the Lord Register, Queensberry's "minion," or to get the release of some lords confined in Scotland.² But Marlborough had sent his proxy to Mar which created a stir since it seemed to show the inclinations of the English Court and Sunderland could produce nothing comparable.³ There were rumours of a letter he was supposed to have written to Roxburgh saying that a Whig parliament would enquire into irregularities.⁴ It was said that Sunderland had used the Queen's name which he denied and Hamilton on his behalf.⁵ But Mar said that Dalhousie had changed sides on the strength of a letter from Sunderland to the effect that the Queen favoured the Junto.⁶ Certainly that idea had been put about. If it had not been for the doubt about the Queen's real leanings thus caused

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1. Hamilton to Sunderland. 12 June 1708 and 27 May 1708. Add.MSS.9102.f.42. P.C.D.M.ii.271.
 2. Orkney to Sunderland. 21 May 1708. P.C.D.M.ii.263; Hamilton to Sunderland. 22 May 1708. ib.265-268; Montrose to Sunderland. 1 June 1708. Add.MSS.9102. ff.3-4; Hamilton to Sunderland. 1 June 1708. ib. ff.8-9.
 3. 31 May 1708. Marlborough to Mar. M & K MSS.442. He reserved votes for Stair and Orkney.
 4. June 1708. M & K.MSS. 448.
 5. 24 June 1708. Hamilton to Sunderland. Add.MSS.9102.f.85; 25 June 1708. ib. f.86.
 6. 14 June 1708. M & K. MSS. 445.

the Squadrone and Hamilton would have had less success. The effect of the prisoner episode had lessened since the Court circulated the contrary report with vigour.¹ But the knowledge that at least one of the Queen's ministers, Sunderland, was backing the Squadrone, induced some to take a chance and vote for them since the tide seemed to be running that way. This accounted for some of the peers, especially when it was put about that a Whig majority in Parliament would carry election petitions.²

Eglinton seems to have changed sides at the last moment in panic to keep on what he thought was going to be the right side.³ Others changed for reasons of pique or personal ambition.⁴ Crawford changed as a mysterious personal tactic based on a shrewd calculation of voting strength - not because he supported the Squadrone but to get himself elected since he would get more scattered votes from the Court group in the Squadrone's list than he would have done from the Squadrone in the Court list.⁵ In addition the Squadrone obtained most of the proxies of the peers living in England who were entitled to vote and the army peers in general because they thought they were doing acceptable service.⁶

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1. 22 May 1708. Hamilton to Sunderland. P.C.D.M. ii. 265-268.
 2. 20 June 1708. Seafield to Godolphin. Laing MSS. ii. 147.
 3. 21 June 1708. Mar to Nairne. M & K. MSS. 452.
 4. Glencairn, Forfar and Buchan joined the Squadrone because they found room for them in their list. *ib.*
 5. He "jockeyed himself in." *ib.*
 6. 20 June 1708. Seafield to Godolphin. Laing MSS. ii. 147;
18 June 1708. Mar to Marlborough. Add. MSS. 9102. f. 56.

The Squadrone list was designed to attract maximum support. The Court list was for the most part purely Court men. There were some concessions to outside interests. Morton was put in because he had parliamentary ambitions and could not be decently left out when the opportunity cropped up owing to Crawford's changing sides. Balmerino was in to placate such Tories as were favourably inclined.

Those solidly supporting the Squadrone were those in the list together with Hamilton's brothers, Selkirk and Ruglen. The Squadrone peers not in the list voted for it and also a section of the Tories, like the ex-prisoners. On both sides there were some who voted for an isolated member of the other list presumably because of personal connection. Others divided their votes equally either because of an independent spirit or to keep a leg in each camp.¹

The result was hailed as a triumph by some of both sides. The Court was relieved to find that ten of their list were of the sixteen² and that Crawford and Orkney were expected to cooperate with them.³ Hamilton claimed, correctly, that six of their list had been chosen⁴ and, not so correctly, that they would infallibly carry three or four more on protest.⁵ For the rest he showed a mixture

1. N.L.S. MSS. 1026. ff.13-14.

2. Mar, Seafield, Loudon, Leven, Wemyss, Rosebery, Northesk, Islay, Glasgow and Lothian.

3. 30 June 1708. Seafield to Godolphin. Laing MSS.ii. 147.

4. Montrose, Roxburgh, Rothes and Hamilton with Crawford and Orkney.

5. 19 June 1708. Hamilton to Sunderland. Add.MSS.9102. ff.61-3.

of apprehension and confidence. He had some doubts when he considered that the ministry was still in control of the administration. He felt it necessary to ask Sunderland to protect placemen who had voted against the ministry and had been threatened.¹ But at the same time he recommended people for consideration who had supported them in spite of the Court's blandishments or threats.²

Likewise a good deal of energy had been put into the Commons' elections. There were the usual charges and counter-charges of malpractice. There was talk of intimidation by Leven to get Court men elected.³ All the usual tactics appeared. Unqualified voters were allowed to poll.⁴ The sheriff of Ross-shire fixed the date of the poll to let his candidates' supporters qualify themselves.⁵ The Earl of Linlithgow as sheriff of Stirlingshire made a double return rather than see his man defeated.⁶ In Lanarkshire there was a Court attempt to create several new barons from the dragoons of Lord Carmichael's regiment.⁷

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1. One at least was punished. Buchan lost Blackness Castle. 19 Feb. 1710/11. Defoe to Harley. Port. iv. 660.
 2. e.g. Annandale who had brought over Eglinton, Galloway and Crawford; Oliphant, Lindores and others who had remained with them although in poor circumstances and sorely tempted. 19 June 1708. Hamilton to Sunderland. Add. MSS. 9102. ff. 61-3.
 3. 1 June 1708. Add. MSS. 9102. ff. 3-4.
 4. Roxburgh petition. 17 Nov. 1709. C.J. XVI. 213.
 5. Ross-shire petition. 16 Nov. 1709. ib. 212.
 6. 2 July 1708. Montrose to Sunderland. Add. MSS. 9102. f. 108-9.
 7. 12 June 1708. Add. MSS. 9102. f. 42.

x But, when all the dust was settled, there was doubt about the result. Both sides were anxious to claim as many members as possible. The Court knew that some elections had gone against them. The Squadrone had high hopes. Annandale was so pleased with his son's victory over Queensberry's candidate in Dumfries-shire that he believed the whole election had taken the same colour.¹ It needed the beginning of the session to show how they were going to divide. Members prepared to follow the lead of some peer could be accounted for. So could the committed members of the Squadrone. But those who were just of "Revolution principle" and were not immediately dependent on the Court could not at once be pinned down. Robert Roger, for instance, the provost of Glasgow, was a Revolution Whig who was prepared to act in Montrose's interest.² Much would depend on which way Godolphin went. Men like Alexander Grant, member for the shire of Inverness, with the Chancellor of the Exchequer for a father-in-law, would support the English Court, but that need not be in the interests of the Queensberry group.

But after the petitions had been decided and the eldest sons of peers disqualified from sitting³ the work

1. July 1708. Annandale to Sunderland(?) Annandale Bk.ii.238.
2. June 1708. Add.MSS.9102. f.73.
3. Four were involved: Haddo, Johnston, Strathnaver and Sinclair. 3 Dec.1708. C.J.XVI; this matter had been deliberately left vague in the Scottish Parliament because the peers wanted their eldest sons to be eligible but they could not carry it there, so Seafield managed to leave it open. 28 Jan.1707. Marchmont iii. 444.

of the session grouped the members. By June 1709 it could be estimated that twenty seven belonged to the Queensberry and Seafield group supported by Argyll, whilst nine belonged to the Squadrone and another nine were Jacobites of one complexion or another.¹

However, all claims notwithstanding, the election was finished. The Court had not carried its full list and there were signs that the Court group were prepared to count their blessings and within limits show no resentments. Mar, for instance, asked that Lord Dunmore and his sons should be gratified because he had been of use to the Court during the elections. Yet Dunmore had not voted solidly for the Court list in the elections.² Both sides began to look to the future. For the Court it was vital to hold the election result as it was and to show no further weakening.³ Everyone was aware of the importance of that. The Squadrone's hopes lay in election petitions. There was a good deal of talk in Squadrone circles about having the hearts of the people⁴ and about a people sunk in slavery ready for liberation. "Free us from the fetters of a subaltern ministry, we'll soon know how to value our liberty," wrote Montrose to Sunderland.⁵ It was important that the Ministry

1. 18 June 1709. Add.MSS.28055. ff.424-430. It is difficult to identify more than 4 or 5 Squadrone men so probably others were acting in concert with them and were counted. Likewise the Jacobites.
2. 23 June 1708. Mar to Godolphin. N.L.S.MSS.3112. f.7.
3. 20 June 1708. Seafield to Godolphin. Laing MSS.ii.147.
4. 19 June 1708. Hamilton to Sunderland.Add.MSS.9102.ff.61-3.
5. 22 June 1708. Add.MSS.9102. ff.72-3.

should not seem to be supported and the advantage could be improved.¹ Put in plain terms this meant that if the English ministry backed the Whig combination it would be accepted in Scotland - a fact which everyone knew already. But this meant that the election petitions would have to be carried in the Lords, first of all. At the same time all signs of favour would have to be withdrawn from the Queensberry group - presumably as a prelude to dismissal when the tide had run far enough. This aspect of the situation was soon put to the test.

Murray of Philiphaugh, the Lord Register and a strong Queensberry man, was dying. As soon as this became known the appointment of his successor was a key matter. Two posts were involved, the Lord Register's place and the vacant judgeship in the Session. Representations began even before he was dead. Hamilton impressed upon Sunderland the importance of keeping the place open until he and his new friends could be heard. Godolphin might listen to him in view of the Whigs' new strength.² Montrose urged the claims of Sir John Erskine, a good Squadrone man, for the place in the Session.³ They were

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1. 2 July 1708. Montrose to Sunderland. *ib.* ff.108-9.
 2. Hamilton to Sunderland. 21 June 1708. Add.MSS.9102. f.67; 5 July 1708. *ib.* f.114; 20 July 1708. *ib.* f.142.
 3. 2 July 1708. Montrose to Sunderland. Add. MSS. 9102. ff.108-109.

in fact asking Sunderland to back the claims of his Scottish allies with all the pressure open to the Whigs and so bring down the Scottish ministry. At the same time the Court Party were putting forward to Godolphin the claims of Glasgow, who had lost his place when the Scottish Treasury ceased to exist.¹ A good deal therefore was at stake.

But opinions at London would have suited neither party. There was, of course, no doubt about the Queen. She wrote to Mar of ".... the ill-treatment I have had from people heare, which I do ressent exstreamly, and will shew it openly as soon as the uneasyness of my affairs hear will give me leave, for you may easily emagin I can never have a tolerable oppinion of those that have behaved themselves in such an exstraordinary manner to me."² But Godolphin had been sitting on the fence, to some extent, being uncertain of what was going to happen. Hamilton had complained of lack of support but for some-one storming the administration that was to be expected. But the Court party had complained that they had not been supported as they had a right to expect.³ They had had the advantages of their offices and entrenchments in the administration but nothing more. They were,

1. Glasgow to Godolphin. Undated. Add.MSS.28055. f.422.

2. 24 June 1708. M & K MSS. 453.

3. 18 June 1708. Mar to Marlborough. Add.MSS. 9102. f.56.

X in fact, being unfair to Godolphin who had provided them with the entrenchments and kept them in their hands. Moreover they had used them to good effect when they could ensure that the clerks of the election did not give official extracts of the minutes to the opposition.¹ When the election was over Godolphin was prepared to commiserate in private with the Scottish ministers, making it plain they could expect nothing to be done about it.² Apart from that he seemed relieved that matters were no worse. He was inclined to minimise the harm that had been done and thought the choice "a very good one."³ To Marlborough he wrote in the strain of a man who has heard enough about Scottish elections to last him for a long time to come.⁴ Marlborough himself was concerned only with expediency. Whatever had happened in Scotland and whatever Sunderland had done, he told the Queen, she must not show resentment. She had to depend upon the Whigs for support in carrying on the war. The Tories could be of no help and she should banish all such ideas from her head. Some people had made use of the Scottish business to harm Sunderland's reputation. She could not afford to take notice⁵. There were ways in which Marlborough was right but the Queen bided her time and hoped.

1. See e.g. 22 June 1708. Montrose to Sunderland. Add.MSS. 9102 ff.72-3; 26 June 1708. Hamilton to Sunderland. ib. f.93.
2. 29 June 1708. Loudon to Mar. M & K. MSS. 455.
3. 26 June 1708. Godolphin to Mar. M & K. MSS. 454.
4. 18/29 June 1708. Add.MSS. 9102 f.101-2.
5. 13 July N.S. 1708. Add.MSS.9092. ff.105-6. Marlborough to Queen.

For the time being the Squadrone had not gained much. They had three of their peers amongst the sixteen but they were not strong enough by themselves to get more influence in Scotland. They had only gained as much as they had because of Hamilton's alliance, because of Queensberry's unpopularity with some and because an impending change of royal favour had been scented. But they could not achieve power that way. Queensberry's group and Seafield were still in office and whilst they continued there the majority of peers were unwilling to gamble on any change. The lead had to come from above. And for the Squadrone that meant Whig influence must predominate in the ministry. For Hamilton things were not so bad. He was in the Lords. And whereas the Squadrone were now committed to a Whig alliance he would climb on to anyone's waggon if it suited his purpose. He did so later.

The first matter to be settled was the place of Lord Register. The Court party had not been solidly at one in this. Seafield differed from the Queensberry group. Queensberry was concerned with his own interest and the post for Glasgow would show he was still 'in' despite the Squadrone's efforts. Seafield was more concerned with Godolphin's point of view. He advised that the Register's place should be kept open until it was seen how things were to be arranged in the new

Parliament. Later he advised that an agreement with the Whigs should be arranged before Parliament or else a party concerted independent of them. In this Godolphin could rely on Seafield and his friends. There spoke the essential Seafield - in his own mind above Scottish faction as Godolphin's lieutenant.¹ But Godolphin had decided that Scotland must be seen to be in the same hands as before. He must have thought that some definite sign might have an effect on the waverers. Shortly after the election Glasgow was made Lord Register.² However, Godolphin declined to increase the customary salary of £444. 16. 8d to compensate for the loss of fees since the end of the Scottish Parliament. He thought it would create too much stir. It seems that Godolphin was prepared to exercise the Queen's right to bestow the office where she chose but not to risk criticism by doing something which could be argued about. The post of Murray in the Session remained vacant for some time and was then given to Seafield's nominee.³

During the time of waiting for the opening of the new Parliament the opposition kept their anger sharp. Annandale was much concerned to keep interest in the

1. 5 July 1708. Seafield to Godolphin. Laing ii.148; 5 Aug. 1708. Add.MSS. f.416.

2. 12 July 1708. Mar to Leven. Melville & Leven MSS.ii.224.

3. Sir Francis Grant of Cullen. Brunton & Haig. 488-500.

election petitions high.¹ The Junto and the Squadrone were planning the petitions to be a full scale defeat for the Court.² Somers thought some of the protests were valid but thought they all should be pressed whether they were or not.³ There were in fact considerable objections to some votes and merely technical objections to others. Some proxies, for instance, had not been made out in legal form. Forrester and Dundonald had voted and were correctly alleged to be minors. Peers lodged in Edinburgh Castle during the emergency had qualified before the sheriff of Lothian but it was said that this was not legal as the Castle was outside his jurisdiction. The Lords decided that they were qualified.⁴ Feeling was aroused by Queensberry having voted as a Scottish peer, when he sat in his own right as Duke of Dover. The objection was chiefly one of personalities since other peers of Scotland who were also peers of Great Britain remained unchallenged. Finally 11 out of the 16 official petitions were upheld.⁵ The consequent change in the counting of votes unseated Lothian in favour of Annandale.⁶ This was far short of what the Squadrone and their allies

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1. 15 July 1708. To Marchmont. Annandale Book ii. 240.
 2. 18 July 1708. Roxburgh to Baillie. Jerviswood Corresp. 193.
 3. 20 July 1708. R. Pringle to Marchmont. Marchmont Corresp. iii. 331.
 4. Burnet v. 399.
 5. only one of the Court's.
 6. 6 Feb. 1709. N.L.S. 1026. f.61.

had hoped for. But for the Court the victory was symbolic more than anything else, in view of the state of the parties at Westminster.

The meeting of Parliament showed a preponderance of Whigs - a total of 299 according to one estimate of the time.¹ It became clear that support for the war would be forthcoming but that the ministry was expected to pay the price in rewarding the Junto.

The Junto had not found Godolphin as amenable as they expected after the elections.² Godolphin might have been hoping for a chance to play his old game of riding two horses - or at any rate staving off the moment of deciding which one he should cling to. But with the opening of the session the Junto opened a campaign to get Somers and Wharton into office, despite the Queen's opposition. If their demand were not granted they threatened to attack the administration of the Admiralty and Prince George personally. They threatened to oppose the Court nominee for Speaker. In the face of this Godolphin had to give in. He found it easier than he might have done because the death of Prince George destroyed for some time the Queen's interest in public affairs. Pembroke became Lord High Admiral in place of Prince George. Marlborough was prevailed upon to order his

1. 22 June 1708. Sir John Cope to Sir Andrew Hume. Marchmont Corresp. G.R.H.
2. 18 July 1708. Roxburgh to Baillie. Jerviswood Corresp. 193.

brother to resign from the Admiralty. Wharton then succeeded to Pembroke's place as Lord Lieutenant of Ireland whilst Somers became Lord President. This was the price of Junto support for Sir Richard Onslow, the Court's candidate for Speaker.

Throughout the rest of this Parliament, Godolphin was faced with constant Junto pressure for more places and promotions. Part of this pressure was for changes in Scotland. The Squadrone had come up with their own ideas for changing the administration of Scotland. They were hoping to carry them with Whig assistance. For one thing they had some sweeping scheme for decentralising the Courts of Session and Justice.¹ Ross was reported to have begun an unofficial inquiry into the faults of the Justice Court with the purpose of preparing ammunition for an attack.² They were also credited with planning a change in the judges to pack the new courts with their men. This reform of the courts was seemingly a project close to Roxburgh's heart but it remained a phantasy because the difficulties would have been too great - the Treason Bill itself created a great enough stir without any further change being proposed. Even the Squadrone opposed that. In the state of opinion they

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1. 18 July 1708. Roxburgh to Baillie. Jerviswood Corresp. 193; 7 Dec. 1708. Grange to Mar. M & K MSS. 477-8.
 2. 4 Oct. 1708. Cromarty to Mar. Cromarty Corresp. ii.68.
 3. 7 Dec. 1708. Mar to Grange. M & K. MSS. 477-8.

could do nothing else. What the purpose of their proposed changes was is not clear. Possibly decentralisation was an attempt to provide some answer to the problem of how to fill the place of the Privy Council.

There was another matter the Squadrone were concerned about. They had always shown hostility to an administrative channel between England and Scotland, in the hands of their enemies. This had been the case with the old Scottish Secretaryship. Although on the face of things this had been abolished yet Godolphin had preserved the channel by Mar's commission as Keeper of the Signet. This might have been meant as a temporary arrangement to last for the critical election period, but on the other hand a good deal of consideration must have gone into it so it might at one time have been meant to last. But there was always a strong case for the appointment of a secretary in name to handle Scottish business, particularly during a war, when the pressure of administration was great. There was enough to do in connection with Scotland to justify the creation of such an office, so much so that it became burdensome when attempts were made to do without it. But perhaps more important than this was the fact that Scotland expected such an appointment and regarded it as a national right - one of their traditional offices.¹ The problem was how

1. 31 Oct. 1709. Marchmont to R. Pringle. Marchmont Papers, iii, 357.

such an office would be created. Talk of a third secretaryship had been in the air since the Union. Now, with or without Squadrone inspiration it became known that instead of creating a separate Scottish Secretaryship the Queen intended to appoint a third secretary of state for Great Britain. Some Squadrone opinion favoured this as a step towards complete Union.¹ Furthermore the Junto had declared their ability to get the post for Montrose which made the appointment a welcome one.² To discredit Queensberry they had exerted themselves against him in the Lords' vote on whether he could vote in the peers' elections and had defeated the government by 7.³

Godolphin, however, was still for keeping the Court interest dominant in Scotland. He still had no great love for the Junto or their allies and he did not want the Scottish Court interest broken up any further. The Court decided on Queensberry. Rumours of this began to leak towards the end of 1708.⁴ Hamilton was at a loss to understand it. The Whigs were predominant in Parliament. They were still allied with the Squadrone. Yet here was the arch-enemy being confirmed in power. Montrose was annoyed with the Junto.⁵

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1. 12 Feb.1708/9. Marchmont to Baillie. Marchmont Papers.iii. 342; 19 Feb.1708/9. Marchmont to Alex.Cunningham.ib.346.
 2. 21 Jan.1708/9. P.Wentworth to Lord Raby. Went.Papers.71-2.
 3. 25 Jan. 1708/9. ib. 72-3.
 4. 21 Dec.1708. Hamilton to Selkirk. N.L.S.1032. f.72-4.
 5. 21 Jan.1708/9. P.Wentworth to Lord Raby. Went.Papers.71-2.

There was a delay after the leakage of this decision before the official announcements. When the full scheme became known it was clear that Godolphin had had to do something to placate Montrose and the Junto. Possibly time had been spent in bargaining. Queensberry was made a full Third Secretary of State to deal with business equally with the others although foreign affairs were to remain untouched. Montrose was made Keeper of the Privy Seal of Scotland. Roxburgh was to be brought into the Privy Council. That seemed the end of the ministerial reshuffle but the Queen was adding Argyll to the Privy Council just to show she could still have some effect. So Montrose was given a place but Queensberry got the influence. The casualty was Mar who lost his job but was given £3000 a year to compensate him.¹

All the Squadrone did not take this in the philosophical and high-minded fashion of Marchmont who thought it was something to have the principle of the third secretaryship recognised without being concerned over persons.² Baillie did not appear to have been quite so easy in mind. Nor was it long before Marchmont was seeing the darker side of the appointment. By the end of the year he was convinced that the change had been

1. 3 Feb. 1708/9. Mar to Grange. M & K. MSS. 480.

2. 12 Feb. 1708/9. Marchmont to Baillie. Marchmont Papers iii. 342.

made to benefit the Queensberry interest rather than in the interest of closer union.¹ He was probably right. Godolphin wanted to preserve the Queensberry interest but in the way which would occasion least criticism.

Meanwhile in the Commons the Scottish Members were settling down in their pattern of behaviour. The majority voted as Court men - including the Squadrone - except the few who went with the Tories. Again, with the exception of the Tories they could be relied upon to vote solidly against the high flying interest in religious matters. But any threat to what was thought to be Scottish interest united them at once, regardless of English cross-currents. There was, of course, always an odd member unwilling to offend some English interest, but the rest could give concern to the ministry. The first occasion on which national feeling was put before Court interest was the solid vote of Scottish members against Sir Henry Dutton Colt in the Westminster election petition. He was a Court man for whom the Scots had had a rod in pickle since he had spoken slightingly of Scotland in the House some time before.² As a result he lost his place in the House and Thomas Medlicott sat in his stead.³

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1. 31 Oct. 1709. Marchmont to Pringle. Marchmont iii. 357.
 2. Sir Gilbert Elliot was the only one who did not vote against him.
 3. Lockhart i. 297.

The second occasion was that of the Treason Bill. This question arose out of the trial for treason of the five Stirlingshire lairds who had shown indiscretion during the invasion attempt of 1708. In spite of all the urgings of the ministry the Lord Advocate had failed to secure a verdict against them because of not observing a legal technicality. As a result of this the main evidence for the Crown was not allowed and the men were acquitted. This focussed attention on Scottish law in the matter. It seemed the law of Scotland was not precise in the matter. Both the Lord Advocate and the judges had rushed into print to justify themselves against each other. The result was that some in England had a mind to change the laws against treason in Scotland.¹ The matter was brought up in the Commons and considered by a committee of the whole House.² They resolved that the laws relating to treason should be the same throughout the United Kingdom.³ But the Scottish members were so opposed to this that the Commons let the matter drop. It was the Lords who took up the matter and put through a bill with a two-fold effect. It made both law and legal procedure uniform in both parts of the United Kingdom. And trial was to take place not before the Court of Justiciary but before a commission of oyer and

1. Burnet. v. 402-9.

2. 28 Jan. 1708/9. C.J. XVI. 74.

3. 29 Jan. 1708/9. ib.

terminer and the verdict was to be found by a jury and not by the judges.

It was opposed by all the Scottish lords but all they could do was to get the inclusion of a Lord of Justiciary in the quorum of every commission of oyer and terminer appointed in such cases.¹ The Scots in the Commons also solidly opposed - even the Squadrone, although they should in principle have approved the bill. Marchmont, who was not at Westminster and could afford to pass academic judgement, was in favour of the bill which, in his opinion, would make trials safer in Scotland. Furthermore it drew both nations closer together in uniformity.² But there was a limit to what a Scotsman could proposed or support at Westminster. The Scottish members suspected that Scottish opinion would be against it and therefore they would lose all interest if they did not oppose it.³ Also it is worth noting that, although the Squadrone should logically have been in agreement with the principle of the bill, as Marchmont was, they had nothing in the way of interest to gain by it and therefore nothing worth the risk. The bill went through, however, amended by the Commons to restrict forfeiture on attainder to the lifetime of the person attainted⁴.

1. Burnet v. 402-9.

2. 19 July 1709. Marchmont to Somers. Marchmont Papers iii. 354; 31 Oct. 1709. ib.

3. Burnet v. 402-9.

4. 8 April 1709. C.J.XVI. 193.

The Lords invalidated this by postponing its effect till the death of the Pretender.¹

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The Scots were not always successful in maintaining their own special interests, particularly in matters of such interest as the Treason Bill. But particular Scottish sections were developing very early a lobbying technique to achieve their aims at Westminster. For instance the Convention of the Royal Burghs had from the first maintained contact with such members as they felt represented their interests - that is such burgh members as Sir Patrick Johnstone, Lord Provost and member for Edinburgh.² It was first used successfully in the matter of drawbacks. Under the Union agreement Scottish merchants had become entitled to the same drawbacks on export as the English. The Customs, in spite of this, had refused to pay on the export of salted meat and fish. The merchants appealed to the Treasury without getting any redress and finally sought a parliamentary remedy. Petitions were sent up to the Commons, by means of an agent appointed by the Convention - in this transaction one Gilbert Stuart, merchant, of Edinburgh. He was to inform the burgh members of their case and do everything to promote redress. Expenses were to be paid by the

1. Burnet. v. 402-9.

2. 9 Oct. 1707. R.C.R.B. 1677-1711. 425; 26 Nov. 1707. ib. 432 and 433.

merchants who would benefit.¹ An act was accordingly put through settling the question of drawbacks to the satisfaction of the Scots: it established their right to them. Stuart and others, like William Cochran of Kilmarnock, who had helped, shared between them £2780. 8. ld. for charges in obtaining the act.²

x ^u The Convention maintained its close liason with the burgh members and others well-disposed. In 1709 Sir Samuel Maclellan, representing Edinburgh, was granted £100 to promote the burghs' interests when he was in London.³ The large number of Scottish burgh petitions against a monopoly of trade being given to the Royal African Company indicates Convention organisation. Later, over the matter of the burghs' handling of the Land Tax assessment and the commercial terms to be made with France, the Royal Burghs exercised themselves. In 1713 they had an agent, one Smollett, acting for them in London with the help of William Hamilton who seems to have been very zealous. Instructions were sent to them about the tactics to be adopted by their friends in the Commons.⁴

1. 4 Dec. 1708. R.C.R.B. 1677-1711. 475.

2. Cobbett. vi. 1110. 17 Mar. 1711/2.

3. 12 July 1709. R.C.R.B. 1677-1711. 487.

4. 3 Mar. 1713. Committee of Convention to William Hamilton. R.C.R.B. 1711-1738. p.88-90. Commercial interests also seem to have indulged in electioneering. "Advice to the Electors of Scotland" in the British Museum.

It is noteworthy that neither Smollett nor Hamilton were members. The operation was being conducted from outside. Hamilton does not seem to have been well recompensed; he was given £25 a year for his trouble.¹ The Committee were careful to wait on the members when they were in Edinburgh to thank them for their efforts in their interests² and they were kept briefed when they were in Westminster.³

It is obvious that these methods were thought to be the best for they were copied. The creditors of the Equivalent used the like methods in their agitation.⁴

x But, on the whole, the Scots at Westminster were only formidable when united on some topic. Otherwise they were useful as additional interest but not dangerous when divided. At such crises as the Treason Bill or the imposition of the Malt Tax they could cause uneasiness but even on these major issues they never carried a majority. They did lessen majorities which could conceivably be dangerous in a time of erratic and uncertain attendance. The dangers were pointed out to Godolphin after the Treason Bill and he was advised to break Queensberry's interest to get all members in dependence directly on the ministry.⁵

1. 21 July 1713. R.C.R.B. 1711-1738. p.104.

2. 8 July 1713. R.C.R.B. 1711-1738. p.93.

3. 23 Mar.1714. Committee of Convention to Sir James Stuart et al. R.C.R.B. 1711-1738. p.119-20.

4. see below. Equivalent.

5. Add.MSS. 28055. ff.424-30. 18 June 1709.

Godolphin was wise enough to ignore it. Harley
tried it and it proved a failure.

9. GODOLPHIN AND THE SCOTTISH CUSTOMS

From the beginning Godolphin seemed prepared to let the Scottish Customs Commissioners have their head. His view was the usually sensible one of appointing men to do a job and letting them get on with it. Even in the question of patronage he showed no great tendency to interfere. Warrants were issued, on the face of things, as a matter of course on the Commissioners' presentments. As far as official correspondence was concerned scarcely a ripple broke the surface. From the Commission being set up to Godolphin's dismissal the Treasury directly interfered with appointments only thirteen times at most. The actual terms of intervention varied. Some were quite specific. In 1709 they were ordered to present Alexander Gordon of Ardoch for the post of Collector at Inverness if he were qualified since the place was vacant.¹ Gordon was duly appointed in the following month. Other directions were more general, ordering the presentment of some nominee on the first vacancy in a place he was qualified to fill.² But London was a long way from Scotland and a Treasury instruction on a matter of patronage was no guarantee of compliance. In at least three instances the Commissioners seem to have

1. 19 March 1708/9. T17/2. 15 et seq.

2. 24 Oct. 1707. T17/1. 157; 29 Jan. 1708/9. T17/1. 481;
5 Nov. 1709. T17/2. 104 eg.

taken no notice. It was probably quite easy to stonewall such injunctions by merely ignoring them - a passive resistance utterly frustrating to any but the firmest purpose. Treasury determination was unlikely to be very great save in exceptional circumstances. Some secured recommendations from the Treasurer to take and flourish before the Commissioners in person. It does not seem that their tactical position was improved thereby. At the time when the establishment was being settled, one John Dickson approached the Board with written testimony from the Treasury that he was a "merchant, professor of the science of book-keeping and at present book keeper to the town of Edinburgh". The Commissioners were ordered to give him a suitable place and if there was none available they were to take the first opportunity.¹ That is the last we hear of him.² Interests had to be very powerful if the Commissioners were reluctant.

But there was obviously more political influence than this suggests. The fact is that the interference did not come from the Treasury. The instances which occur in Treasury correspondence probably represent the sum of Godolphin's exertions. He left Scotland mainly in the hands of the Scottish Court party and that meant Queensberry. Queensberry's demands and those of his friends would be made

1. 16 July 1707. T17/1. 90

X 2. The John Dixon who made tidewaiter at Prestonpans on 20 June 1712 could hardly have been the same unless the Commissioners' estimate of his capacity differed from the Treasury's. T17/2. 361.

on the Board directly. Godolphin would only be appealed to when someone without such local interest was petitioning or when it was desired to override the Board. One instance supports this. The Collectorship of Kirkaldy had been given to one John Bruce at the behest of Marchmont who had been quick off the mark. Glasgow was supporting one John Bethune and in the name of Queensberry and practically everyone who mattered wrote to Godolphin and asked that he be given the collectorship of Kirkaldy, which he had once held, or another like it. They were obviously appealing to the Treasurer over the heads of the Board. The letter was minuted "He must make his application to the Commissioners of Customs and if there be a vacancy my Lord is ready to gratify him if the said Commissioners have no objection".¹ With Queensberry to support him the Commissioners were unlikely to raise objection and Bethune became collector of Dundee. Bruce was later dismissed in doubtful circumstances to make way for Bethune. But for the time being it was clear that pressure was exerted on the Commissioners in Edinburgh by private interests and that Godolphin was disinclined to interfere more than necessary.

As far as management was concerned he did not interfere beyond giving them occasional instructions for the good of the service. He had made it plain to them that he had no

1. 26 Mar. 1708. CTP. 1708-14. p.23

desire for unpleasant rigour to be shown at first in Scotland until people became used to the new system. The main concern was to see that the system was capable of proper functioning. In September 1707 the Board was prompted by the Treasury ".... you are to report any other things (which my Lord Treasurer conceives to be many) concerning the revenues under your care which may require alterations or amendment or further instructions, so that if necessary there may be time for an Act of Parliament".¹ Such matters were as numerous as Godolphin suspected but dealing with them was a slow business. For long enough not even a remote approach was made to the solution of many questions. The validity of private rights was not decided in 1719.

It was important that officers in the ports should know their duties thoroughly. This never was ensured but it was at least made certain that they could find out if they wished. The Scottish Commissioners had a Book of Instructions prepared as a work of reference. They were going to send copies to all the outports so they submitted it to the Treasury for approval.² The Treasury agreed after the English Commissioners pronounced it reliable. They made one qualification. They objected to the printing of any scheme of duties and drawbacks for easy reference.

1. 22 Sept. 1707. T17/1. 125.

2. 13 Dec. 1707. T17/1. 193.

"..... they may possibly be of use to young beginners in computation but to print them would make the officers and clerks depend on them and thereby hinder their care and industry in reading the respective Acts of Parliament".¹ This was rigorous. The English customs service might have subscribed to this perfectionist creed but to apply it to Scotland bordered on fantasy.

Godolphin was prudent in urging the Commissioners to make visits of inspection to the outposts and to report on what they saw.² A zealous welcome was given to this by the Board.³ Visits were made but the novelty soon wore off. Had the zeal continued the irregularities in the service might have been fewer.

So the new customs service was set up and Godolphin was content to leave the Commissioners to it. But trouble was soon upon them. In the beginning the establishment was conceived in terms of paper and ink at the Customs Board. It seemed to have been framed and put into operation before they had begun to look out of the Custom House door. The problem had seemed to be one of meeting two requirements. At the ports there must be an efficient guard. At Edinburgh and Glasgow where contraband would be taken there must be

1. 3 Feb. 1707/8. T17/1. 282-4.

2. 20 Feb. 1707/8. T17/1. 285.

3. 6 Mar. 1707/8. CTF. 1708-14. p.16.

documentary checks. To avoid suspicion of interfering with private rights they were restricted to the traditional settlement of the ports used by the farmers and by the managers before them. Only because the Union made control of the Border unnecessary were changes made. No establishment was provided for the inland towns of Castletown, Jedburgh, Allisonbank and Kelso. But establishments were set up in the remoter north and west which had not greatly troubled the farmers. Lewis, for instance, was close to the herring fishery so it was given a guard because boats would go there.¹ On this basis they fitted up the establishment, appointing the number of officers thought necessary. When this had been done the total cost of the establishment without extras was just less than ten thousand pounds.² This seems to have staggered them a little. They felt called upon to make mild apology and justify it as a long term policy. The revenue would not at once cover the cost of collection but greater damage to the whole United Kingdom would be prevented.³ And of course there was truth in this. Cost what it would the coast could not be left unguarded. But as they descended from the pinnacles the Promised Land whose sight had cheered them receded further into the distance.

1. T1/102. 101.

2. £9,735-.

3. T1/102. 101.

But the Commissioners were trusted to find proper solutions to questions as they arose. Godolphin in fact insisted that they make recommendations when asked for them. When petitions were addressed to the Treasurer on Scottish Customs matters he referred them as a matter of course to the Commissioners and a precise and definite recommendation was called for. Evasion was only once attempted and Godolphin spoke so firmly that it was not repeated. "..... in all cases for the time to come where matters are referred to you for your opinion his Lordship expects you should give it him plainly and clearly according to the directions contained in the said references".¹

Problems frequently arose for the Service was not working smoothly. The approach of the Commissioners to these problems was always the same. To prevent any breach in the coastguard no expense was to be spared. Every leakage or administrative hitch was treated in the same fashion. Extra officers were recommended. This was the long view but under the circumstances extravagant. They were planting acorns in doubtful ground when they should have been felling trees. But additions to the establishment were continually recommended to the Treasurer and warranted. In the first establishment greater security had been sought by paying £1,080- each year for general surveyors and riding

1. 12 Nov.1709. Lowndes to Commissioners T17/2. 108.

officers.¹ At the same time the Commissioners proposed the employment of three sloops. In January of 1708 the warrant for these was made out and their cost was £1,797.14.0d. each year extra.²

Throughout 1708 and the following year additions were regular. At Kirkcaldy, Fort William and Campbeltown the extent of the ports was found too great for existing officers and more tidewaiters were proposed.³ The employment of extra waiters at Queens Ferry, North Ferry and Dumbarton was said to be "absolutely necessary".⁴ Isaac Bourgeois, a nominee of the Treasury, was made a coastwaiter at Leith "for the more easy and regular dispatch of coast business there".⁵ There were administrative refinements. An officer was employed at £50- per year to register ships in Scotland, the Board thinking it a necessity.⁶ Walter Spooner, a former servant of the Lord Chief Baron, was made inspector of seizures with an allowance of one shilling to the pound.⁷ An extra £40- per year added to the establishment an inspector of fish and a warrant was issued for an inspector and adjustor of damages with £100- per year and ten shillings a day travelling expenses.⁸ Winetasters were called for at

1. Included in the £9,735-.

2. T17/1. 219-223.

3. 7 Jan. 1707/8. CTB. xxii p.76; 4 May 1708. 16. 226.

4. 11 Dec. 1708. CTB. xxii. 515.

5. 17 Feb. 1707/8. CTB. xxii p.138.

6. 17 Jan. 1707/8. T17/1. 230.

7. 23 Aug. 1708. T17/1. 421-2.

8. 5 May, 1709. T17/2. 25; 15 Jan. 1708/9. T17/1. 473.

Leith and Port Glasgow with £30- each per year and two extra general riding surveyors were presented at £120- per year each.¹

Then, in the Autumn of 1709, the first note of despair was sounded in the Commissioners' proposals. There was continual trouble in the south west of Scotland. Smugglers were operating in large raiding parties and, assured of the support of the whole neighbourhood, were too quick for the port officers. From Ireland and the Isle of Man brandy was being run in on the Galloway coast in small boats. Something had to be done and that very quickly. The Commissioners proposed the employment of a fifteen ton boat to patrol the coast from Whithorn to the Solway Firth. This, they hoped, would have some effect. But to buy the boat and fit it out would cost £140- and the salary bill for the crew of one surveyor and eight boatmen would be £200- per year. The Commissioners were apologetic. They knew the revenue could not really afford these increased charges but not to take measures against these "Knavish and ill-designing men" would stop legal trade in Scotland and injure the customs revenue in England.²

At this, words of caution were uttered from the Treasury

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1. 5 June 1708. T1/107. 33; 5 May 1709. T17/2. 26; Surveyors presented 21 May 1709. CTP. 1708-14. 117. Only one actually found warranted 18 Jan. 1709/10. T17/2. 110.
 2. 3 Sept. 1709. T17/2. 95-6. The problem had been foreseen by Defoe to Harley 22 April 1707. Part iv 402. He spoke of "an army of officers" being necessary.

for the first time. A warrant was issued for the purchase of the boat but on condition that the initial cost was no greater than the estimated £140-.¹ If Godolphin were beginning to feel twinges of uneasiness it was not surprising. By 1710 the state of customs management was causing concern.

First to complain were private persons with a pressing interest in the matter. Arrears of salary were chargeable on the Equivalent. As things were, all hope of payment rested on the revenue of customs and excise. So critics began to speak their mind with strident voice. They compared the present charge of collection with that before the Union. The comparison was startling. The revenue had at one time been collected by Crown managers at a cost of £5,075. 6. ld. per year. For a period the Royal Burghs had undertaken collection at a cost estimated at £5,641.10.0d. per year. Farmers had most recently collected the customs and had paid to their officers £3,392- per year in salaries.² But under the new Board the annual cost of the establishment had risen by 1710 to £12,446.13.8d. This gave the critics something to write to the Lord Treasurer about.

The comparison of course was not quite fair. Scottish revenue before the Union had been a simple affair, collected under the three branches of customs, excise and bullion. The

1. 24 Sept. 1709. 16.

2. Harley Papers. xLvii. 734-5.

farmers had been accountable to no-one for the details of their management, so their accounting apparatus had been rudimentary. But after the Union~~s~~ were imported the dreadful complications of English customs law and procedure. In customs alone twenty four branches of the revenue were distinguishable, each with a separate appropriation and having to be separately accounted for. Extra officers were a legal necessity. Salaries for the officers of the Edinburgh Custom House alone amounted to £6,907.14.0d. each year. More work had to be done at the ports to operate the mercantile machinery of premiums and drawbacks. The new offices of Comptroller and Searcher were set up in the ports and more waiters were employed.¹

All this could explain a good deal but not everything. The bare cost of the establishment was only part of the charge. Incidental expenses had to be counted and they were large. Temporary officers drew their salaries under this heading and with it went not only miscellaneous expenses but also regular expenses, which it was desired to keep out of the establishment. "Incidents" were, indeed, the chief vehicle employed in the ostrich accountancy common at the time. This addition swelled the cost of collection to

1. Harley xLvii. 734-5.

£18,000- out of an average annual revenue estimated then at £34,000-. And when the money paid out in debentures, bounties and drawbacks was allowed for the average charge was found to be £31,000- per year.¹ Small wonder if Godolphin was concerned.

But to the critics he maintained a correct attitude. He had no reason to suppose that the Commissioners were inefficient. If specific instances were mentioned they could be investigated.² At the same time Lowndes wrote to the Commissioners and told them to do their job properly. They were to propose measures for lessening the cost of management and for maintaining a more effective coastguard.³ Godolphin obviously thought some action necessary but had no intention of taking matters out of the Commissioners' hands. He had, though, been canvassing the possibility of reducing the number of ports to make collection easier.⁴

The Commissioners were at once heavily on the defensive. They tried first to show that if there was any blame it was

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1. 31 May 1710. Commissioners to Lord of Treasury. T1/123. 4A; it was estimated that over £800- quarterly was paid out in extraordinary salaries. 26 Dec. 1710. T1/127. 37; Fullerton gave the revenue from 1 May 1707 to 29 Sept. 1709 as £82,423- i.e., annual average of £34,104-. Average annual charge stated as £18,396-. 5 Oct. 1710. Harley xlvi 693-5. Later accounts for Equivalent purposes roughly tally giving an annual actual revenue of something over £15,000-.
 2. Votes. 1718-9. B.M.
 3. T17/2. 174. 9 May 1710.
 4. In May a commission for settling the ports was in preparation. In time the Lord Advocate was consulted about whether the Crown had the power to reduce ports. He thought not but the idea was not immediately dropped. 6 May 1710. CTB. xxiv p.19; 20 June 1710. T17/2. 186; 8 July 1710. Sir David Dalrymple to Lowndes. T1/123. 4D; 24 July CTB. xxiv. p.32.

not theirs alone. Then they tried to show there was no blame at all deserved. They declared that if there were defects in the first establishment they were not conscious of them. They went further. If they were going to start all over again they would not know how to improve it. There had been difficulty in finding enough skilled officers but only those well recommended had been employed and their record showed "that those Employ'd were not the worst nor most unskillfull of men". Besides this, both the Lord Treasurer and the English Board had approved the first establishment. The implication was that they were as much to blame as the Scottish Board. This was a very vigorous line to take.

Then began the excuses. Heavy initial costs had pressed upon them and swelled the charge of management. Custom houses had been provided in the ports with beams, weights and other apparatus necessary for business. But the core of their argument was concerned with wider issues and not without a certain plausibility. They pleaded that the application of uniform laws in the United Kingdom had made their main task not revenue collection but the unproductive one of trade regulation. Goods formerly imported by Scotland from Europe were now being brought in from England where the duty had already been collected. This had reduced the estimated revenue in Scotland. There were other reasons, they said.

e Large stocks had been taken into Scotland before the Union. Scottish trade was in widespread decay and fewer goods were being consumed. Another great cause of loss was the maintenance of private rights and exemptions. They had dredged for every possible excuse and they had made a good job of it. Their arguments were well chosen since such assertions were difficult to disprove. The English Commissioners conceded some validity to their explanation.¹

But the critics were not concerned with economic tendencies. Complaint was against the more obvious scandal of smuggling and the complicity of officers in it. This was the weak spot and knowledge of it seemed general. This was the one complaint the Commissioners did not deal with very fully. In their report it was casually touched on as a minor cause of leakage and it was certainly more than that. They were concerned to defend themselves against any suggestion of inefficiency. Smuggling activity, they thought, was the result of increasing the duties to five times what they were before the Union. In Scotland it was hard to control because of the extent of the coastline and the nearness of the islands. They placed the blame on obstructions from "private persons" and "forms of judicature" which had hindered them. Some of their critics, by not punishing smugglers, had helped what they were complaining about.

1. 3 Aug. 1710. T1/123. 4.

But seizures over the past six months should show that their officers had given a good account of themselves.¹

In fact they presented a picture of men struggling as well as anyone could to cope with difficult conditions. The impression was not a true one and they knew it.

Matters at the Board had started badly in Scotland. Rigby had been first-named in the commission and had made a great deal of the fact.² He was over-bearing, had moved in high political circles, boasted freely of his great interest at the Treasury and had a pathological dislike of the Scots. Very soon he had cowed Dixon and Boyle with his talk of London and his interest there; Norman seems to have been almost servile in his presence. The only one not impressed was Isaacson who had knowledge of Rigby and had moved in similar circles. The others ignored Isaacson until Rigby's behaviour became too outrageous. Then the Board divided into factions - Rigby and Norman against the rest. One explanation of this might be that Norman spent some time in London and corresponded with Rigby, thus hearing his side of the case. Someone, most probably Norman, had been acting as Rigby's spokesman in London. The others attempted to counter this by writing to Crookshank, their comptroller-

1. 31 May 1710. T1/123. 4A.

2. Add mss. 30229 for this.

general, then at Westminster with accounts in connection with the Equivalent. They asked him to let them know if anyone said anything about them at London. The spoke of "fomenters of misunderstandings" and "those who were labouring to compass their own ends at the expense of the Queen's revenue, or other men's honour."¹

The next year things began to come into the open, officially. In May 1709 Rigby was complaining that the Board would not let his cousin Robert succeed to the post of his cousin Thomas who had just died.² The other three then denounced Rigby in full in their "Short History of the Custom House Affairs of North Brittain" which was sent to John Taylour, a clerk in the Treasury. It has all the marks of being composed in high passion but gives names and details of individual incidents. The whole is well summed up in the covering letter. "We have been unfortunately yoked with a Colleague Sr Alexander Rigby who does not only make the whole Board but all this country uneasy to a great Degree. He has been all along making factions and parties among us, Has turned out good officers, put in bad ones, protected men in their crimes, both allowed and refused incident charges unreasonably endeavouring all he can to tamper and baffle merchants in their trades, meddled

1. 30 Dec.1708. CTP. 1708-14. p.82.

2. 3 May 1709. CTP. 1708-14 p.113.

on both sides in the last election of Peers and Commons here, abuses in his cups and threatens the country with eight or ten thousand men, down to curb them." They put this down to his great debts and asserted he was trying to satisfy his creditors at the expense of the service.

".... as £400- p.a. is not sufficient to stop the mouths of so many hungry creditors friends must be obliged with places in the revenue, others must have kindnesses done them. The merchants have complained they have a tax put upon them to pay all his debts before they can have fair trade".¹ To John Montgomery, Queensberry's under secretary, they wrote and asked for an opportunity to reply to any allegations Rigby had made.²

But Rigby's interest had prevailed. In London he had built up a picture of himself as an uncompromising enemy of smuggling and jobbery in spite of hindrances from the others.³ The Scots he portrayed as woefully dishonest and not to be trusted.⁴ Godolphin either accepted this view or had reasons of his own for supporting Rigby. Rigby got his way over the appointment of Robert. A new commission was issued without investigation. The anti-Rigby faction was purged. Isaacson

1. 5 May 1709. Add Mss. 30229.

2. 17 May 1709. CTP 1708-14. p.115.

3. 9 April 1709. Rigby to Lowndes. 16. p.108; 3 May 1709 16.p.113

4. 8 Jan. 1708. CTP. 1708-14. p.2.

and Dixon went. Boyle could not be dismissed because he was under the wing of Glasgow, his brother, a Queensberry man. Two English customs men came into the Board - perhaps Godolphin had decided to increase the professional element. Thomas Fullerton had had long service in the customs, seemingly in Essex. Apart from that he seems to have been known to Queensberry and Seafield.¹ John Kent had been Collector at King's Lynn.²

But Godolphin had made a mistake. There was no doubt that Rigby had created a ferment in Scotland and was useless there for that reason. He admitted it to the Lord Treasurer though he made excuses. He begged to be found a place in England where he would be amongst friends. In Scotland he could look for no assistance and his creditors were pressing him, prompted by the malice of merchants who had been in smuggling. They had even threatened his life.³ Godolphin was courteous in acknowledging his zeal and concerned at his plight but he would have to stay where he was until an opportunity occurred.⁴ So Rigby remained on the Board but

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1. 13 June 1709. Fullerton to Godolphin. CTP. 1708-14 p.121;
6 Oct 1710. Fullerton to Wemyss. Harley Papers xLviii.821
2. Aug.1716. CTP. 1714-19. p.265. He was perhaps appointed through the Turner or Walpole interest.
3. 13 Dec.1709. T1/117. 26.
4. 29 Dec. 1709. Lowndes to Rigby. T17/2. 118.

does not seem to have done anything but draw his salary. Kent never went to Scotland,¹ and the other three got on as well as they could.²

Even Rigby's activities alone made the Board's protestations of zeal rather hollow. During his membership of the Board he had formed a clique of English officers whom he had encouraged to act in an illegal and arbitrary fashion and defy the rest of the Board. He had hindered merchants in obtaining their legal allowances. He had supported the Secretary in employing inefficient clerks because he was one of his protégés. He had tried to veto suspension of the secretary for refusing persistently to produce the minute book. He had suspended Charles Isaacson, the Register of Seizures, accusing him of being the father of an illegitimate child, which was later shown to be Rigby's own. Since most of these scandals were well known the Board's efficiency must have been greatly reduced.³

And whilst the Commissioners were writing their justification, Norman was conducting a survey of the western ports and exposing a very sorry state. He was soon aware that things were amiss and matters seemed worse the more closely

1. T1/205. f4. f13.

2. T1/127. 37.

3. Add Mss. 30229.

they were looked at.¹ At Borrowstoness the Collector was not living on the spot and his late clerk had been administering oaths, although not qualified to do so. The Comptroller had been copying his accounts out of the Collector's books so there was no check. The records that were kept were in bad order. No quarterly or monthly abstract books nor incident books could be found. Coast records up to December 1709 were in possession of the late Comptroller's widow and not available. Waiters were not properly supervised by the land surveyor and many blue books - sacred in the English service - were missing or incomplete. In Glasgow Town the surveyor in charge had promoted himself to the rank of collector - for reasons of prestige seemingly. Two boatmen there "to their great discouragement" had never been paid. The tide surveyor at Port Glasgow was doing his job well but there was not much to be said for the rest. Clerks were neither qualified nor efficient. Records were being kept nowhere in the port. James Houston the land-surveyor was condemned as completely negligent. Hardly any blue books were to be found, although duties on exported tobacco and fish had been drawn back to the value of £31,400- in that port alone. For the most part only supernumerary tidewaiters had been employed on the ships exporting these debenture goods. At Irvine the situation was briefly summed

1. 23 March 1709/10. CTP. 1708-14. p.171; 30 March 1709/10. Lowndes to Revenue Commissioners Ireland T17/2. 151.

up. "This port is so much in Confusion Abovestairs and belowstairs that its Necessary to Settle this port de Navo"¹ Throughout the ports he looked at nobody was bothering about coastal shipping and he suspected that illegal fees were being taken generally by all officers.

All this and more was the technical responsibility of the Board. But before judging them and their officers too harshly the conditions under which they were operating should be considered. Scotland was an almost uncontrollable region. To guard effectively the whole of its coastline was a sheer impossibility. A really conscientious and efficient officer would have found life intolerable, looked upon as an enemy by neighbours who considered violence a remedy for most ills. They had to face jeers and insults as part of the day's work. John Bruce of Kirkaldy was driven to petition for himself and his officers. They complained "of the great oppugnancy and opposition that we frequently meet with in the discharge of our duty...." An advocate had referred to them in open court as "land robbers or privateers".² But hearing with this continuously was a minor difficulty compared with the rest. Reports of riots, assault and forcible recovery of seizures bear witness to that.³ In 1708 the principal officer

1. sic.

2. Jan.1707/8. T17/1.230. The advocate was John Carnegie of Borsack, later Solicitor General under Harley's ministry.

3. 12 Aug.1707. Commissioners to Taylour T.17/1. 117;
14 May 1714, Petition of Semphill & Houston, Harley Papers xLvii. 808; 9 Nov.1708. Letter from Robert Fullerton. CTP.1708-14. p.71; 11 Sept.1711. Commissioners to Lowndes CTP.1708-14. 310; 16 April 1712. ib.378; 13 July 1711; Harley L.1456;

(Continued at foot of next p.)

X at Wigton asked for help urgently or otherwise the customs officers would have to leave the port. A large gang had attacked some of them whilst guarding a cargo of seized brandy. They had been wounded and the brandy carried off. The justices were involved in the smuggling so that no-one would help them. Such was the state of things. The probability is that if a port had considerable local trade and the influence of the neighbouring magnate was strong the collector had to connive at a good deal or else the customs house would become untenable. And when the officers owed their places to these same magnates and were inefficient as well it is surprising that they did anything at all.

The population at large saw no cause for shame in running goods. The impression is strong that most people of influence were not averse from taking advantage of the black market. Thirty two half-hogs heads of brandy were discovered on one occasion in a house belonging to the Marquis of Tweeddale.¹ There was the wild episode of a later date in which two customs officers tracked down some contraband liquor on land belonging to the Earl of Glasgow and they were dispossessed by the officers of Irvine, where the Earl's uncle was collector. The family influence was then used to

1. 25 April 1708. Commissioners to Lowndes CTP.1708-14 p.32.

Continued from Footnote 2 of previous page:-

-30 April c. 1713. Smith & Scrope to Lords of Treasury CTP. 1708-14. p.35; 3 July 1714. Harley xLix. 1290.

keep the matter quiet and victimise the two officers.¹ In such circumstances there was little hope of redeeming the population at large and the revenue was regularly cheated.

Sometimes contraband was just landed and distributed in the country, but often there was more than that involved. The drawback system provided great opportunity for fraud. Certain goods, especially tobacco, paid the full duty on landing but when shipped again for export the duty was "drawn back". This type of transaction needed not only an efficient coastguard but a more thorough bureaucracy than Scotland could provide at that time. It proved easy for the dishonest to ship a cargo of tobacco for an area outside the revenue system - Ireland and the Isle of Man were popular destinations, they being close at hand - drawback the duty they had paid and then run back the goods on shore. The nearness of their destination gave them an excuse for being so soon in the neighbourhood.² It was not beyond the wit of the smugglers to devise elaborations of this whereby duty could be drawn back on tobacco which had never paid it. So the revenue was not only cheated but milched.

In such conditions it is difficult to say what constitutes bad management. At a minimum it might be expected that the Commissioners should employ the best officers available. This

1. 14 May 1714. Harley xLvii. 808.

2. Cochran's memorial eg. 9 Sept. 1710. Harley xLvii. 691.

they had not done on their own confession, although they put the blame on Rigby. Then they should arrange effective supervision and take action against the incompetent or corrupt. Supervision was the weak spot. No adequate check was ever kept. Godolphin's early injunction that they should visit the outports was disregarded and the business of supervision left to the dubious competence of the General Surveyors. The Commissioners had become aware of this deficiency. The month of June had produced a reversal of their official opinion. In May they had announced their satisfaction with their officers. In July they were convinced that great neglect and frauds had taken place. They sounded as though they were the first discoverers of that. Such practices, they pronounced, would have to be stopped by methods other than those used by the Surveyors. They proposed more frequent visits to the outports by the Commissioners themselves!¹ So they glimpsed the same light that had appeared to the critics a good deal earlier. Even this did not noticeably shake Godolphin's confidence in them.

The Commissioners seem, moreover, to have been reluctant to consider drastic action in cases of negligence. To clear the shambles exposed by Norman some thorough purge might have been thought necessary. But his recommendations were very tame. Removal to another port was the most drastic step

1. 4 July 1710. Commissioners to the Lord Treasurer T.45. 2.

advised. Future dismissals were thought of only if fee regulations were broken.¹ This seems most inadequate.

But in 1710 the problem of the Commissioners was to satisfy the Treasurer by producing some proposals for reducing revenue wastage. There was some delay because they waited for Norman's report which was not ready until the 17th of June. Then early the next month their proposed revision was sent to the Treasury with an explanatory letter.² They had really exerted themselves. They had decided to avoid employing extraordinary officers, so they added ninety tidewaiters to the establishment. The salaries of the waiters were increased - to make it possible for them to live without being tempted to take bribes. To make it possible for business everywhere to be carried on according to law, comptrollers, searchers and surveyors had had to be appointed to some ports. But the total charge of the customs had been reduced. The proposed establishment was to stand at £11,227-per year - a saving of £3,000- a year. The sloops were not going to be used any more. Unnecessary officers were to be dismissed, thus shearing off the frills. The Accountant General was to go, and the Register of Seizures and the Computers of Leith and Glasgow. There was to be no inspector of damages since his duties could be more cheaply carried out by the other officers. At ports which saw little importation

1. 17 June 1710. Harley xLvii. 671 et seq.

2. 4 July 1710. T45.2.

the salaries of collectors and comptrollers had been reduced, their collections being sometimes too small to pay them. General surveyors and riding officers were to be abolished and some tidewaiters were to receive an allowance for horses to replace the latter.

The Commissioners were seized with a fever of economy. Ideas poured from them for making the revenue secure without extra cost. Troops should be instructed to help the customs and deputations were to be given to excise officers. Having slashed broadly the Commissioners began cheese-paring. For an extra £10- a year the housekeeper undertook the door-keeper's duties and the doorman was sacked. An offer of a sentry by the city magistrates was accepted and the receiver-general's clerks were made to sleep near the office so that the establishment could be rid of two watchmen at £20- each a year. Such was the shaking-up of 1710. If all this could be done on Treasury demand, why not earlier? When, in addition, the Board asked that transires should be compulsory for foreign goods brought to Edinburgh as they were for London the state of management can only be wondered at. At Edinburgh the bare word of the carrier was accepted by the land carriage waiters and unless this could be remedied the Commissioners were in favour of dispensing with any guard at the City gates. If this had been the practice since 1707

one wonders what the land carriage waiters had been doing till 1710.

Godolphin referred these proposals to the English Commissioners for their opinion. In general they approved - there was nothing much else they could do, not being on the spot. They made significant exceptions. They objected to riding waiters on the reasonable ground that one man could not do two jobs and the number of waiters would therefore be reduced. They thought the Accountant General should be kept as a necessary check on collectors' accounts. Another fact they remarked on was that in some parts the offices of comptroller and searcher were performed by one man although they were incompatible, the searcher having to execute warrants issued by the comptroller.

These reservations were not heeded by Godolphin. He warranted the establishment without amendment.¹ Again he was prepared to trust the Commissioners to do their job and rely on the new establishment to improve matters as if a new establishment could make any difference to what was going on in Scotland. Changes there needed to start at the top but if Godolphin received any information which gave this impression he disregarded it. It must be concluded that either his sources of information were defective or

1. 5 Aug.1710. T.45. 2.

else his judgment was at fault. But at the time of issuing the warrant he was probably worried by more pressing matters. His tenure of office had become precarious and the same month he was dismissed.

10. THE OVERTHROW OF GODOLPHIN

Godolphin's reliance on the Whigs unhinged the Ministry's policy. Rash courses were embarked upon, inspired more by Whig zeal for the war and determination to have their own way than by common sense. The conduct of the war seemed to have become landmarked by a series of costly military successes with little bearing on a final settlement. By the end of 1709 ~~Mel~~plaquet with its 23,000 casualties had been fought and had shaken English opinion as much as French. In Spain there was a poor outlook for the Archduke. The peace negotiations of 1709 had collapsed largely through the Junto's determination that Spain should be secured for the Archduke Charles and that France should be made to coerce Spain into accepting the arrangement. Added to this disappointment the Barrier Treaty, a Whig bribe to keep the Dutch in the war, made Tory opinion desperate and moderate people were given to wonder.

But the Junto were still pressing for places. Somers was placated by £1,000- from secret service money. Orford was made First Lord of the Admiralty under threat of resignation from Somers and Sunderland. The Junto fought for a tighter grip on the ministry and looked forward to

ousting Godolphin. Whig measures and rumours of Whig measures at home were disquieting to the Tories, high or moderate. They disliked the bill for naturalising foreign protestants and there was talk of Wharton procuring a repeal of the Test Act in Ireland in so far as it concerned Protestant Dissenters.

From groups which detested the Junto or their policies or both, Harley with great patience built up an interest. His interest was in some quarters based on the principle of moderation but in others personal pique, dissatisfaction or tactical convenience. In the Commons the High Tories were crying in the wilderness. Some had the sense to see they were likely to stay there unless they made use of Harley. He was distrusted but he was their only possible way to favour. Only by his countenance could they be made acceptable to the Queen. An alliance with his interest would strengthen them in the Commons. Harley, for his part, was ready to reach some accommodation with them. He wanted their votes and he hoped they could be controlled. So in that Parliament there was limited cooperation between the Harleyites and Bromley and the High Tories. On occasion with good management they ran the Ministry very close as in the Scottish Treason Bill.¹

1. 19 April 1709. Abigail Harley to Aunt Abigail Harley. Port iv. 522.

Meanwhile Harley had cultivated the dissatisfied elsewhere. Shrewsbury had wanted the Lord Lieutenancy of Ireland and had been disappointed. Nor was he a man to view with approval the extreme views of a rampant clique like the Junto. Harley formed an understanding with him. He was allied too with Rivers who was smarting under injustice, feeling he had been made to suffer in Galway's interest, in Spain. Then there were the Scots. Their discontent was quite well known and spoken of in the Duchess of Marlborough's circle.¹

The signs are that Godolphin and Marlborough underestimated the extent and coherence of Harley's interest. In some cases they suspected : in others they were certain.² But for the most part they saw the war; they were convinced of Marlborough's indispensibility and they concerned themselves with day to day problems. It must have seemed that the Queen's business could never be carried on without them. The machinations of the opposing interest they could only guess at.³ Patronage and gratification seemed to be bestowed as reward for short term service rather than on any planned scheme to combat Harley's interest.⁴ Marlborough's request

1. Maynwaring to Sarah, Duchess of Marlborough PCDM.i.208-10.

2. 28 April 1710. Godolphin to Marlborough, PCDM ii.425-6.

3. 8 May 1710. Marlborough to Godolphin. PCDM. i.312;
29 May 1710. Marlborough to Sarah, Duchess of Marlborough
ib. i.396-7.

4. 22 Feb.1709. Marlborough to Godolphin. PCDM. ii.311-2;
1 July 1709. ib. ii.341; 10 Mar.1709/10. Godolphin to
Marlborough ib. ii.415-6.

to be made Captain-General for life brought more suspicion than already existed into the Ministry where tensions became high. The interests in the Government watched each other jealously and were not prepared to risk anything to save anything but their own positions.

In Scotland there were workings under the crust. Godolphin's policy of ruling Scotland through one interest which controlled patronage certainly worked in normal circumstances.¹ He continued this policy throughout his ministry although by 1710 he did not entirely trust Queensberry and not without reason. When Godolphin forwarded to Marlborough Queensberry's request that Lord Dumbarton should be Marlborough's ADC. he gave as a reason that Queensberry had promised to support the Ministry over Sacheverell. This was a very pale testimony to the loyalty of a man who was running Scotland for the Government.² In addition, the granting of Queensberry's request to be allowed to share profits with the other two secretaries in return for a share in foreign affairs looks like a late attempt to preserve his support.³ The man Godolphin trusted in Scotland was Seafield. But Seafield was not strong enough in interest

1. 12 June 1713 Mar. to Oxford. Harley Papers xLix. 1230.

2. 10 Mar. 1709/10. Godolphin to Marlborough. PCDM. ii.415-6

3. M.Thomson : Secretaries of State, 1681-1782. Oxford 1932. The chapter on Scotland.

to run the Ministry in Scotland. Under the circumstances Godolphin probably thought it better to gamble on Queensberry's loyalty rather than risk stirring up trouble in Scotland by large scale adjustments in influence even if the Queen were prepared to allow them.

But the policy was not popular amongst the excluded. Queensberry had been in power too long and opposition to him had grown. Hamilton and Annandale were bitterly opposed to him, the more so since their efforts of 1708 had not had the effect they desired. The Tories were strongly against Queensberry and his "creatures". But apart from this there was a feeling that Scottish affairs were not receiving attention. Queensberry seems to have contented himself with patronage and day to day business as far as Scotland was concerned. Getting a share of foreign business would increase the claims on his time and attention. His efficiency in administration at this time does not seem to have been great, possibly because of frequent illness.¹ People felt that Scotland was neglected in Whitehall and Westminster. The enthusiasms and early hopes of the Union, where they existed, had passed. Nothing had been done about Scottish general trading interests, in particular the fisheries. Apart from that the measure concerning drawbacks, which the Scots thought their due, had been got through with difficulty, and the Treason Bill had not been popular. The decline in

1. Dartmouth. Notes to Burnet V. 400n.

X enthusiasm is reflected in Scottish activity at Westminster. During the first session of the British Parliament when the Scots first arrived, their names abounded on committees, whether ~~due~~ to Scottish zeal in attendance, self recommendation or an English desire to let them do business if they wanted. But the Session of 1709-10 shows a marked decline compared with previous and subsequent Sessions in the numbers of Scots on committees.¹ In that Session there was next to no Scottish business. The ~~un~~ favourable Scottish opinion was sensed at Westminster where some Scots were suspected or being on friendly terms with Harley.²

The suspicions were quite correct. There was the business of Harley marrying his daughter to Lord Dupplin, the son of the Earl of Kinnoull. This had caused a stir in Whig circles for fear of what it might portend. The alliance of practically anyone with Harley was suspect from that angle. Queensberry was concerned to play it down as of no consequence being a marriage of convenience which had ceased to be convenient although the bargain had to be kept. In the outcome, however, it put Kinnoull and Dupplin amongst Harley's

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1. Analysis of C.J. xv, xvi and xvii gives 1707/8. 355+; 1708/9 145+; 1709/10 77+; 1710/11 111+. Margin of doubt due to the difficulty of interpreting Mr. Smith.
 2. Maynwaring to Sarah, Duchess of Marlborough, PCDM. i.208-10. Cockburn of Ormiston told Montrose the Country was despondent over the Government's lack of interest in Scottish affairs. 17 Feb. 1709. Montrose Mss. 371.

supporters in 1710.¹

There were other Scotsmen, dissatisfied with either men or measures, who had sensed a change in the direction of affairs and were prepared to give their support. There was for instance the Earl of Mar. There was no doubt that Mar disliked being removed from office. In spite of his pension there might have been financial loss which he would begrudge since he needed all he could get. But there was more than that. Mar liked to be in office, speaking from the centre of affairs with the voice of authority. He delighted in being cosily 'in', called upon for information and helping with management. Then he had been put out and although he pretended not to mind he did not like it.

He soon sensed that there were other possibilities. He seems to have been a hypersensitive person in that he was quick to sense undercurrents when his own self-esteem and interest were involved. And he got on well with the Queen.² When she had told him of the decision to dismiss him she had shown her reluctance and gave him the impression that had she been a free agent he would have been given something else.³ So when she began to intrigue in real earnest Mar was evidently quick to follow her lead.⁴ Soon "he was very

1. Aug.? Sept.? 1709? Maynwaring to Sarah, Duchess of Marlborough PCDM. i.208-10.

2. Lockhart i.314.

3. 3 Feb. 1708/9. Mar to Grange M. & K. Mss. 480. She had 'designed' the Privy Seal for him but had to give it to Montrose.

4. Lockhart. i.314-5.

intimate with Mr. Harley".¹ Certainly by the end of 1709 they had an understanding.² Godolphin had suspected it earlier.³ Marlborough had spoken to Mar when Mar went to Aix and found him "a very honest man".⁴ The Duchess does not seem to have been so sure and spoke to Mar, forthrightly it seems, since Maynwaring said it had alarmed the whole Scottish nation.⁵ He was doubtless exercising some verbal licence in that account but something must have been going on. Mar's full declaration of his allegiance came when he voted against the Ministry in the Sacheverell case and carried Wemyss and Northesk, his followers, with him.⁶

The Duke of Argyll was an ally that most people found uneasy. His personal and family pride and his opinion of his own ability made it difficult for him to suffer subordination to anyone of less than royal blood. His irritable temper ensured that his annoyance would be kept no secret. And Argyll had a dislike of Marlborough. This was apparent as early as 1707.⁷ But he seems to have been resigned to

1. Ibid.

2. 20 Dec. 1709. Mar to Harley. Harley Papers xlix. 1305.

3. 11 Aug. 1709. Godolphin to Marlborough. PCDM. ii. 363.

4. 16 Sept. NS. 1709. Marlborough to Godolphin. PCDM. ii. 385-6.

5. 1709? To Sarah, Duchess of Marlborough. PCDM. i. 208-10.

6. Lockhart i. 314-5.

7. 26 May N.S. 1707. Marlborough to Sarah, Duchess of Marlborough. PCDM. i. 74.

Argyll as a necessary evil and did not let it interfere with matters of duty. He was never prepared to take the measures against Argyll that his friends counselled. He had agreed to Islay getting a regiment because Argyll had "behaved himself".¹ Even Godolphin was moved to protest when Marlborough consented to the gratification of Argyll, who, he said, "does not deserve it of you, nor ever will....."² The quarrel became notorious. Argyll was the leader of the army officers who were discontented at Marlborough's predominance. By early 1710 one avoided dealings with Argyll unless committed to the opposition to Marlborough.³

Argyll, though, was very strong at Court. In early 1710 Godolphin could speak of him as "next to Somerset, one of the greatest favourites".⁴ Argyll was in fact seeking to end what, to one of his temperament, was an intolerable position - under the command of his enemy. There was more to it than that, however. He objected to the power and the extravagances of the Junto. In this he was supported - it was rumoured, prompted - by his brother, Islay.

So Argyll withdrew his allegiance from the Ministry.

Later he was talking about the "Queen and Country being

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1. 22 Feb. 1709. Marlborough to Godolphin. PCDM. ii.311-2.
 2. 10 Mar. 1709/10. PCDM. ii.415-6.
 3. 29 May 1710. Marlborough to Sarah PCDM. i.326-7.
 4. 10 Mar. 1709/10. To Marlborough. PCDM. ii.415-6.

delivered out of the slavery they have so long been in".¹ He was said to have offered to seize any the Queen cared to command, an affirmation of support she must have found embarrassing.² For the present he entered into negotiations with Harley. The go-between in this was the Earl of Orrery, one of Argyll's military adherents. The subject was Argyll's vote in the Sacheverell trial. The only obstacle in the way of Argyll's voting for an acquittal was that he had already declared that Sacheverell's sermon deserved censure and he could not suddenly alter his opinion and keep his reputation. Further, his aim was to oppose the Junto and not support the High Tories. They compromised by Argyll and Islay voting for the minimum punishment.³

Right from the beginning Harley did not find Argyll a comfortable ally. Orrery was soon importuning on behalf of the brothers. Argyll was jealous of Hamilton and his brother Orkney as he always had been.⁴ Hamilton, as was his way, had asked the Queen for the Garter and a British dukedom. This upset Argyll who thought he should be made one first. Orrery could not think why the Queen did not give Argyll the Garter.⁵ Later he thought the merit of

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1. 29 Aug. N.S. to Harley. Port. iv.569.
 2. Sept.1710. P.Wentworth to Lord Raby. Wentworth Papers p.145.
 3. 14? March 1709/10. Orrery to Harley. Port.iv. 537;
15? March 1709/10 ib. 538.
 4. It was reciprocated 10 March 1709/10. Godolphin to Marlborough PCDM. ii.415-6; 1709 or 1710 Maynwaring to Sarah ib. i.280-2.
 5. 15 Mar.1709/10. Orrery to Harley Port iv.538.

Argyll and Islay entitled them to anything they could ask for. Islay would like to be Lord Register for life or Justice General in Cromarty's place, but would prefer the former.¹ After all this he could ask in all seriousness that whatever was done "may be done with such a grace as will convince them that the kindness proceeds from a real friendship and not from importunity, and if they are not shocked I dare be answerable you will not find two more faithful servants....."²

Godolphin suspected, even if he did not know, much of this. He had been worried over the Sacheverell impeachment about the attitude of the Scots. He was thankful that Queensberry was sound in the matter but feared Hamilton and Orkney would not be. In the event Orkney supported the Ministry, and Hamilton abstained - to preserve his Jacobite interest, he said.³ But affairs at Court began to move and matters came out into the open. The Ministry was divided by personal jealousies. All were considering their own interest and the chances of preserving their places. They shook from one crisis to the next, divided in loyalty and lacking cohesion. In January 1710 they could not agree on what

1. 31 July 1710. Orrery to Harley. Port iv. 553.

2. 24 Sept. 1710. Orrery to Harley. Port iv. 600.

3. 1710. Maynwaring to the Duchess of Marlborough. PCDM. i.280-2.

action to take when the Queen ordered Marlborough to give Abigail Hill's brother a regiment. In April, after the Sacheverell votes had shown the Ministry's weakness in the Lords, Shrewsbury was appointed Lord Chamberlain. Harley worked slowly to avoid the appearance of abrupt change. If possible he wanted a broad ministry and was seemingly anxious to retain moderates. In June Sunderland went out and was replaced by Dartmouth, a man of Tory principle, but trusted by most. Then on the seventh of August, Godolphin was dismissed and the Treasury was put into commission. Harley became Chancellor of the Exchequer and the guiding spirit of the Harleyite Treasury lords. Helping him in all this was the irresolution of the various groups in the Ministry which seemed prepared to watch without stirring any dismissal which did not affect them in the hope that they might be able to make a bargain with the new powers. Harley was apparently sincere in his attempts to form a moderate ministry but it was at the same time tactically useful. It enabled time to be spent negotiating with men like Halifax, Cowper and Newcastle for their support. He had tried to keep Cowper, for instance, as Lord Chancellor. Disagreement for the time being boiled down to the question of dissolution. The Whigs feared a Tory landslide in a new election. They wanted to keep a House in which they had

great influence so that they could break Harley's moderation as they had done Godolphin's. It was clear to Harley that he must have a new Parliament if he was to carry on. Moreover his supporters were demanding it. Yet he was slow to make a final break in negotiating with the Whigs, which would mean increased dependence on Rochester and the "high-fliers". But it became certain that if the new ministry were to be preserved an accommodation with the High Tories must be reached, and Parliament dissolved. So Harley decided and on the 21st of September the Parliament came to an end.

Even before his dismissal Godolphin had been making hasty preparations to keep what support he had in Scotland. He turned there to Seafield, his old ally and agent. Things that Seafield had requested were granted or set moving.¹ Once out of office Godolphin concentrated on trying to get all the Whigs to resign and to fight an election in which he was persuaded they stood a good chance. He tried to calculate the possibilities in Scotland. About the peers he was not very hopeful; they would largely be ready to follow the lead of the Court. This time there was no doubt of the Queen's inclinations. But he hoped for some success in the Commons' elections.²

1. 22 June 1710. Godolphin to Seafield. Seafield Mss. 208.

2. 10 Aug. 1710. Godolphin to Seafield. Seafield Mss. 209.

The situation in Scotland was peculiar. The Squadrons were solid for the Junto and Godolphin. Allied to them in Godolphin's interest was Seafield. Then with them were the attachments of the old Court interest - people like the Dalrymples, including the Earl of Stair.¹ The earl was influenced by his family and friends and he thought a change of ministry would harm "public affairs" - so he said later.² With one omission these were the main interests opposing the new influences in Scotland. They showed great zeal and some lack of scruple if Islay was to be believed. Lord Rutherford had a nephew in prison for murder and Sir David Dalrymple was reported to have offered to trade his life for Rutherford's vote for the Earl of Stair.³

What complicated the issue was Queensberry's position. He was trusted by neither side and justifiably, having trodden very warily in an attempt to make the best of both worlds. Rumour had been circulating at an early date that some of Queensberry's friends were in touch with Harley. Queensberry had shown his usual readiness to talk his way out of that, at least to his own satisfaction. He avowed he had no interest but that of Marlborough and Godolphin who must be in any ministry. He cited his readiness to reign before when Harley tried to oust them and condemned

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1. 8 Aug. 1710. Dupplin to Harley. Port. iv. 558.
 2. 4 June NS. 1711. Stair to Mar Harley Papers xLix. 1393.
 3. 1 Nov. 1710. Islay to Harley. Port iv. 622; 26 July 1710. Dupplin to Harley. Port iv. 552.

Rochester as "insupportable". He added, for good measure, that Seafield was "the greatest rogue alive".¹

But when the change came Queensberry did not resign but remained hanging on with Harley. He was not popular and seems to have been concerned mainly to protect those of his own interest, getting them re-elected. For the rest he tried to limit the influence of his personal rivals, Hamilton and Argyll, and acquiesced in all else. Glasgow and Leven, his x Scottish henchmen, were acting against the new Court group in their own interest, sometimes in league with the opposition. They still seem to have regarded themselves as the Court group and others as interlopers. Since Queensberry was still Scottish Secretary his office remained officially the administrative channel for Scottish affairs but the new men regarded him as being in the way. Mar, in particular, had his eyes on the secretaryship and they struggled, quietly, but they struggled, for influence.² Islay regarded Queensberry with bitterness and feared that he might use his position to delay his promotion. The thought of the warrant to make him Justice General passing through Queensberry's hands alarmed Islay.³ And, meanwhile, the Earl of Leven, Queensberry's man, had joined with his erstwhile opponent, Rothes, to try and

1. Aug.? Sept.? 1709? Maynwaring to Sarah, Duchess of Marlborough. PGDM. i.208-10.

2. 13 Sept.1710. Godolphin to Seafield. Seafield Mss. 210.

3. 29 Sept.1710. Orrery to Harley. Port.iv. 603; 1 Nov.1710. Islay to Harley. Port iv. 622. Cromarty ceased to be Justice General 29.Sept.1710. Islay's commission seemingly dated 24 June 1711 although he is generally understood to have

carry Fifeshire against the new interest.¹ It looks as though Queensberry was just not up to coping with the situation and hung on in the hope of something turning up. Godolphin's group in the main fought the election without any reliance on Queensberry's group but just accepting whatever support his people offered.

At any rate, Godolphin's supporters knew where they stood. Harley had said nothing at all, even after deciding on dissolution. He was in office and was consulting with Mar, Argyll and Islay. That seemed to be all. Mar and Islay had been hoping they would be given management of Scottish affairs, but Queensberry was still in office. They began to fear that they had been put in an impossible position and ventured to approach Harley. They feared delay and were uneasy at not having received any decision from him on Scottish affairs. They wished to be told at once if they were to manage the election.² The state of their ignorance can be gauged by their fears that they might be expected to ally themselves with the Squadrone, which they could not honourably do. So they said. But that seems to have been Islay's view rather than Mar's, who wrote privately to Harley:

1. 8 Aug.1710. Dupplin to Harley. Port.iv. 558.

2. 24 Sept.1710. Orrery to Harley. Port.iv. 600.

Continuation of Footnote 3 from previous page:-

been Justice General in 1710. Establishment List in the General Register House. p.68. cf.DNB.

"Pray let me know what resolution is taken concerning Lord Montrose, and what way I should behave to him or anybody else there that you think fit to be well with or to keep in expectation for I intend to regulate myself as you think fit for the interest in general. I have prejudice at nobody and can live well with most people".¹

Meanwhile hopes were high in Scotland. Independent people like Annandale, who had been in support of the Junto in 1708, and had repented since they had not benefitted, were ready to support new masters and try again to rid themselves of Queensberry. The Tories thought at first that their time had come and they would have all their own way. But the moment seemed to be long in coming. No word came from London apart from vague generalities from Mar and Islay.² Failing that, individual movements began to concert measures in Scotland to prevent the edges of the rather scattered new party fraying through the lack of support and guidance from above. Athol was a prime mover in this.³ Of course there had been and were differences between him and Hamilton and it may have been that he was hoping to counter the advantage

1. 8 Oct.1710. Harley xLix. 1347.

2. There was no 'plain measure' for them to follow. 13 Aug.1710. Dupplin to Harley. Port iv. 564.

3. 8 Aug.1710. Dupplin to Harley. Port iv. 558.

Hamilton had through being at the centre of things. But he did not even want to be chosen and it seems that he was just trying to ensure that the Tories were kept together.¹ Kinnoull's connection with Harley² tied him to the Court, hoping for a share in managing things, so when he was approached he put Athol off until he knew what Harley wanted.³ But when no instructions were sent down he joined in sending a letter to the Queen to assure her that they would make such a choice of peers as she should think fit.⁴ Atholl wrote to hope that this measure would be agreeable to the Queen.⁵

Kinnoull's advice to Harley was that in Scotland - whatever happened in England - the only policy was to depend entirely on the Tories. His fear seemed to be that some of the old Court would be elected and if they were then removed from their places to gratify others they would be troublesome in the Lords.⁶ But Harley still waited whilst the Scottish Tories developed their own individual ideas of what should be done and who should be elected, which caused trouble when the time came.

Harley had cause to wait, regardless of what the Scottish Tories thought. They thought of their own influence

1. 26 Sept.1710. Kinnoull to Harley Port iv. 601.

2. His son Dupplin married Harley's daughter.

3. 8 Aug.1710. Dupplin to Harley. Port iv. 558.

4. 26 Sept.1710. Kinnoull to Harley. Port iv. 601.

5. 19 Sept.1710. Athol to Harley. Port iv. 597.

6. 27 Sept.1710. Port iv. 601.

and prospective places. Harley's ideas were rather different. and it was better for the Tories not to know them. He had no intention of abandoning himself entirely to the first Scottish faction to come forward. Particularly he did not want to hand Scotland over to the Tories which would create uneasiness there, particularly in the Kirk. His aim was simply this : to get sixteen Scottish peers who would support him in the Lords.¹ He was prepared to do the minimum necessary to achieve that end. There were difficulties. Some of the old Court members were in Queensberry's interest and his attitude was equivocal. Moreover, if he had to work behind Queensberry's back it would not have to be done too blatantly because Queensberry was friendly with Rochester who might object.²

Seafield was still in alliance with Godolphin. This at once reduced the breadth of support he could expect. So he was really forced (in some measure) back on mainly Tory help. But it was useless to rely on their unorganised votes. Measures had to be concerted with men who would be followed and with their interest carry a majority. Argyll, Athol and Mar could be counted on, but the man whose decision would clinch the election was Hamilton.³ His support was a

1. Defoe's advice to Harley on the change of government "...men whose tempers are most moderate and best inclined..." 21 Oct.1710. Port iv. 616.
2. Something of this nature is indicated by 29 Sept.1710. Orrery to Harley. Port.iv. 603.
3. "...the Scotchman that is by far most capable to do service in the elections..." 8 Aug.1710. Dupplin to Harley Port iv.558 also 13 Sept.1710. Godolphin to Seafield. Seafield Mss.210.

big factor in Harley's delay.

Hamilton's intentions were doubtful for some time¹ mainly because he was trying again to take advantage of the situation to get himself made a British duke.² It was just out of the question for the opposition would have wrecked any election scheme. Finally Hamilton saw this and settled for making what he could out of the arrangement. His support was promised by the 24th of September.³ He was made Lord Lieutenant of Lancaster and from that time cooperated wholeheartedly.⁴

So Harley had completed the formation of his election party. He left the election list to them to compile when they arrived in Edinburgh. This left discretionary power with them to meet the situation they would find there; it also eliminated Queensberry's influence, since he remained in London. This was most likely by design. There seems to have been some trouble over it before the managers left. The exclusion of Queensberry's protégés - Glasgow and Leven - had not been a foregone conclusion.⁵ Mar thought that if a

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1. He had abstained over Sacheverell because he wished to preserve his Jacobite interest. 1710. Sarah to Maynwaring PCDM. i.280-2.
 2. 13 Sept.1710. Godolphin to Seafield. Seafield Mss.210; 5 Sept.1710. Sir Michael Wharton to Harley. Port.iv. 590
 3. 24 Sept.1710. Hamilton to Harley. Port.iv. 600.
 4. 19 Oct.1710. Hamilton to Harley. ib.615. When he was asking to be made also the 'Chief Ranger of the Four Forests'.
 5. 9 Nov.1710. Islay to ? Port.iv. 625.

list had been made up in London some of the managers would not have been on it.¹ Perhaps Queensberry's influence in London was still strong enough, if exerted, to keep Glasgow and Leven in the list. But under the arrangement adopted he was left with no chance but to try long-range conclusions by post - which he did but without success.

Mar was Harley's 'eye' in the management committee, attending to the more sordid details of influence and keeping him informed. There had been some earlier preparation of the ground but not much. Adam Cockburn of Ormiston had been dismissed and Mar's brother, Lord Grange, appointed Justice Clerk in his place. That appointment together with Islay's projected appointment as Justice General symbolised what was the fact - that Mar and Argyll were regarded as the centre of the new interest in Scotland. Mar had made some recommendations for the management of the Scottish elections as early as August. Some of them, consisting only of names, are cryptic. But the Earl of Linlithgow was to have Blackness Castle if he went "right"; Balmerino was to have the Mint or an equivalent pension. Northesk was to be provided for and the Commissions of Customs and Excise in Scotland were to be altered "at least in some measure".²

1. 7 Nov. 1710. Mar to Harley xLix. 1352.

2. 17 Aug. 1710. Note of some particulars to be adjusted in relation to the elections in Scotland. Harley Papers xLix. 1317.

On arrival in Edinburgh he prophesied trouble if the recommendations were not put into effect soon.¹ Some things were done. Balmerino was given the Mint, for instance.² But Harley refused to touch the Customs and Excise. However, some pensions were distributed. About the time of the elections, eight people seem to have received £1,080- between them and a further £620- had been promised.³ Further, in October, a sum of £2,900- was directed to be paid by way of bounty or pension out of the secret service money.⁴ Also, after the election, Mar drew £1,000- for an unspecified purpose, which might of course have been his own expenses.⁵

Other preparations included the removal of Marchmont from the sheriffship of Berwickshire and the appointment of the Earl of Home in his place. This was designed to give Home - a Tory of Berwickshire - more electoral interest, to keep out Baillie of Jarviswood.⁶ Marchmont had strenuously opposed this manoeuvre on the ground that his tenure was hereditary. But in the outcome the change did not have the

1. 1 Nov.1710. Mar to Harley. Harley Mss.xLix.1349.

2. 1 Nov.1710. Mar to Harley xLix.1349.

3. Nov.1710. Port.iv. 638. Dupplin's note about pensions promised and what had been paid.

4. 17 Oct.1710. Harley Li.1675. This, of course, might include the other. All named were Court men plus Dumbarton. He was originally a Queensberry man but voted for the Court.

5. 10 Nov.1710. Mar to Harley. Harley Papers. xLix. 1357

6. 1710 Mar to Harley. Harley xLix. 1366.

designed effect. Hamilton was given to understand at Court that he should support Baillie and did so in spite of all Mar's remonstrances to the contrary. Baillie was elected.¹ The whole incident was very mysterious. It might have been that Harley was still entertaining hopes of getting Baillie's support.² Mar's fear was that talk of a Squadrone leader elected by Hamilton's influence at Harley's request would unsettle the Tories and make them uncooperative.

When Mar and Islay arrived in Edinburgh they found things difficult enough as it was. Everybody was trying to direct the election.³ Nothing quietened the Tories and their demands but the managers coming to an agreement on a general rule to exclude all friends of the old ministry - those affected being Seafield, Leven, Glasgow, Stair and Deloraine.⁴ There were minor worries. Hamilton insisted on the inclusion of Kilsyth - one of his followers, which worried Mar, because he thought Harley did not like him. Athol was going to insist on the inclusion of Dunmore and Breadalbane but was persuaded to give way.⁵ The big hitch came with Queensberry's postal intervention on behalf of Glasgow. He wrote to Hamilton

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1. Ibid; 19 Sept.1710. Grange to Mar. Harley Papers xLix 1342; 1710. Mar to Harley. Ibid 1362.
 2. He seems to have had hopes of this. See Mar's reference to Montrose 8 Oct.1710. Harley Papers xLix. 1347. Both Montrose and Baillie mentioned together in Mar's 'notes'.
 3. 1 Nov.1710. Islay to Harley. Port. iv.622.
 4. 9 Nov.1710. Islay to ? Port.iv. 625; 7Nov.1710. Mar to Harley. Harley Papers xLix. 1352.
 5. 2 Nov.1710. Mar to Harley. ibid 1351; 7 Nov.1710. ibid 1352.

asking him not to let Glasgow's name be removed from the list approved by the Queen. There had been no list - no final list anyway - but Glasgow had shown a supposed list and threatened all disregarding it with the Queen's displeasure. Then Breadalbane, himself wanting to be elected, took the opportunity to cast doubt on the credentials of the managers.¹

But finally all was arranged. The list was composed of those who would most certainly support Harley in the Lords and for whom the managers could get most support. In the face of this array of strength and something like bullying from Argyll,² Leven, Stair, Glasgow and Seafield decided to stand down and vote for the Court list rather than oppose outright.³ The Squadrone felt no such obligation. They made formal approach to the managers and asked for a share of places in the list. When this was refused they staged a mass abstention, dining together ostentatiously on the day of the election.⁴ One or two others abstained for particular reasons. Stair abstained because he was not in the list and persuaded two others to do the same. Altogether twenty

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1. 7 Nov.1710. Mar to Harley. *ibid* 1352; 9 Nov.1710 Islay to O Port. *iv.* 625.
 2. 17 Nov.1710. Defoe to Harley. *Port iv.* 629. He said they had used the Queen's name. Mar said not but his dealings with the Squadrone seem to show that they had.
 3. 9 Nov.1710. Mar to Harley. *Harley Papers xLix.* 1353.
 4. NLS. *Mss.* 1026. f.66-7.

abstained,¹ which made the voting almost unanimous. The Court list was returned. Of the complaints made by the opposition the chief was that it contained such as were known to be disaffected including some arrested in 1708. This allegation was quite true and the indications are that Harley would have avoided that if possible but was forced to rely on Tories in Scotland. The Queensberry interest was no longer solidly with the Court, nor would they have commanded general support. Harley was bound by the limits of his interest. He could not expect the Squadrone to support him. The interest of the people joined with him : Mar and Argyll for instance, required the elimination of the old Court interest. They were seeking the fall of Queensberry. So there had to be Tories in the list.

The Commons' elections were not so successful for the ministry. Those returned were mixed, varying from pure Jacobites like George Lockhart, through Court men such as John Pringle to George Baillie and Sir John Anstruther of the Squadrone. Of the forty five the Court could perhaps count wholly on twenty three to twenty five, these being of

1. Mar's list 10 Nov. 1710. Harley Papers xLix. 1355. Those elected were: Hamilton, Athol, Annandale, Mar, Marischall, Eglinton, London, Hume, Kinnoull, Roseberry, Orkney, Northesk, Islay, Kilsyth, Blantyre, Balmerino. Sp54/3.261.

Tory interest or ministry men. In addition there were those who had belonged to the old Court interest and had opposed the new men in the election. These included some adherents of Queensberry and Seafield's men. There was also Sir David Dalrymple, now Lord Advocate. These could, in practice, be relied on for normal business but were always regarded doubtfully. Apart from these there were the particular interests - supporters of men who had taken Harley's side in the elections - like Sir James Hamilton of Rosehall, elected x by Hamilton, or Argyll's Sir James Campbell of Ardkinglass. The opposition had a hard core of Squadrone men and included other strong Whigs who might support the Ministry in some matters but who could always be relied upon to oppose Tory measures - Sir Gilbert Elliot of Stobbs, Robert Munro of Foulis, Sir Robert Pollock and their like. Together they numbered perhaps nine or ten votes.

But on the whole the Tories felt they were in, the Scots as well as the English. They also felt a large debt was owing to them which was about to be paid off to the full in places. So when they were bidden to hasten up to London immediately after the election,¹ their hopes were high.

1. 10 Nov. 1710. Mar to Harley. Harley Mss. xLix. 1357.

11. HARLEY'S ADMINISTRATION OF SCOTLAND

The Tories were interested in purging the administration of Whiggery in all its forms. Harley was bent on keeping himself out of High Tory hands and for that purpose formed a coalition. The core of his Ministry of 1710 was not of High Tory complexion. Their only representatives were Ormonde and Rochester. The remainder were Harleyite or men of moderate opinion in alliance. Shrewsbury was not the man to lend support to High Tory schemes. Dartmouth was no extremist. Newcastle was a Whig.

So no cleaning out took place in minor offices. Whigs were kept as Comptroller and Treasurer of the Household¹ and Brydges remained as Paymaster-General. Harley made attempts to increase the field of support by negotiating for the adherence of Sir Thomas Hanmer and even Marlborough himself. They were unsuccessful but showed his desire to preserve a broad coalition of centre groups or groups prepared to support a moderate ministry. The same motive appears in his Scottish policy.

There was no doubt that the Tories expected a clean sweep to be made in the administration. Mar's ambitions were more particular and he probably was wiser than to

1. Holland and Lord Cholmondeley.

expect any sweeping change. Argyll and ~~L~~lay were depending on the destruction of Queensberry's influence and the fulfilment of their own ambitions. But all hoped in some way that the victory of the new forces would be signalled in some striking fashion. Harley was more doubtful but he was in a difficult position.

Harley's aim had been the limited one of obtaining the election of persons who would follow the ministry in the Lords. He had no wish to alienate Scotland in the process and was fully aware of the danger of doing so. At least Defoe left him no excuse for not knowing and Harley certainly acted as if he knew. Shortly afterwards Defoe wrote two warning letters to Harley which probably made an impression. The first warned him against placing too much reliance on Scottish Tories. He gave his reasons. The word 'Tory' in Scotland was synonymous with 'Jacobite' and was taken in that sense by the Country at large. The apparent Tory victory at the election had caused uneasiness since rumour had it that the Queen intended the restoration of the Pretender. The election of four self-avowed Jacobites lent colour to that idea.¹ In view of this state of opinion which he regarded as precarious for the ministry Defoe urged caution in administrative change and spoke his mind on

1. 18 Nov. 1710. Port iv. 629. The four were Marischall, Kilsyth, Blantyre and Home.

the matter. There were some holding office who were not worth much but to replace them by men who would be equally worthless would not be worth the trouble it would cause. He emphasised the folly of changing military leadership even more. The Scots were not fully accustomed to being ruled by purely civil means and meanwhile the military power was of the greatest importance. To hand over the command of the forces to the new men would cause disquiet. He added what was doubtless the feeling in Scotland : that to give military command to a Tory would be to give Scotland to the Pretender. His advice was almost Machiavellian : to leave in office those whose adherence to the new ministry was suspect. It would keep them quiet and prevent them leading a dangerous opposition if they were dismissed.¹

Harley worked on these lines whether through Defoe's advice or not. He perhaps had reached the same conclusion himself because it was sound for a short term policy. He probably calculated that a period of quiescence and no change would not harm the Tories. They had experienced a certain uplift at the election and would live on hopes for some time.² At the same time it would avoid alienating any

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1. 25 Nov. 1710. Port. iv. 633. Moreover he seems to have considered the continued split between Squadrone and Court Chiefs as a success. Oct. 1712. Port. v. 242.
 2. The difference between Harley's ideas of governing Scotland and those of the Tories may be gathered by his feelers to see how much support he would get for a measure reducing the powers of the Clan Chieftains on the lines of Stanhope's bill of 1708. 1711. Mar to Oxford. Harley Papers. L. 1510.

large section of opinion by putting out any of those holding office who had the confidence of the Kirk. Further, he had no first hand experience of the strength of the various Scottish groups. He only had various opinions. It is possible he was waiting to feel the amount of pressure they could exert when the new men were politically active at Westminster. And, of course, some who had opposed the new men at the election were customary supporters of the administration. Men like Seafield could be invaluable and could be trusted to gravitate to the Ministry. Therefore time would allow the sweat and dirt of the election to be removed so that they could present themselves for service. There were signs that he was right. Nor did he have to wait very long. Rumours that Stair was becoming reconciled to the new ministry were about as early as December 1710.¹ These may have been premature but they were on the right lines. He was moving towards it early the following year and later made open offer of service.² Seafield was making his first moves as early as the January following the election.³

But this policy required an impossible amount of patience

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1. 19 Dec.1710. P.Wentworth to Lord Raby. Wentworth Papers 165.
 2. 17 May 1711. Stair to Mar. Port iv. 690. He asked for a British peerage. 4 June N.S.1711. Stair to Mar. Harley xLix. 1393. He offered to join Harley wholeheartedly.
 3. 13 Jan.1710/11. Port iv. 654. Leven, Glasgow and Seafield were in town making Court. Dec.1710. 14. Dec.1710. Islay to Harley. Port iv. 645-6.

and forbearance from those who had come in with him. These had to be fended off and Harley seems to have used the combination of fair words, hints and dark utterance for which he was notorious. But some were almost baying. Argyll was clamorous. Shortly after the election Orrery put Harley in mind of Argyll's "affair" remarking that if it were not done ".... he will be uneasy, for such delays, which are commonly disagreeable to the calmest tempers, are almost insupportable to him....."¹ This temper continued in the Argyll camp which attached more importance to deeds than words and the following month Islay took it upon himself to issue a warning to Harley. He told him of the uneasiness that was being created in their group by the lack of change. The new men had the right to expect the places in Scotland especially those held by their opponents of the last election. People had expected Mar to be made Secretary but Queensberry remained there and Mar durst not admit how little he knew of what to expect. This lack of change had reduced the stock of Mar and Argyll very low in Scotland whilst their enemies of the last elections / Leven, Glasgow and Seafield had hopes of remaining in favour and Queensberry was able to back his men as Secretary of State. Then he told him that if he were not careful the Scots would "follow the stream wherever it shall happen to run fastest" and he would not be able to rely on

1. 15 Nov.1710. Port. iv. 628. Argyll had to be given the Garter Dec.1710 to satisfy him.

them at Westminster. Queensberry as the channel of favour spoke louder than the Ministry's professions.¹ Annandale in a tone of asperity wrote a representation to the Queen on the same subject.² He had opposed Queensberry in 1708 to no avail and it was beginning to seem that in spite of the success of 1710 the essentials had not been affected. Queensberry was still Secretary. So to mollify Annandale he was made Commissioner to the General Assembly.³ His electoral interest was worth keeping and besides he had the reputation of being the only Scottish peer able to pay his own expenses for attending Parliament.⁴

They were both aiming at Queensberry. He was an old enemy of the pair of them. And in spite of everything he was still in office. But his position was peculiar. During the election he had been in official communion with the new powers and nominally supported their election measures. In Scotland his concern had been to defend his own interest which the new men were attacking. Thus his position was equivocal. It remained so. He was left in office by Harley in spite of his rather dubious attitude. He seems to have

1. 14 Dec. 1710. Port iv. 645-6. Hay to Harley.

2. 1711 Annandale Book ii. 242.

3. Against the advice of Defoe who said he was of no reputation with either side because he was steady to none. 19 Feb. 1710/11. Port. iv. 660.

4. Cowper's Diary p. 51.

given all impressions to all men and to have been ready to criticise the Ministry when he thought the company called for it.¹ Yet Harley let him stay. His reasons can only be guessed at. It was probably part of his policy of not making any immediate radical change in the administration to show that his Ministry was broadly based. Certainly the dismissal of Queensberry would have reverberated throughout Scotland and would have been regarded - as the Tories knew - as the prelude to a thorough sweeping out of the administration. And Queensberry certainly had the confidence of the Kirk,² which was probably another reason for retaining him in office. Then, of course, Queensberry had English friends, like Rochester for instance, whose support Harley needed. All these may have been factors in Harley's decision.

So Queensberry remained as Secretary. He was able on occasion to cause disquiet. But altogether Harley reduced him to a shadow secretary. During this period Harley built up his new scheme of administration for Scotland and one of the main motives must have been the aim of by-passing Queensberry to eliminate his influence. In fact Harley played an extremely delicate game in a masterly fashion and achieved technical although not real success.

1. Cowper's Diary for 21 Dec. 1710. p.51.

2. 28 Aug. 1711. Lord Yester to Harley. Port. v. 76-7.

Queensberry in fact seems to have been largely disregarded.¹ He was, as secretary, in the Cabinet, but mainly ignored.² Complaints about Queensberry were acknowledged by Harley in the deprecatory tone of someone who agrees that something should be done about it.³ He hinted that he was not a free agent but that was typical of Harley's tortuous proceedings. Nothing was done about it on the surface but actually Queensberry's office in relation to Scotland was reduced to a rubber stamp. Harley was virtually governing Scotland himself with the official aid of the Court of Exchequer and the extraordinary aid of John Scrope.

Scrope had been appointed an ordinary baron of the Scottish Exchequer in 1708.⁴ His salary of £500- p.a. as a baron was increased to £1,000- as compensation for having given up a lucrative practice in London.⁵ That seems to have been all at that time. But in February 1710 his salary was increased to £1,500- a year because "he now finds the charges he has been at in frequent journeys from Edinburgh to London for our service and in living according to the dignity

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1. He could still be used to bring pressure to bear on Argyll to release a man - Breton - to organise his regiment which Queensberry was trying to do. A matter of interest. 12 June 1711. St. John to Argyll. Bolingbroke Conv. i.239
 2. Same in formal matters. Note exception of PC.2/83.190. 9 Feb. 1710/11. May have been due to Queensberry's inefficiency of which there is evidence 8 May 1711. Bolingbroke Conv. resp. 1.203; Dartmouth in Notes on Burnet. ~~Oxford edn.~~ 388. 1 May 1711 was dealing with Col. George Douglas's business. Queensberry to Douglas Morton Papers Box.105.
 3. Annandale's complaints as Commissioner. 29 May 1711. Annandale Book ii.248; Harley's attitude 17 May 1711. ib.246.
 4. See above.
 5. T17/2. 139-40.

of the station he is in have amounted to more than his allowance from us....." In addition he was given £200- to recompense him for past losses.¹ He was obviously doing more travelling than might be expected in view of the sum awarded and it is clear they were business trips.² The reason for this activity of Scrope's probably lies in his peculiar position when Seafield had resigned. When Seafield was Lord Chief Baron - a big political figure and well in with Godolphin - there would be no need for any closer liason between Exchequer and Treasury. But on Seafield's resigning Smith became Lord Chief Baron, tied to Scotland by judicial duties in term time and with a preference for spending vacations on his Leicestershire estate.³ This left Scrope as the one ordinary baron who was an Englishman with connections in London. He was by this the obvious man to maintain a necessary personal administrative liason between England and Scotland; to convey the first hand information that official correspondence inhibited. This seems to be borne out by the fact that in the early days ^{the men called to the treasury} on official business were Seafield and Smith.⁴ But from April 1709

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1. T17/2. 139-40. 24 Feb.1709/10.
 2. cf. Sir D.Dalrymple who was paid for his official visits : £500- in 1707 and again in 1708 and was seeking £500- for 1709. 20 Nov.1710. Harley Li. 1677.
 3. 14 Mar.1714/5. CTP. 1714-19 p.88.
 4. 4 Aug.1708. CTB. xxii. p.45.

Scrope's name appears on the few occasions when Scottish officials are noted as being at the Treasury¹ and his extra salary is sufficient evidence of his activity.²

But all this was before Harley came in. Harley's success made a great difference to Scrope's position. He seems to have had some long-standing connection with the Harley family. In 1700 he wrote to Harley and offered assistance in familiar terms to one of Harley's connections putting up for Ludlow.³ When Harley became Chancellor of the Exchequer Scrope wrote to him: "With great pleasure I received the news of my having the honour of having you for one of my masters, under whose protection I promise myself much more satisfaction in the service I am engaged in, than hitherto I have met with."⁴ This connection seems to have survived the political vicissitudes⁵ of the following years.⁶

So when Harley came in he made great use of Scrope in Scottish affairs. This was so when Harley was Chancellor of the Exchequer and his indispensability increased when

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1. 16 April 1709. CTB. xxiii. p.11; 6 May 1710. CTB.xxiv.p.19; 16 May 1710 *ibid* p.21.
 2. He attended the Council with Sir David Dalrymple and the Attorney General and Solicitor General and the two Chief Justices. 17 May 1710. Sunderland Minutes C1 - C16. B.25 Again 28 May 1710 *ibid* B.34.
 3. Harley Mss. List 2. Corresp. S-So.
 4. 12 Aug.1710. Harley Mss.xLix. 1312.
 5. 30 Jan.1723/4. Dr.Stratford could wonder that Scrope could go into the Treasury since he was a friend of Thomas Harley.
 6. Dartmouth said he had been "a confidant of Harley". Notes to Burnet v. 358n.

Harley became Treasurer. And Scrope must have been an invaluable man - a judge, a trained lawyer, contacts in London and first hand experience of Scotland and Scottish affairs. There seems to have been no kind of Scottish administrative business on which he was not consulted.¹ On numerous occasions he acted as a one-man commission of inquiry, sorting out the rights and wrongs when interests clashed.² He acted on several occasions as a check on the Commissioners of Customs and Excise and the Mint, deciding whether their recommendations were reasonable.³ Examples abound. Scrope attended the Treasury about the quarter bill of salaries;⁴ Scrope reported on the division of the proceeds of a seizure disputed between customs officers;⁵ the Customs Commissioners asked his assistance in their difficulties with the Treasury over their establishment;⁶ he was at the Treasury about the expenses of Scottish judges on circuit.⁷ Treasury minutes sum the matter up. On the 8th May 1711 it was directed: "Letter to Baron Scrope that my Lords have several affairs relating to Scotland to

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1. One has only to read the letters he wrote to see why. They were models of conciseness and lucidity. His remarks were detached and went straight to the point. It can be felt that he was a man who could be relied upon.
 2. CTB. xxiv. 586. 25 Sept. 1710.
 3. CTB. xxiv. 591-3. 5 Sept. 1710; 22 Sept. 1710. T17/2. Scrope to Harley and below.
 4. 8 Jan. 1710/11. CTB. xxv. Pt. 2. p. 3.
 5. 14 Feb. 1710/11. CTB. xxv. 624.
 6. 24 Feb. 1710/11. Harley Mss. xLvii. 668-9.
 7. 6 April 1711. CTB. xxv. 41.

consider of, which are likely to take up some time and that my Lords conceive it will be necessary to advise with him thereupon; and therefore desire him not to think of returning to Scotland till those matters can be adjusted".¹ A further note was made on the 17th March 1711/12 : "Baron Scrope to attend the days which shall be appointed for affairs of Scotland."² Smith in fact was later moved to protest about Scrope's absences in London when he was needed in Scotland although, as he said, he realised his presence in London was "very much for her Majesty's service in relation to Scotland..."³

His position was well recognised in Scotland, too. People wrote to him as an intermediary. Carstares frequently wrote to Scrope on matters he wished to be brought to the Treasurer's notice but which were rather too lengthy to write about directly to him.⁴ James Erskine of Grange when Lord Justice Clerk was trying to assert his right to nominate the Clerks of Session. He mentioned the matter to Oxford but his case set out at length he had sent to Scrope who would produce it if Oxford wished.⁵ Such incidents were many. It is in fact quite clear that Scrope's position in

1. CTB.xxv. 60.

2. CTB. xxvi. 18.

3. 11 May 1713. Smith to Harley. Harley Mss. xLix. 1226.

4. eg. 27 Sept.1712. Carstares to Oxford. Harley Mss. xLix.1193.

5. 14 July 1713? Grange to Oxford. Harley xLviii. 1030.

Scotland was far more important than his nominal position of Baron of the Exchequer.

So during this period of Queensberry's tenure of office on sufferance Harley seems to have done all he could and with some success to reduce the position of third secretary to that of a caretaker. Apart from the necessary legal function of the secretary Scotland was being run from the Treasury with information received from Scrope mainly or through the Court of Exchequer. Political information was available from Mar or Dupplin, Harley's son-in-law~~y~~ now an English member of Parliament for Fowey and other intelligences from Harley's particular agents, men like Ogilvie. Scrope was Harley's eye on the administration and minor patronage.

And then, in July 1711, Queensberry died "of an Iliac distemper". His enemies did not have the satisfaction of bringing about his fall. But his death was taken as being of significance - more than it was in fact. The name had retained an importance that its owner had lost. The Bishop of London thought it a good opportunity to end the policy of encouraging enemies and neglecting friends.¹ Lord Yester advised "a more frugal and extensive dispensing of her Majesty's favours, than hath been done formerly...." He

1. 8 Aug. 1711? Henry Compton. Bishop of London to Cromarty. Cromartie Correspondence ii.116.

too thought Queensberry's death a good opportunity to start.¹ More seriously the way was open for Tory pressure for the place to be filled by one of them since now there was no obstacle. Before Queensberry's death Harley could hint that the Queen would not stand for his removal. Whether he was believed or not, it was something. So now there was a real sense in which he was vulnerable.²

Harley was not a man to act in a hurry. He was quick, though, to seek opinion. He must have had a word with Scrope at once, significantly enough, since Scrope's advice is dated the day after Queensberry died.³ It seems that Harley had asked Scrope's opinion on appointing a Keeper of the Signet as Mar had been appointed in 1708, instead of a secretary - an indication of the trend of Harley's thoughts. When Godolphin had abolished the office of Scottish Secretary in 1708 he had made Mar the Keeper of the Signet. Harley seems to have had in mind an officer who would fulfil the purely legal function of Secretary and presumably without the prestige and influence. But the commission which Mar had held was not the one he was looking for as Scrope soon

1. 28 Aug. 1711. Yester to Harley. Port. v. 76-7.

2. It might well have been that Harley was using Queensberry as a bulwark against giving Scotland into Tory hands. When this went he carried on administration from the Treasury to achieve the same end. See Islay to Oxford. 29 July 1713. Port. v. 312.

3. 7 July 1711. Scrope to Harley. List 2. Correspondence S-So.

told him. Mar's powers had been almost as great as those of a secretary in presenting warrants for gifts and signatures.¹ Furthermore he had exercised them. Scrope did not think this advisable for Scotland in 1711. "My Lord", he wrote, "I must submit to your judgement whether a commission as extensive as Lord Mar's will be agreeable to the method of doing business here"² The "method of doing business" must have been the one that had grown up to by-pass Queensberry. The advisability of making it permanent was now being canvassed in administrative circles. Shortly after Scrope's opinion, Harley received an unsigned memorandum urging this same point of view. "..... it will be contended by those that are for setting up a Scots Secretary that there will be wanting somebody to dispatch business in London, but there is very little pretence for all things that relate to the revenue are under My Lord Treasurer's cure and must pass through the Treasury. There will be little other business, perhaps now and then the making of a judge or other officer, for which there are forms of warrants in the Scots Secretary's books and any clerk may prepare"³

The administrative point of view was clear. Let the Treasury handle business in London since there was little which did not

1. See above.

2. 7 July 1711. Scrope to Oxford. Harley Mss. List 2.
Correspondence S-So.

3. Dated record 14 July 1711. Harley L. 1458.

concern the revenue; in Scotland the Court of Exchequer would be the Treasurer's 'eye' and the hub of the administration. The conduct of business would be made quicker and neater since one step was being cut out. And further there would be a reduction in the number of masters to be served.¹

Harley also consulted Defoe, as was usual. Defoe was more political in his outlook. He thought the office created trouble and difficulties because the Secretary was looked upon as the channel of patronage. This attracted a following and really made the Secretary, as intermediary between the Queen and subjects, a kind of viceroy. It also created an opposition. For these reasons Defoe was against any appointment being made in Queensberry's place.²

So Harley had his choice to make. The appointment of someone in Queensberry's place was expected. He had the most important place at his disposal. But claims were being made from several quarters. Hamilton thought it was his due. Mar and Islay both wanted it. Some were going to be disappointed or even alienated.³ Furthermore, Queensberry's episode had shown it was not easy to get rid of secretaries when they

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1. The Lords of Justiciary petitioned against having to account to the barons for the expenses of the circuit courts. Much to their chagrin the petition was sent to the barons for their consideration. 25 Dec. 1711. Harley Papers xLviii.1048.
 2. 13 July 1711. Defoe to Harley Port. v. 45-7.
 3. If he appointed a Tory it would alienate interests whose support he had been trying to retain. Anyone else might alienate the Tories.

were appointed. And at the same time he had this vision of a new scheme of administration in Scotland. The Lord Treasurer would rule Scotland, above all faction, either directly or through the Court of Exchequer.¹ He would make use of semi official channels of information and trusted agents like Scrope. He would listen to all sides and compare differences. And meanwhile the contending parties would be kept in expectation.

Harley decided not to appoint a secretary.² Necessary warrants for countersignature could go through the other secretaries' offices but that would be a formality. The only gap left by not appointing a secretary was that some arrangement had to be made for the Signet. Except for the period when Mar had been Keeper of the Signet, the Signet had been in the hands of the secretaries. Their interest in it had been financial since Signet business was performed in Scotland. Most legal business, civil and criminal, as well as all grants and charters were issued from the Signet Office. Fees were paid for all.³ So they appointed deputies who were usually substantial men, friends of theirs, who also appointed

1. Cf. Bolingbroke's description of Harley's English policy - "Nothing but my Lord Treasurer".
2. Swift thought - or had heard - that it was "a useless charge". 12 July 1711. To Archbishop King. Swift Correspondence i.266
3. 7 July 1711. They seem to have amounted ~~wrongly~~ ^{usually to} £1,300- p.a. Based on accounts of 1710, 1711 and 1712. SP.54/4. 274; Harley Mss. Li. 1679. Correspondence of Calderwood with Lewis bears out these accounts.

sub-deputies, generally "inconsiderable people", who did the work.¹ When Queensberry had been made Secretary he had been joint keeper with Sunderland.² On the removal of Sunderland, Queensberry had shared the Signet with Dartmouth.³ Both appointed under keepers : William Alvis for Queensberry and Sir William Calderwood for Dartmouth.⁴ Neither were inconsiderable. Alvis had been a member of the Scottish Parliament⁵ and Calderwood was later made a Lord of Session.⁶ Alvis at least had a deputy.⁷ The two underkeepers officiated in turn, one month each, sending in an account of the takings⁸ but, if Calderwood's feelings are any indication, not always in an atmosphere of trust.⁹ The underkeepers, as in some way being the secretary's representatives in Scotland, acted as correspondents. The Secretary's mail or "black box" was always sent from Queensberry's office to Alvis.¹⁰

The death of Queensberry left Dartmouth in sold possession with Calderwood as his underkeeper.¹¹ It was

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1. 14 July 1711. Harley L.1458.
 2. 7 July 1711. Scrope to Oxford. Harley List 2. Correspondence S-So.
 3. Ibid. Save for a period to Dec.1710 when all three secretaries had shared the profits. SP.54/4. 274
 4. 25 Jan.1710/11 (wrongly dated in p.180). Calderwood to Dartmouth. SP.54/4. 151.
 - PS. 5. For Sanguhar Aps.11.p.302.
 6. 6 Nov.1711. Brunton and Haig 492.
 7. 2 Feb.1710/11. Calderwood to Lewis. 5754/4. 17.
 8. 7 April 1711. Calderwood to Lewis. SP.54/4. 26.
 9. 11 Sept.1711. Calderwood to Lewis SP.54/4.80.
 10. 4 Aug.1711 Calderwood to Lewis SP.54/4. 65.
 11. Ibid. but not for long since Calderwood was soon made a Lord of Session.

typical of Harley's approach to administration that before acting he thoroughly investigated the organisation of the Signet Office. He was an indefatigable collector of reports and memoranda which he rested on some time before acting. A memorandum on the Signet Office seems to have been requested.¹ It appeared that the organisation of the Scottish Signet Office was lacking in both order and dignity. Since the actual work was done by the deputies of deputies something like that might have been expected. But it must have been a surprise to Harley to learn that the business of the Signet, and the other seals, was transacted in public houses, with the sub-deputies thriving on 'drink money' or tips for expediting business. There were so many writers to the Signet and so little check on their qualifications on admission that the standard of draftsmanship was very low. Most of them were said to be so ignorant that their writings could neither be read nor understood. Since this involved much of the legal business of the Kingdom it was serious.

Some proposals were made to Harley for rectifying this state of affairs. The first requirement was to give the Keeping of the Signet to someone competent to do the job and not to give them the power to appoint deputies. Powers should be limited to Keeping the Signet and admitting clerks

1. 14 July 1711. Harley L. 1458.

and writers. By these means some order would be brought into that office and the Country would benefit.

Harley took some of this advice but not all of it. The commission which he issued for Keeping the Signet in 1711 was limited to the powers belonging purely to the Signet Office : custody of the seal and its records, regulating and admitting writers and clerks, and granting commission to the Sheriffs' clerks in Scotland. But the need for spreading patronage as far as possible probably forced Harley to disregard the advice about deputies. The men appointed as joint keepers were both Members of Parliament - John Pringle of Hayning and William Cochran of Kilmarnock.¹ These were not the men to do the job themselves and they were given the power to appoint deputies.² But the men who would have given all their attention to the office would not have been worth gratifying.³ An odd circumstance was the agreement that Sir Alexander Erskine, the Lord Lyon, was to share the profits although not being named in the commission.⁴ If this was a means of gratifying the Lord Lyon

1. Wrongly styled John in the warrant.

2. SP.54/4. 141. warrant undated.

3. Montrose issued a Commission to regulate writers. This may have been continuing one of Harley's or it may have been an innovation to regulate abuses. 9 Dec.1714. SP.57/29.

4. 29 Oct.1714. Mar to Oxford. Harley xLix.1303.

he must have been disappointed for he got nothing out of it whilst the two keepers were in office. He was still trying to get his share out of them at the end of 1714, a year after they had given up the Signet to Mar.¹

Meanwhile Harley's administrative machinery functioned after a fashion. In theory everything could be taken care of. Matters could be referred to the Exchequer in Scotland for consideration and report - or to Scrope if they were confidential in character. All manner of petitions were referred to the Barons - petitions of customs officers for their arrears in salary and expenses or of redundant officials wanting ports in recompense. All went to the Exchequer for consideration and report.² The Barons were deputed to consider and produce schemes for preventing Irish foodstuffs being imported into Scotland or for collecting the Bishops' Rents.³ But all this was purely advisory. Something had to be done. The Exchequer was in charge of routine financial administration such as finding the money to pay salaries. Sometimes they had minor functions to perform such as ordering work to be done at Holyrood House and supervising it.⁴ But the weak spot was the executive.

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1. Presumably he got the Signet on being made Secretary. Certainly Pringle expected to lose it. 2 Sept. 1713. Pringle to Oxford. Harley L.1623.
 2. 3 June 1712. T17/2. 357; 17 June 1712. *ibid.* Also T17/2 *passim.*
 3. 4 Sept. 1712. SP.54/4. 268; 15 Dec. 1713. Harley Papers List 2. Official Papers. S.
 4. 30 Sept. 1713. T.17/2. 457.

The mainspring under the new arrangement was the Treasury. But in practise the Treasurer only took notice of matters which were put before him, such as petitions to the Treasury. These could be referred easily enough but something still had to be done. And things were very slow to happen at the Treasury. It is probable that apart from Oxford's natural lethargy in administrative matters the weight of business at the Treasury was too great to be dealt with at once and efficiently. Delay came not so much in giving warrants for payments of various kinds but in deciding matters of patronage, when claims had to be weighed, one against another, before decision was taken. In such matters movement only seemed to take place when gratification was urgent for conduct of business as for instance before the session of 1711-1712 or before the election of 1713. Meanwhile, his unofficial channels of business and information were of little use in this. They could inquire and inform but could not decide. There was a strong administrative argument in favour of a Scottish Secretary.

Political forces were working against his new system. His policy had been a child of political expedience and administrative experiment. It could not of its nature last long; the forces undermining it were too strong and too busy. They were at work in England and Scotland. In England the High Tories were pressing for measures in which moderation

had no part. They were demanding also some encouragement for their friends by which they meant a thorough purge of the administration. The October Club embarrassed the Ministry in the Commons and the blocking of measures like the Place Bill and the Resumption Bill was managed only in the Lords.

Yet in spite of this Harley was able to maintain his position without too many concessions. Even in his reorganisation of 1711 when he was made Earl of Oxford and Lord Treasurer the High Tories made little enough out of it.¹ But for the time being the negotiations with France and the impending peace settlement were safeguards. This was the aim of Tory policy and even their extreme supporters durst not jeopardise it in spite of their complaints.²

In Scotland there was Tory dissatisfaction at the absence of change and lack of gratification. Little change had been made in the various Scottish offices and they were not such as would gratify Tories. Before the 1710 election Grange had replaced Adam Cockburn of Ormiston as Justice Clerk, but Lord Grange was a Whig. Islay had replaced Cromarty as Lord Justice General in 1711.³ Argyll went to Spain as ambassador extraordinary and commander-in-chief in

1. Wyndham, Caesar and Gwynn were given places.

2. 26 Aug. 1711. Swift to King. Corr. i. 279-80.

3. 24 June 1711. Establishment List. General Register House p. 68

January 1711.¹ The only other change was certainly not calculated to please the Tories. Sir David Dalrymple was removed from the post of Lord Advocate for his failure to prosecute vigorously in the case of the Duchess of Gordon's medal.² In his stead was appointed Sir James Stuart, former Lord Advocate, high Presbyterian and prosecutor of episcopal clergy. That was all. Old adherents of Queensberry remained Glasgow as Lord Register and Leven as Commander-in-Chief. Montrose, even more surprisingly, remained as Keeper of the Privy Seal. Oxford was doubtless leaving them to avoid alarm in Presbyterian circles.³

Added to this was the apparent lack of government in Scotland. The old Privy Council had been a visible sign that something was taking place. That no longer existed. Government was reputedly being conducted from London. A secretary in office would have been the traditional way of signifying that something was being done and showing where favour lay. But Oxford's administrative method was necessarily less efficient, at least in time of war, and moreover left no outward mark, being apparent only to the initiated. All this looked like neglect. Coupled with the lack of success in Scottish business in the Commons it created despondency. A bill which would have given the same

1. D.N.B.

2. 4 Sept. 1711. St. John to Drummond. Bolingbroke Correspondence i. 342.

3. Carstares went to London reputedly to preserve Montrose and Leven in their places. 15 Aug. 1711. TP. to Defoe. Port. V.

encouragement to naval stores from Scotland as was received by American products was rejected. A bill was passed which put an export duty on all linen leaving Great Britain. This hit Scotland since linen was its staple product. The bill was finally modified to allow the export of Scottish yarn to Ireland to help the Irish linen industry but the sentiments expressed about Scottish interests in the Commons by some members created a very bad impression. There was also the apparent reluctance of the Ministry to enforce laws prohibiting the import of Irish victuals which was causing concern.¹

Meanwhile the government was likely to have to rely on the Scottish vote in the Lords in the matter of the peace - and in the coming session. But the Scottish peers were expecting some gratification for their attendance. Balmerino had ~~to think~~ ^{the Mint} but wanted his son to be made a Lord of Session. Kilsyth was expecting to be provided for. Northesk considered he had a claim to something as a Lord of the Treasury before the Union who had received no recompense for his loss of office. He was moreover in poor circumstances. Home was penurious also and at times in dire need. Eglinton and Annandale both wanted something; the latter was irritable in

1. 1 Sept. 1711. Balmerino to Oxford. Port. V. 81; Lockhart i. 326-38.

Continuation from previous page of Footnote 3.

He had been seeking someone as Commander in Chief that the "Kirk may be easy with". 15 Sept. 1711. Oxford to Defor Port. V. 90-1.

addition. Hamilton had his own ambition to be a peer of Great Britain. Kinnoull had quiet little ambitions of his own to be Lord Register or something of the kind whilst Mar, of course, wanted to be Secretary. These were the men on whom the Ministry looked like having to rely in the struggle for the peace in the Lords.

Obviously something had to be done and done quickly. Oxford had a project which had been considered for a long time. It was hastened and put into effect.

12. THE COMMISSION OF CHAMBERLAINRY AND TRADE

Oxford was made continually aware of the dissatisfaction in Scotland by Mar and Kinnoull. Slowly he began to feel his way towards some expedient. As usually happened, sundry suggestions, proposals and pieces of information coalesced in his mind before emerging as an eclectic scheme.

The core of this idea lay in the resurrection of the powers of the Lord High Chamberlain of Scotland. This office had been a great one in its day and had been hereditary in the dukes of Lennox.¹ The Chamberlain had exercised wide jurisdiction in financial matters and in particular had presided over the Convention of Royal Burghs, exercising financial jurisdiction over them and hearing causes connected with them.² The office had become obsolete and all check on the affairs of the burghs had ceased. Attempts to set up some kind of control had been made. An act of James V had ordered burgh accounts to be brought into the Exchequer but no notice was taken.³ Since that there had been a commission issued to Queensberry in 1689,⁴ likewise ignored, and an "Act anent the Common Good of Royal Burrowes" of William III to check the "maladministration of Magistrates

1. See Mackenzie Works ii.196.

2. Act 36 Part 3. James iv.

3. 19 Oct.1713. Thomas Kennedy to Mar. SP54/5. 94.

4. Ibid.

and others" through which the burghs had "fallen under great debts and burthens to the diminution of the dignity of Estate of Burghs, and the disabling them to serve the Crown and Government as they ought".¹ Under this act a commission of chamberlainry had been issued in 1694 for calling the burghs to account.² There the matter had rested and nothing had been done.

Early in 1711 it was urged upon Oxford³ that the powers of the Chamberlain should be revived.⁴ The purpose was to be more than preventing wastage of burgh property. It had occurred to someone that a commission invested with these powers could have nearly as much influence as the old Privy Council. In addition to calling magistrates to account it could be given other powers, for example, that of naming and reviewing commissions of the peace annually and enquiring into the conduct of justices. This, it was thought, would bring both shire and burgh elections under the effective control of the ministry and reduce the influence of the few great men. If membership of the commission were restricted to representative peers they could thereby be gratified. This was indeed a sweeping vision of vast steps of management and influence. But it was the vision of an

1. Act 45. William & Mary 1693.

2. 1 May 1712. SP. 34/18. 102. A memorial for Sir Hugh Peterson.

3. Not Oxford early in 1711 but hereinafter referred to by that title.

4. 17 Feb. 1711. Unsigned memorial. Harley Papers Misc. Scottish Papers.

administrator, not a politician.

There had been talk in Scotland of neglect in matters of trade. Commercial matters were being regulated from Westminster and Scottish interests ignored. The Convention had stated its aims but no attention had been paid to them.¹ Mar urged Oxford in June of 1711 to placate Scottish disquiet in trade matters by putting at least one Scotsman in the new Board of Trade. Baillie had been in the previous one so Mar was probably warning Oxford against omission.² Then in July Oxford received a suggestion that the Chamberlain's powers to supervise the fisheries should be revived.³ It was passed to Scrope for his opinion which shows it was taken seriously. From such seeds as these the project germinated.

There seemed to be a good deal in favour of some kind of commission. It could provide a Scottish administrative body taking over various tasks and showing by its composition who was in favour. It would not be open to the same criticism as the Privy Council - namely that there was already a Council for Great Britain. And since it would have several members its composition could be broader and it might therefore be possible to avoid the political snags of appointing a secretary.

1. 25 Nov. 1707. R.C.R.B. 1677-1711 p.427-431.

2. 10 June 1711. M. & K.Mss.489.

3. 11 July 1711. Harley Papers Li.1730.

The problem of finding some substitute for the Privy Council seemed to have been to the fore in Oxford's mind.¹ There were other aspects to be considered. The commission would increase the scope of patronage and that was badly needed. Members would be gratified and some of the Government's lost influence might be regained. A commission for executing the office of Chamberlain seemed to meet all requirements. The Scottish law knew of the office of Chamberlain. There had been provision made for reviving those powers in the form of a commission. A Scottish Commission for Trade had been set up under Charles II.² All the precedents seemed to be there.

The matter was turned over for a good part of 1711. Oxford must have mentioned it fairly freely for in September Cromarty was writing to him about it though the matter was only just going to be brought before the Cabinet.³ The result was the Commission of Chamberlainry and Trade of November 1711.⁴ Its powers were strangely assorted and read like a memorandum pad. The Commissioners were to execute the office of High Chamberlain of Scotland - in sweeping fashion - with all power, jurisdiction and authority

1. 27 Dec. 1711. Port. v. 256. Kinnoull was stressing the need for something in place of the Privy Council to remedy a lack of government. 3 Sept. 1711. Port. v. 82-4. Defoe had a hand in advising Oxford on scheme to replace the Privy Council and at that time only the membership needed to be settled. This almost certainly is the scheme referred to.

2. 1 May 1712. SP. 34/18. 102.

3. 1 Sept. 1711. Harley Papers xLviii. 847.

4. Warrant dated 15 Nov. 1711. SP54/4. 123-8.

which belonged by law to the office. Some of their tasks were directly related to trade. They were to examine the state of trade in Scotland and consider how beneficial trades could be improved and harmful ones restrained; and what useful industries were in existence and what new ones could be started. They were to enquire into the best means of encouraging fishing on the Scottish coast and to provide naval stores for the Royal Navy. Apart from this they were given odd jobs left over without provision from the Treaty of Union : how to dispose of the £2,000- a year for encouraging worse wool manufacture and how to make effectual the law requiring uniformity of weights and measures in England and Scotland. In addition they were to suggest the best methods of employing the poor in Scotland, and to enquire into exemption from taxation claimed as private rights and how to abolish them. In fact it seems that once the decision to issue the Commission was made all the outstanding tasks and subjects of complaint were foisted on to the Commissioners. Quite probably this aspect of the Commission was a way of giving the impression that something was going to be done which might still criticism and make the Commission more readily acceptable.

The original commission was composed of eight persons. Their names show that gratification was certainly important.

It was notorious that Annandale expected well of Oxford. His attitude was so pressing that he had been made Commissioner to the General Assembly to quieten him for a time. Since then his fancy had turned to the Governorship of Edinburgh Castle or the place of Lord Register.¹ Now he was first-named in the Commission. Eglinton was a representative peer who needed looking after. He was, and remained, anxious about what he was going to get for his services in the Lords and in the elections.² He was in the Commission. Northesk was a representative peer. His poverty had long been a source of anxiety to himself and his friends. Mar was particularly worried because Northesk was a follower of his. Several times Mar had urged Oxford to do something for him.³ He had tried to get him on the United Kingdom Board of Trade in Baillie's place. Now he had his way. In fact Mar probably had more than a little to do with distributing these favours since he wrote the list of names for the Commission and amended them.⁴ Balmerino was a representative peer and of use to the ministry since pains had been taken from 1710 to gratify him. Before the election he had been

1. 9 Oct. 1711. Kinnoull to Oxford. Port.v.97.

2. 28 Aug. 1711. Eglinton to Oxford. Port.v.78. He asked for the place as extraordinary lord of session vacant by Queensberry's death.

3. eg. 17 Aug. 1710. Harley xLix. 1317.

4. SP54/4. 119.1711.

promised the place of General of the Mint, which he was later given and held until January 1712.¹ The inclusion of Lord Haddo is more mysterious. He was the eldest son of the earl of Aberdeen. His election to the Commons in 1708 was declared invalid because of that. Presumably his appointment was to gratify a section of the Tories with whom Haddo possessed influence and who were in support of Mar.²

The remaining members of the Commission were commoners. Sir Hugh Paterson was a Jacobite and member for Stirlingshire. He married Mar's sister in the following year. Alexander Murray of Cringletie was member for Peebleshire, sheriff-depute of the Shire and strongly recommended by Oxford's son-in-law.³ Sir Patrick Murray of Auchtertire was not a member of Parliament but had some influence in the Highlands where, in association with Kinnoull and Robert Stuart of Appin, he was involved in organising the payment of pensions to the clan chieftains.⁴

Two others had been considered, but not included. One was Viscount Kilsyth, a representative peer and follower of

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1. Harley Papers xLix. 1317.
 2. 7 Aug.1714. Mar to Lord Grange. M. & K.Mss. 505-6.
 3. 27 Nov.1711. Murray to Oxford. Harley Papers xLviii. 1046.
 4. 3 Dec.1711. Kinnoull to Oxford. Port.V.122; R.Stuart to Oxford. Harley Papers xLviii.1047; 26 Aug.1712. Kinnoull to Oxford. Port.v. 216-7.

Hamilton. He expected something and was well worth cultivating - "few in our Country can be so useful", Mar told Oxford.¹ The other was George Mackenzie of Inchculter, member for Inverness burghs, who was in need of a job to recompense him for attending Parliament. He had shortly before been trying to get a place as a Commissioner of Customs or Excise.² Not for a long time, if at all, did he meet with success.³

So the Commission was out and Oxford had left it very late. He had wanted the support of the peers in the Lords and it had become plain that unless something were done they would not be there. There was a last minute panic at Whitehall. Oxford wrote to Dartmouth in the middle of November hoping that the Queen had given him the names for the Commission so that it could be sent by express to Scotland to induce the peers to come up.⁴ Now it seemed doubtful whether they would get up in time. Kinnoull complained of being rushed off his feet and blamed people in London for the delay ".... otherwise I should have been at London a fortnight ago, but I believe if it had not been this Commission you would have got few more".⁵ The peers,

1. 1712? wrongly dated 1710? Port. x. 358.

2. Sept. 1711. Harley Papers Li. 1746.

3. 21 May 1712, Mar to Oxford. Harley Papers xLix. 1157-60.

4. 16 Nov. 1711. Dartmouth I. 307.

5. 3 Dec. 1711. Kinnoull to Dupplin. Port. v. 121-2.

were, in fact, out in the Country and Mar was right when he estimated they would not be able to meet in Edinburgh and then get to London before the 12th December.¹ They met in Edinburgh on the 4th of December and qualified themselves, constituting the Commission before setting out for London.² In spite of Parliament's being prorogued till the 7th of December, therefore, they were not present. The combination of Nottingham and the Junto carried Nottingham's amendment to the address that no honourable peace could be made if a Bourbon were left in Spain. Oxford was blamed for negligence in not seeing that all his supporters were up in time. The Court was just hoping for the arrival of the Scots. After this episode Oxford was driven to lash out in several directions. Marlborough and Somerset were put out and twelve new peers were created to reduce his dependence on the Scots.³

Although the Scots were finally in attendance at Parliament everyone was not satisfied. Oxford had said the Commission was "very finely drawn and well worded".⁴ But the truth seems to be either that the drafting was done by someone ignorant of the finer points or that it was done in

1. 25 Nov.1711. Dupplin to Oxford. Port v. 115.

2. 1 May 1712. SP.34/18.102.

3. His remark to Dartmouth about the Scots needing payment for every vote sounds as if he were out of patience. Dartmouth's notes to Burnet vi.95n.

4. 20 Nov.1711. To Annandale. Annandale Book.ii.251.

a hurry to meet the Parliamentary emergency. Sir James Stuart pointed out its drawbacks.¹ It was not clear, for instance, who was to preside; no powers were given for naming clerks and other officers; nor was there any provision for executing their decisions. The Commission had been prepared in England and the Scottish law officers were not consulted.

There were other non-technical objections. Annandale, having considered the Commission, thought he was worth something better. He wrote to Oxford, declined to serve, and asked for "some settled and fixed post".² To others he seems to have said more than he thought fit to write.³ Those who were acquainted with his overbearing temper were glad at his decision.⁴ In spite of all this he was prepared to take advantage of the delay in changing the Commission and early the following year claimed £2,000- as salary for his (technical) service.⁵ He did not get it. The official view was that he had declined to serve.⁶ He was replaced by Kilsyth who, as Oxford had been warned, was likely to turn "uneasy" if nothing were done for him.⁷

1. 27 Nov.1711. To Carstares. Port.v.122-5.

2. 29 Nov.1711. Port.v. 116.

3. 13 Dec.1711. Sir James Stuart to Carstares. Port.x.407.

4. 3 Dec.1711. Kinnoull to Oxford. Port.v.122.

5. 30 May 1712. Memorial to Lord Treasurer. Port.x.470.

6. SP54/4. 120.1713?; Mar did not regard him as being in the Commission. 13 March 1711/2. To Grange M.& K.Mss.497-8.

7. 25 Nov.1711. Dupplin to Oxford. Port.v.115.

If Annandale were disappointed, a good many other people were very uneasy. Some received the Commission with great cynicism, taking it as an excuse for gratifying the Commissioners. They thought them "oddly chosen and as some say either to serve a turn or to be gratified".¹ They were of course correct in assuming that the choice of Commissioners was dictated by political considerations. But there was more to it than that as the discerning were well aware. Sir James Stuart remarked that the powers of the High Chamberlain over the burghs were very great and if used could bring them under complete control for elections. He doubted whether this was wise.² Others approved of this prospect. Lockhart thought it "might have been very useful, especially by calling the magistrates of the several burghs to account for management of their burgh's common stock, and thereby obliged them to serve the Queen in the election of members of Parliament...."³ Fears were therefore not groundless. The Commissioners had dangerously wide powers. This fact caused such a noise that the whole affair was brought out into the open which is just what the ministry had tried to avoid.⁴

1. 27 Nov.1711. Sir James Stuart To Carstares. Port.v.122-5; also Lockhart. i.372-3.

2. 27 Nov.1711. To Carstares. Port.v.122-5.

3. Lockhart i.372-3.

4. It was the subject of at least one pamphlet which pointed out the dangerous increase of Court influence involved whilst admitting the need for some enquiry into the burgh's management. 29 Nov.1711. A letter from a Scots gentleman B.M.

Everything seems to have been done to keep the matter out of Parliament.¹ No salaries were specified in the Commission in an attempt to avoid the question of re-election of members.² But the matter came before the House. An address was made for the Commission and previous commissions and charters connected with the office of Chamberlain to be laid before the Commons.³ Sir Hugh Paterson and Alexander Murray were made to seek re-election.⁴

Once the matter came before the House the Ministry expected criticism. They thought there would be two main objections to the Commission. It resurrected an obsolete office with wide powers which could become "bothersome". The second objection was legal. The Commission was just to execute the office of High Chamberlain. This office had never been held by more than one and therefore the commission of several was contrary to the Regency Act.⁵ The Ministry hastened to find some means of meeting this criticism. Advice was sought. One proposal was that the Commission should be amended, continuing its powers relating to trade but founding the powers to supervise burgh finances on the Act of 1693.

1. Harley Papers. Li.1733. seems to show it was desirable to keep the matter out of Parliament.

2. Not Lockhart's explanation: that Oxford wished to keep them in dependence, promising from month to month but "for any more he was their humble servant". *ibid.*

3. 27 Feb.1712. C.J.17. p.113.

4. Murray was not re-elected. Another Alexander Murray - of Cringletie - was elected.

5. 1712? Harley Papers Li.1733. In Scrope's hand?

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v.255)

Comment on this was depressing. The powers under the Act of 1693 referred only to a commission to be granted then so the new commission could not be founded on that act. And any attempt to revive the powers of the High Chamberlain in any form would be construed as an attempt to control burgh elections. That was, of course, at the root of the trouble. The Ministry's purpose was being challenged - because there was little doubt that influence and a tighter rein on Scottish elections was the main object, apart from gratification. Sweeping measures for reform of burgh administration could not be embarked upon in a hurry and without consultation with the Convention. As for a further proposal that a commission should be granted for trade only like one of 1688 in Scotland, that would be considered extraordinary, because of the powers of the Board of Trade which extended to the whole of the United Kingdom.¹ Furthermore it would be a new office under the Regency Act. Nor would such a commission satisfy those who were in it. The matter was seemingly ventilated and the project died from that time but was never decently buried.

The Commission had been strangled. The situation really amounted to this : that its opponents had shown they saw through the design and they were now satisfied. They were not objecting to the Commission as long as it did nothing.

1. Ibid.

The Ministry accepted this as a warning. Oxford left things as they were and gave no instructions to the Commissioners who were at a loss. They had seen that their vast nominal power could not in practice be fully exercised. Scrope told Oxford they "expect to have some explanation of that power by the instructions, and have great inclination to be inquiring into the common good of the Boroughs".¹ In May and June 1712 some of the Commissioners themselves tried to discover from Oxford what they were expected to do.² They got no satisfaction because there was nothing they could do - as matters stood. But the Commission still had its uses. For one thing Oxford could not let it drop because of its importance in Scottish patronage. It was an excuse for paying salaries to such of the Commissioners as importuned.³ For this reason Oxford was content - had to be content - to let the Scots discuss the matter when they felt like it and gave them encouraging words. But as an innovation in government it was dead and he knew it. What value it would be in a revised form would not be worth troubling about.

The long and short of it was that the Commission had emerged as a bright idea, developed in principle with small

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1. 27 May 1712. Scrope to Oxford. Harley Papers xLix. 1161.
 2. 21 May 1712. Mar to Oxford. Harley Papers. xLvix. 1157-60; 12 June 1712. Eglinton to Oxford. Harley xLviii. 890.
 3. Lockhart was at least right in this : "... a plausible pretext to bestow salaries on these commissioners". i.372-3.

regard for opposition. It was an attempt to set up what amounted to a prerogative court and the political situation made it impossible. Oxford was soon told of this practical impossibility of producing any such scheme without parliamentary sanction.¹ But the importance attached to the scheme by some of the Scottish Tories made it impossible for the scheme to be dropped. These men had been kept so long waiting for reward that to cancel the whole scheme officially by revoking the Commission would have set up an immediate and wild clamour for some other gratification - at once. And there was nothing else for them unless others were removed and Oxford did not want to have to do that.

Meanwhile money was paid in salaries when members of the Commission became importunate. It seems most likely that money was not paid to all the members but only such as became clamorous and whom it was necessary to gratify. Oxford said they were paid in 1713.² Some were certainly paid in 1714, some getting more than others but their might have included other payments.³ Since the Commission was not then functioning and, furthermore, since it had never functioned at all it seems that salaries were just being paid to keep them cooperative. Oxford felt it best - or

1. Harley Papers Li.1733.

2. 2 Oct.1713. SP54/5.90.

3. £1,000- but Northesk and Haddo got more. Balmerino complained 4 Sept.1714. Harley Papers xLviii.1010. 14 May 1714 Northesk was given £1,000- for his work on the Commission T17/3.102. 27 July 1714. Haddo received the like. ib.126. Northesk also received £1,000- as a bounty and free gift. ib.127.

possibly easiest - to follow the line of least resistance and let them entertain hopes of its being revised to make it practicable. So the Scots fussed with suggestions for revised commissions although Oxford was in possession of legal opinion - most likely Scrope's - that the whole business was hopeless.

The matter hung fire for some time but must have been understood to be under consideration. Significantly enough it all came to life again shortly before the 1713 elections. Mar, soon to be third secretary, was a moving spirit and apparently took the matter seriously. The situation had not changed but Mar was left to find out the hard way. By August 1713 he had got as far as considering questions which were no longer capable of feasible solution, and Oxford must have known it.¹ Under what authority were the Commissioners going to exercise the office of Chamberlain? Were they to call the burghs to account or just consider complaints? Whether they were to control the Queen's church patronage in Scotland? Were they to be given the responsibility of preventing the importation of Irish foodstuffs? And so on.²

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1. The dating of this episode is almost certainly 1713 although curiously dated several times as 1712. But the references to an office for Mar to work in make it certainly 1713 for at that time he was looking for an office. In 1712 that was not the case. Further his consultation of the Attorney-General was taking place in 1713.
 2. 3 Aug. 1712. (wrongly dated) Harley Papers. L.1577.

But he had been talking to Scrope and Scrope had told him one major difficulty. It was difficult to issue a commission of trade when there was already one for the United Kingdom. The Attorney General and Solicitor General were not encouraging about it and Mar realised their disapproval would put a stop to the matter.¹ But the project was still stoutly defended in some quarters - by prerogative arguments. Objections to the Commission were levelled against the word "Chamberlain~~ry~~" and the supposed jurisdiction of the Chamberlain's office. What, this argument ran, was to prevent the Queen granting any jurisdiction whatsoever? The memory of the Queen's ancestor must have sprung suddenly to mind for the propounder abandoned this line of talk and suggested a commission of trade which would have the power to call the burghs to account annually in addition to the trade powers formerly granted.²

Oxford seems to have taken little part in all this although Scrope had brought it to his notice again as requiring attention in view of the forthcoming election.³ Significantly Oxford's interest sharply increased. In October 1713 he told Mar there was to be a Commission of Trade to continue the trade powers formerly held by the

1. 3 Aug. 1712. (wrongly dated?) Harley Papers. L.1575.

2. 2 Sept. 1713. SP.54/5. 75.

3. 15 June 1713. Harley Papers. xLix. 1232

Commission. He hinted that the old Chamberlainry Commission had been dropped because of objections that it revived an obsolete office with uncertain powers.¹ Mar was to consult the law officers to find whether the terms of it were inconsistent with the Union or laws of the United Kingdom. He exhorted Mar to hurry "that it might be finished in due time".²

The instruction came to Mar in Scotland and he seemed to have consulted his colleagues of the Scottish ministry and from their point of view there seemed no objection.³ There was still delay and Findlater wrote later in October to ask Oxford for the Commission presumably to have an effect on the elections.⁴ But the elections passed and nothing was done. In December, the Attorney and Solicitor Generals were still being consulted.⁵ In January there was consideration of who would be in the new Commission. Thoughts were restricted to "lords of the Parliament".⁶ But Mar had not heard from the law officers and feared they might have given it "some wrong turn".⁷ There were serious reasons for his

1. 2 Oct.1713. SP54/5. 90.

2. Ibid.

3. 6 Oct.1713. Mar to Oxford. Harley Papers xLix.1251;
19 Oct.1713. Kennedy to Mar.SP54/5. 94.

4. 20 Oct.1713. Port.v.351.

5. 8 Dec.1713. SP54/5.114.

6. 22 Jan.1713/4. Mar to Oxford. Harley Papers.xLix.1266.
Gives membership of the old commission and adds a list of
"other lords of the Parliament now in Scotland" viz.Athol,
Findlater, Kinnoull, London, Dundonald, Breadalbane.

7. 6 Jan.1713/4. Harley Papers. xLix. 1261.

anxiety. Those who were to be in the new commission were refusing to come up for the meeting of Parliament until the commission were sent or till arrears of salary of the last commission were ordered.¹ But the commission got no further. The passing of the commission was prevented, the principal² objection being its clashing with the British Board of Trade.² Mar had a proposal for getting round this. He wanted to limit the powers of the Board of Trade to England and the Plantations and have a separate commission of trade for Scotland.³ This had no more chance of acceptance than the other suggestions but the fall of Harley prevented Mar from even trying.

For over two years Oxford had not denied the prospect of amending the commission. He had most likely lost interest in it and lacked the inclination to seek actively for some compromise. Instead he let people like Mar continue to canvass various projects as long as the Tories were not thoroughly alienated. It was a factor in keeping them amused and in hope.

The idea had its merits and did fill a need - probably that of providing more places in Scotland. It was taken up

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1. Ibid. Balmerino, Northesk and Home were late going up if they went. 13 Jan. 1713/4. Atholl to Oxford. Port. v. 380. Atholl and Balmerino sent proxies to Oxford. Oxford had promised their salaries but had not paid because he said he had not got the money. He had promised it in September 1713. i.e. for the election. 3 Feb. 1713/4. Mar to Oxford. Harley Papers. xlix. 1268.
 2. 19 July 1714. Mar to Oxford. Harley Papers. xlix. 1296.
 3. Ibid.

by the next administration but they played very safe with it. The commission avoided all mention of "Chamberlain" or "trade". Its powers were confined to the tasks given to the old commission as odd jobs - the poor, the £2,000- a year for encouraging coarse wool manufacture and church patronage. It was called a Commission of Police.

13. THE SCOTTISH CUSTOMS COMMISSIONERS UNDER HARLEY

When Godolphin had been dismissed in August and the Treasury was in commission, Harley was really the new master. At Edinburgh they had the warrant for the new customs establishment but they were in doubt about how matters stood. They wished to be sure of their authority before putting the new proposals into effect. They received no help from the Treasury.

The Treasury's approach to the affair was singular. It is clear that Harley was not satisfied with customs management in Scotland and had no intention of committing himself to any arrangement until he had made inquiry.¹ But it would have been better if the warrant had been clearly countermanded. As it was, whether by being new to Treasury business or what, the Lords of the Treasury created doubt by making no utterance and merely acting as if the new establishment did not exist.

In September the Commissioners asked for permission to pay officers on the old establishment who had served till Michaelmas. The Lords of the Treasury agreed to this. In October a letter from the Treasury gave the Board what turned out to be the wrong impression that they were to carry on with the new establishment. Efforts to extract a

1. Certainly by October he was making investigation.
10 Oct.1710. Wemyss to Harley. Harley Papers xLviii.820.

definite statement from the Treasury came to nothing. Letters remained unanswered; so during December the Commissioners fitted up the new establishment which they sent to the Treasury as their salary bill for the Christmas quarter.¹ They included in the list all newly appointed officers with their salaries specified, whether they had served or not. Of course this combining of two different lists was inviting confusion. The Commissioners knew there was no risk of anyone being paid for service he had not done since each Collector paid his own officers for the actual time they had served in his port. But this was not clear to the Lords of the Treasury. They were being cautious. They returned the quarterly salary bill and ordered the Board to make up the establishment according to their warrants only and to make no changes without their permission.

Here was bungling. Treasury control was being asserted in a very clumsy fashion. The Board was allowed to employ its new officers and then was told it was not in order. Whether they were to employ only the former officers and none of those recently appointed the Commissioners did not know. Nor was it clear whether they were expected to fill the places of those who died or were dismissed. If they were to pay only those on the old establishment the situation

1. 8 Dec.1720. CTP.1708-14. 229.

was already out of hand, for officers like the general surveyors had already been dismissed and many of the new officers were already on duty at the ports. Here was enough to make any administrator gibber. There was little the Commissioners could do unaided. They wrote to Scrope about it.¹ They wrote with the strained intensity of men taking a conscious grip on themselves and reducing to paper the whole twitching problem. Their doubts were unfolded in such labyrinthine language that towards the end their grammar began to creak. They concluded: "My Lord, these and what else your Lordships may easily perceive by our proposals for a new establishment and by the establishment we sent up in January last (all lying before the Lords of the Treasury) are the difficulties we labour under to extract us from which we are forced in our great perplexity to beg your Lordship's kind assistance....."²

An accommodation was reached with the Treasury. When Harley became Treasurer he put matters on a temporary footing by issuing a warrant for the payment of patent officers and other officers were to be paid for the time they had served.³ Thus the existing state of affairs was continued

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1. Scrope might have been given the task of sorting out the tangle for he was called to the Treasury about it on 8 Jan.1710/11. CTB.xxv.3.
 2. 24 Feb.1710/11. Commissioners to Scrope. Harley Papers xLvii. 668-9.
 3. 12 Oct.1711.T17/2. 273.

with the new officers employed as supernumeraries. So Harley had time to make his mind up about the customs. To his credit he had resisted pressure to change the commission in 1710 as an election measure.¹ He wanted to know more about the situation in Scotland before taking action. Harley was in no hurry.

He soon began to amass a good deal of information about the Scottish customs. Some of it accumulated in haphazard fashion from the inevitable busybodies who would write about anything. Some of it came from more responsible people. Harley himself sought a good deal of it, tapping various sources of information by devious means in characteristic fashion.

Through the earl of Wemyss he obtained the private unofficial opinion of Thomas Fullerton, one of the Commissioners,² The view he expressed in writing was much the same as the Board's official justification. Trade tendencies beyond control carried a good deal of the blame. He mentioned smuggling and hinted at its extent. Unless the running of wine, brandy and tobacco from the Isle of Man was stopped the revenue would continue to lose £12,000- every year. The Commissioners naturally appear without blame

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1. 17 Aug. 1710. Harley Papers xLix. 1317. Mar's "Note of some particulars....."
 2. 5 Oct. 1710. Harley xLvii. 693-5; Fullerton to Wemyss
6 Oct. 1710. *ibid.* xLviii. 821; Wemyss to Oxford
10 Oct. 1710. *ibid.* 820.

in his report. But it seems likely that he hazarded more to Wemyss in conversation than he was prepared to put on paper for Wemyss wrote to Harley : "As to the mismanagements, I am told they are so many and so plain that they must be laid before you in the course of business".

Harley got in touch with Isaacson, late of the Board, and asked his opinion of some particulars.¹ John Crookshank, the comptroller-general, was tapped as a source of information. His remarks are valuable as those of a man engaged in customs work and made in confidence. They carry more weight because he confined himself to constructive suggestions and did not directly criticise the Commissioners. Significantly his report gave more space to fraudulent practices than the Commissioners'. Most frauds were taking place in drawbacks. This could be reduced if the law against paying drawbacks until a certificate of landing was produced could be extended to all foreign ports. It then only applied to tobacco exported to Ireland.² The Isle of Man would then lose its importance in the smuggling trade. Other frauds took place in the coast trade. The power held under Scottish law before the Union of forcing merchants to declare on oath that they had not touched a foreign port nor taken in goods at sea

1. 18 Aug. 1711. Harley Papers. xLvii.720

2. 8 Anne Cap.13.

should be renewed and this would have great effect.¹ With regard to officers his opinion was considered and moderate in tone. A sufficient number should be employed "upon examination qualified rather than by recommendation preferred", and they should be paid "a reputable subsistence". He thought there was something to be said for employing only Scottish officers that the revenue might seem less of a foreign imposition although they would probably be more open to influence. It would pay if some competent English surveyors were sent down to manage Port Glasgow and Borrowstoners which were conveniently placed for frauds in tobacco exporting. And so on. Crookshank had really exerted himself in this. He produced detailed criticism of the proposed establishment. He drew up abstracts for comparing salaries before and since the Union. He seems to have impressed Harley who thereafter regularly employed him to prepare revenue abstracts and material relating to Scotland probably for parliamentary use. Crookshank worked hard and neglected to some extent his office.² What he wanted was promotion in England and thought he saw a short cut to it. He did not get it. Harley was not the man to move rashly in promoting men if he thought they were more useful as they were.

1. 16 Oct. 1711. Harley xLvii.729-30.

2.

It became clear that things were far from well in the ports at large. It was asserted, and even the Commissioners admitted, that there was widespread collusion in fraud between the interior officers in the ports and the merchants.¹ Some officers were "rolled" from one port to another to try and prevent it. The case of Prestonpans showed what could happen and what indeed was happening. "Gross and shameful" frauds were often hinted at and suspected but Prestonpans showed them up in all their grossness and shame. It was discovered in 1712 that the running of the port was corrupt and had been for two years. The collector was frequently absent and knew nothing of what was going on. One, Miles Townson, comptroller and surveyor, and his son Edward, a tidewaiter, ran the port for their own benefit and that of the merchants. They were actively assisted by two other waiters. One apparently honest waiter was told "that it was the practice of the Port to give eases, and if he did not do as his Brethren, he would get the ill will of his Superior Officers...." Townson told him "that he did not know the way to keep a family for a Tidewaiter's Salary would never do it". So, for two years, goods were passed through unsearched, sometimes

1. Harley xLvii. 736-7; 24 Feb. 1710/11. Commissioners to Scrope. Harley xLvii. 668-9.

unentered. Weights were reckoned by rough estimate. Cargoes were entered as lower quantities and were sometimes wrongly described and charged. The ship "Giles" of Prestonpans had always been described as a 60-ton ship until Townson arrived. Since then it had been entered as 40-tons.¹

This affair shows clearly what is apparent throughout the customs management. One of the great failures of the Board was that they never managed to provide effective supervision of the ports. The Commissioners had given up inspecting at an early date - it was no doubt an unpleasant task involving the discomfort of travel. The general surveyors had not been effective. Norman's survey of the western ports in 1710 must have been the first they had had for some time. At Prestonpans it is not clear how matters came to light. But if supervision had not been entirely lacking it could not have continued for so long. When William Edgar, the inspector of outports, visited the port it was said of him "that though he suspected Frauds yet there was such a number of Entries, Warrants, Blew Books and other Dispatches wanting, and so much confusion and difference in these extant, that he found it impossible to make a thorough examination or to make any further discoveries

1. 26 Mar. 1712. Commissioners to Lord of Treasury. T1/145.43.

than those he mentions."¹ Clearly this inspection must have been the first effective one for at least two years.

Accounts of negligence on this scale must have impressed Harley. But there were suspicious of a different sort and those more sinister. Rumour had it that there were dubious proceedings at the top - in the Board itself. An occasional murmur arising from a malcontent would be unsafe ground for making such a charge. Scandals can occur in the best regulated establishments and always sound worse than they are. In the matter of Scottish Customs management the suggestion or suspicion arose too frequently to be shrugged off. The fact was that personalities and vested interests were smeared widely upon the Commissioners' doings. They were anxious to oblige people of influence and their friends. They were not willing to offend great men by taking action against their protégés.

Early in their management there was the dismissal of John Muir, Collector at Ayr, as unfit for office. The reasons cited included suspected fraud, failure or refusal to correspond with the Board and old age. The duke of Argyll took up his case and the Commissioners, in spite of everything, offered to reinstate him if Godolphin insisted.²

1. For all this see Commissioners' Reports 26 March 1712. T1/145.43; 16 July 1713. T1/163.1.

2. 30 Sept. 1707. T1/102.143; T17/1.323-4; 11 Mar. 1707/8. T17/1.323; 25 Mar. 1708. CTP. 1708-14. p.22. 3 April 1708. *ibid* p.25.

Again, it is fairly clear that the post of accountant-general was abolished in the establishment of 1710, not for reasons of economy but because they wanted to get rid of John Short, the incumbent, who was a protégé and ally of Rigby.¹ There was the dismissal of John Bruce from the collectorship of Kirkcaldy to which he had been appointed, leading John Bethune by a short head. Bethune had been given Dundee as a second best.² In July 1710 Bruce was removed from Kirkcaldy on the vague allegation of malpractices within his port. Nothing specific was mentioned. Bethune was then presented for his place and Bruce nominated for Dundee. The whole operation seemed very dubious. Scrope investigated and advised that more should be known about the charge against Bruce before Bethune was appointed. Scrope's trust in the Commissioners was clearly not complete.³ Finally Bruce just did not go to Dundee and someone else went in his place; nor

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1. For all this : 7 Mar.1710/11. Short to Harley. Harley xLvii.715; 12 Mar.1710/11. Reference of matter to Commissioners T17/2.223; 28 Sept.1710. Commissioners' report.CTP.1708-14. p.214; 17 July 1711.T17/2.253; 30 Sept.1712, 14 Oct.1712. Harley List 2. Official Papers II. S.715D; 30 Sept.1713. Short to Harley. Harley xLviii.1137; 4 Mar.1713/14 Commissioners' report CTP.1708-14.559; 10 April 1714 Harley List 2. Official Papers II.S.715D. and Additional Mss.30229.
 2. Bethune supported by Sir James Smollett, his father-in-law, and the Queensberry group. Bruce supported by his father-in-law, Sir George Home, and the earl of Marchmont.
 3. 2 July 1707.T17/1.108; 26 March 1708.CTP.1708-14. p.23; 1707.CTB.xxiv. p.586; 18 July 1710.T1/127, 37; 25 Sept. 1710.CTB.xxiv. p.586; 1711. Harley Papers Li.1756; 19 Oct.1710.T1/125.18; 26 Dec.1710.CTP.1708-14.p.234

did Bethune get Kirkaldy, but that was not the Commissioners' fault, for neither of them was in the service in 1714.

Similar vague charges brought about the suspending of Alexander Gordon from the collectorship of Inverness in 1710. His predecessor had gone in the same way. In 1714 his reinstatement became a tactical point in the election scramble at Inverness between Argyll and the Squadrone so it is not unlikely that personal or political elements were present before that.¹ Such instances leave the cloud of scandal hanging heavy over the Edinburgh Custom House. But it would be unjust to assume that such methods were normal practice.

Considerations of efficiency did play some part in their management. When the Commissioners were stirred up in 1710 something was certainly done; that is clear from an examination of the establishment lists. In June 1708 there had been 261 officers in the ports. By 1714 there were in the service only 75 officers with warrants issued before 1710. And of officers in the first establishment only 37 were serving in the port where their service began. There

1. He had not been reinstated by 1716. 1710.T1/123.4F;
 9 March 1713/4. T17/3.27; 16 Nov.1714.T17/3.243; 3 Jan.
 1714/5. ; 28 Jan.1714/5. T17/3. 312; 3 Feb.
 1714/5. *ibid*; 14 Jan.1714/5 More Culloden Papers ii.p.57-8;
 31 Dec.1714 *ibid*. p.55; 20 Nov.1714 *ibid*.p.48-9; 18 Dec.
 1714 *ibid* p.54; 9 Dec.1714 p.52.

were in addition to warranted officers 200 in the 1714 establishment who were described as "employed without warrant". It is most probable that these were officers brought into the unwarranted establishment of 1710. If so then a wholesale purge took place in 1710. But it affected mainly inferior officers. Apart from Short nobody in the Edinburgh Custom House went. The only Collectors who could have been removed were those of Borrowstoness and Aberdeen whose names disappear about that time. The change at Borrowstoness might have been due to Norman's report. Of Comptrollers only two at the most could have been removed. There had, of course, been some changes before 1710. Three collectors had ceased to serve but only one is recorded as being dismissed for irregularities. Two comptrollers were dismissed out of seven who had ceased to serve.¹

But specific cases of inefficiency or fraud were not invariably followed by action. Norman's recommendations, for instance, do not seem to have been carried out. Of the ports he mentioned only the collector of Borrowstoness was dismissed. This was John Erskine who did not live there so it is likely that he declined to move house when asked to do so. But Robert Kennedy whom Norman reported as inefficient was still serving there in 1716 without apparently having

1. T17/1. 388-94; T45.2; T43.3.

been moved for training. At Newport, Glasgow, the land surveyor, John Houston, who seems to have been completely negligent was not removed in 1710 but remained until 1714 when he was dismissed for interfering in the Boyle family's part in the smuggling trade. At the port of Irvine, said to have been in utter confusion, the collector was not removed until 1714. But the collector was Patrick Boyle, the earl of Glasgow's uncle, and on his removal he was replaced by another of the family. Hugh Montgomery, comptroller at the same port, was still there in 1716 in spite of everything.

At Prestonpans the guilty parties were removed and the collector resigned. Some retribution seems to have visited two other ports where fraud was suspected. Illicit dealings were said to be going on at Port Glasgow.¹ There, by 1714, out of 53 officers then on the establishment only 5, including the collector, were warranted at that place, whilst at least 29 had been brought in since 1710 either as new officers or ^{on transfer} transferred from other ports. Here is evidence of the Commissioners having "rolled" some inferior officers. Measures were ~~also~~ ^u taken at Borrowstoness. Frauds had been suspected there in 1712.² The Board had ^u waiters sent up from Leith who had made seizures. They had been roughly handled.

1. 19 Sept. 1710. Harley xLvii.691.

2. 16 April 1712. Commissioners to Lowndes. CTP.1708-14.p.378.

Two of them had been locked up and seizures carried away. Then, in July of that year, Robert Dixon, a land waiter and searcher, was dismissed for neglect of duty¹ and the following month three tidewaiters were removed.² By 1714 only 2 officers out of the established 35 there had been originally warranted at that port.

As Harley received information he must have seen that the Commissioners had not from the first attended to the duty of supervision. The jolt they received in 1710 was deserved. Thereafter they had officially resolved to make some checks but these could have been neither frequent nor thorough to judge by what went on at Prestonpans. On the more serious charges it would be easy to make too sweeping a condemnation. The Commissioners were ready to take some measures against fraud and collusion. Perhaps it would be fair to say that they were too easily overawed by powerful interests or swayed by personal inclination. They found it easier to deal with inferior officers of little standing rather than senior men with considerable protection. Personal inclination must have been a big factor. The affair of the general surveyors was a telling episode. Even the Commissioners admitted their inadequacy when their posts were abolished in 1710. Yet five were given other senior

1. 25 July 1712. T17/2. 374.

2. 8 Aug. 1712. T17/2. 379

posts. Three were made inspectors of salt duties and fish debentures, so it was said, that three Commissioners could each "serve a friend".¹ It was quite likely.

The outcome of Harley's rather slow and haphazard investigation was that he lost confidence in the Board. Matters which before 1710 would have been referred to the Commissioners, he began to hand over to Scrope. Scrope was becoming, in a sense, Harley's personal agent in Scotland and customs matters took up a good deal of his time. He had been given an occasional matter to deal with connected with the Mint or the Excise, but they were most likely examples of Harley speeding up administration by by-passing normal channels. In the customs, the matters involved and their frequency can only mean that Harley did not trust the Commissioners. Scrope investigated the removal of Bruce from Kirkaldy because Harley did not believe the Commissioners' story. He was ordered to investigate one of Rigby's representations.² The Commissioners reported on a petition from some of their officers who claimed a share in a seizure. The report was minuted "Send this to Mr. Baron Scrope to know if he has any objection to the making the distribution accordingly".³ When the running of Irish victual into the

1. 26 Dec. 1710. T1/127.37; 13 Feb. 1710/11. CTP. 1708-14. p. 249.

2. 6 Nov. 1710. Papers minuted at the Treasury Board. CTB. xxiv. 601-2.

3. 21 Nov. 1710. CTB. xxiv. 599.

west of Scotland became serious, the Barons not only supervised the Board in their suggestions for dealing with it but Smith and Scrope were told to find someone to take charge of prevention.¹ In this instance the appointment was taken right out of the hands of the Commissioners. The man appointed, one Cameron, went to Scotland with his warrant to present to the Commissioners.²

X Thus, whilst Harley collected information and advice, the Customs operated on a temporary basis under the eye of Scrope and the other barons.

Harley had done well to resist pressure from Scottish Tories in 1710 to change the composition of the revenue boards. The pressure continued after the election because his supporters wanted a share-out. Harley continued to collect information and leave pressing matters to Scrope. This became in the end a reluctance to take any step at all even when it had become necessary. Temporary arrangements breed uncertainty and encourage procrastination. Scrope told Harley in May of 1713 that something had to be done about the customs.³ The following month he was more specific. "The settling of the Commission of the Customs is

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1. 4 Dec. 1712. SP54/4.268; 30 April 1713. CTB.xxvii.26-7.
 2. They were allowed to present the 5 riding officers who were to serve under him. 10 Feb. 1713/4. T17/3.22-3.
 3. 16 May 1713. CTP.1708-14. p.486.

very much pressed", he wrote, "without which provision cannot be made for many people that have been recommended to your Lordship and whilst the Commission is in discord no effectual care can be taken for preventing the importation of Irish victual".¹ Political necessity was speaking as well as the needs of administration. The former seems to have been more forceful. 1713 was an election year. The bogey of widespread dissatisfaction was continually being hoisted by Mar to convince Harley that changes were necessary. Mar's own position was at stake. So was Harley's, and this drove him to action. As part of his "scheme" in Scotland, a new Commission of Customs was issued. Mar, the new Scottish Secretary, was gratified by the inclusion of William Cleland, one of his protégés.² And Mar thanked Harley for doing such things as were necessary.

Rigby and Kent were the men dropped from the new Commission.³ Rigby was sent to the fleet where he is said to have died in 1717.⁴ Besides Cleland, Sir James Campbell came to the Board. Both were apparent strangers to customs work. Cleland had earlier been trying for a

1. 15 June 1713. Harley xLix. 1232.

2. 21 June 1711. Mar to Harley. Harley L.1407; 1711. Cleland to Mar. *ibid* 1409.

3. Kent had never gone to Scotland and Rigby had ceased to function in 1710.

4. Pink and Beavan. *Parliamentary History of Lancashire*. p.231; died 20 April 1717. *Hist.Reg.Chron.1717*. p.20.

commission in the army and so did not seem particular about where he went as long as he was given a salary. But both of them survived the purge of 1714. They were the only ones who did.

Once Harley had taken the first step of settling the Commission it was possible to go further. The customs establishment could be put on a permanent basis. The new Commissioners were ordered to prepare a new establishment since "further experience may by this time have discovered other matters worthy of alteration....." But this time they were not given an entirely free hand. The warrant made conditions. On submitting their proposals the Commissioners were to make plain which officers had been employed since 1710 without a Treasury warrant. They were to revise officers' instructions and give reasons for alterations. They were to report on the conduct of officers. And, for the future, when any post fell vacant they were to tell the Treasury so that a warrant for filling it could be issued.¹ The Commissioners were not only going to commit themselves but were going to be pinned down to their proposals. A definitive establishment was being called for and Harley was going to assert control by the Treasury by insisting on warrants being necessary. And he made a passing gesture in favour of promotion by merit.

1. 13 Oct.1713. T17/2.458-9.

The new establishment was ready by March of the following year and sent up to the Treasury.¹ The Board proposed to increase the number of officers in the first establishment to almost five hundred. Two hundred of these had been on duty since 1710 but unwarranted, so the immediate increase was not very large. They needed more tidewaiters, more boatmen to prevent ships unloading at sea and more landwaiters to handle the salt duty. At some ports officers had to be appointed because they were legally necessary. By all this the cost of the establishment was raised to £13,666- a year.

The Treasurer's instructions about reporting on the efficiency of officers were piously acknowledged by the Board but scantily complied with. It seemed that the old officers employed were fit to be kept on and the Board had reason to believe that those employed without warrant were good officers. Nine appointments only seemed to merit a few words individually. The new officers were said to have received training, "being all such as are not only certified by Men of Credit to be persons well affected to Her Majesty's Person and Government. But are also certified by the Officers Customs by whom they have been instructed to be men well quallified for the different stations here assigned

1. 4 March 1713/4. T43.3.

them". Over one hundred officers were "rolled" from the ports at which they had been serving.

The Commissioners now felt obliged to take into account the criticisms by the English Board of the first establishment. Riding waiters were not appointed and the offices of Comptroller and Surveyor were separated in all ports. The old ideas about giving deputations to excise officers and instructions to troops to help customs officers when required were again put forward. Revision of the Book of Instructions did not appeal to the Commissioners. They demanded, wisely perhaps, to let well alone. Their final appeal was that the Lord Treasurer would find their proposals reasonable since with Scotland but weakly guarded the revenue of the whole island would suffer. Harley must have thought their proposals the best that could be done for he warranted the new establishment on the 11th of March.¹

Doubts about how much the Treasurer would tolerate seem to have deterred the Board from a wholesale increase in the salaries of senior officers. They strongly hinted that this was advisable "the more to encourage Persons of Probity and Character to desire appointment in the Service". Harley ignored this.

Harley's problem in dealing with the Scottish customs

1. 13 May 1715. Commissioners to Lords of Treasury. T17/3.378.

service had been to decide whether the trouble had been the choice of Commissioners or whether conditions in Scotland were such that no five men could be expected to perform the task efficiently. He had, in fact, to choose between a clean sweep of the Board and some method of closer control. His view seems to have been that no good would come of chopping and changing Commissioners. Rigby was moved because he was notorious. Kent had not been allowed to go to Scotland presumably because he was not of Harley's choosing. The others stayed. But they were to have their field of discretion reduced. Control from the Treasury was to be tighter than before and particularly in the matter of appointments.

The new working showed, in fact, that Harley had pegged the Commissioners down with impossible rigidity. Severe limitation of their discretion made routine administration difficult and showed up the practical limitations of control from the Treasury. Harley's insistance that a particular warrant was needed for every officer was taken to mean that without Treasury warrant an officer could not be posted from one port to another since the warrant specified the port of duty. The Board could not control the movement of its own officers. Their difficulties soon became apparent and they asked for authority to "roll" tidewaiters

and boatmen from one port to another.¹ Harley conceded this but made conditions. Transfers must be meant for better service, as for instance, a knowledge of Gaelic might fit an officer for service in one port rather than another. But no salary must be increased without specific Treasury warrant nor must any officer be employed in his native port.² All this was in accordance with Harley's general tightening up in revenue administration. In June he had sent a minute to the English Salt Commissioners that no new office must be created without specific warrant.³

It is not clear whether Harley was also taking over a large share of patronage when he insisted on warrants for each appointment. Certainly since he took office Treasury influence was greater than appears on the surface. It is true that whilst Harley was at the Treasury only three nominations were made in official correspondence,⁴ whilst thirteen were made under Godolphin. But that probably signifies that Harley's influence was exerted less openly. He was seldom inclined to open a door when he could whisper through a keyhole. In 1712 a collector and comptroller were

1. 26 June 1714. CTP.1708-14.p.600.

2. 4 July 1714. T17/3.122-3. Orders in Council 21 June 1714. T17/3.117; 5 July 1714. *ibid.* Also none to be appointed not duly qualified.

3. Hughes p.288.

4. 8 Feb.1711/2.T17/2.297; 19 Feb.1711/2.T17/2.304; 10 Feb.1713/4.T17/3.22-3.

appointed for Orkney at the behest of George Lockhart but there is no sign in official Treasury correspondence of such direction.¹ But direction there must have been. One reason for settling the Customs Commission in 1713 was to find places for all the people recommended to the Lord Treasurer.² It is probable that a sharp eye was kept on Customs presentments and equally probable that the Treasurer's eye in this matter was John Scrope. Scrope was an agent, not a manager. He advised and he carried out orders but his views were treated with respect and his good offices valued by the Commissioners. Such control of patronage by an agent on the spot would be far more effective than any exercised from Whitehall by letter.

It may have been then that by insisting on being informed of vacancies and issuing warrants Harley was trying to get appointments to some extent in Treasury hands either to increase influence or to make sure of the officers' credentials. Most likely it was his reaction to the discovery of so many unsuitable appointments by the Commissioners since the system does not appear to have been introduced into England at that time.

Harley's position was maintained by his successors although the Commissioners struggled against it as far as

1. 5 April 1715. Morton to Montrose. Morton Papers Box.113.
2. 15 June 1713. Harley xLix.1232. Yet there is no other indication in official correspondence that influence was exerted.

they could.¹ It became clear, though, that some discretion had to be left to the Commissioners. They said in 1715 : "There are frequent alterations amongst the boatmen by their deserting the service and sometimes refusing to accept office after they have been warranted their places must immediately be supplied by such able seamen as we can get".² The Treasury conceded this but would go no further. At the same time the Board asked for permission to appoint salt officers when there was need.³ The Lords of the Treasury were firm. They did not think fit to remove that restraint. A warrant must be obtained before additional charge was placed on the revenue.⁴

But appointments made by the Treasury were not necessarily better than those made on the spot. If the Treasury was out of touch they were likely to be worse. From the complaints made it seems that Harley had tried to mend one evil and created another. Two years after his dismissal the barons were pressing that a former Treasury order should be revived whereby good officers were promoted according to their "ancientry" as posts became vacant. They wanted no one to be appointed until he had been properly examined.⁵

1. Possibly it was a reluctance to surrender powers when once they had been taken by the Treasury.

2. 13 May 1715. T17/3.378.

3. Salt was under the management of Customs Commissioners in Scotland.

4. 24 Mar. 1714/5. and 22 June 1715. CTP. 1714-19. cLxxxix. 13.

5. 12 July 1716. Smith to Lord Torrington. CTP. 1714-19 cxcix. 51

The Commissioners themselves paraded the story of one, Peter Balslow; a nominee of the Treasury in the Scottish Salt Collection, who remained solidly incapable after prolonged instruction. They wanted the appointment of salt officers to be left to them as was the custom in England.¹ The evils of extensive Treasury interference are notorious enough and it does seem that some of the responsibility must lie with Harley. He would have done better to have concentrated on appointing competent Commissioners and kept them efficient rather than try to do part of their job.

As for the Scottish Customs service itself, the first seven years had shown that the problem it faced had radically changed since the Union. It had taken time to discover that fact.

Realisation was slow and seems to have been forced on the Commissioners piecemeal. But in the three proposed establishments the necessary changes become evident.

Before 1707 Scotland was a separate fiscal unit. It was outside the Navigation Acts and treated its own off-shore islands as foreign. The farmers' system had been devised to meet this situation. Strong watch had been kept on the Border and the ports of the south east which handled

1. 1 May 1717. T1/212.34.

the European trade. Orkney and Shetland had been locally sub-let. The north and west were largely disregarded, no ports being settled there, and it was regarded as being too mountainous for land carriage.

Apart from the Border the pattern of the first establishment after the Union was much the same, the Commissioners being confined to the same ports.¹ The bulk of officers was spread over the large number of ports in the south-east from the Border to Peterhead. In 1708 these ports had 120 officers compared with 85 for the west and the islands. But the Union brought not only Scotland but the islands within the trade system and the duties became more severe. Smuggling became at once more profitable and tinged with patriotism. Everything, under these conditions, combined to increase the importance of the West. It was close to Ireland and the Isle of Man, both outside the trade laws. The remoteness of the country and the islands, creeks and inlets made the western part of Scotland a smuggler's paradise. Recognition of this came in the later establishments. In 1710 the south east ports had their numbers slightly increased to 148 but the west and islands rose to 132. By 1714 the west had 248 officers, the south east having only 204. Then for the security of the west were

1. 16 Oct. 1711. Crookshank to Lord Treasurer. Harley xLvii. 729-30.

added the six extra officers to check the smuggling of Irish foodstuffs. Even so, control was far from satisfactory. It was estimated that the number of officers to make the islands safe, alone would more than eat up the whole revenue.¹ The problem stayed throughout the eighteenth century.

This was not its origin in the Scottish demand that Scotland should be reimbursed for any sums paid in increased customs and excise duties which were earmarked for paying off English debts from before the Union. The calculations of the sums involved required some considerable working. This showed that when the Union was settled, the English Treasury had little idea of how much the Scottish revenue produced. In the negotiations the matter was left to a committee of the Union Commissioners. The figures they were given and their calculations remained the basis of all arguments relating to the Budget.

Effectively all the revenue of Scotland was applied, when the English revenue was raised for purposes of expenditure, from these two accounts plus other the relevant sources of funds relating to customs and excise. The sums amounted that the customs produced £1,100,000 and the excise £2,500,000. The corresponding figures for England were £1,000,000 and £2,500,000 respectively.

1. *ibid.* ...
... that applied to the Scottish revenue ...

14. THE EQUIVALENT AND THE REVENUE

The Union had been in part a hard cash agreement. At the time it was made, great notoriety had been given to the sum of £398,085.10s.0d. - the "Equivalent".

This sum had its origin in the Scottish demand that Scotland should be reimbursed for any sums paid in increased customs and excise duties which were earmarked for paying off English debts from before the Union. The calculation of the sum involved required some ponderous working. Time showed that when the Union was settled, the English Treasury had little idea of how much the Scottish revenue produced. In the negotiations the matter was left to a committee of the Union Commissioners. The figures they were given and their calculations remained the basis of all questions relating to the Equivalent.

First of all the revenue of Scotland was stated. Then the English revenue was noted for purposes of comparison. From these two accounts were taken the relevant figures - those relating to customs and excise. The Scots estimated that the customs produced £30,000- each year and the excise £33,500-. The corresponding figures for England were then broken down to discover how much of those revenues was appropriated for debts. The proportion thus arrived at was then applied to the Scottish revenue to show how much

of the customs and excise would be appropriated for English debts if they produced the estimated sums. Owing to the complications of the English supply system, another factor had to be taken into account. Some parliamentary grants raised by duties were short term, expiring legally in 1710. It was agreed to pay an equivalent for the full amount of such grants as these, but long term grants were to be bought out at fifteen years three months' purchase. On this basis it was worked out how much Scotland would contribute to England's pre-Union debts. The customs would pay £93,479- and the excise £304,606.10s.0d. The total was £398,085.10s.0d.

But there was more to the Equivalent than that. There was to be an equivalent for any increase in revenue over the estimated totals. The same proportion was applied to the possible increase and this gave a total of £792. to go to Scotland out of every £1,000 the customs produced more than the estimate. The equivalent for the excise was £625- out of every £1,000-. It was this provision which caused the trouble.¹

The distribution of the £398,058.10.0d. was left to the Scottish Parliament. One of the last debates there was concerned with who should have the money and with what

1. For all this see T48/22.

priorities. The result was the Act anent the Public Debts.¹ This declared that only money owed on the civil or military establishments from the 27th of May 1689 were public debts. First to be satisfied were those who had lost in the change of coinage. The next charge was payment to the shareholders of the Africa Company, followed by the money for encouraging the coarse wool industry and the allowances to the Commissioners who negotiated the Union. Only after all this was any satisfaction to be given to creditors on the civil or military lists. The money left, if any, was to be equally divided between both lists. First charge on the civil list was to be the expenses and cost of the equipages of the Lords Commissioners from 1689. This item was composed largely of recompense to Queensberry. After his satisfaction came the rest of the salaries, then the expenses of the General Assemblies followed by the maintainance of the late bishops and the poor. On the military list the first charge was payment to officers who had disbursed money of their own to clothe their regiments. Next came pay which was in arrear. Then came money which had been disbursed for the subsistance of regiments and finally money which was due for clothing which had not yet been paid. In the debate the Squadrone had opposed large allowances to the Commissioners of both sets of negotiations as too great a strain on the fund.² By so doing they seem to have established a reputation as champions of the smaller creditors. Some of the creditors prepared themselves for a long wait.³

1. APS. 11. p. 490.

2. 1 Feb. 1707. Jervis Wood Correspondence. 183.

3. Lord Archibald Hamilton to Selkirk? 12 April 1707. N.L.S. Mss. 1032. f. 61-2.

Godolphin set up a commission to administer the Equivalent. The whole business was and continued to be a nuisance but it did provide an opportunity for gratifying the less discerning. Partly for that reason it was a large commission. It was also desirable that such a burden should be shared amongst quite a large number. Appointment to the commission seems to have been a consolation prize for commoners who had deserved well of the ministry.¹ But it was likely to be a thankless task with large demands on time and small reward. As a result those more experienced in such matters fought shy of it and were reluctant to be included.² No salary was specified to avoid some members having to seek re-election but encouraging words were passed round: ".....if they performe their trust well and cairfully thers little doubt but the Parliament will make up the loss and trouble they will be at by it".³

There were twenty five members of the commission. This included four Englishmen nominated by the Bank of England. Of the Scotsmen only three had not been members of the Scottish Parliament and sixteen of them were members of the Parliament of Great Britain. All the interests had a share. Clerk was in at Queensberry's request⁴ and Abercrombie of Glassaugh was in to satisfy Seafield. Sir Andrew Hume was there to show his father⁵ that he was borne in mind. Leading names of the Squadrone appeared: Baillie, Haldane and Sir John Erskine of Alva. Sir Patrick Johnston,

1. 6 June 1707. Mar to James Erskine. M & K. Mss. 397.

2. Ibid. Clerk was almost obliged by Queensberry to be in it but with a promise of something better. Memoirs. 67-8.

3. 6 June 1707. Mar to James Erskine. M & K. Mss. 397.

4. Memoirs p. 67-8.

5. Marchmont.

the Lord Provost of Edinburgh, was in as one might expect.

Apprehension was felt in London about the reception of the four Englishmen. Queensberry, Mar and London wrote to people in Scotland asking them to receive the English members civilly and as friends.¹ Godolphin was trying to ensure that everything worked smoothly. Scotsmen were a majority on the commission as was proper but business required that some things should be arranged. He had a word with the Bank's nominees and advised them to get up to Edinburgh as soon as possible.² He spoke to the Scots lords who were trying to arrange that an English nominee would be appointed cashier in London.³ Thomas Maddox, the Cashier of the Bank of England, was appointed, so they seem to have managed it.⁴ Then payment of the money was ordered and arrangements were made for sending it up to Scotland.⁵ It was certainly time. Great importance was attached to the Equivalent in Scotland. Some were dependent upon it to maintain their credit.⁶ Delay in such circumstances was very unfortunate and disturbances were caused. Preservation of order became difficult. There was talk of postponing the

4. T17/1. 71-4. 11 July 1707.

2. 13 June 1707 CTB.xxi.p.36.

3. Ibid.

4. 1707.T17/1.44-5.

5. 25 June 1707. ibid.p

6. 13 May 1707. H.Maule to Mar. M & K.Mss.392; other remarks of a similar nature : 27 Feb.1707. Marchmont to Somers. Marchmont Papers iii. 321.

movement of troops to Glasgow until the arrival of the Equivalent which might put people in a better temper.¹

For the same reason some ministers were ordered to reside in Edinburgh. There had been disturbances because the Equivalent was delayed.² Seafield told Godolphin that the speedy distribution of the Equivalent was a priority if the population were to be satisfied.³ When at last the Equivalent did arrive, carried in carts with an escort of dragoons, demonstrations took place. Crowds turned out to see it come in and stones were thrown at the waggon drivers.⁴

The Commissioners were at once faced with a difficulty. Owing to the chronic cash shortage some of the Equivalent had been sent in Exchequer bills. The Scots had no great faith in bills and were more reluctant to take them.⁵ Godolphin tried to smooth the way by ordering all revenue collectors to cash them when they had money in hand.⁶ This must have been too slow a process to affect the credit of the bills and Sir John Cope, one of the English Commissioners, asked for something more dramatic, like a declaration of the Scottish Privy Council that all receivers of revenue would take bills.⁷ But the bills caused a great deal of trouble. Some were selling their interest in the Equivalent at the

1. 15 July 1707. Seafield Mss.221.

2. 21 Aug.1707. London to Seafield. Seafield Mss.222.

3. 17 Aug.1707. Additional Mss.34180 f.100.

4. 5 Aug.1707. Leven to Mar. Melville and Leven Mss.ii.213.

5. There was difficulty even with cash itself. See Proclamation concerning the coin... 5 Feb.1707.

6. 25 June 1707. T17/1.48-9

7. T17/1.107. 2 Aug.1707. (Continued at foot of next p.)

merest whisper of being paid in bills. There was a limit to the amount of cash the receivers could produce since the troops had to be paid and bills would not do for them.¹ Seafield asked for £50,000- in cash to be sent down. Godolphin ordered payment if there were such an amount in the Exchequer.² After the first rush was over and the shouting had died down the matter of cash seems to have sorted itself out. The meetings of the commissioners were marked by some disputes. Mar saw their minutes and deplored what he saw : "...so ill agreement amongst them and such protests and counter protests".³ However, as Glasgow had remarked philosophically to Mar "..... it was scarce to be expected that there possibly could be a commission of such a number of our countrymen and that they should agree".⁴

It is not clear what the arguments were about unless it concerned order of business. It had been taken for granted in some quarters that they would give priority to their friends.⁵ However, it is very doubtful whether this was done at all and certainly not to any great extent. For one thing the Commissioners were tied down by a legal order of

1. 8 Aug.1707. Seafield to Godolphin. Additional Mss.34180 f.96.

2. 15 Aug.1707. T17/1. 108.

3. 5 Aug.1707. To Seafield. Seafield Mss.222.

4. 20 July 1707. M & K.Mss.404.

5. 21 Aug.1707. Cromarty to Mar.Cromarty Correspondence ii.41.

Continuation from previous page of Footnote No.7 :-

The result was the Act and Ordinance of the Privy Council anent English Exchequer Bills. 21.Aug.1707.

priority so that discrimination could only be shown within each class and their whole proceedings seem to have been marked by adherence to the law. They were accountable for the money and they were carefully watched by hostile eyes. Of course impatience on the part of creditors explains much and if they were all as woefully ignorant of the complications as Cromarty, all manner of rumours could be accepted.¹ He had no patience with priorities and thought arrears of salaries should be cleared off at once - his own included.

By the end of 1707 the first clamour was over, and the Commissioners had come to a standstill. Of the sums legally claimed they had paid what they could. Most of the compensation for the loss of English coinage had been paid and most of the creditors of the African Company had been paid off. They had paid the expenses of those who had negotiated the Act of Union. But they could go no further. The lists of claimants on the military and civil lists supplied by the Scottish Treasury had not distinguished the classes and priorities. Until these were provided no payment could be made.² The matter had to be brought before the Commons and a committee was set up.³

The Commissioners needed further powers before they

1. 25 Sept. 1707. Cromarty to Mar. Cromarty Correspondence ii.43.
 2. C.J.15. 564-5.
 3. Ibid 523.

could pay any more. The £2,000- a year for seven years which had been allotted out of the Equivalent for the encouragement of coarse wool manufacture in Scotland could not be paid because nobody had been named to receive it. And under the terms of the act they had no power to pay out claims on the civil and military lists until they had enough money to pay them all at once. They were not empowered to pay any part at a time with the money they had in hand. These were essentials but there were other matters needing attention. The directors of the African Company had taken six months longer than expected in making up their accounts and wanted an extra £500- for this. The Commissioners thought this allowable but had no authority to pay more than the £300- already allowed. A further item was the plight of the poor on the Charity Roll. This was part of the civil list and therefore payable out of the Equivalent. But the prospect of their payment was so distant that the Commissioners commended their cause to the House.

And the Commissioners were worried about the £1,060- they had spent on servants' wages and other expenses which were not legally provided for.¹ They were also worried about the absence of any salary for themselves but that was not

1. 23 Feb. 1707/8. C.J.15. 564-5.

mentioned at this time.

However, the Commissioners who were in London seem to have managed the Committee and the preparation of the bill reasonably well. The Scottish Equivalent was not a matter of vital interest to most members. There was a skirmish in which the Squadrone tried to change the provisions of the Scottish act. Their idea was to secure payment of all classes on the civil and military lists without distinction. As money became available they wished it to be shared out amongst all creditors in proportion to their total interest. This motion was only defeated by the Speaker's vote.¹ Some of the Squadrone seem to have set themselves up as champions of the smaller creditors as part of their "platform". Cromarty told Mar that if the Commissioners paid out before the election "the squadron will not be so numerous in the Parliament as is bragg'd".²

The act did lay down a workable procedure for paying out the money available. A break was made with the former method. All certificates issued by the Lords of the Treasury to claimants were made invalid at one stroke. Now the barons of the Exchequer were to do the work. They were to make up the class lists, setting a time limit after which no claim

1. 84-84.CJ.15.p.575; 26 Feb.1707/8. Mar to Grange. M & K.Mss. 428-9; 26 Feb. Vernon to Shrewsbury. Vernon Correspondence III.356.

2. 21 Aug.1707. Cromarty Correspondence ii.41.

was to be received. When these lists were completed the Commissioners could commence paying out, one class at a time. When sufficient money was not available the Commissioners could pay something to all persons in one class in the proportion that each individual debt bore to the whole class. For all the debts unsatisfied, whatever the class, debentures were to be issued bearing interest at five per cent. The payment of debentures was to be in the same order as the priority of the original debt. So much for the money available. Something had to be done to satisfy those who could only hope for payment out of the increase, if any, of customs and excise revenue. What was done might have seemed adequate at the time but later gave rise to trouble. The Commissioners of Customs and Excise were to prepare twice yearly accounts stating how much their revenues had produced more than the amount estimated at the Union. When the Lord Treasurer received these accounts he could give his warrant for the payment of any equivalent which was due. That seemed to dispose of the main business. The other matters were then dealt with.

The Commissioners were allowed to pay extra money to the directors of the African Company for the time spent on their accounts. A year's allowance could be given at once to the bishops and the poor on the Charity Roll for their

relief. Necessary expenses were allowed up to £920- a year. The responsibility for the coarse wool money was handed over to the barons of the Exchequer who could order payment as they thought fit. And at last the Commissioners were granted a salary but under conditions which made it a nominal one for long enough to come. Their salary was to be £300- a year each but it was not to be paid out of the original £398,085.10s.0d.; nor was it to be paid until the interest on debentures had been satisfied.¹ This was cold comfort to the Commissioners but there was strong feeling against the administrators taking precedence over the creditors.

Some time had necessarily to elapse before the lists of claims could be made up and classified. Nor did it seem that there would be much cash available when the lists were ready. By February 1709, after specific charges had been met - debts of the African Company, fees for the commissions for the Union, the charge of the Lord Commissioner and the like - there remained £61,837.11s.11d. The main civil and military lists had not been touched.²

Sharp eyes were kept on the proceedings of the Commissioners by interested parties. The Commissioners could always be brought to account before Parliament and were made to do so annually. In March 1709, a humble address sought to reduce

1. 6 Anne. C.51.

2. C.J.16.p.134; Lords' Mss.viii. p.298. 18 Feb.1708/9.

the number of Commissioners when it was learned from accounts laid before the House that the bulk of the original sum had been distributed.¹ The idea seems to have been to reduce the salary list. The ministry agreed readily enough,² so a thinning out took place. Those who were dropped from the Commission seem a fair cross-section of parties although in another way discrimination had been made. Ten were removed from the commission but only one sitting member of Parliament and since it was George Baillie who had not wished to be in the commission it is likely that he requested to be left out.³ Of the others, two of the Englishmen, Reynardson and Houblon, went.⁴ Sir Francis Grant was dropped, presumably because he had been made a Lord of Session since his appointment, and Clerk because he had become a baron of the Scottish Exchequer.⁵

But by this time a cloud of criticism had blown up. Impatient creditors were beginning to have the first realisation that there was no necessary relation between the amount due from the Equivalent and the public debts. The two were really unrelated. The creditors were ready to blame anybody.

1. 22 March 1708/9. C.J.16. p.168.

2. 28 March 1709. *ibid.* 176.

3. An election had taken place since the commission was issued and so some who had been M.Ps had ceased to be so.

4. Reynardson had been made Receiver of the Customs at Bristol at £1,000- a year. 26 Aug. 1708. Sir J. Cope to Sir A. Hume. Marchmont Correspondence G.R.H.

5. New commission warranted 29 June 1709. T17/2.65-6.

The main weight of their criticism fell at first upon the Commissioners of Customs. They saw customs revenue, which should, they thought, have been producing a surplus, going in the cost of management. The Commissioners of the Equivalent were driven to writing to Godolphin about it. He told them firmly what the position was and left it at that. It was no business of the Commissioners of Customs and Excise to say what was due for the Equivalent but only to certify their surplus. As soon as a surplus had arisen in real money as distinct from bonds he would order payment of what was due. He had no intention of listening to sweeping criticisms of Customs management, he implied, but if particular complaints were brought to his notice he would attend to them.¹

In 1711, after Godolphin's dismissal, the commission came under hostile scrutiny from the Commissioners of Accounts. More than just accounts was needed. The Commissioners petitioned the Commons because distance made the conveyance of papers and witnesses to London impossible. The committee which considered this advised that the examination should be carried out in Scotland.² A bill was put through the Commons giving the barons of the Scottish Exchequer power to conduct the examination.³ This was not

1. 28 March 1709. CTB.xxiii.7.

2. C.J.16 p.661. 14 May 1711.

3. Ibid p.681. 28 May 1711.

enough for the Lords, however; they insisted on the attendance of Commissioners with papers and then kept them waiting.¹ This effectively stopped Equivalent business for some time. For their part the Commissioners of Public Accounts discovered and leapt upon the fact that the Commissioners past and present seemed to have allowed themselves salaries although not entitled to do so until the interest on debentures had been paid.² But what evidence they had for this statement does not appear and the whole business seems doubtful when the Commissioners' statement of accounts to the 3rd August 1711 gives the whole charge of salaries to that date as £22,578.18s.0d. remaining unpaid.³ Either the Commissioners of Public Accounts were wrongfully accusing the Commissioners of the Equivalent or else some swift juggling had taken place with the books. Since, according to the former, the money had already been paid and some of it to Commissioners since removed it is unlikely that the matter would be sorted out as quickly as would have been necessary.

The Commissioners seem, in fact, to have done the best they could with the civil and military lists made up by the barons. But the best was disappointing for the creditors.

1. Lockhart i.540.

2. 17 March 1711/2. Cobbett vi.1110.

3. Lords' Mss.ix. App;370-1.

There was not much cash to pay out.¹ Of those on the civil list only those in the first class had any cash. There was only £4,655- of that. Other debts in the first class and some of the other two classes were paid in debentures. Some remained unpaid. In the military list there were debts still outstanding but almost all the first class and some of the second were paid in cash. Debentures were issued to the others. But the issue of debentures brought its own problems. The interest was accumulating. In August 1711 the interest amounted to £23,196-. Altogether, apart from debentures the total amount of debts unpaid stood at £216,196.6s.3½d. This included interest and Commissioners' salaries, two accumulating items. Of what had been paid £277,134- approximately had been in debentures.² The only hope of redeeming the debentures or even paying interest lay in a surplus in customs and excise revenue. The customs, as was well known, was not producing a surplus nor did it seem likely that it would. From the creditors' point of view the customs were best disregarded. They turned their attention to the excise and worried the Commissioners about that.

The Commissioners were driven into trying to do something. They felt themselves hardly used. For the first

1. Approximately £37,279- after incidental charges and servants' salaries had been met. Lords' Mss. ix. App. 370-1.

2. Ibid.

two years of the Commission the pressure on them had been considerable. They had worked during that time paying out creditors and attending law suits in which they had become involved. Their functions only stopped when their books were taken to London and they were unable to work without them. Yet they had critics "who did buzz and whisper about" that the Commissioners had done nothing but make the claims against the Equivalent larger by their salaries. By all this insinuation and gossip the Commissioners were driven to take action over the excise surplus or the "rising Equivalent" as it was called.¹

The Treasurer was empowered to warrant payment of any sum which appeared to be due as an equivalent, so members of the Commission in London had seen the Treasurer about doing this. A certain amount of lobbying had taken place at Westminster, mainly, no doubt, amongst the Scottish members.² When William Seton was up in 1711 he managed by some means to persuade a Committee, set up to consider the Equivalent, to declare that there was £56,000- owing to Scotland. That was as far as he went because the House did not find time for the report.³ Cope had bemoaned the lack of interest amongst Scottish members who were not themselves concerned.⁴

1. SP.54/6. 15.

2. Ibid.

3. SP.54/6. 5.

4. 6 Feb.1710/11. To Sir A.Hume. Marchmont Correspondence G.R.H.

Seton himself reported that everyone seemed to be against putting Equivalent business through.¹

The following winter Sir Andrew Hume was up in London with John Pringle to present the accounts and papers the Lords had called for. They waited all the Session but the Lords found no time. Sir Andrew Hume spent some time lobbying with one, James Campbell, who was acting as an agent in London for some of the creditors.² They achieved nothing. A Commons' Committee examined the accounts, reported, and that was an end of the Equivalent for that Session.³

But agitation amongst the Scots continued. The creditors chafed at the injustice they felt they were suffering. Someone had performed complicated feats of accountancy to suit their case and arrived at a claim of £101,883.0s.6¼d. "about which there can be no doubt or question".⁴ This total was reached by alleging that the debts of England before the Union had not been fully computed and that no equivalent had been paid for duties due to terminate in August 1710 which had been continued after that time. To these items was added the calculated surplus of the Excise revenue. Other debts were found which produced an additional claim of

1. 22 Mar.1710/11. Marchmont Correspondence G.R.H.R/16.

2. Ibid.

3. C.J.17.33, 35, 54, 172.

4. SP.54/6.15.

£186,902- but they forbore to speak of this as being beyond "doubt or question".¹

As individuals the creditors had got a moral case. After all they were only claiming arrears of salary which should have been their right. If payment took the course laid down they were going to wait a long time for satisfaction. But legally they had no case at all. Their arrears were all liabilities of the Kingdom of Scotland, and sprang from the Scottish Treasury's defaulting. At the Union it was agreed that the arrears should be paid in the manner prescribed under the Equivalent provisions. The snag was that the Equivalent was not enough to meet the arrears. The Scottish Treasury had been wound up and there was no one left to pay. Hope of payment had been very small before but since the Union, definition had shown how distant the prospect of payment was. From this sprang the agitation. The Equivalent was the fund for the payment of arrears and therefore it must be made to yield enough to pay them.²

The creditors and the Commissioners seemed to imply that at the Union the Scots had somehow come off very badly in the Equivalent calculations. There may have been cases in which every jot and tittle of English debts before the

1. Ibid.

2. Some Scottish M.Ps do not seem to have understood what the Equivalent was. See 27 Jan. 1707/8. Vernon to Shrewsbury. Vernon Correspondence iii. 323.

Union were not fully accounted for, but the rights and wrongs of the case were not as clear cut as that. The accuracy of the accounts submitted by the Scots in the Union talks had been shown to be very dubious. It was this that left an impression on English minds.

The Scottish Commissioners estimated the revenue of Scotland at the time of the Union to be £109,190- a year.¹ They calculated that the revenue after the Union, taking into account the increase in duties to the English level, would reach £160,000-. The expenditure they estimated very conveniently at £160,000- also. These figures have a very artificial flavour about them. That they were accepted at all shows the ignorance of Scotland which existed at the Treasury, and also, perhaps, a wish on the part of the English ministry not to create any trouble over the matter. The actual state of affairs was very different from that shown in the accounts. The farmers of the customs before the Union had had their farm reduced to compensate them for the lowering of the duties.² No mention was made of Crown grants or private rights, both of which greatly reduced the revenue. Crown Rents were estimated at £8,000- a year. But in 1707 gifts affecting the Crown Rents and Property Roll were said to amount to £2,158.4s.4d.³ By March of 1709

1. T.48/22.

2. Harley Papers. xLvii. 766.

3. T17/1. 255-7.

owing to grants and the cost of collection Crown Rents had produced nothing.¹ Later calculation showed that the revenue of Scotland before the Union had an annual deficiency of between £14,000- and £23,000-.²

Then there was the defaulting of the Scottish Treasury in 1707. In the Union agreement the Scots had agreed to provide for the service of the rest of 1707. They took that to mean to the end of December which was the end of their year. But they were not able to do that. Some reasons were given. Parliament did not always grant enough for the military establishment which was correspondingly in arrear. Some of the cost was met by the excise duty but the change in Excise regulation had alarmed the brewers some of whom left off brewing for the first quarter thus lowering the revenue.³ Whatever the reason the Scottish Treasury could pay neither the army nor meet the necessary charges on the civil list. Godolphin found this disconcerting.⁴ The total liability was estimated at £62,562- whilst Scotland was expected to produce at the most £5,000-.⁵ Godolphin agreed to advance some money out of the English Civil List to

1. T17/2. 13-14.

2. Harley xLvii. 766.

3. 1707. c. June. T1/104. 11.

4. 16 June 1707. Godolphin to Glasgow T17/1. 45; 2 Sept. 1707. Godolphin to Seafield. *ibid.* 125-7.

5. 31 Oct. 1707. T1/103. 42.

relieve the situation but made the proviso that it was to be repaid out of the Equivalent. The total so advanced was £40,608.8s.8d.¹ Even then nearly £12,000- remained due on the Scottish Civil establishment.² Apart from this, which had to be mentioned, nothing seems to have been said about the amount of public debt in Scotland until after the Union. When the sum was discovered it caused some unpleasant surprise. The Queen told Mar the debt was greater than had been expected.³ The total was over £250,000-.⁴

All this was discovered by the Treasury after the Union. At the same time it was finding out that the revenue yield was certain to be disappointing. This caused concern and estimates of probable revenue and expenditure were frequent. In May 1708 Godolphin was told that the revenue available for the Civil List was likely to show a deficiency of £20,000-.⁵ These estimates always showed the position to be precarious.⁶ All this and the known customs deficiency caused the reluctance of the Treasury to warrant any further Equivalent payments. It was by no means certain how things stood. It was almost impossible to find out what the revenue was.⁷ When Oxford enquired in 1712 he was given an estimate

1. Votes 1718/19 1st Report. p.43.

2. T1/109.12.

3. 21 May 1707 Mar to Glasgow M.& K.Mss.393.

4. T17/1. 293-6. 4 Feb.1707/8; Harley xLvii. 768.

5. T17/1. 354, 355; T1/111. 13.

6. Compare T1/109. 32 and T17/2.13-14; Lords' Mss.viii.296-7; T1/113.8.

7. Even by 1719 the accounts of the Bishops' Rents for 7 years were being guessed by an Exchequer clerk on the basis of one year's account votes. 1718/19. 2nd Report. p.24-28.

based partly on guesswork and partly on the assumption that the land tax was collected without arrears or deductions of any kind. The latter was very wide of the mark.¹ The total was overestimated and an annual average of nearly £160,000- was arrived at because no deductions were allowed for. Even then it could be said only that "the revenue of Scotland will be found to have holden good and though it should not the deficiency is very small".²

But the creditors were agitating for payment of what they insisted was due. They showed great ingenuity. They attacked the basis of the agreement. If the Scottish customs were deficient the English customs revenue should be looked into since if that were below estimate then the Scottish deficiency should be less. If the amount paid by England for the service of Scotland in 1707 were to be a charge on the Equivalent it should take its place in order of priority and not have preference over debts contracted before it. And so on. The matter became, indeed always was, so fogged that it is doubtful whether anyone saw clearly through it.

Finally the agitation became organised. The private Tobbing which had been going on turned into something more.

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1. ~~see~~ see W.R. Ward : The Land Tax in Scotland, 1707-98; Manchester 1954, Votes 1718/19 4th Report shows £53,091- in arrears. Although Scottish records show no arrears. Land Tax Accounts. Exchequer Records. Office of Auditor-General Register House.
 2. SP.54/4. 192. 1 May 1712.

A liaison developed between creditors seeking settlement and the Commissioners who were anxious to get their clearance and their salaries. A meeting of creditors was advertised and was held in Edinburgh on the 20th January 1714. "A considerable number" of the creditors attended and set up a committee. The committee drew up a plan of campaign which was then approved by a meeting of "several hundreds".¹ Petitions were sent to the Queen, the Lord Treasurer and the Commons.² The Earl of Leven wrote to Mar and asked for his support.³ John Campbell who had been acting as agent for some of the creditors was adopted as agent by the rest. He was to share in the four per cent granted to the agent, clerk and committee for their trouble and the one per cent for expenses. As a spur to action the money was to come out of the Equivalent.⁴

In the spring and early summer of 1714 Oxford had this situation to deal with. Crookshanks was up in London, away from the Scottish customs. Oxford set him to work to brief him on the question. As a result Crookshanks provided Oxford with an account of the Equivalent with which he could face the Commissioners when they waited on him. Crookshanks was probably aware that Oxford had little patience with

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1. SP.54/6. 5.
 2. SP.54/6. 21, 23, 26.
 3. SP.54/6. 24.
 4. SP.54/6. 5.

Scottish financial quibbles. His tone was calculated to suit this frame of mind. He ignored all legal points and stated a financial case, hostile to Scotland. There was an excise surplus but the customs deficit outweighed it. Furthermore the debts of Scotland for 1707 outweighed any equivalent that might have become due. So much for the Commissioners of the Equivalent and their creditors who, he said, were "uncertain and form ideas of their claims answerable to their necessities and such persons are usually importunate in their solicitations and consequently ready to lay hold on anything for present relief".¹

The Commissioners themselves were not quite so definite in their claims when dealing with Oxford. They knew, they said, that no true estimate of what was due could be made without a thorough examination of Scottish revenue since the Union.² When they attended the Treasury in July 1714 they were more concerned with their own plight than that of the creditors, although they hoped that Oxford had considered that. They were held in London with their accounts and were still not cleared. Their private affairs were suffering and they still had no salaries. Small comfort came from Oxford: "This affaire must be determined by Parliament", was his view.³

1. 7 June 1714. Harley Papers Li. 1903-4.

2. SP. 54/6. 18.

3. CTP. 1708-14. p.594. 7 July 1714.

And he was, of course, right. His function was to carry out the agreement as it stood but it was not clear how it was standing. The revenue situation was also obscure. But the Commissioners had already been trying to get a parliamentary remedy and had met with no cooperation from the Ministry. It was up to Oxford to put the matter before Parliament and he was not inclined to do that. He was not coping well with business at this time and his period at the Treasury was, as a result of Bolingbroke's machinations and his own inefficiency, coming to an end. So a direct request that £30,000- should be paid out of the excise surplus to meet interest on the debentures he shelved by seeking the Attorney General's opinion on the acts of Parliament. Yet he must have known a full enquiry was needed.¹

But at last, in that session, the Commons had found time to consider the Commissioners' accounts and to discharge them of the whole of the £398,085.10s.0d. A clause to make the Commissioners' salaries next in priority was rejected.² But this did nothing to help with the main problem of the Equivalent. The debts were standing at £230,308- approximately in addition to the unredeemed debentures.³

The act as passed cleared the Commissioners of the

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1. 26 July 1714. CTB.xxviii. 68.
 2. C.J.17. 619, 675, 685, 712, 721.
 3. Lords' Journals xix. 751-2.

money they had disbursed which was at least something. Then a straw was thrown in the direction of the despairing creditors. The Commissioners were given the power to call in the debentures issued and to issue new debentures for the existing debt of approximately £230,308- which would bear interest at five per cent from the 24th of June 1714.¹

The move to consider the future state of the Equivalent was left to James Campbell, the creditors' agent who petitioned for more effectual directions for stating the accounts and making the surplus available.² The result was a humble address for accounts of the "growing Equivalent" to be prepared and laid before the House the following session.³ Meanwhile the Commons obtained a reduction in the size of the commission for reasons of economy.⁴

Attempts continued to be made to secure some parliamentary settlement. Campbell steadily petitioned the House for redress. In August 1715 the committee which considered the matter reported that he had made out a case for the creditors. There were public debts owing in Scotland from before the Union and that they ought to be provided for. The difficulty was where the money was coming from. There were no accounts

1. 13 Anne C.12.

2. C.J.17. 655

3. Ibid. 723; Lowndes' instructions to the Commissioners of Customs and Excise. 21 July 1714. T17/3. 124.

4. C.J.17. 691. 21 June 1714; 13 Jan.1714/15. T17/3. 311-312.

of the "rising Equivalent" available and the reason was enquired into. It seemed quite plain, when everyone had been heard, that the revenue commissioners had not stated how much was due on the Equivalent because they did not know how to work it out.¹ Finally a bill was passed empowering the Crown to appoint commissioners for examining the debts due to Scotland by way of equivalent.² The same performance was staged in 1717 and the result was another bill continuing the terms of the first.³

Meanwhile the struggle was carried on administratively in the background. The matter of the customs deficiency was argued. The Scots protested that there had never been any reason to suppose that they were expected to make up any deficiency. Certainly that had not been mentioned in the agreement. The Treasury did not accept their view. The Lords of the Treasury thought that the Scottish revenue must be shown to have produced the amount for which it was purchased and also that the sums advanced to meet Scottish liabilities in 1707 should be repaid before any surplus could be warranted. Until there was a clear surplus in both customs and excise the Lords thought they had no power to warrant the issue of money.⁴ In spite of their opinion the

1. C.J.18. p.263-6.

2. 1 Geo. I. c.27.

3. 3 Geo. I. c.14.

4. 22 June 1717. Treasury minute. Votes.1718/19. 51-2.

act of that year permitted them to authorise payment not exceeding £31,565.2s.5½d. out of unappropriated Scottish revenue for paying interest on debentures and the Commissioners' salaries.¹

Commissioners of enquiry were appointed. They issued a series of four reports culminating in the report of 1719. The enquiry served only to show a state of howling chaos as far as accounting went. The actual revenue from the customs could not be ascertained because it had suddenly occurred to the auditors of Scottish revenue to change the method of accounting. The change had been opposed by Crookshanks as Comptroller-General. The matter was still in dispute and being fiercely argued.² Generally it was concluded that the excise had produced a surplus above the estimate whilst the customs revenue was deficient; it was disputed how much. The English counted revenue in money only. The Scots maintained that the deficiency was not as great as it seemed if the money and bonds in the collectors' hands were counted, if private rights were determined and if the proceeds of fines and forfeitures were added to the customs revenue where they belonged instead of being taken separately.³

1. 3 George I c.14.

2. Votes. 1718/19. 2nd Report.

3. 1st and 2nd Reports. Votes. 1718/19. The matter of bonds makes customs revenue almost impossible to calculate since some accounts include them in the revenue without indication. Annual revenue is difficult to estimate because of different accounting dates. The last report to be made at this time gave the customs deficiency as £55,666- over the first seven years and the excise surplus as £44,383- 4th Report. Ibid.

But the English Commissioners of enquiry went ahead and produced a report heavily weighted against the Scots, so much so that Baird, the Scottish Commissioner, was driven to issuing an unofficial minority report criticising the method of accounting.¹ Some remarkable discrepancies were found in the accounts. The accounts as officially passed in Scotland were wildly different from the accounts kept in the English Exchequer. When the discrepancies were compared the Scottish account showed £28,685.3.0½d. more than the English account and that amount was promptly added to the debts of Scotland to be cleared before any surplus could be paid.² The chief result of the Commissioners' enquiry was to show that such an enquiry was an unprofitable way of tackling the problem. Instead it was decided to start again, if not with a clean slate, at least cutting away the existing tangle. The Commons resolved that the civil list debt of Scotland was a just debt and ought to be provided for. A bill was prepared and passed incorporating their resolutions. Two annual funds were set up, one of £10,000-, the other of £2,000-, out of the unappropriated revenue of Scotland. The

1. 2nd Report. Votes. 1718/19.

2. 4th Report. p. 33. The most considerable item of difference was that between the account of the Land Tax kept in Scotland and that kept in England : £52,169.17s.10½d. This was partly offset by other differences.

first fund was to pay off the debts and the second to encourage fisheries and manufactures. Both funds were subject to redemption by Parliament and a company was to be set up to administer the funds.¹

So at last Parliament had jettisoned the idea of a "growing Equivalent" and the premises on which it was based. The original figures had been so unrelated to what was the true state of affairs that anything could be argued from the consequent tangle. That fact had of itself paralysed the Treasury. Unless the efficiency of actual revenue administration was at stake, the Treasury, no matter who was in office, could seldom be brought to action. In matters requiring payment, where existing law was doubtful or there was no precedent, the Treasury could neither be brought to act nor to seek a parliamentary remedy. This was shown under both Godolphin and Harley. In the matter of fish drawbacks and the Equivalent, the interests concerned had to resort to private lobbying to procure a parliamentary remedy. The reason was probably due to the Treasury's attitude towards its function and had nothing to do with either Godolphin or Harley. As a department it administered and it could advise what could and could not

1. C.J.19. p.139-141. 24 March 1718/19; *ibid.* 144-5.
2 April 1719; 5 George I. c.20.

be done on financial grounds but it was not its function to initiate legislation to redress what it regarded as private grievances. So when Scots, like Lockhart, complained that hostility to Scottish interests was the official attitude they were unjust. There might have been apathy or even hostility in the Commons - there is evidence of both - but the Treasury probably regarded it as none of their business.

15. THE BREAKDOWN OF OXFORD'S SCOTTISH SYSTEM

Oxford had been trying to get the support of as many groups as possible in Scotland and to secure if possible the quiescence of the rest. Natural Court men like Glasgow and Leven had been left in office to attract their support and avoid fears of a Jacobite purge. He sought to retain Tory support by keeping them in expectation and gratifying them when absolutely necessary. For the rest he tried to keep Scotland under his direct control by administrative action. His system was to eliminate faction and to enable him to take advice all round and then act through the Treasury, the Court of Exchequer or such confidential agents as he chose to employ. The secretaries were to be by-passed as much as possible.

But everything was against Oxford. His policy put more work on him than he could carry. Ambitions were restless and differences bitter. These ceaseless workings meant that any success his policy had would only be temporary. Men like Hamilton and Argyll would not thrive for long in expectation. They were hungry for honours and the dominant faction expected to rule in Scotland, not to be administered from the Treasury.¹

1. Later, Oxford tried to tell Islay he was letting the Scots manage themselves. Islay told him, quite correctly, that he could never give Scottish affairs into their own management. "It will always be our peculiar misfortune that your

(Continued at foot of next p.)

Certain changes had been made after the election of 1710. Those who importuned the loudest had to be quietened and fortunately they were under no suspicion of being Jacobite. They had been made Justice General and in January 1711 Argyll was given the command in Spain, which he discovered to be a doubtful honour. Another influential Scot who had to be gratified was the Duke of Hamilton. He wanted a British peerage.

This peerage had been a serious project with him for some time - certainly before the fall of Godolphin.¹ He had tried to get it as the price of his support in the 1710 election.² Since that time he had expended a good deal of energy and temper in the matter. He blamed lack of family support for the day. Selkirk for one was lukewarm in the matter.³ It was, however, necessary to do something for Hamilton and Oxford was driven into getting him a patent for a British dukedom. Other Scottish peers had made demands and had been put off until the fate of Hamilton's patent became known.⁴ So the pressure to test the question must

1. 29 April 1710. Archibald Hamilton(?) to Selkirk(?) NLS. Mss.1032. f.78-9.

2. 13 Sept.1710. Godolphin to Seafield. Seafield Mss.210.

3. 16 June 1711. Hamilton to Selkirk. NLS.Mss.1032.f.97; 19 July 1711. *ibid.* 99-100; 30 Oct.1711. *ibid.* 106-9.

4. Oxford told Stair he was waiting to see what happened to Hamilton before making promises.Oct.1711. Harley Papers L. Between 1480 and 1481.

Continuation from previous page of Footnote 1.

Lordship cannot ease yourself of the affairs of Scotland without leaving us under a greater load of troubles than we have yet felt". 29 July 1713. Port.v.312.

have been great. But when it came to the point it was fairly clear that the right of Hamilton to sit in the Lords as a British peer was not going to be granted.¹ It was defeated by five votes in the Lords.² This was a matter of importance for Scotland and its defeat was taken as a national disaster. Even the Squadrone considered it a threat to the Union and for that reason Baillie could not understand the attitude of the Whigs in the question.³ It meant that no Scottish peer could ever sit in the Lords as a British peer. The title of Duke of Dover ceased to confer the right to sit on the Duke of Queensberry although it had been exercised. One factor was undoubtedly the fear of being swamped by new creations of Scots as peers of Great Britain.

The decision entangled Oxford in parliamentary complications with the Scots. He assured them he would do what he could but it was obvious that this was little enough in the face of general opposition. Mar thought that both Whigs and Tories opposed the Scots because they thought their peers' election increased the power of the Crown. The ideas that Oxford had were not acceptable.⁴ The Scots could think of no expedient for themselves. The fact was that they wanted

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1. 13 Nov. 1711. Baillie to Polworth. Polworth Mss. i. 1-2;
14 Dec. 1711. Alexander Baynes to Wemyss. Wemyss Memoirs iii. 182.
 2. 57-52. 20 Dec. 1711. Baillie to Marchmont. Polworth i. 3.
 3. 13 Nov. 1711. Baillie to Polworth. *ibid.* 1-2.
 4. For Oxford's jottings on the subject see Harley Papers xLvii. 749-753.

nothing less than what had just been rejected. In such a matter of national interest they felt obliged to take measures. The sixteen peers told the ministry they would cooperate with any group which promised them redress.¹

The Lords finally voted that the law regulating the sitting of Scottish peers was alterable at the request of Scottish peers without any breach of the Union.² Balmerino was the first to leave off going to the House, at this, and the rest soon seceded in a body.³ To the Court's relief their absence was not as serious as had been feared. Without the Scots they had a majority of 20 on Bishop Trinnel's sermon and 18 over the repeal of the Naturalisation Act.⁴ However, some of the peers were going against the grain in opposing the Government and were glad to take advantage of a general assurance that something would be done to resume their support of the Ministry in the Lords.⁵

Oxford seems to have been weary of the continual pressure for gratification from the Scottish peers, and

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1. 16 Jan.1711/2. Hamilton to Oxford. Port.v.138; 17 Jan.1711/2. Mar to Grange. M & K.Mss.493-5; 22 Jan.1711/2. Alexander Baynes to Wemyss. Wemyss Memoirs iii.184; 22 Jan.1711/2. Peter Wentworth to Strafford. Wentworth Papers. 256.
 2. 26 Jan.1711/2. Baillie to Marchmont. Polworth i.6.
 3. 29 Jan.1711/2. Balmerino to Oxford. Port.v.141.
 4. 31 Jan.1711/2. Swift's Journal p.328; 1 Feb.1711/2. Peter Wentworth to Strafford. Wentworth Papers. 261.
 5. 2 Feb.1711/2. Swift's Journal p.329; 14 Feb.1711/2. Mar to Grange. M & K.Mss.495-7; 23 Feb.1711/2. Alexander Baynes to Wemyss. Wemyss Memoirs. iii.187.

tried to reduce his dependence on them. In November 1711 when he was preparing for that vital session and had to muster all possible support, he had to find time to put through the Commission of Chamberlainry to get any showing at all from the Scottish peers. It seems to have been well-known that they had gone to their country estates and had no intention of moving until something was done for them. They had justification. Honour was felt to be at stake and it was expensive to attend Parliament. Even so he was not quick enough. They were not in London on time and people were ready to blame Oxford.¹ Oxford said the Scots were held up by the floods but that was not the whole truth.² The important motion in committee was lost by one vote.³ Hopes were placed on the Scots getting in early. All who did arrive voted solidly for the ministry,⁴ but on the 20th of December when Hamilton's patent was defeated, six Scottish peers were still not up.⁵ Small wonder that Oxford lost patience and had twelve new English peers created saying he was tired of depending on the Scots who needed a reward for every little service.⁶ Any easing of that

1. 7 Dec.1711. Swift Journal. ii 432.

2. 8 Dec.1711. Bolingbroke Correspondence ii.48.

3. Nottingham's motion.

4. 8 Dec.1711. Baillie to Polworth. Polworth i. 2.

5. 20 Dec.1711. Baillie to Marchmont. Polworth.i.3.

6. Dartmouth Notes to Burnet vi. 95n. One was Dupplin who was the son of a Scottish peer. There was some worry lest his patent should be challenged as a result of Hamilton's decision. He was introduced as John Hay, Esquire, but nothing happened. 1 Jan.1712. P.Wentworth of Strefford. Wentworth Papers 235-6; 4 Jan.1711/2. *ibid.* 237.

tension enabled his Scottish system to last a little longer.¹

But Tory pressure was being felt in the Commons. The Tories there were getting things their own way. They had a series of triumphs - the expulsion of Walpole, the repeal of the Naturalisation Act and bills relating to the Scottish Church settlement. An act for the toleration of episcopalians in Scotland had been in the minds of some as early as the Union.² It was a measure which needed passing and only high Presbyterians or those who feared offending them were against it. The Greenshields case brought it into prominence.³ The more politic minded who could sense Scottish feeling were against making a decision in the Greenshields case. Mar's view, for instance, was that if it were decided in his favour toleration would be virtually established and the Kirk offended; if the decision went against him the Presbyterians would be unbearable.⁴ Things were better off as they were, was this opinion. The decision was successfully put off for some time. But when finally the Lords decided in his favour, and Sir James Stuart

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1. There is some evidence for thinking that Oxford had little sympathy at bottom with Scottish financial claims of whatever kind.
 2. 7 Oct. 1707. Cromarty to Mar. Cromarty Correspondence ii.46.
 3. One of the earliest appeals from a Scottish Court to the Lords. It was decided that a minister could not be restrained or punished for using the English liturgy in Scotland.
 4. 24 Dec. 1710. Mar to Oxford. Harley Papers. xLix. 1359.

continued to act as if nothing had changed, the Scottish Tories began to press for a toleration bill. Lockhart tried to get it introduced in 1711 but pressure of business and Oxford's reluctance defeated it.¹ But in the next session they again introduced it and although strongly fought in both houses it became law on the 26th February 1712.²

An act restoring rights of Church patronage was similarly pressed by the Scottish Tories with an act for restoring the "Yule Vacance". The ministry had to suffer their passing in spite of Oxford's misgivings. All he could do was acquiesce and try to assure Presbyterian leaders in private of his good offices. He paid Carstare's expenses for coming down to London to protest.³

All the time there was the continual pressure from the Scots who wanted reward for their good disposition in the 1710 election or their services since. From Mar, Oxford received a stream of letters telling him of dissatisfaction or uneasiness in Scotland. It is true that Mar had an axe to grind - he wanted to be secretary - but his interest at

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1. He had employed Greenshields to sound M.Ps' opinion on Toleration.
 2. Oxford's reluctance concerning these measures was no secret to the Scottish Tories. See Lockhart. i.378.
 3. 3 May 1712. Carstares to Oxford. Harley Papers.L.1559. And Carstares seems to have taken it that Oxford did not approve of what he had to put up with in regard to Scotland. 28.Mar.1713. Harley Papers.xLix.1218.

the time lay in seeing that the Scottish peers were kept in a good humour. And he was a man who kept his ear very close to the ground. Typical of his news letters was his summary of the situation in May 1712. He thought that some of the peers only wanted a suitable opportunity to oppose Oxford. His supporters had been hoping that some action would be taken in Scottish matters but since none was forthcoming some had left London and others were off the following week. The peace had been a good excuse for neglecting Scottish affairs. It had, at any rate, kept people from despairing and **it** might see the session through but then Oxford's support would disappear. People were so tired of seeing their enemies remain in office that his supporters would be laughed at and next session the few who attended Parliament would be in opposition. There was a whole list of things needing attention just to keep people easy. Eglinton, Northesk and Haddo wanted to know what they were expected to do as Commissioners of Chamberlain^y and what they were to get out of it. Northesk was desperate because his income had been drained by the expense of attending Parliament. Roseber^y wanted the post of Chamberlain of Fife¹ and feared there might be a hitch. Kilsyth had to be looked after since he had remained steady to the ministry's interest, otherwise others would be slow to follow his example. Glencairn had

1. The 'office' referred to presumably since it was a matter of concern to Roseber^y.

his eye on the governorship of Dumbarton Castle although he had not mentioned it because Islay had it. But certainly he had been promised a pension and if he did not get it the other party would get him because of neglect. Possibly he could be made General of the Mint now that Lord Strathmore was dead.¹ Linlithgow would join the other side if he did not get the governorship of Blackness Castle. All these things were important because Marischall was dying and the peers would soon be meeting to choose his successor. The trouble would start there.² Later he was urging that Hamilton should have something to keep him "right". He thought that some government should be provided in Scotland before the next election.³ And so on. There was certainly dissatisfaction in the air that Oxford had not done more to oblige his supporters.

However, Oxford still felt able to carry on and resist Tory inroads on his counsels, and on influence. His choice of the twelve new peers showed his determination to preserve his own interest,⁴ and his offer of the Lord Lieutenancy of

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1. Actually Home got the Mint. He was apparently in poverty. 19 Nov. 1712. T.17/2.398.
 2. 21 May 1712. Harley xLvix. 1157-1160.
 3. 4 June 1712. Mar to Oxford ibid. xLix. 1168. Peers elections were generally disliked by all who were possible for management because they provided great opportunity for intrigue. 28 Jan. 1707. Marchmont iii. 444; 12 June 1708. Additional Mss. 39953. f.99; 6 Anne c.78 was to prevent any other discussion at peers' elections.
 4. 6 of his own immediate circle were amongst the 12.

Ireland to Shrewsbury showed his desire for moderation, although he was under strong Tory pressure to make changes in their favour. Bromley strongly represented that case to him. But there was at that time no real alternative to Oxford and he could afford to keep on for some time longer. Even if Wyndham did become Secretary at War, St. John was not given the honour he wanted.

In Scotland he continued also along the same line. After a decent period in the wilderness, Seafield was ready to serve the new ministry.¹ He was too able a man to be rejected and could be relied upon to support the ministry. He was a Court man not a Tory. Oxford decided that Seafield would be elected as one of the sixteen in Marischell's place.² But this deliberate choice of Seafield against all other interests was bound to heighten tension elsewhere. Seafield had never even occurred to Mar as a possible candidate.³ Mar had his eye on the threats from other directions. He warned Oxford. Islay and Argyll had a candidate to take Marischell's place and were trying to concert measures with Hamilton. Hamilton had said he would support anyone the Queen wished but he would want his price. So he must be gratified or else he would join Argyll and that combination could carry the

1. May 1712. Seafield Mss. 225.

2. Oxford was worried about this election. He was advised by Shrewsbury to take care to get proxies. June 1712. Bath i. 219.

3. 4 June 1712. Mar to Oxford. Harley Papers xLix. 1168.

election however they chose. By this time Mar had heard rumours of Seafield's coming in and was disquieted. He spoke of the dangers of bringing in this "certain man".¹

Indeed it was clear that something would have to be done about Argyll and Hamilton anyway. The former had been disgruntled since the Spanish affair. When he was there he had realised he was in a kind of exile since the Spanish theatre had ceased to be important. His letters home made the ministers' ears warm.² Now he wanted something else to wipe out that episode. As for Hamilton, his requests had become something of a standing joke.³ So Oxford set about making them cooperative ready for the election.

Argyll's gratification had been casting shadows for some time over Leven, in Edinburgh Castle. In April he begged the continuance of Oxford's protection.⁴ Now, after some general assurances to keep Argyll tractable Oxford was driven to turning Leven out and making Argyll Commander in Chief in Scotland and Governor of Minorca.⁵ At the same time something had to be done for Hamilton. Mar said he would be mortified when he heard about Argyll.⁶ So Hamilton,

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1. 3 June 1712. Harley Papers xLix. 1166.
 2. 25 Sept. 1711. St. John to Orrery. Bolingbroke Correspondence 1.365.
 3. 5 Aug. 1712. Lord Berkeley to Strafford. Wentworth Papers. 295.
 4. 19 April 1712. Harley Papers. xLviii. 880
 5. 9 May 1712. P. Wentworth to Raby. Wentworth Papers i. 289; He asked nevertheless for Leven to vote for Seafield on the strength of promises to take care of him. 8 Aug. 1712. Oxford to Leven. Melville and Leven Memoirs ii. 229.
 6. 4 June 1712. To Oxford Harley Papers xLix. 1168. This seems to refer to Argyll.

after protracted effort, was finally allowed the place of Lord of Session for one of his henchmen, James Hamilton of Pencaitland.¹ And in August Hamilton himself was delighted to be made Master of Ordnance, and it was unkindly said : "which he says he never asked for. I wonder how he forgot it, for it is the first he hath missed asking for this four years....."²

Promises must have been made early for the Court declared openly for Seafield at the beginning of July,³ and Mar had bowed to the decision with reluctance.⁴ The result of the preparation which had been done was Seafield's unanimous election by those who attended and who sent proxies.⁵ Seafield was then very quick off the mark to show he was still effective and in the best of political trim. He procured addresses of loyalty from his sphere of influence : Banffshire and his burghs of Banff and Cullen. He assured Oxford of his service and prompt attendance at London, and asked for payment of his pension which he stood in need of.⁶

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1. 24 June 1711 (wrongly dated for 1712. NLS. Mss.1032.ff.112-4; Commission dated from 14 Aug.1712.
 2. 5 Aug.1712. Lord Berkeley to Strafford. Wentworth Papers.295; He did get this although Queen still talking as though undecided on 20 Aug.1712. Bath i.220.
 3. 4 July 1712. Hamilton to Ruglen. NLS. Mss.1032. f.116-7.
 4. 1712. To Oxford. Harley Mss.xlix. 1369. Seafield had received promises from Argyll, Islay, Hamilton and Mar by 8 July 1712. Cromarty Correspondence ii.129; Port.v.199.
 5. 14 Aug.1752. Kinnoull to Oxford. Port.v.210-11. Pains had been taken to get the proxies of Scottish peers in Flanders. 8 Aug.1712. Bath i.219; the Queen had spoken to all in London 4 July 1712. NLS.1032. f.116-7.
 6. 23 Sept.1712. Harley Papers, xLviii. 900.

One of those disappointed was Linlithgow who had himself hoped for election and had built up an interest. He gave way more readily and cheerfully than some expected and used his interest for Seafield.¹ He had probably been promised the governorship of Blackness Castle which he was later given, and this would account for his good temper.² But the warning note was again sounded, this time by Kinnoull.

"... Several of our peers are mightily disappointed, expecting upon this occasion, to have got former promises performed...."³

Oxford had, in fact, done no more than he felt was necessary. He had taken measures to tide matters over the awkward and unexpected meeting of the peers and to get Seafield elected. The general dissatisfaction remained. At the end of 1712 Mar again warned him that the Government was losing credit. Scottish business had been neglected. Scottish interests had been allowed to suffer, the old party was still in office and there was a general lack of direction in Scottish government. Promises made in 1710 had not been fulfilled. And - a matter which came very close to Mar - there was no Scottish Secretary.⁴

The lack of Scottish Secretary was probably the most

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1. 14 Aug.1712. Kinnoull to Oxford. Port.v.210-11.
 2. 1 Nov.1712. Linlithgow to Oxford. Harley Papers xLviii. 906. He was next elected to Parliament in the vacancy caused by Hamilton's death, 13 Jan.1712/3. Harley Papers xLix.1204.
 3. 14 Aug.1712. Kinnoull to Oxford. Port.v. 210-11.
 4. 15 Dec.1712. Harley Papers. xLix. 1201.

important point at issue. Oxford had tried by his system of government to bring Scotland more directly under him as Lord Treasurer, thereby limiting faction - to give no monopoly of favour and avoid generating opposition. Bolingbroke's complaint in England was : "No principle of government established and avowed, nobody but my Lord Treasurer, and he cannot be in every place and speak to every man".¹ This was true of the government of Scotland. But this scheme was breaking down for various reasons. For one thing Oxford had too much to do and in the stress of holding office lethargy crept upon him. Some of the delays which occurred may very well have been due to increasing lack of grip on administrative detail. Oxford was a man who - at his best - could think in broad principle but had difficulty in applying himself to details. What is more he seems to have felt that the burden was too great and had discussed "easing" himself of the affairs of Scotland.² But there was more than this. The Scots had been accustomed to looking to one Scottish faction in office as a clear sign of where favour lay and to whom application should be made. It was strange to have things in the hands of the Lord Treasurer trying to balance one group against another and giving power into the hands of none. That gave rise to uncertainty. It seemed

1. 29 May 1713. Bolingbroke Correspondence iv. 137.

2. 29 July 1713. Islay to Oxford. Port.v.312.

to mean that no one was wholly trusted. It appeared that those who were supporting the ministry were not getting their just reward. The normal workings of political power were disturbed. There was an understandable striving to obtain the ear of authority - none the less deadly for being comparatively silent. What Oxford presumably regarded as a healthy balance between groups had destroyed the confidence of any group in the ministry.

The main contest had been waged between Mar and Islay. The friendly days of 1710 had passed and Islay had developed an ambition to be secretary. Both were struggling for influence. Hamilton's abrupt ending in the duel with Lord Mohun made it more bitter because it removed the third nominal claimant for influence. Hamilton had had pretensions to wielding influence but outside his own orbit no one had taken them very seriously. It was necessary to placate him on account of his interest but he was not a man of business in the sense that Islay and Mar were. If people had regarded him with jealousy it was because of his greed for honours and places and through fear he might succeed in getting them. His death made the struggle clear cut between Mar and the Argyll group.

In this Mar had a good start. He was a courtier. He stood well with the Queen. He was a **Tory** in the English

sense. Moreover he was prepared to serve Oxford and to wait until Oxford gave him something. This was likely to be more to Oxford's taste than Argyll's hot temper and peremptory demands. Oxford had suffered from that before. It is not surprising that although he treated Islay and Argyll civilly he was more at home with Mar.¹ From Islay's point of view this was difficult. He was being eased out but nothing had been done which could really be complained of. But by the end of 1712 affairs had reached a state in which he doubtless felt he must make some effort to know how he stood if nothing else. He complained that in spite of the fact that he and his brother had left their friends and joined the Tories in 1710 at great risk to their interest his standing with Oxford had been undermined. He had been unjustly accused of acting against the ministry, persuading his brother to do the same and of meeting frequently with the Junto. He spoke darkly against Mar.² Islay's fears were justified in the long run but at the time of writing they might have led him to exaggerate since Oxford either did not know what he was talking about or deluded himself into ignorance.³ The point of Islay's letter came at the end

1. Lockhart i.315.

2. 1 Nov.1712. Port.v. 243. Mar is not mentioned by name but he seems to be referred to.

3. Ibid.

when he warned Oxford that the following election year would bring matters out into the open and asked to be told if he were to be dropped from the sixteen. He was, of course, right. Oxford might produce some semblance of balance in day to day politics, but an election would force him to come down on one side or the other. Exactly where he came down would be decided by the support he could get. And his main support lay with people who did not wish to get on with Argyll and Islay.

But for the time this kind of plain speaking moved Oxford to take some action. He offered Islay a job but a rather dubious one - or so Islay seems to have thought. He was offered a post in Turkey, probably as envoy, which caution obliged him to decline. He had seen Argyll's exile in Spain and had no wish to be pushed into a similar dead end. But at the same time he feared refusal might worsen his standing with Oxford so he felt obliged to make professions of loyalty to the Lord Treasurer.¹ Thereafter he extracted nothing but civilities from Oxford. Oxford was really in no position to provide anything else. Islay's offer was really one of service if he were again taken into confidence. Oxford's immediate and urgent need was for solid personal support to counteract the influence of Bolingbroke

1. 26 Jan. 1712/3. Islay to Oxford. Port. v. 265.

amongst government supporters and within the ministry. From the Whigs he could hope for nothing. Argyll was not only being personally alienated but was disapproving of the growing tendency to high Tory measures. He had openly accused the ministry of Jacobitism.¹ He had at least to placate the Scottish Tories and they wanted an end of Argyll.² So whatever Oxford and Islay might say to each other³ all who sensed the wind direction at Court knew that Islay and Argyll were on the way out.⁴ By May Islay was being associated with the Squadrone opposition who were making their preparations for the elections.⁵

Oxford was coming to the decision that only Scottish Tories could be relied upon to support him in the Lords. But he was still in no mind to let Tories into the administration more than he could help, although circumstances sometimes made it necessary. Athol, for instance, was useful, since he was one of the few Tories trusted by the Kirk. He was, indeed, widely trusted and respected. So Oxford was to some extent dependent on him for he needed a Commissioner for the General Assembly. Athol had to be

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1. 3 Mar. 1712/3. Bolingbroke to Shrewsbury. Bolingbroke Correspondence iii.487.
 2. 2 July 1713. Kinnoull to Oxford. Port.v.303.
 3. 7 June 1713. Port v. 294; 29 July 1713. Port.v.312.
 4. 28 April 1713. P.Wentworth to Roby. Wentworth Papers. 330.
 5. 12 May 1713. Athol to Oxford. Port.v.291; 23 July 1713. Ogilvie to Oxford. Port.v.294.

kept satisfied. In November 1712 he was made an extraordinary Lord of Session in the place left by Queensberry's death. The following year Athol was showing signs of reluctance because he could not afford to serve without some reward, so he was made Keeper of the Privy Seal in the place of Montrose who was put out.¹ Yet Oxford was not prepared to do much more to bring about an improvement in the Tory complexion of Scottish government. An opportunity occurred with the death of Sir James Stuart, the Lord Advocate, in May 1713. Two obviously qualified men for the post were Sir David Dalrymple who had held it before, and Stuart's son, Sir James Stuart, younger, of Goodtrees, who was Solicitor in Scotland. Even Athol spoke for the latter who had been doing the job whilst his father was indisposed.² It is easy to see why Oxford did not appoint either of them, since they were both opposed to Tory measures. It would have caused an outcry. But neither did he appoint a Tory. He left the place vacant and appointed the two solicitors to do the job : Sir James Stuart and Thomas Kennedy. In other words he would not risk Tory wrath by a new appointment

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1. Seemingly Oxford had retained hopes of gaining Montrose's support. 2nd July 1713. Kinnoull to Oxford. Port.v.303. Athol asked Dartmouth to send his commission that he might appoint a deputy before leaving. 13 Jan.1713/4. Athol to Oxford. Port.v.380.
 2. Athol said Stuart would be missed because he could keep the Church quiet. 1 May 1713. To Oxford. Port.v.287.

so he left things as they were. A similar policy seems to have been followed in the matter of justices of the peace. Those functioning were for the most part of Whig putting in at the time of the Union whose commissions were renewed on the abolition of the Privy Council. They were seemingly using what power they had to discourage support for the Tories. There were Tory requests for a new commission of the peace after the election of 1710 but nothing was done about it.¹ Some very slow moves were made in the matter but the ministry proceeded with all imaginable caution. Members were apparently asked to recommend people to be dropped from or added to the commission for their Shires. Where Whigs were concerned attempts seem to have been made to counterbalance their recommendation. Sir Robert Pollock, the Whig member for Renfrewshire, was, for instance, joined by William Cochran of Wigtown burghs to revise the commission for the county, Cochran being a Tory and a place man.² But that did not mean changes were to be made. A careful enquiry into the reasons for recommending changes in each case was embarked upon, most probably to postpone the whole business.

However, Tory opinion in Scotland simmered. Kinnoull

1. 23 Dec. 1712. Lockhart to Oxford. Port. v. 252.

2. Harley Papers. List 3. Miscellaneous Mss. 38. Papers Relating to Scotland. Cochran was joint Keeper of the Signet.

told Oxford what needed doing there. Islay and Argyll had to be turned out of everything possible for one thing. For another things must be done in Scotland to support the authority of the Government. He meant that some clear indication must be given of where favour lay and through which channel patronage was to flow.¹ Oxford would have to consider Scotland anew. His policy of trying to avoid faction by ruling from Whitehall was not working. Without a ruling faction people were in doubt about what was intended. Instead of looking to the Lord Treasurer for favours and transferring their allegiance to him, they were blaming him for the state of affairs. The only ones who in theory might have approved Harley's scheme were the doctrinaire elements of the Squadrone and their support he was not likely to get. As for the Tories, they felt cheated out of their rightful reward. The dominant faction had always controlled patronage - or had at least been the channel for it - and they had hoped for one of their number to be chosen secretary. Objectionable though the rule of Queensberry had been to some, it was a system Scotland understood. Mar put this view to Oxford. He told him that Scotland would be easier to manage if he had someone under him responsible for Scottish affairs which would increase dependence upon him

1. 2 July 1713. Port. v.303.

"and this my Lord Godolphin found by Experience". It would ensure the dependence of some upon him instead of having others in London setting themselves up to run such matters.¹ This was the old system of ruling Scotland and Oxford found himself being driven back upon it.

The Tories in the Commons were mutinous and created trouble by applying the Malt Tax to Scotland which was a technical breach of the Union. Some of the country gentlemen had sensed an opportunity to get Scottish support in abolishing the tax the next session.² This again put the Scots in a turmoil. Members wrote to their constituents about it.³ The clause was carried in committee by one with twelve Scottish M.Ps still in Scotland and one in London who did not come to the House, as Baillie reported to Polwarth in disgust.⁴ The ministry was against this proposal but could do nothing about it. Oxford consulted Crookshank who thought the Scots were wrong and drew up papers to make his point. But it became known that the Treasury was not enthusiastic about collection.⁵ Nor did Scotland pay. The total receipt of the Malt Tax to 1718 was £57.0.0d.

1. 12 June 1713. Harley Papers. xLix. 1230.

2. 20 May 1713. Lord Berkeley to Strafford. Wentworth Papers. 336.

3. 30 April 1713. Bolingbroke to Marchmont. Polworth i.7.

4. 21 May 1713. Polwarth i.10. William Livingston, a merchant and supporter of the Ministry.

5. 22 May 1714. J. Forbes to his wife. More Culloden Papers ii.37.

For the time being the Scots were in what Bolingbroke called "high mutiny".¹ Conferences were held between Scottish peers and Scottish Commoners. The result was the motion, made in the Lords by Seafield, for bringing in a bill to dissolve the Union. Some took malicious pleasure in hearing him recant some of his former views, and doubted his sincerity. The motion was defeated by four votes counting proxies,² reputedly because the Scots had not completed an arrangement with the Whigs which gave a guarantee of the Succession, so the Whigs were bound to try and delay.³ All this made relations with the Scots at Westminster troublesome.

In addition to purely Scottish considerations the session of April to July 1713 made some changes necessary. The Ministry had been brought to breaking point through internal tension. Dartmouth, who objected to surrender to the High Tories, was not on speaking terms with Bolingbroke who regarded him with contempt. The Argyll group, through disappointment and fear of losing their Scottish interest by associating themselves with High Toryism, had gone into opposition. Bolingbroke was trying to force Oxford into a

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1. 29 May 1713. To Shrewsbury. Bolingbroke Correspondence iv.137.
 2. 54-54 without proxies. 71-67 with. 2 June 1713. Erasmus Lewis to Swift. Swift Correspondence ii.40-1.
 3. 11 June 1713. Duncan Forbes to John Forbes. More Culloden Papers. ii.34. Oxford was briefed for any possible debate by Crookshanks, 13 June 1713. Crookshanks to Oxford. Harley Papers xLvii. 801.

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policy of Tory changes and then get rid of him, putting into effect a thorough Tory policy. He was heading a group which was opposed to Oxford and infuriated by his "mysterious and procrastinating manner in acting...."¹

Oxford was aware of the situation and knew those who opposed him. The Argyll group he looked upon as being in league with the Secretary.² Argyll and Islay might have been prepared to intrigue with Bolingbroke to unsettle Oxford but certainly Argyll was unlikely to have been very deeply in Bolingbroke's counsels in view of his remarks about Jacobitism and his saying that he would not trust any of the rascals about the Queen.³

However, in an effort to extend his influence, Bolingbroke was trying to make use of the lacuna that he seems to have secured in the Scottish sphere of administration. Apparently he was trying to insert himself and the secretary's office into the position of intermediary in Scottish affairs. Opportunity for this would be provided by Oxford's inability to get through all the business his new system piled upon him. Here there was scope for someone prepared to undertake extra work, when his office gave him certain claims to participate in business. Involvement in business

1. Swift. An Enquiry into the Behaviour of the Queen's Last Ministry.

2. 1 July 1714. Port.v.464.

3. 29 Sept.1712. Maynwaring to Sarah P.C.D.M.ii.81-3.

usually meant influence. And there was some business which had to go through a secretary, in spite of Oxford's system. All warrants, for instance, had to go through the secretary's office to be drafted and countersigned. But there were other matters of routine business which usually went through a Secretary of State and it was business that could not be transacted informally. Letters from the Lord Advocate concerning prosecutions, letters from the Commander-in-Chief about arms, suspects and various security matters, addresses and proclamations all were sent to a Secretary of State. There was a fruitful field here for someone diligent enough to build up an influence in view of the prevailing lack of direction on Scottish affairs.¹ A reputation as a vigorous man who could get business attended to would attract some support. But it is likely that Bolingbroke had only just begun to make steps in this direction. Apart from Oxford's statement suggesting that Bolingbroke was encroaching, or trying to encroach, on Scottish patronage, and the fact that Mar seemed to know of it, there is little evidence in administrative records that it was the case.² Yet Bolingbroke

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1. There were perhaps possibilities in getting at M.Ps. Abercrombie in 1713 wanted to know from whom he should receive Oxford's commands which seems to show a desire to avoid doubt. 29 Oct. 1713. Harley Papers. xLix. 1255.
 2. 1 July 1714. Port. v. 464; 12 June 1713. Harley Papers. xLix. 1230.

certainly resented Mar's appointment as Secretary so it is possible that his attempts in that direction were quickly forestalled. Until his removal in 1713 Dartmouth was handling more Scottish correspondence than Bolingbroke.¹ Nor did Bolingbroke's office draft any more than its share of warrants.² Of the officially recorded petitions they presented there seems little to choose between them.³ In fact the only episode with suspicion attaching to it was Bolingbroke issuing two warrants without the Lord Treasurer's sanction. George Lockhart had asked for two posts for neighbours of his to preserve his interest for the 1713 election - the post of first underkeeper of the wardrobe and that of underfalconer in Scotland. The warrants were granted and countersigned by Bolingbroke.⁴ The Scottish Exchequer rejected both warrants because they had not received Treasury sanction. After a great deal of delay they were finally warranted by the Lord Treasurer.⁵ It is

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1. cf. Bolingbroke's letter books SP44/111, SP44/114 and Dartmouth's letter books SP44/112 and SP44/113. Dartmouth's contain nearly 3 times more : 16/44 during the period they were both in office.
 2. Bolingbroke's warrant books : SP44/175 contains a few military warrants, SP.57/29 contains all Scottish warrants, offices, reprieves, pardons, etc. Dartmouth's warrant book SP.44/173. There is the fact that the Scottish warrant book for this time (SP57/29) contains only Bolingbroke's warrants which might tell against this argument.
 3. Dartmouth 7. SP44/245; Bolingbroke 4. SP44/246.
 4. 19 May 1713. SP57/29. 20-22; 3 July 1713. *ibid* 23-26.
 5. 13 Nov. 1713. CTB.xxvii 60. Scrope was called in for consultation. Oxford was satisfied at the stopping of the warrants.

perhaps significant that important commissions or warrants, that Oxford might be expected to have a hand in, seem to have gone to Dartmouth.¹ But all this notwithstanding, it was clear enough to people at the time that Bolingbroke was extending his influence. This clearly meant the end of Oxford's scheme of government. Scotland had to be shown where favour lay and Bolingbroke had to be kept out.

Some time between July and August 1713 Oxford prepared a scheme to strengthen his own position and keep Bolingbroke in subordination.² His scheme involved making Bromley a secretary of state in place of Dartmouth to get the support of the High Church party.³ This was meant to ensure that the leadership of the High Tories did not rest only on Bolingbroke. Two of Bolingbroke's men did improve their positions. Wyndham became Chancellor of the Exchequer and Gwynn was made Secretary at War in his place. But the rest of the changes were bad news for Bolingbroke. Dartmouth remained in the Ministry as Lord Privy Seal. And Scotland was put out of Bolingbroke's reach for good, as it happened.

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1. The Commission of Chamberlainry, the Signet Commission, Argyll's various commissions; Linlithgow as Captain of the Foot Company in Blackness Castle. SP44/173.ff.177, 253, 255, 258, 259, 297; . Athol as Commissioner in 1713 sent the General Assembly's reply to the Queen to Dartmouth with copies to Oxford and Bolingbroke. 4 May 1713. Athol to Oxford. Port.v.288.
 2. Oxford's note on this 1 July 1714. Port.v.464. Mar knew of his appointment by 22 Aug.1713. Mar to Morton. Morton Papers. Box 104.
 3. Port.v.464.

Indeed, the rest of Oxford's scheme related to Scotland which is some indication of the importance of the sixteen peers and forty five commoners in the struggle for power. The third secretaryship of state was once more set up to create a definite channel of favour to which the Scots could apply without doubt. The post was given to Mar. This was at once a clear indication that Argyll and Islay had no share of confidence and a move to rally the Tories. But Mar, although a Tory, was a placeman whom Oxford could rely upon personally - at least until things became worse than they were. So Oxford had eliminated the share taken in Scottish business by the other secretaries and given it to a man unconnected with Bolingbroke. But although Mar's appointment was a concession to the Tories - at least it showed something was being done - the second change should have been a check on their exuberance. Findlater was once again made Lord Chancellor of Scotland.¹ And he was certainly not liked by the Tories. He was a sound government man. In fact the result of these two changes in Scottish affairs, was the assertion of ministerial control rather than capitulation to the Tories.

Findlater's appointment was of some importance. One

1. Loudon, who had been Keeper of the Great Seal, was "made easy". 18 Sept. 1713. Mar to Oxford. Harley Papers xLix.1245. His £1,000- pension was made up to £3,000- p.a. T17/2.454. Seafeld took the the title of Findlater on his father's death.

complaint in Scotland had been that of lack of government - lack of authority and direction from above. Once the Privy Council had gone the chief judicial power was the Court of Session and the chief effective minister was the Lord Advocate. Since in Scotland there was a tradition of political interest and personal spite being intermingled with justice, these various powers could be relied upon, if not strictly controlled, to interpret the law in terms of faction. Sir James Stuart had been Lord Advocate from September 1711 to May 1713 when he died. He was a Whig in politics and Presbyterian in religion. It seems to have been his policy to harry the Episcopalians, law or no law, just as a good many J.Ps. took things into their own hands. Furthermore a strong group of the Lords of Session were Whigs of William's putting in - men like Lauder of Fountainhall, Sir John Maxwell of Pollock and Adam Cockburn of Ormiston. So there was need for some overriding legal authority to supervise the working of justice - to see in fact that supporters of the Ministry were not penalised, since a sweeping reform was out of the question. So Findlater was appointed "... to look to the administration of justice in the courts there, and to prevent their being overpowered by a faction or those who had a majority in the session & C....."¹ This office gave him the right to preside

1. Oxford's memorial. 1 July 1714. Port.v.464.

in any court of Scotland. His previous commission seems to have been regarded as lapsed because it was, in some opinions, incompatible with the existing office of Lord High Chancellor of Great Britain. Now it was passed in the teeth of opposition from the Lord Chancellor who only passed the commission when ordered to do so, after the Attorney-General had been consulted. He passed it under protest and apparently did not speak to Findlater again.¹ Findlater did approach his first session in Court with some trepidation fearing his position might be challenged.² He took his seat without much ado but Sir Hugh Dalrymple, the Lord President, absented himself from the Court of Session as a protest against Findlater's commission.³ But despite the peculiarity of the commission and the opposition to it, the appointment seems to have had some effect.⁴

Even Mar's appointment did not go unquestioned or unresisted. Bolingbroke's field of expansion had been blocked by Mar's appointment. Oxford seems to have relished that blow. He spoke later of how Bolingbroke 'railed' on the 4th of August".... when he saw Scotland taken out of his hands by

1. Till 1714 anyway when Oxford was writing.

2. 3 Nov. 1713. Mar to Oxford. Harley Papers xLix.1256.

3. Brunton and Haig. p.465-8. The dispute was over the signing of interloquiturs, 18 Dec. 1713. Mar to Findlater. Seafield Mss. 2254. 226.

4. Lockhart i.p.400.

the Earl of Mar, and Findlater's advancement, and the church party by Mr. Bromley's....."¹ Lewis said it made Bolingbroke "stare".² But a resistance was put up. There was a dispute at first over the terms of Mar's commission.³ Mar expected the same commission as third secretary that Queensberry had had. Bolingbroke and Bromley believed - or affected to believe - that he was to have the commission he had before when he was Secretary within Scotland, before and just after the Union. Of course the question of fees might have had something to do with it. Mar seemed hurt at this attitude.⁴ Lewis did not see that the attitude made much difference when one had the salary.⁵ Salary meant a lot to Mar but so did dignity and his dignity was hurt. Early in the new year he asked Oxford for an office to work in before people came down from Scotland and thought his appointment a joke as they thought in London already.⁶ This might have been because Bolingbroke and Bromley were most irritatingly carrying on

1. 1 July 1714. Port.v.464.

2. 10 Sept.1713. Dartmouth i.318.

3. Mar's commission was drawn up in Bolingbroke's office. 20 Sept.1713. Bolingbroke to Queen. Bolingbroke Correspondence iv.294.

4. 21 Sept.1713. Dartmouth i.319.

5. 1 Oct.1713. To Dartmouth. Dartmouth i.318.

6. 3 Feb.1713/4. Harley Papers. xLix. 1268.

as before - as if Mar had not been appointed. They were making out Scottish warrants and Mar was afraid he would get no business.¹

These hindrances seem to have been overcome finally. Mar apparently had a commission like Queensberry but probably did not share fees as Queensberry had done. He took charge of Scottish affairs by tacit agreement.²

The first task awaiting these new ministers was the management of the election of Scottish peers. Without some appointments the management of the election would have been difficult if not impossible. Existing ministers were suspect to the Tories and could not have coped. Nor was it likely that any unofficial committee with sufficient interest and authority could have been found as in 1710. But now Mar and Findlater came down to Scotland with all the authority of their recent appointments and would be listened to. Other steps had been recommended and some had been taken. Oxford could usually be brought to the point of action at election times. Lists of pretensions and of those to whom it had been proposed to give pensions were in circulation before the elections.³ Oxford finally issued a new Customs

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1. 11 Feb. 1713/4. To Oxford. Harley Papers xLix.1273. He was hurt that his name was not even mentioned when the Queen's speech was to be prepared. 11 Feb. 1713/4. To Oxford. Harley Papers xLix.1273.
 2. See his warrant book. SP57/28. and his letter books. SP55/1. and SP55/2. for his business.
 3. Port.v. 313-4; 20 Sept. 1713. Harley Papers L.1624.

Commission.¹ Other demands were met, described in election jargon as "things that were necessary".² And Mar and Findlater went down well instructed to deal with the situation.

Candidates for election had been well considered. Many had pretensions but fewer were serious propositions.³ Glasgow, of all people, advised that those of the sixteen who held office should declare themselves plainly before they went to Scotland where they could create mischief, since the Squadrone expected to be joined by "some considerable persons".⁴ He meant Islay of course, but there was no intention of trusting Islay. Of the old sixteen Islay, Annandale and Blantyre were not even considered for election.⁵ Some kind of decision was taken in London about the peers to be chosen but the managers were allowed some necessary discretion.⁶ Necessary decisions seem to have been taken quite early.⁷ On the sheer mechanics of the election Mar seems to have done some work since he had been finding out which peers were not likely to be at the election, organising proxies from those remaining in England and urging that those

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1. 19 Sept.1713. T17/2.455.
 2. 6 Oct.1713. Mar to Oxford. Harley Papers xLix.1251; 22 Sept.1713 Findlater to Oxford. *ibid* xLviii.967.
 3. Port.v.313; Harley Papers xLvii.705. Breadalbane had compiled a list of his own of people to be elected. 20 July 1713. Breadalbane to Oxford. Harley Papers xLviii.951.
 4. 12 June 1713. Port.v.298.
 5. Harley Papers xLvii.705.
 6. There were hints about the Queen's approval. 18 Sept.1713. Mar to Harley. Harley Papers.xLix.1245; 6 Oct.1713. Mar to Oxford *ibid*. 1251; Harley Papers xLvii.705 speaks of Oxford choosing the 16.
 7. 19 Sept.1713. Lewis to Dartmouth. Dartmouth i.318.

still in London should be paid off and sent home.¹ By the end of August he was able to say, although at that date perhaps optimistically, that most of the peers had decided to support the Court.²

In the event thirty six peers went to Edinburgh with twenty six proxies between them. The Squadrone again boycotted the affair. Islay tried hard but could find no support against the declared wishes of the Court, once more presenting a decided front.³ Mar and Findlater were rightly confident of success because of the preparation of the ground. This time Mar could not get out of including Breadalbane because he had support but this was the only hitch. All the peers holding places had done as they were told. Lauderdale had foregone his own pretensions on the strength of promises. The ministry did not expect trouble from the Scottish peers during the coming session, whatever else might befall.⁴

1. 1 Aug.1713. Harley Papers. xLix.1241.

2. 22 Aug.1713. Mar to Morton. Box 104. Some peers were asking for instructions before going to Scotland e.g. Duffus, Lothian and Balmerino. 3 June 1713. Harley Papers xLviii.941; 9 Sept.1713. *ibid.*946; 26 Sept.1713. *ibid.* 965.

3. 6 Oct.1713. Mar to Oxford. Harley Papers xLix.1251; Findlater to Oxford. Port v.345. There were allegations that Islay was using the Queen's name. 29 Sept.1713. Bolingbroke to the Queen. Bolingbroke Correspondence iv.308.

4. Those elected were : Atholl, Mar, Eglinton, Kinnoull, London, Findlater, Northesk, Orkney, Rosebery, Kilsyth, Balmerino, Dundonald, Breadalbane, Dunmore, Portmore, Selkirk. The voting was unanimous with the Squadrone and Islay absent/.

The Commons elections were again not wholly satisfactory. Oxford could rely on about eighteen ministry men or Tories. In addition there were at least three Tories who would support the Ministry but were attached to Bolingbroke. Of the opposition the Squadrone had a hard core of about five. With them cooperated about ten opposition Whigs and there was an Argyll interest of some five or six, now in opposition. So the Scottish Commoners were no ministerial phalanx.¹

The struggles within the Ministry and the calculation of Parliamentary interest were continued in the following session. Principles of government marked time as contending interests fought for the direction of affairs. Within the Ministry itself one crisis followed another. Crises came and went in Parliament, frequently engineered for tactical reasons. In the Commons the Tories were strong enough and could use their weight in a matter like the expulsion of Steele. But in the Lords, when Swift's "Public Spirit of the Whigs" was attacked, the government durst not divide because Scottish opinion was incensed against the author and the Scots would have voted against the government. No group was in a position to have everything its own way. In March 1714 Oxford threatened resignation over the question of preserving the proprieties with regard to Hanover.

1. There was difficulty in getting the Scottish peers up to Parliament. see above. Commission of Chamberlainry. The Queen put off speaking to the Lords so that the Scots might get to London. 19 Feb. 1713/14. E. Lewis to Thos. Harley. Port. v. 385.
(Continued at foot of next p.)

Bolingbroke's supporters as well as his own were driven to pleading with him to remain for they realised that the position of the Tory interest was still dependent on him. In both Lords and Commons the Ministry was assailed and it was debated whether the Protestant Succession were in danger under the present government. The Ministry only carried the question in the Lords by twelve votes. In the Commons Hanmer and his "Whimsicals" voted against the government. Argyll appeared in the lead against the Ministry making capital out of the payments made to the clans and charging Oxford with Jacobitism.¹ The same point was pressed in the Commons by George Baillie and Sir James Stuart.²

Even under this attack Oxford shied away from High Tory concessions. What little he did was in Scotland by way of punishment. Argyll was removed from all his places and both he and Stair were ordered to sell their regiments.³ Changes were made in judicial posts. Sir James Stuart, for whose removal the Tories had clamoured for long enough, was removed

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1. It was arranged to pay at the rate of £4,000- per year apparently. 26 Aug.1712. Port.v.216-217. There was no Jacobite significance in this. Money had been paid to the clans before to keep them quiet.
 2. The latter making a "senseless virulent speech" according to Lockhart. Papers.i.459; Cobbett.vi.1275.
 3. 30 March 1714. Mar to Argyll. SP55/1.40; Dundonald was given Argyll's regiment for £10,000- and Portmore bought Stair's for £6,000-. 27 Mar.1714. G.Baillie to Marchmont. Polwarth i.16.

Continuation from previous page of Footnote 1.

By March all were in London save Breadalbane. 13 Mar. 1713/4. Port.v.397.

from the post of Solicitor as a result of his attack on the Ministry in the Commons.¹ John Carnegie, a Jacobite and friend of Bolingbroke, was made Solicitor.² The other Solicitor, Thomas Kennedy, became Lord Advocate.³ With this reshuffle came further indication that the administration of justice throughout Scotland was defective when an attempt was made to provide a remedy.⁴ In addition to the Lord Advocate, who had hitherto borne the entire burden of keeping a legal watch over the maintenance of law and order, three deputy advocates were appointed for three circuits in Scotland.⁵ But the only positive gain in all this for High Toryism was the appointment of Carnegie, for Kennedy was not a High Tory. Islay retained the governorship of Dumbarton Castle until after Oxford's removal when his post was given to Glencairn,⁶ which must surely indicate Oxford's determination to make only changes that were forced upon him. For the rest no change, not even in minor offices, seems to have

1. Lockhart i.459; 29 March 1714. Mar to Sir James Stuart. SP55/1.38.

2. 30 Mar.1714.SP57/28. 39-42.

3. 30 Mar.1714. SP57/28. 36-39.

4. It is worth noting that Athol reported that disaffected ministers were not offering thanksgiving for peace, but all he could do was suggest that the Sheriffs be asked for names so that Lords of Justiciary could deal with them. This is the kind of thing the Privy Council might have dealt with straight away. 1 July 1713. To Oxford Port.v.302.

5. 22 March 1714. SP.57/28. 30; 14 April. *ibid.* 55-57.

6. 29 July 1714. Mar to Islay. SP55/1. 50.

taken place in the Scottish establishment.

Oxford still stood, as far as he was able, for moderation. Bolingbroke was bent on tearing down any such policy. The Schism Bill was introduced by Wyndham in the Commons and then by Bolingbroke in the Lords. It passed, but, although Oxford had made no move himself, Harleyites generally worked to moderate its effect. Some Whig groups had been hoping Oxford would turn to them but he held out against that, still hoping to preserve a coalition of moderates. The chances were almost non-existent. The moderates could not cope by themselves : the extremes were too rabid. On the one hand the Tories in the Commons wanted more high measures. Lockhart was straining with his bill to resume Bishops' Rents in Scotland and had to be persuaded to stop by Bolingbroke and Mar because the Queen was against it.¹ The cleavage in the ranks of the Scottish Tories shows up very clearly in this backstage struggle over the Bishops' Rents. Lockhart was a guiding spirit of an action group of Scottish Tory members devoted to pressing such changes as they wanted on to the Ministry. On this matter and subsequently, those who were Ministry men and followers of

1. Lockhart.i.p.449-450. Lord Harcourt asked Oxford to stop it lest their friends in the Commons go too far. 24 May 1714. Port.v.449. Breadalbane urged completion of bill.25 June 1714. Port.v.461. The produce of the Bishops' Rents went entirely in gifts and costs of collection. The idea was to refund them for the benefit of Episcopal clergy.

Tories =
refractories

Bolingbroke, namely John Murray, Carnegie and Sir Alexander Canning, became lukewarm and detached themselves from what Lockhart regarded as the "independent" Tories or men who thought like Lockhart.¹ On the other hand the more extreme Whigs were committed to the idea of Oxford's Jacobitism. Oxford had to avoid open alliance with them for fear of losing more than he gained. His strong point had always been that he was the man the Queen trusted and the Queen had become the main hope of Bolingbroke. The Tory revolution must be at first largely a palace revolution because if driven to the choice the Whigs would support Oxford against Bolingbroke. The Queen, exasperated by Oxford's behaviour as a result of the prolonged strain he had been under, was brought to decision. The blows fell swiftly after that - for Oxford, the Queen and Bolingbroke. Oxford resigned. The Queen grew weaker and from her death bed on the 30th of July, gave the white staff to Shrewsbury. On the 1st August she died and when the Lord Regents took over Bolingbroke's chance had gone.

It was twilight also for the earl of Mar. His appointment, once difficulties with the other secretaries had been overcome, had brought a more business like atmosphere into

1. Lockhart i.443-444.

Scottish affairs. At any rate there was a focal point for Scottish business in Mar who notified the Queen's pleasure in appointments and dismissals. Ordinary routine business was performed with speed.¹ He transacted all Scottish business which normally fell to a secretary, even to the lengths of informing Argyll he was dismissed from his command of Edinburgh Castle when dismissal from his other appointments was notified by Bolingbroke.² On two occasions he undertook business which more properly belonged to the Treasury, for whatever reason. He asked for a state of the Bishops' Rents and also the establishment of Invalids in Scotland.³ But Mar was a secretary, not a big manager and leader of a clique as Queensberry was. His interest sprang from the confidence of the Queen and Oxford, and then followed from his office. But such as it was he hoped to preserve this interest when the Queen died. He pointed out that the Tories should stick together in their own interest and thought he could make as good terms with George I as anyone. He seemingly saw himself as their leader.⁴ But his hopes were vain. His reputation had been destroyed in Hanoverian circles by stories of his

1. See his letter books SP55/1 and 2.

2. 30 Mar.1714. Mar to Argyll. SP55/1.40.

3. 10 Dec.1713. SP55/1.14., *ibid.*

4. 7 Aug.1714. Mar to Lord Grange. M & K.Mss.pp.505-6.

encouragement of Jacobite intrigues in the Highlands whilst secretary.¹ On the arrival of George he was insulted and dismissed.

In Scotland the new reign brought a clean Whig sweep amongst the great offices. Montrose became Secretary. Roxburgh and Annandale came in as Keepers of the Great and Privy Seals respectively. Cockburn of Ormiston returned as Lord Justice Clerk and Sir David Dalrymple resumed office as Lord Advocate. Islay replaced Glasgow as Lord Register and Sir James Stuart was once again Solicitor. The minor offices were left practically untouched. The only certain casualty was one of Lockhart's putting in - Alexander Brand of Castle Brand who was removed from the post of Under Falconer.² This was not generosity on the part of the Whigs but the result of Oxford's policy for he had made next to no changes in the minor offices.³

The government and administration of Scotland since the Union pointed to and underlined the truth of certain principles. If Scotland were to be a source of political strength to the Crown these principles could not be ignored. The first requisite was a firm and decided voice from the

1. 2 Jan. 1714. G. Ridpath to Bothmar. Stowe Mss. 242.f.37-46.

2. 8 Jan. 1714/5. SP57/29.77-79.

3. The two commissions solicited by Lockhart and a change in the royal printer represent the total changes. The last change was due to need for a reform in printing standards rather than politics.

top to lay down the direction of government. This had to be exercised through some Scottish agency. The period of Harley's rule showed the unpopularity of administrative methods of keeping control. As in medieval England, the barons liked to have their share of confidence and pickings and always objected to rule by the clerks. With a ministry such as Queensberry's everyone knew where they stood, but it was difficult to attack the Scropes who were merely advisers and agents. Another disadvantage of Harley's system of rule was the impossible weight it threw upon the Treasury - more, in fact, than it could bear in wartime. Some power had to be delegated and it is difficult not to agree with Mar's contention that the best way of cutting out the two secretaries and the danger of dividing power, was to appoint a Scottish secretary trusted by the Treasurer. For the conduct of business that was enough but there was the whole matter of influence and interest to take into account. A Scottish ministry did not exist any more after the dissolution of the Privy Council. Godolphin had been able to counterbalance that fact to some extent because he left the Queensberry clique in control of patronage. Mar's interest was nothing comparable to Queensberry's. In comparison he was just a secretary carrying on business and putting into effect

ministerial decisions. What was needed to bring Scotland almost completely under Crown influence was undivided counsels in the Ministry and an alliance between the power at Westminster with one powerful Scottish group. To that group then must be given all the places offered by Scotland, complete influence and the necessary power to retain it with an assurance of backing at Westminster in the event of election petitions. To this power must be added effective executive power also, as it was held by the old Privy Council. Powers of the executive and influence must be in the same hands. Scotland could then be relied upon to support the Crown and strengthen it.

Even if all this had been realised in 1714 it was impossible to put into effect at that time. There was no one firm voice at Westminster. And in Scotland divisions amongst the Whigs had come strongly to the surface. Argyll and the Squadrone were almost at each other's throats and they were struggling for electoral interest, actually preferring Tories to the opposing Whig side.¹ So, as far as they were concerned, Scotland was far from being settled. In the new administration matters were not given over to any clique. Certain Whigs gained positions and Montrose was Secretary in the same way that Mar had been. There was no

1. 4 March 1715. Culloden Papers. 37.

rule by one group. The only innovation was a Commission of Police¹ to which was entrusted the task of reporting on general matters like the best means of maintaining the poor, reducing the Highlands to good order, distributing the wool money, and they were to recommend persons as ministers for churches under Crown patronage. It is likely that this was set up partly to meet an administrative need as a pale shadow of the earlier Commission of Chamberlainry.

It was not possible to achieve a settled influence in Scotland until the struggle in England between the Townshend and Walpole Whigs, and Sunderland had resolved itself into a triumph for Walpole. It was then possible for him to cripple Squadron influence in Scotland - although they were not entirely in disgrace - and hand over Scottish management to the Argyll group and particularly to Islay. It is significant perhaps that Scrope had by this time become the Secretary to the Treasury and he had earlier been spoken of as an Argyll man.² Some union of executive and managing power was achieved in the persons of Islay as Justice General and Privy Seal and Duncan Forbes, first as Lord Advocate and then as Lord President of the Session, where he

1. 13 Dec. 1714. SP57/29.62-8.

2. 7 July 1716. More Culloden Papers.ii.126.

continued to wield great influence. This combination gave the Government a great proportion of the forty five Scottish votes and Scottish compliance at Westminster became a by word.

In the matter of revenue administration great difficulties had been faced. They had not been surmounted by 1714. The trouble had appeared where it might have been expected - in the Customs. Collection of Excise duties was a simpler affair and less open to evasion. Only when there was wild popular feeling against some particular imposition did Excise cause trouble, as for instance in 1707 when the English system was introduced or in 1725 over the Malt Tax. But the evasion of Customs duties was a simpler matter and was therefore more widespread. In view of this the atmosphere at the Customs Board was unfortunate. The Board was inefficient, ~~due~~ to inexperience, internal rivalries and, in the case of Rigby, eccentricity. In coping with the resulting situation Godolphin and Harley adopted very different methods. Godolphin was from start to finish in the hands of the departments. In technical matters he followed the recommendations of the English Board save when they wanted to abandon precedent. Having appointed Scottish Commissioners he was content to let them do the best they could even when it was clear that all was not well. He never seems to

have thought of interfering with the normal channels of administration. Even his few recommendations for presentment seem to have been sent through the proper channels. But Harley reacted very differently. Very little of importance seems to have been done through the proper channels until he had decided what to do about the Customs. He probably had no faith in the competence of the proper channels, not without cause. No new official arrangement was made for suspending the Commission but the Commissioners were subjected to official surveillance by the Barons of the Exchequer and the semi-official scrutiny of Scrope. The Commissioners ceased to be masters in their own house and were hardly allowed to decide anything unless an outside opinion had been taken - usually that of Scrope. Patronage seems to have been influenced directly from the Treasury by these same informal means. Finally when Harley did settle the Scottish Customs the Treasury encroached on the discretion formerly allowed to the Commissioners in appointments. Under its new masters, Harley's successors, the Treasury declined to surrender what it had gained. It is probable that this development which came about in the cause of administrative efficiency stayed to become a source of political influence.

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