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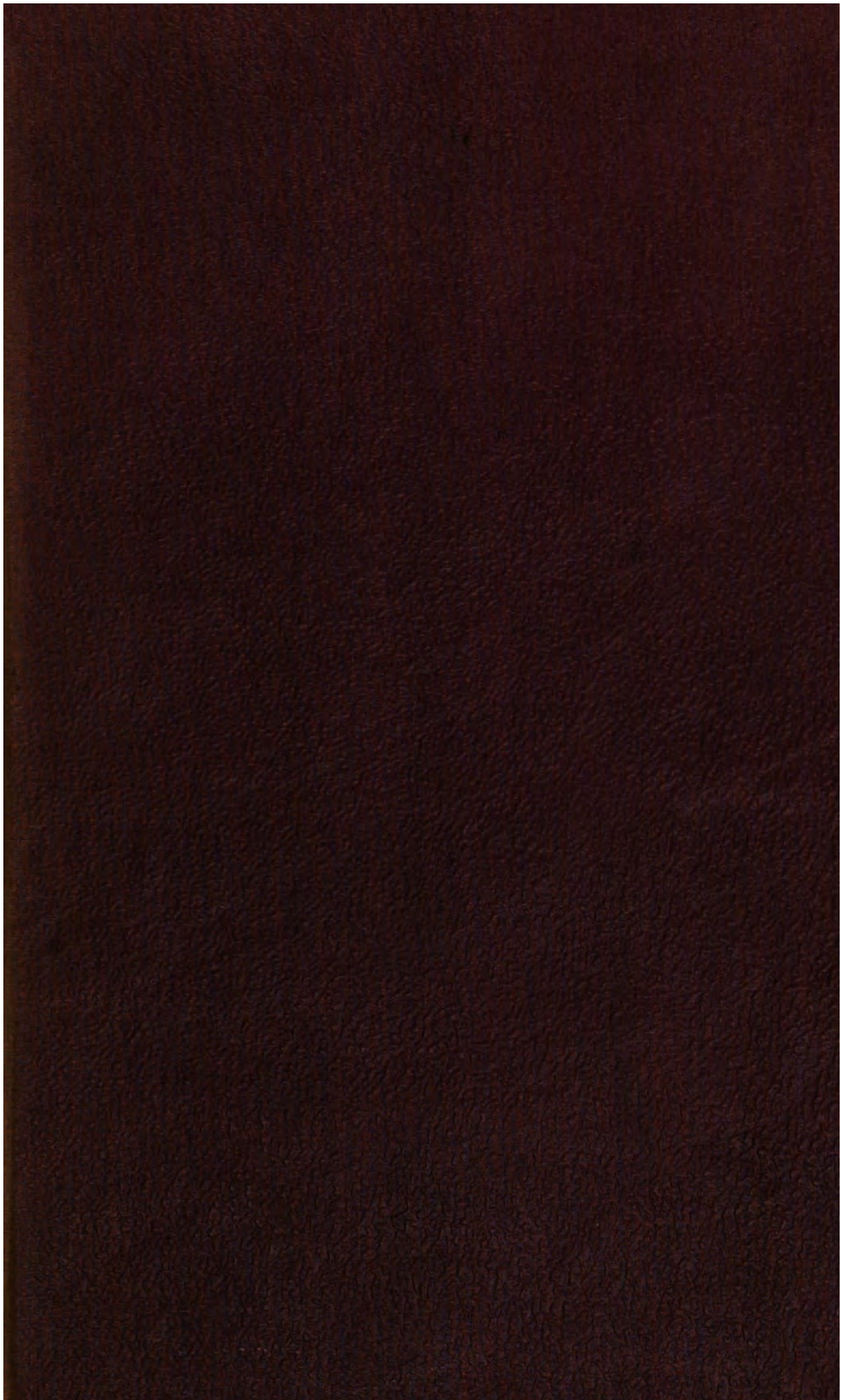
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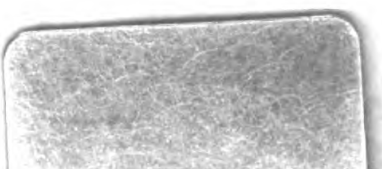


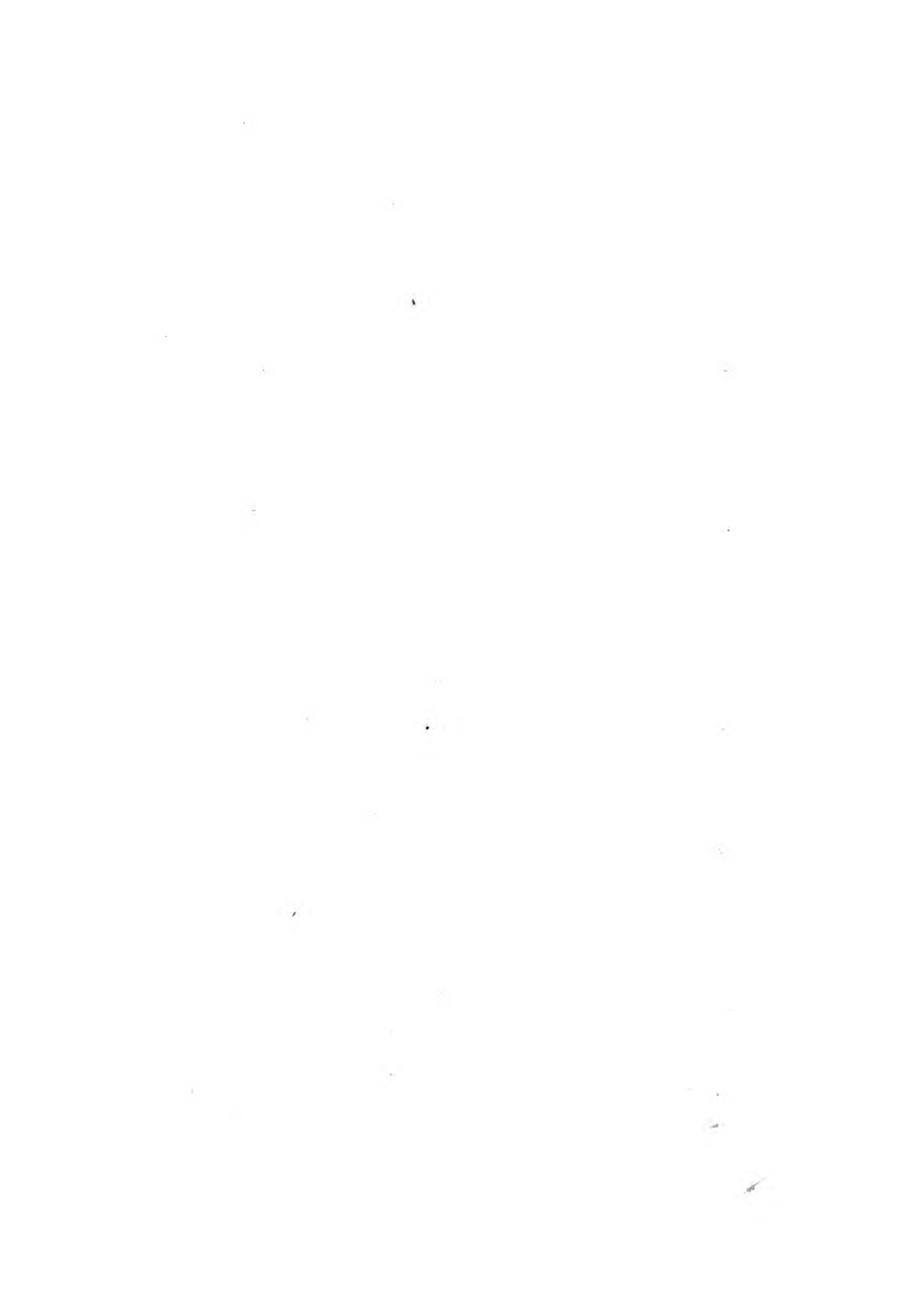
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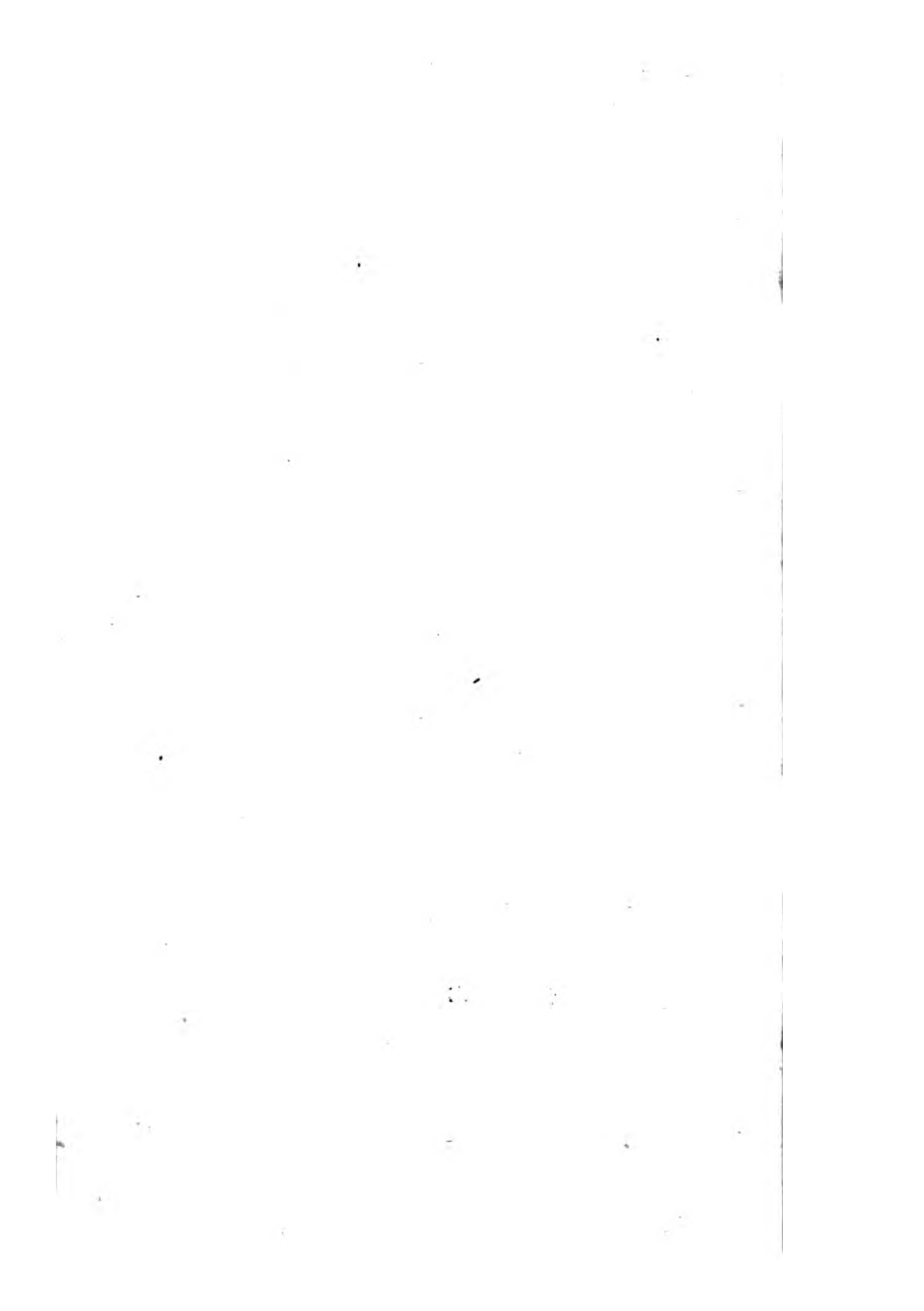




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# REPORT

ON THE EVENTS AND CIRCUMSTANCES,  
WHICH PRODUCED THE UNION OF THE  
KINGDOMS OF ENGLAND AND SCOTLAND;

ON THE EFFECTS OF THIS GREAT NA-  
TIONAL EVENT, ON THE RECIPROCAL  
INTERESTS OF BOTH KINGDOMS; AND

ON THE POLITICAL AND COMMERCIAL IN-  
FLUENCE OF GREAT-BRITAIN, IN THE  
BALANCE OF POWER IN EUROPE.





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*State Paper Office*

*January 22. 1799*

*My Lord. —*

IN obedience to your Grace's commands, that I should place before you, authentic documents, to ascertain the sources of the union, between the kingdoms of England and Scotland; I beg leave to report, as follows:

I have made the most careful research, at this Office; and where the archives in His Majesty's Library of Manuscripts are deficient, I have obtained documents from the King's Register Office, at Edinburgh, and from such public collections, in both kingdoms, as afforded either direct or collateral evidence, on the subject; and have compared the whole with the authors, who have either professedly written on the subject, or who have partially treated of it, in the general histories of the one, or of the other kingdom.

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From the magnitude of the materials, as well as to give perspicuity to this Report, I have found it necessary to divide the subject, in the following manner :

I. A review of the leading facts, in the history of England and of Scotland, which prepared both nations, at the accession of the same sovereign to the two crowns, for the adoption of measures, to establish an union, between the two kingdoms.

II. The articles of the union, proposed by James I, in 1604, with the reasonings, in England and in Scotland, on the subject ; and the causes of the failure of the measure.

III. The events and circumstances, which prevented the continuation of the plan of an union, during the reign of Charles I, and produced the semblance of a general union of the three kingdoms, during the calamitous period of Cromwell's usurpation.

IV. The events which again brought forward the measure of an union, between England and Scotland, soon after the restoration of Charles II, with the causes, which, during that factious period, prevented its adoption.

V. The revival of the plan of an union, during the reign of King William, and in the first

first years of the reign of Queen Anne; with the events and circumstances which prevented its adoption, and those which produced the important Treaty of Union, in 1707.

VI. Results from the history of the union of England and Scotland, marking the effects of that event, on the government and jurisdiction, on the revenues and trade of the united kingdoms, and on the political and commercial influence of Great Britain, in the balance of power in Europe.

The documents, which form the evidence in the detail of this Report, I have placed in an Appendix; and have made my references to the numbers in it, arranged in the order of chronology.

I.—*The leading Facts, in the History of England, and of Scotland, which prepared both Nations, at the Accession of the same Sovereign to the two Crowns, for the Adoption of Measures, to establish an Union between the two Kingdoms.*

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The Island of Great Britain, guarded by the ocean, presents itself to the geographer, as the situation for one of the great and independent governments of Europe, and from having coasts, intersected by numerous inlets, as the country of a commercial people.

The history, however, of the inhabitants of Britain, discovers, that in their progress from a rude to a civilized state, they have been, in the earliest periods, known in history, exposed not less to foreign invasions, than to internal wars, between the fierce chiefs by whom they were anciently ruled. These events are of little moment, except in the instances where they have led to the institutions, by which the separate kingdoms of England and Scotland have been distinguished; which, notwithstanding their union into one monarchy, still

still continue, in part, to characterise them as distinct nations.

England, after the Heptarchy had been absorbed into one monarchy, exhibited a government, that was mixed in its spirit, from the nobles having acted as the chiefs of large districts, exercising over their immediate vassals, powers which were limited, rather by the force of neighbouring chiefs, than controuled by the common sovereign of the whole ; so that the conduct of the nobles was attempered, chiefly by the influence, which the introduction of the Christian Religion had, on the martial and fierce manners of a rude or forming people.

After the establishment of William of Normandy on the throne, the inhabitants of England became more mixed in their characters, and were governed by the foreign institutions, which the Conqueror gradually engrafted on the ancient usages of the realm.

The King, therefore, had his power, and his immediate vassals, in a considerable degree, upheld by his connexion with the Continent, from which he drew resources, and derived a weight in the scale of Europe.

The relative situation of his Norman and English dominions, opened that intercourse, and those exchanges of commodities, which called forth

forth the industry of his active and enterprizing English subjects.

In the feudal ages, the power of a kingdom depended, chiefly, on the talents of its sovereign; hence England experienced successive elevations and depressions of power, according to the vigor and prudence of its kings, till the loss of its Norman possessions, rendered it more dependent on its own internal strength and resources, and brought forward a general attention, among Englishmen, to the interests and government of their native country.

Such was the political situation of England, at the accession of Edward the First, and so guided was this able prince, by the ambition of extending his power over the whole island, that he fought, at one time, by *succession*, and at another, by *conquest*, to establish this domestic empire.

From this reign, down to that of James I. successive plans were, in vain, tried, to consolidate England and Scotland into one monarchy, the importance of which event, the minds of the English and Scottish nations appear, generally, to have felt.

Great Britain was, at this juncture, divided into three sovereignties, England, Wales, and Scotland; the union of which, into one great mo-

narchy, it was fully perceived, would raise the island to its just level among the States of Europe, and give to its inhabitants, that consideration, in war and in peace, for which, from their fortunate local situation, they seemed to be destined.

The fertility of the soil of England, the value of its staple products, the profitable exchanges which it could make of them, for those of the Continent, were now beginning to be understood, and the industrious inhabitants of its towns acquiring arts, and establishing those various branches of trade, which, in a short time, gave them consideration, and made them begin to be felt in the constitution.

These circumstances could not escape either the observation or ambition of Edward I. By the conquest of Wales, he had extended his dominions, on one frontier, to their natural boundary, the ocean, and thus comprehended the provinces of Britain, from Cornwall to the Tweed, in his kingdom\*.

Scotland, during this progress of the English monarchy, exhibited fewer vicissitudes in its government, and had remained with less intermixture

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\* Rapin, Vol. I. p. 361.—Hume, Vol. II. p. 239.—On the authorities of Powel's History of Wales.—Heming, Triquet, &c.



ture of inhabitants, than England had experienced. It is true, a contingent influx of foreigners into the southern Provinces of Scotland, speaking the same language with the English, had assimilated, in part, the Scottish, to the English character; and the holding feudal lands in Scotland, by similar tenure, with those of the nobles in the northern provinces of England, had prepared the Scots for the same government; but the intercourse, between the two kingdoms, had hitherto been inconsiderable, either in war or in peace, and no events had occurred, to render it more frequent.

The succession of the kings of Scotland, had been less interrupted, than in England, and though disturbed by contingent usurpations, the crown had returned to the true heir of the regal race. The right to the crown was thus recognized by the same usages, which guided the patrimonial rank of the nobles or chiefs: Hence succession to inheritance, in this early period, seemed to be the most fixed principle in the government.

These institutions were fully recognized in the southern, while in the northern provinces, the hereditary chiefs took less a part in the administration, and were employed in local wars against each other, or in combinations against the sovereigns, whose titles, indeed, they recognized, but whose prerogative they perpetually controuled.

Scotland

Scotland, neither in extent of country, in fertility of soil, in numbers of inhabitants, nor in resources, was equal to a contest with its richer and more powerful neighbour; but whether from its coast being less exposed to foreign invasions (except partial landings from Norway and Denmark) or from contingencies only, it preserved its ancient usages unimpaired, and remained an independent sovereignty.

In both countries, and in Scotland in an eminent degree, in these early periods of history, success or misfortune depended (as has been already noticed,) more on the talents of the sovereign, which drew to him the confidence and the aids of his nobles and of their vassals, than on any fixed system of government.

Each kingdom, in its turn, had its king possessed of different degrees of talents, in different ages; and hence, the sovereigns of the British Island maintained their distinct powers independent, so that the feudal badge of homage, which we shall frequently find to be claimed and lost, or relinquished by the Kings of England over the Kings of Scotland, was never permanently recognized. The Scottish Kings, therefore, were sovereigns of provinces, which extended

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from

from the northern extremity of the island to the Tweed.\*

The intermediate provinces, between this river and the Tyne, though forming a part of the kingdom of England, were the theatres of perpetual depredation and plunder, and known to both kingdoms, under the name of the Border Counties, for which laws were enacted, to prevent intercourse and connexion between the inhabitants who defended the limits, to keep each in a preparation for perpetual war; and thus to preclude them, from the cultivation of the useful arts, or those commercial relations, which could alone obliterate animosities, or soften down national prejudices.

England, after the period of Edward I, considered the resistance, which, for ages, had been made to its arms by the Scots, who possessed a sterile and divided country, as proceeding from obstinacy, and the habit of violating treaties; and the Scots considered every invasion of the borders of England, as breaking a link in the chain, so often fabricated for them by the English; and therefore a just retaliation, and a fair revenge, for the injuries which they had experienced from the  
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\* Hume, Vol. II. p. 245, et seq.

more numerous hosts of their powerful neighbour, endeavouring to sweep away their national independence.

In human nature, and in events, we may trace the sources of the prejudices of the two nations against each other. The consciousness of greater power in the English manifested itself in haughty pretensions of a right to subdue; the consciousness of inferior power in the Scots, but of equal spirit, met these pretensions with indignation, and revenged them with perseverance.

It is from these events, that in this distant and enlightened period, we can account for the Kings of Scotland, after the reign of Edward I, resorting to French alliances, that they might be enabled to resist their more powerful neighbour, serving as auxiliaries in the French armies, which combated him in his foreign provinces, and deeming it wise, to weaken the force he could bring into the field, for the conquest of Scotland, by meeting him in a distant country; and it is from the same circumstances, that we can observe the foresight of Edward I, laying hold of the events in Scotland, upon the death of Alexander III, that he might build on them, his favourite plan of acquiring the sovereignty of that country, first by marrying his son to the heiress of

the crown, and when her unforeseen death prevented the accomplishment of this scheme, by leading his army to the northern extremities of Britain.

As these events mark the first intentions of the English monarchs, to bring the two countries under the same sovereign, and discover the Scots, on the principles of an independent nation, meeting his plans, or resisting them, in proportion as their independence was acknowledged, or struck at; and, as the same schemes were continued for three hundred years, it will be necessary to recapitulate the leading facts, in order to understand the circumstances, in the two countries, which prepared both nations, at the accession of the same sovereign to the two crowns, for measures leading to an union of the two kingdoms.

Alexander III. King of Scotland, had married a princess of England, the sister of Edward I \*, and on the accession of the latter monarch, a mutual confidence appears to have subsisted between the two sovereigns; for Alexander and his Queen came into England to congratulate her brother on his arrival from the Continent, but the Queen died,  
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\* Hume, Vol. II, p. 245.

on her return to Scotland. Her sons, David and Alexander, and the Princess Margaret, who had been married to Eric, King of Norway, in a short time after this calamity, paid the like debt of nature.

This Princess, however, left one daughter, known, in the history of the times, by the name of *Margaret the Maid of Norway*.

These domestic calamities of the Scottish King were followed, in 1285\*, by the accidental death of that sovereign, in consequence of a fall from his horse, near Kinghorn †, a town of Fifeshire, situated on the opposite shore from Edinburgh.

As Alexander left no male issue, and no descendant, but the daughter of Margaret, who had been married to the King of Norway, this Princess was recognized by the States of Scotland, as heiress to the kingdom, and five guardians appointed, as vicegerents, during her minority ‡.

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\* Rapin, Vol. I, p. 365.—Hume, Vol. II, p. 245, on the authority of Heming, Vol. I, p. 29, and Trivet, page 267, makes this circumstance to have happened in 1286.

† The precipice from which the King was thrown from his horse, has been termed, by the country people, the King's wod (or mad) end.

‡ Hume, Vol. II, p. 246.—The guardians were, the  
Bishop

This event induced Edward, in 1290, to form a plan of bringing the two kingdoms under one sovereign, by proposing a marriage, between Prince Edward, the heir apparent to the Crown of England, and the Maid of Norway, or the young Queen of Scots; a connexion, which would have fixed his rights of sovereignty over the whole island, *by succession*, in his family\*.

The temper of the Scottish nation, at this juncture, appeared, by no means, adverse to this measure.—A convention of Estates was held at Scoone, to which Edward sent his ambassador, to propose to it the marriage;

He represented to the Scottish Estates, the advantages which both kingdoms would derive from such an event, and met with compliances, which fully promised success to his mission. Whether we are to ascribe this acquiescence to the late friendly intercourse between the two Kings, which had mollified, for a time, the national animosities, or to the favourable opinion which Edward's conduct had, hitherto, encouraged in the Scots,

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Bishop of St. Andrew and Glasgow, the Earls of Fife and Buchan, and James, Steward of Scotland.

\* Hume, Vol. II, p. 246.—Rymer, Vol. II, p. 268.

Scots, the convention met the wishes of the English Sovereign, on the basis of independent nations, availing themselves of a fortunate contingency, for consolidating their common interest.

Edward, in this transaction, observed a scrupulous attention to the prevailing prejudices of the times, as well as to the jealousies of an inferior, but independent people, about to coalesce with a great nation. \*

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\* Buch. de Rer. Scot. Lib. VIII, page 72, gives the following description of this assembly.—“Hi, cum in conventu publico, multa de utilitate publica, quæ hoc matrimonium esset secutura, differuissent *Scotorum* animos ab ea affinitate non alienos invenerunt. Erat enim *Edwardus* vir magni animi, magnæque potentiæ: Majoris etiam cupidus; ejusque virtus, patre vivo, in bello sacro, et mortuo, in subigenda Vallia, enituerat. Neque *Scotorum* nomen unquam *Anglo* conjunctius fuisse, meminerant; quam, sub postremis regibus, nec odia vetusta, unquam commodius aboleri posse videbantur, quam si uterque populus honestis & æquis conditionibus, in unum coiret.”—De Foe, (Edin. Edition, 1709, page 7) quotes this authority, and infers from it, that it was understood by the Scottish Convention;

1. “That an entire corporation of countries, coalition of interests and affection, as well as commerce and constitution, was designed, even at that distance of time, as the only means to settle the peace and happiness of both nations.”

2. “That it was the best juncture, that ever had happened, or could happen, for such a coalition, and nothing but  
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He first obtained a dispensation from the Pope, for the marriage of the Prince with the Queen of Scots; next, he sent the Bishop of Durham to Norway with this dispensation; then published the articles, by which the two kingdoms were to be united: *viz.*

—That the Scots were to preserve and enjoy their ancient laws, liberties, and customs;

—That in case there should be no issue of the marriage, the Crown of Scotland should revert to the next heir, and be possessed by him, as free and independent;

—That the military tenants of the Crown of Scotland should not be obliged to go out of that kingdom, to do homage to the sovereign of the united kingdoms, nor the chapters of cathedrals to make elections;—and

—That the Scottish Parliament should always be held in that kingdom.

And lastly, by an oath, under the penalty of paying to the church of Rome 100,000 \* pounds sterling

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the immediate hand of Providence, who reserved it for a more happy time, and for more happy instruments to finish, could have prevented."

\* Hume, Vol. II. page 247, says, that Edward bound himself, under the penalty of 100,000 *marks*, payable to the Pope,

sterling, he was to maintain the Scottish privileges, on the Estates agreeing to put him in possession of the places of strength in their country.

This union, therefore, would have been completed, had not the unexpected death of the Maid of Norway, or Queen of Scots, in a moment, destroyed the hopes of tranquillity in both kingdoms. \*

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Pope, for the use of the Holy War, to observe these articles ; and quotes, as his authority, *Rymer, Vol. II. page 282.*—*De Foe* says, under the penalty of “ 100,000 pounds sterling, an “ immense sum in those days,” to be paid to the Pope, for carrying on the Holy Wars ; and quotes, as his authority, a Record in the Tower of London, which he prints in his *Appendix, No. I.* of which the words are, “ Sub pœna centum-  
“ millium librarum sterlingarum solvendarum ecclesiæ Ro-  
“ manæ in subsidium terræ sanctæ,” page 95.

\* *De Foe*, pages 7 and 8 infers, that the union of the two kingdoms, at this early juncture, was proceeding, upon the very same principles, upon which, four hundred years afterwards, it was settled in the time of Queen Anne ; and in his *Appendix*, has printed the documents, upon which, he rested this opinion, *viz.*

The instrument, or form of this union, by Edward, found among the Records in the Tower of London ; see his *Appendix, No. I. page 92.*

The dispensation of the Pope, Nicholas ; his *Appendix, No. II. page 95.*

The letters of Edward, to Eric, King of Normandy ; his *Appendix, No. III. page 96.*

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From the disposition of the Scots, as well as from their confidence in King Edward, it would appear, that they had already entertained correct principles, respecting the succession to the Crown; for the Estates met at Scoone, to examine and to judge of the claims of the competitors.

The descendants of William, King of Scotland, who was taken prisoner by Henry II, being extinct, the right of the crown devolved on the issue of his brother, David, the Earl of Huntingdon, who having no male heirs, the succession opened to the descendants of his daughters.

Margaret, the eldest, left one daughter, married to Baliol, by whom she had a son, who therefore became the principal competitor.

Isabella, the second daughter, had a son, Bruce, who was alive, and was the second competitor.

Adama, the third, married to Lord Hastings, left a son, who insisted, that the inheritance was divisible among the descendants of the three daughters.

Baliol's

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The articles of the proposed marriage, &c. *Appendices, Nos. IV, V, VI, and VII. page 97 to 99.*

The instruments found in the Records of the Tower, containing Edward's Oath; *Appendix, No. IX: with the security to Scotland; Appendix, No. X, page 101.*

Hume, Vol. II. page 247.

Baliol's claim, as sprung from the elder branch, was founded upon the principle of representation; but Bruce, as being nearer to the common stock, claimed a preference.\*

The States were divided, in their opinions of the pretensions of each candidate; and it was agreed, by all parties, to submit the decision to the award of Edward.

Instead of rewarding this generous confidence, by an honorable decision, Edward, disappointed in his hopes of acquiring Scotland, by *succession*, resolved to subject it to feudal homage. Employing, therefore, his emissaries, to discover the temper and the character of the competitors, he found that Baliol, with his adherents, would agree to do homage for Scotland, but that Bruce, at first, had answered, he scorned to enjoy the Crown, at the price of his country's bondage, though he afterwards acquiesced in doing homage to Edward.

The decision of Edward, therefore, was pronounced in favor of Baliol, who, with his adherents, swore fealty to the English monarch.†

Edward, that he might confirm his title, encouraged appeals being carried to him, as lord  
D 2 superior.

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\* Hume, Vol. II, p 248.

† Ibid. Vol. II. p. 258, on the authority of Rymer, Vol. II. p. 590, et seq.

superior, and the Earl of Fife offered one, against a decision of Baliol. Edward availed himself of this circumstance, to ratify the homage of the Scots, by calling Baliol before his Council, to plead for himself.

Though the temptation of the Crown had, for a moment, stifled the principles of honor in this young Prince, his feelings were not prepared for so disgraceful a consequence. He was compelled to yield; but secretly formed an alliance with the King of France, in a war, between that monarch and Edward, who now required him to send a Scottish army, to act with the forces of his superior. Baliol renounced the homage, as having been forced on him, and set Edward at defiance. This was the point to which Edward wished to bring him; as it afforded him, according to the feudal ideas, a right to punish Baliol, as a vassal in rebellion.

An English army, therefore, was prepared for the invasion of Scotland, which, in a short time, over-ran the whole of that kingdom. The conqueror returned in triumph, leaving garrisons in its principal strong holds.

This humiliation, followed by an improvident severity on the part of the English, harrowed up all the ancient animosities between the  
two

two nations, drove a people, violent in their character, to defend their lost country, which, from its fastnesses, they deemed to be ultimately impregnable.

The talents and intrepid valour of Wallace, set an example to the spirit of his countrymen, and rendered them desperate. Though this hero, after performing prodigies of valour, fell a sacrifice to the illiberal revenge of Edward; the spirit, which his patriotism had raised, survived him who had inspired it, and saved his country from dishonour and conquest\*.

The grandson of Bruce, the competitor, next placed himself at the head of a new confederacy of the Scottish nobles, was recognized by them as their King, and prepared to resist the English invasion, with which Edward was again menacing the kingdom.

The death of Edward, deprived England of those talents in their sovereign, upon which success depended, and afforded Bruce the opportunity to display that vigour, courage, prudence, and perseverance, by which he was so eminently distinguished.

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\* Hume, Vol. II. p. 299, on the authority of Walsingham, p. 70.—Heming, Vol. I. p. 90, et seq.

guished. His decisive victory over Edward II. at Bannockburn, enabled him to dictate terms of peace, which annulled all those pretensions to homage, which Edward I. unhappily for both kingdoms, had so recently arrogated\*.

After a prosperous reign of twenty-four years, the death of the wise king of Scots, again exposed the country to a series of wars, equally destructive to the alternate victors and vanquished ; the Scots, uniformly endeavouring to support their independence, by a connexion with France, and the English, not less uniformly, considering these connexions as dangerous and hostile.

Two hundred years almost elapsed, without any connexions being formed, between the two regal houses in Britain, which could lead to an Union, by *succession*.

Henry VII. appears to have been the next English monarch, who had the foresight to anticipate such an event, by giving his eldest daughter, the Princess Margaret, in marriage to James IV. of Scotland, in preference to the king of France, to whom he married the second daughter, the Princess Mary †, upon the principle, that in default  
of

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\* Hume, Vol. II. p. 313—340.

† M.S.S. History of the Union.

of his male descendants, it would be more for the safety of England, that the next heir to his Crown should be in the Scottish line, which would bring a lesser kingdom to coalesce with the greater, and continue England the seat of government, than with France, which would remove the seat of government to that rival country, and annex England to it, as a dependency.

The immediate effect of the marriage of James IV. was a temporary peace with Scotland, which soon terminated in a war, in the reign of Henry VIII, in which the ill fated Scottish monarch, and the flower of his nobility, were cut off, at the battle of Flowden Field\*.

These successive disappointments, did not alter the projects of *succession*, by the kings of England; on the contrary, it appears, to have become a fixed maxim in their administration; for Henry VIII, who had then no male descendants, projected a marriage, between James V of Scotland, and his eldest daughter, the Princess Mary, that the two kingdoms might become the inheritance of their descendants. To favor this connexion, Henry, contrary to his usual insolence of temper, treated his Scottish prisoners with lenity, to conciliate

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\* Hume, Vol. III. p. 438.



ciliate their assent, and offered to confer the highest honors upon the king of Scots, by creating him duke of York, and a Peer of England\*.

By this time, however, Henry had changed the Popish, for the reformed Religion, in England, while the Scots, as yet strangers to the new doctrines, were attached to the Romish Faith.

The Scottish clergy judged (and in every age they have had a strong influence on the minds of that people) that as Henry had suppressed the abbeys and monasteries in England, the like suppressions would take place in Scotland, should his power become paramount in their country.

James, influenced not less by the reports he had heard of the mean appearance of the Princess, than by the influence of his Popish counsellors (for the bigotted character of Mary was yet unknown) rejected, with perhaps inconsiderate circumstances, the match which had been proposed for him, and married Mary of Guise, a branch of the royal family of France.

The events in the reign of James, were chequered by factions among his nobles, divided, partly by civil and partly by ecclesiastical broils; and in 1542, this accomplished prince died, of  
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\* De Foe, page 15.

what, in the emphatic language of common life, is termed, a broken heart, leaving his throne to his infant daughter, Mary Queen of Scots\*.

Henry was succeeded by his son, Edward VI. an event which revived, in the Protector Somerset, the maxim of the English monarchs, of endeavouring to unite the two kingdoms, by *succession*.

The age of young Edward and of Mary was nearly the same. The death of Henry VIII, and the accession of Edward, seemed rather favourable to the connexion, as the early years of both sovereigns were calculated to soften the prejudices of the nations, which the haughty and imperious character of Henry might have increased and confirmed.

The English Council, and the Scottish Reformers, appear to have been equally disposed for the alliance; but the Queen Regent was averse to it. A zealous Catholic, but possessed of prudence and knowledge of the turbulent people, over whom she presided, she preferred the French alliance. A war followed, in which the Scots were defeated at Pinkie. Still Somerset hoped to

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\* Buch. de Rerum Scot. Lib. VII. p. 76, quoted by De Foe, p. 16.

Hume, Vol. IV. p. 230.

accomplish an event, upon which the tranquillity of the two countries seemed so much to depend. For this purpose, instead of assuming the tone of a conqueror, he published a declaration, expressive of friendship for the Scots, proposed the marriage, as the only means of cementing the two countries, promised the Scots security for the maintenance of their laws and customs, and such commercial advantages, as he apprehended would induce the ruling powers in Scotland, to accede to the measure\*.

The influence of the Scottish Catholics, coincided with the views of the Queen Regent ; who, from affinity, was biased in favor of a French connexion, which she held to be necessary, for maintaining the independence of the kingdom of her infant daughter, and formed the scheme of conveying her to France, as a place of safety, from which her country might receive not only assistance, against the English, but the young Queen, an education in the Romish religion, now beginning to be undermined, if not openly attacked, in her divided kingdom †.

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\* De Foe, page 17, and Appendix, page 102, has preserved this declaration, quoting, as his authority, Holingshed's History of England, Vol. III. p. 998.

† Hume, Vol. IV. p. 340.

The union of the two kingdoms thus, by *succession*, once more disappeared, and the fluctuation of ecclesiastical opinions, seemed to have rendered their separation more positive.

On the death of Edward VI, Mary, his successor, restored the Catholic religion to her kingdom, while the Reformers in Scotland, were now linked together in associations, which, if they did not pretend to question the rights of their young sovereign, were publicly arrogating the administration of the government. The prudence of the Queen Regent, for a time, kept in check their encroachments, which, however, gradually became more threatening, and obliged her to call for the assistance of French auxiliaries.

The death of this wise Princess, though the young Queen was now married to the Dauphin, afterwards Francis II, opened the regency to the contending leaders of the Scottish factions. The death of Francis II, depressed the influence of the Dukes of Guise, and compelled the young Queen to return among her ferocious subjects. Neither the unrivalled beauty, nor accomplishments of Mary, could procure her indulgence in the religion, in which she had been educated, nor that obsequiousness in her subjects,

which her winning manners, in less turbulent times, would have commanded\*.

Elizabeth had now acceded to the English throne, established the Protestant Religion in her kingdom, and that she might cut off the French from an influence in Scotland, which she deemed dangerous to her power, secretly encouraged the malcontents, who took refuge in England, enfeebling thus, that very prerogative in Scotland, of which she was so tenacious in her own kingdom, till, at last, the factions which she encouraged, became predominant, drove the unfortunate Mary to the devoted resolution, of seeking protection from the generosity of her kinswoman and rival, but to find only captivity and a scaffold.†

This event gave to Elizabeth the indirect sovereignty of Scotland; for, on the one hand, the young King was under the influence of the very factions, which she alternately had raised and depressed; and, on the other, the prospects of succession to the Crown of England, after he acquired the age of judging for himself, so warped all his actions, and even his feelings, as habitually to give dissimulation to the one, and even, on the murder

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\* Hume, Vol. IV. p. 440.

† Ibid, Vol. V. passim.

murder of his mother, to admit only of a momentary rage to the other.\*

The death of Elizabeth, at last, realized an event, for which so many connexions, between the regal families of England and Scotland had been formed, which had been the source of so many calamities to both nations, and which, perhaps, even in the different advances of civilization which England and Scotland had reached, would not have been attended with beneficial consequences, if unaccompanied with a coincidence in the religious opinions each had embraced. Perhaps, too, the accession of a sovereign of a lesser to the throne of a greater kingdom, contributed to this end; for it prevented the jealousy, which the Scots would naturally have entertained of the English, and confined this baneful passion, in England, to suspicions of temporary partialities in the common sovereign, towards individuals of his native country.

Such were the leading events, in the history of England and of Scotland, which led to the union of the two Crowns, either by *succession* or *partial conquests*, and prepared both nations, at the accession of James, for the adoption of measures, for an union of the two kingdoms.

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\* Hume, Vol. V. *passim*.

II.—*Articles of the Union proposed by James I, 1604, with the Reasonings in England, and in Scotland, on the Subject, and the Causes of the Failure of the Measure.*

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The accession of James to the Crown of England, in 1602-3, placed the inhabitants, not only of that country, but of Scotland, in a new political situation. The interests of each, from the remotest ages, had been as opposite as the constitution of the kingdoms, and the habits of the people were different and marked. Each had its own sovereign, and each had its distinct Parliament; and laws had been made by each, calculated to confirm mutual injuries into national prejudices.

It was natural for James, who contemplated his succession to the Crown of England, as his patrimonial inheritance, to consider himself entitled to realize the plans of union, which so many of the English sovereigns had either attempted, by *succession*, or by *conquest*; and it was not less reasonable for him to suppose, that his propositions, for obliterating the animosities of his old and his  
new

new subjects, would be acceptable to both. His power, as King of England, had placed him in a situation to control, if not to command the obedience of his Scottish nobles, whose influence it had been the unavailing aim of so many of his predecessors to abridge; and his reception in England, by all ranks and orders of men, had so strongly impressed his warm but inconsiderate temper, that he looked forward to a ready compliance with a measure, calculated to consolidate his empire, and to perfect the happiness of his subjects in both realms.

Had James deliberately studied the constitution or the temper of the English nation, or estimated the difficulties of accommodating either the one or the other, to the government and prejudices of his native country, he probably would have devised more slow, and therefore more effectual means, than those to which he resorted; but eager in his feelings, and blind to the mutability of a new allegiance, he experienced contradiction and opposition where he least expected either, and was thus the author of his own disappointment.

That the real aspects of the union, as proposed by James, may be distinctly seen, it may be a proper preliminary, to refer to the constitution  
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of the Parliaments of the two kingdoms, and to connect both, with the measures proposed for an union, as this will unfold the real cause which prevented its accomplishment for a century.

The feudal government was simple in its spirit, and uniform in its operations; but, in almost every country of Europe, its termination depended on contingencies and events.

Though a feudal monarch commanded the military force, and was the supreme judge, the subordinate chiefs, or nobles, were his council, and could be tried by their peers only; his court, therefore, was attended by his immediate vassals, who assisted him both in passing and in executing his decrees. When assembled on these occasions, they established, by mutual consent, such regulations as appeared for the common advantage of the whole, and granted, voluntarily, such supplies as the necessities of the King appeared to them to require. By their tenures, they were, however, bound to attend him in his wars, as well as to assist him in his courts, under the general name of services; and after the ecclesiastics began to hold lands of the crown, they, in like manner, became bound to similar services.

In the progress of civilization, arts and commerce gave degrees of wealth to the lower orders

ders of the people; and the towns or cities acquired privileges, and paid a considerable part of the taxes, which were levied on the people. The representatives of those towns, were, therefore, admitted to a voice, in the great council of the nation, and thus became a new branch of the constitution.

All the vassals of the King were bound to services; but those, only, who retained their fiefs, undivided, were termed the *Great Barons*, to distinguish them from those, who held their lands by an inferior tenure, who were the *Lesser Barons*. This last order deemed attendance on the King a burden, and by degrees, acquired exemptions from this service, on the condition of their electing, in each county, representatives, to appear in their name.

These representatives were termed *Knights of the Shires*, and met along with the citizens, or the representatives of the towns, which had obtained charters to send delegates, who were to give their opinion on the taxes, which were to be levied from their constituents.

In England, Parliament took from these feudal origins a defined form, at an early period, in its history; and is thus described by Blackstone.

“ The constituent parts of a Parliament are,

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“ the King’s Majesty, sitting there, in his royal  
 “ political capacity, and the three Estates of the  
 “ realm, the Lords Spiritual and the Lords temporal  
 “ (who sit, together with the King, in one House)  
 “ and the Commons, who sit by themselves, in  
 “ another, and the King and these three Estates,  
 “ together, form the great corporation, or body  
 “ politic of the kingdom, of which the King is  
 “ said to be *caput, principium & finis*. For upon  
 “ their coming together, the King meets them  
 “ either in person, or by representation, without  
 “ which there can be no beginning of a Parliament,  
 “ and he also has alone the power of dissolving  
 “ them.”\*

Though such was the constitution of Parlia-  
 ment, as it “ has stood for the space of at least  
 “ five hundred years †,” several circumstances  
 occurred, at the accession of the Stuarts, that  
 explain the sources of the opposition, in Eng-  
 land, which James experienced, in his attempt to  
 form an union between the two kingdoms.

The meetings of Parliament had been irre-  
 gular and precarious, and the people had been ac-  
 customed to look up to the Prince, as the only  
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\* Blackstone’s Commentaries, Vol. I. p. 153.

† Ibid, p. 149.

permanent Magistrate. The long reign of Elizabeth, from the frequent instances of public danger, and from the vigour and wisdom of her administration, had been extremely favourable to the prerogatives of the Crown, which the lawyers had defined, "to be real and durable." In jurisdiction, this prerogative was founded on precedent, and therefore frequently considered as a latent power, which might be exerted on any emergency; but in the English government, this necessity alone authorized any extraordinary act of regal power, to make it obligatory on the people. James, however, at his accession, exercised this prerogative, when the necessity was not generally felt, and though the power itself was not new, his use of it was improvident.\*

A memorable instance occurred, in the proclamation which he issued, for calling his first Parliament; for though this exercise of power had been acquiesced in, during the preceding reign, it had even then excited a jealousy in the House of Commons, respecting their privileges; but the vigour of the Queen's administration, overruled an opposition, which the Scottish monarch was unable to restrain.

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\* Hume, Vol. VI. p. 161.

The favors and honors which he had prodigally bestowed on his Scottish subjects had given a cast to the temper of Parliament and of the nation, which proved unfavourable to the union of the two kingdoms. \*

The Parliament of Scotland, though it had arisen out of the same feudal source, with that of England, was, by no means, so perfect in its composition, or defined in its characters.

It was not till the reign of Robert Bruce, 1326, that burgeses were admitted into this assembly; and it was not till the reign of James I. 1427, that the lesser Barons were, by statute, exempted from personal attendance, or permitted to elect representatives †. This privilege, however, they

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\* Hume, Vol. VI. p. 18.

† Statute 27—See Scotch Acts, Vol. I. cap. 101.

It would appear from this act, that James wished to introduce the practice of England, in having two Houses, one for the Lords, and one for the Commons; for in the act exempting the lesser Barons from attendance, it is said, that out of the “ Commissaries of all the schires shall be chosen ane  
“ wise man and expert, called the Commoun Speaker of the  
“ Parliament, the quhilk shall propone all and sundrie needis  
“ and causes, pertaining to the Commouns, in the Parliament  
“ or General Council.”

No such Speaker was, however, chosen; and by a subsequent

they seldom resorted to, during an hundred and sixty years; for until the reign of James VI, no King had required them to send, regularly, their representatives to Parliament.

The Parliament consisted anciently of the Great Barons, of the Ecclesiastics, and a few Representatives of Boroughs, forming one House, in which the Lord Chancellor presided. The greater Barons neglected attendance on the Parliament, deeming themselves, in most cases, independent of it; the Burgeses were few in number, and the Ecclesiastics were, from their situation, devoted to the Crown, so that the King could either keep back the summons from those, whom he suspected to be adverse to his views, or he could exclude them altogether. Laws, therefore, were rather edicts of the King, than deliberate acts of a Legislative Body.

This power of the Crown was still farther strengthened, by the institution of a committee, termed the *Lords of the Articles*, who prepared the laws, and digested them into form, before they were to receive the sanction of Parliament.

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sequent act, the Chancellor was declared perpetual President of Parliament.\*

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\* Robertson's History, page 48.

Every motion for a new law originated in this committee. What it approved, was formed into a bill, and presented to Parliament; and what it rejected, probably could not be introduced into the House, as this Committee possessed a negative before debate.

With the advances of civilization, the Lords of the Articles were elected by Parliament, and consisted of an equal number out of each estate, or of eight Spiritual, eight Temporal Lords, and eight Representatives of Boroughs, to which were added, eight of the Great Officers of the Crown: so that the King, almost in every case, influenced the majority of the members who attended.

The King of Scotland thus, though the most limited Prince in Europe, possessed a prerogative, which the most absolute had not attained\*. If, therefore, James be considered, either as habituated to the notions of prerogative, which his situation as King of Scotland was calculated to confirm in his mind, or to the exercise of prerogative in England, of which Elizabeth had set him the example, we need not be surprized at the uses which he, and his family, unhappily for themselves, made of it.

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\* Robertson's History of Scotland, XIII Edition, p. 49, seq.

This comparison of the constitution of Parliament, in the two countries, opens another source of opposition to the union, or the laws which each country had made, during a succession of ages, to prevent the intercourse between the two nations. These laws, perhaps, more strongly than any detail of events, will mark the different advances of civilization in the two countries, and discover the fixed national prejudices, which James, in his plan of union, had to overcome.

It would appear, that positive laws, affecting the intercourse between the inhabitants of England and Scotland, began to be enacted in England, after the long wars, which had subsisted, between the two kingdoms, during the reigns of Edw. I. II. and III. had terminated in the dereliction of the claim of the Kings of England, to homage by the Crown in Scotland.

Richard II, referring to Scotland, in common with other foreign countries, prohibited his subjects of every description, under pain of forfeiture of their goods, to pass into Scotland, without his license, excepting only lords, and other great men of the realm, true and eminent merchants, and the King's soldiers\*.

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\* Statutes of Northampton, 1380, cap. 2.—Statutes at Large, Vol. I. p. 350.



The same sovereign, in 1381, prohibited, under the like forfeiture, the exportation of arms, and of provisions, either by sea or by land, to Scotland\*.

During the active reign of Hen. V. in 1416, and while a truce subsisted, between England and Scotland, it was found, that the Border Counties had been aggrieved, in the loss of their goods, by the depredations of the Scots; and therefore, an act passed, enabling the wardens of the Marches, to call for redress of such grievances; and in case of restitution being refused, these wardens were empowered to grant "letters of marque," entitling the person, possessed of them, to recover his goods by force†.

Farther, to establish a system, for judging of offences, committed on the East and West Marches, by the statutes made at Reading, courts were established, in 1451, in Cumberland, Westmorland, Northumberland, and at the town of Newcastle upon Tyne, to take cognizance of all complaints, and to judge of them‡.

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\* Statutes made at Westminster, 7 Rich. II. cap. 16.—Statutes at Large, Vol. I. p. 369.

† 4th Hen. V. cap. 7.—Statutes at Large, Vol. I. p. 508.

‡ 31st Hen. VI. cap. 3.—Statutes at Large, Vol. I. p. 624.

Soon after the accession of Hen. VII, that cautious monarch adopted the most rigid measures, for preventing the adherents of Richard III, from disturbing his possession of the Crown, and particularly suspected the Scots; for an act passed, requiring them, within forty days after proclamation, to depart the realm of England, under pain of forfeiture of goods, unless they had been made denizens\*.

During the reign of Henry VIII, it was made felony, to sell or exchange, or deliver horses, &c. to any Scotchman, out of, or within Scotland†.

At this juncture, 1541, when Henry had proposed an interview with James V, and had come to York, for that purpose, and when that Prince, influenced by his clergy, seconded by the persuasion of the Princess of Guise whom he had lately married, declined the interview, an act passed, allowing the use of cross-bows, which had been prohibited in England, to all the English, within twelve miles of the borders of Scotland ‡.

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\* See 7th Hen. VII. cap. 67.—Statutes at Large, Vol. II. p. 81.

† 23 Hen. VIII. cap. 16.—Statutes at Large, Vol. II. p. 174; and this was confirmed by 1 Eliz. cap. 7. p. 523.

‡ 33 Hen. VIII. cap. 6.

And it would appear, in 1555, by the 2d and 3d of Philip and Mary, such had been the depredations, in the counties of Cumberland, Northumberland, Westmorland, and Durham, that the castles, and other places of defence, had been deserted and fallen into ruins\*. Orders, therefore, were to be given, for re-establishing them; but this act does not appear to have been followed up, till 1581, as we then find an act passed for the same purpose, and for “remedying the defects in warlike furniture,” for horse and foot, for the defence of the frontier, towards Scotland†.

The laws made in Scotland, in the same manner, appear to have taken a marked character, after the same æra of the long wars, which terminated in the independence of the kingdom being fully recognized in England. The Scottish laws seem, however, to be posterior, in date, to those of England, and enacted as counterparts to them. It was not till the year 1429, in the ninth Parliament of James I. of Scotland, that we find a law passed in the Scottish Parliament, declaring, that such of the King’s subjects, as should go  
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\* Statutes at Large, Vol. II. p. 489.

† 23 Elizabeth, cap. 4.—Statutes at Large, Vol. II. p. 628.

into, and reside in England, should be deemed guilty of treason.\*

In the thirteenth Parliament of the same King, anno 1436, it was declared, that no person, but the wardens, having power\* given them by the King, should be entitled to grant protection for lands or goods; and that whoever took protections from Englishmen, should be liable to the pains of treason†; and farther, all kinds of exchanges of goods, particularly of cloths, were prohibited in Scotland, or to be made by Scotchmen, out of Scotland, except leave be given, and the goods specified, or to make payment for the ransom of Englishmen.‡

In the following reign, that of James II, 1455, at the time, when the Parliament of England was establishing courts, for judging of offences on the Borders, three laws passed in Scotland calculated to counteract them. By the first, Scotchmen were prohibited from entering England, in time of war, without license of the King, or of

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\* 9th Parliament of King James I. cap. 128.—Acts of Parliament of Scotland, Vol. I. p. 40.

† Ibid. cap. 141. p. 44.

‡ Scotch Acts of Parliament, Vol. I. p. 45.—13th Parliament, James I. cap. 145.

the wardens.\* By the second, Englishmen were prohibited, from entering Scotland, without the like permission, and the offender might be made prisoner, by the first person who could seize him; and if any Scotchman should bring an Englishman into the country, without authority, so to do, he and his property should be arrested, till the King's pleasure be known; and farther, that no Scotchman should place himself under the protection of an Englishman, without leave of the King, or of the wardens, without being held as guilty of treason.† By the third, the English having, at this period, possession of Berwick and Roxborough, it was declared treason, to supply those places with provisions; and also, to make division of spoil, taken from the enemy, while the wardens or chieftains were absent, with their followers, upon an expedition for the defence of the Borders.‡

In the following year, 1456, on an alarm of an invasion from England, an act passed, requiring all men, from sixteen to sixty, to provide themselves with necessary armour, and to be in readiness,

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\* 12th Parliament, James II. cap. 50.

† Ibid. cap. 51.

‡ Ibid. cap. 52.—Scotch Acts of Parliament, Vol. I. p. 71.

ness, to march against the enemy, on the first information of the approach of his army; and farther, that such men, at the end of every thirty days, should appear before the sheriffs, in the different counties, with their arms, that he might ascertain, they were fit for service.\*

At this juncture, (the reign of Henry VI, when the civil wars in England, between the Houses of York and Lancaster, were carried on with alternate success) the King of Scots found it necessary to be in a state of preparation, for the defence of his kingdom, without taking part in the broils of his neighbours.† An act, therefore, passed, for preventing commercial intercourse, and for provisioning and repairing the strong holds on the Borders, that the country might be in a state of defence, without calling out the nobility, and their followers, into actual service.

When Henry VI. and Edward IV. were alternately on the throne of England, the Scots were less apprehensive of an invasion by an army, than that some sudden inroad, on the Borders, might be made, and therefore resolved, not to admit the adherents, of either King, into their country,

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\* 13th Parliament, James II. cap. 56. p. 72.

† Hume, Vol. III. p. 200.

In 1466, therefore, an act passed, rendering it unlawful to admit an Englishman to an office, secular or religious, in Scotland \*; and in the following year, an act, prohibiting the carrying of cattle into England †.

The apprehension of danger, however, appears to have been greater in 1481, as an act passed, for repairing and provisioning the fortifications, not only on the Borders, but along the sea shore ‡.

These Border Laws, do not appear to have received any additions, till the reign of Queen Mary, during whose infancy, the attempt had been made, after the battle of Pinkie, to connect the two kingdoms, by a marriage with Edward VI. The Regency of Scotland, were, at this time, struggling to maintain the Catholic religion, and the reformers were encouraged by the Protestants, in England. Three laws, therefore, passed in the Scotch Parliament, 5th May, anno 1551. By the first, all persons, having protection of England, were required to return under the Queen's obedience,

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\* 1. Parliament. James III. cap. 7: Scots Acts of Parliament, Vol. I. p. 90.

† Ibid. cap. 24, page 99.

‡ 11th Parliament, cap. 82. p. 124.

obedience, within a limited time, and to withdraw their assistance from the English, on pain of losing the means of recovering the value of such damages as they might have sustained, by their goods being made spoil of. By the second, any Scotchman, whose goods had been seized by another Scotchman, in connexion with an Englishman, was declared to have the right of recovering the value from the Scotchman. By the third, all Scotchmen protected by the English, and serving in their army, were declared to be liable, for any injury sustained by Scotchmen, not having or receiving an English protection\*.

The Border Laws continued, without further change, during the remainder of this reign, and for a long period of that of James VI. Looking forward to the succession to the Crown of England, his measures were rather marked by obsequiousness to Elizabeth, than by any feeling of the ancient prejudices, between the two nations.

In 1587, however, James, in his eleventh Parliament, held in July, and after he had allowed the feelings of nature, for the cruel death of his mother, to be effaced by the hypocritical apologies  
of

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\* 5th Parliament of Mary, cap. 13, 14 and 15.—Scots Acts of Parliament, Vol. I. p. 277.



of Elizabeth, two acts passed, which strongly marked the opinions, entertained in the Scottish Parliament, of their English neighbours. By the one, the marriage of Scotchmen, borderers, with the daughters of Englishmen, borderers, was prohibited, as being dangerous to the peace of the King's subjects, unless the King's licence should first be obtained, under the great seal, and the penalty was death and confiscation of goods; and, by the other, cognizance was ordered to be taken, by the wardens, of such Englishmen, as occupied Scotch grounds, for pasturage or tillage, within the Borders, and that the persons transgressing, by granting such permission of pasturage, should be deemed liable to the King's displeasure\*.

This detail, as it marks the deliberate measures, adopted by the legislatures of both nations, to keep the subjects of each a distinct people, more strongly, perhaps, than any other evidence, points out the difficulties which James had to overcome, in uniting the two kingdoms. So eager, however, was the King, on this measure, that before he had sufficiently observed the temper  
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\* 11th Parliament. James VI. cap. 105 and 106.—Scots Acts of Parliament, Vol. I, page 588.—And Appendix, No. I. p. i.

and character of his new, and as if he had almost forgotten the prejudices of his old subjects, in the first speech which he made to the English Parliament, he warmly recommended to it, an union with Scotland, as a measure arising out of the happy event of the two Crowns having devolved upon him, in right of inheritance, and as the only means which could render the two nations great and happy; it would do away all opposition of interest, and all hostilities, or the recollection of them, which, for so many ages, had divided the two countries.\*

The proclamation, by which the Parliament had been summoned, had already raised considerable jealousies in the Commons, respecting the privilege, which they held to be vested in them, of judging of the elections of their own members.

The proclamation runs in the following terms: Wee notifie, by theis presentes, that all  
 “ retornes and certificates of knights, citizens,  
 “ and burgessees, oughte, and are to be brought

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\* Rapin's History, Vol. II. p. 464, has preserved this speech; and Hume, Vol. VI. p. 14, says, “ Few productions  
 “ of the age surpass this performance, either in stile or mat-  
 “ ter. It wants, however, that majestic brevity and reserve,  
 “ which becomes a King, in his addresses to the great coun-  
 “ cil of the nation.”

“ to the Chauncery, and there to be filed of re-  
“ cord ; and if any shall be founde to be made,  
“ contrarie to this proclamation, the same is to  
“ be rejected, as unlawful and insufficient, and  
“ the citie or borough to be fyned for the same ;  
“ and if it be founde, that they have committed  
“ any grosse, or wilful default and contempt, in  
“ their election, retorne, or certificate, that then  
“ their liberties, according to the lawe, are to be  
“ seized, into our handes, as forfeited ; and if any  
“ person take upon him the place of a knight,  
“ citizen, or burgesse, not being duely elected,  
“ returned, and sworne, according to the lawes  
“ and statutes, in that behalfe provided, and ac-  
“ cording to the purport, effect, and true meaning  
“ of this oure proclamation, then every person,  
“ soe offending, to be fyned and imprisoned, for  
“ the same.”\*

Though, during the preceding reign, Elizabeth had exercised her prerogative, in an analogous manner, yet, even amid the obsequiousness of the House to that Sovereign, they had decided,  
“ that during the sitting of Parliament, there do  
“ not, at any time, any writ go out, for chusing  
“ or returning any member, without the warrant  
“ of

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\* Rapin, Vol. II. p. 163.

“ of the House.”\* But still the absolute authority of the Queen continued to be exerted; for in a subsequent session, she asserted, that the power belonged to the Chancellor: and yet the House voted, “ that it was a most perilous precedent, “ where two knights of a county were duly elected, “ if any new writ should issue out, for a second “ election, without order of the House itself; “ that the discussing and adjudging of this, and “ such like differences, belonged only to the “ House; and that there should be no message “ sent to the Lord Chancellor, not so much as to “ enquire what he had done in the matter, be- “ cause it was conceived to be a matter, dero- “ gatory to the power and privilege of the “ House.”†

Under such circumstances, a serious question occurred, respecting the election for the county of Bucks, when the House declared, Sir Francis Goodwin duly elected, though he had come under the description of those, who were to be objected to by the King’s proclamation.

The Lords sent a message to the Commons desiring a conference, on the subject of Goodwin’s  
H 2 election.

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\* Hume, Vol. VI. p. 16.

† Ibid. p. 17.

election. This conference the Commons refused ; holding themselves not obliged to give an account of their proceedings to the Lords. The reply of the Upper House was, that the King had ordered them to confer with the Commons, on the subject. The Commons, by their Speaker, represented to the King, that the House considered this order to be an innovation on the constitution ; the King, however, commanded them to confer with the Judges. To this conference they also objected ; Goodwin relinquished his seat, to put an end to the dispute, and the principle in the constitution remained undecided\*.

These circumstances are of importance, because they retarded the consideration of James's favourite project of an union.

The jealousies of the Commons were strengthened by those of the nation, from the honors, which, it was said, James had lavished on his Scottish subjects ; and an opinion prevailed, that the union was not so much desired, for the benefit of the English, as of the Scottish nation.

Events thus explain the reasons (before the Commissioners were appointed) of several conferences, which were held by the Lords and Commons, in order to settle the general principles,  
upon

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\* Hume, Vol. VI. p. 18.

upon which the Treaty of Union was to be conducted. A conference was required by the Lord Chancellor, and forty Peers, and one hundred Commoners were appointed.

The Chancellor opened the business, by stating to the Commons, that in requiring their attendance, on a business of such importance, it was, by no means, the intention of the Peers, to trench on their privileges ; but that the subject required the joint wisdom of both Houses, and indeed, that of the realm, a circumstance which was fully declared, in the act of recognition :— That already there was an union between the two kingdoms, from being connected, by nature, as one continent ; from being in allegiance to the same Prince ; and from the inhabitants of both countries professing the same religion :—That the proposition of the King did not embrace any novelty, but only recommended a more perfect connexion, between the two realms :—That he wished to adopt the name of King of Great Britain, but would leave to the Commissioners, to concert measures for an union of laws, customs, rights, and privileges, who would report on them to Parliament, by whom each article would be debated and determined ; but as the matter was of so much importance, all other objects should give way to it.

A report.

A report of this conference was made by Sir Edward Hoby, to the Lower House, stating:— That the *present* object for consideration, was whether the ancient name of England should be relinquished, and comprehended in the more general name of Great Britain ; and that the *future* object was, to concert the measures, by which the two realms could be united.

Sir Francis Bacon, took a view of the Lord Chancellor's opinions, as they regarded the name and the appointment of Commissioners, and argued :—That in the name of King of Great Britain, there was no usurpation of rank, over foreign princes, though examples were not wanting ; such were the Emperor of Germany, and the Great King of Persia, sovereigns, who had assumed names, without offending neighbouring nations : —That the honour, if antiquity was resorted to, of the name of Britain, (a term embracing the whole island) was evidently in favour of the adoption of it ; and that in sound policy, it was not less desirable, because, the union in name, might lead to union of affections, among the inhabitants. It had been objected, that relinquishing the name of England, would lead to other concessions ; but it was for the Commissioners to deliberate and decide, on the means, for retaining substantial privileges.

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The debate was renewed on the following day, by Mr. Fuller, who was against any change, because he considered the boundaries, between the two nations, as necessary, to prevent the natives of Scotland, who were poor, from an opportunity of coming into England, to carry off its riches.

Sir Francis Bacon called the attention of the House, to a conference with the Lords, where, in general, subjects might be discussed, reserving determination to the House itself.

Sir Edwin Sandes doubted, if an alteration were necessary, and still more, if the present were the proper time to introduce it; and therefore thought, that Parliament could not make an alteration, in the name, without having powers, for this purpose, from the country at large.

The Speaker, finding the debates running to a greater length, informed the House:—That, as a conference was earnestly desired by the Lords, he would state the great points to be discussed.

The first question was,—Whether Commissioners should be appointed: On this the House resolved, in the affirmative. The next question was,—Whether all discussion, respecting the name, should not be postponed, till the union actually took place: And the House resolved, in the negative.



gative. The last question was,—Whether the Commissioners should be authorized to propose articles, *only*, and to debate on them, with the Scottish Commissioners, or to decide finally: The House resolved, that the Commissioners should propose *articles only*.—

Before the conference with the Lords could be begun, a message came from the King, requiring the attendance of the Commons. He informed them, that their long and idle debates, had given him the greatest displeasure; for he denied their right to decide on his deliberations: and proposed, that the union, already made in substance, should be recognized by an act:—That a name should be given to his kingdom, corresponding with this union; and that Commissioners should be appointed, to deliberate on particular articles:—That if there were any dishonour in the name proposed, that dishonour belonged to him, not to them; he was Earl of Cornwall, as well as King of England:—That the honour which belonged to them, had been already granted, by the preference, in his first having proposed the union to the English Parliament:—That being King of England and of Scotland, the sovereignty of the whole island was vested in him, and, therefore his assuming the name, was merely publishing  
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what he already possessed:—That though names, in themselves, were of little consequence, yet, in this case, they might lead to unity of affections in the two countries:—That he knew he could not, of himself, alter the laws of either country, nor did he wish to do so; but that he desired the Commissioners might treat of such alterations, as would be for the common good of both realms\*.

After a considerable delay, Parliament appointed Commissioners, to examine the King's proposal of an union of the two kingdoms. These Commissioners, it would appear, from the instructions given them, were to treat together; and “consult of all such things, whatsoever, as should be thought fit and necessary, to be propounded by us, and enacted by them:—all tending to the weall publique of both Crownes †.”

The substance of the act, appointing them, is; that the union was to proceed, upon the basis of the realms of England and Scotland having become subject, in allegiance and loyal subjection, to the same sovereign, to the end, that upon mature deliberation, a further union might ensue,

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\* Appendix, No. II. p. xv.

† Ibid. No. III. p. xxiv.

to confirm his Majesty's gracious expressions to the subjects of England, but which, in no ways, should alter, or innovate, the fundamental laws, privileges, and customs of the kingdom, by which their lands and privileges, of every kind, are preserved; except of such particular indifferent statutes and customs, the abolishing of which may serve to extinguish all future questions, or unhappy accidents, which might arise, between the subjects of these realms.\*

The Commissioners were fourteen Lords and thirty Commoners, and were directed to meet; and any eight, or more, of the Lords, with any twenty, or more, of the Commons, were to form a *quorum*, with full powers and authority to consult, with such Commissioners, as might be nominated and authorised by the Parliament of Scotland, and to treat of such an union, particularly of all such subjects, as, upon mature deliberation of the said Commissioners, might become the basis of an union; and they were directed to reduce their proceedings, into writing, by what was termed, an instrument tripartite, to the end, that one copy might be laid before the King, another before the Parliament of England, and a third before

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\* Statutes at Large, Vol. III. p. 2.

fore the Parliament of Scotland ; that such instruments were to be subscribed and sealed by them, and by the Scottish Commissioners, for verification, and to become the foundation of such farther proceedings, as the Parliaments of both countries might deem expedient.\*

When this act was presented to the King, the Speaker addressed his Majesty, with strong assurances of the loyalty of Parliament, and of its readiness to adopt such measures, as might forward the union, but, at the same time, preserve to the English nation, their rights, privileges, and laws. †

In the two Houses of Parliament, and at the conferences held by the Commissioners, soon after their appointment, the general grounds, upon which the union ought to proceed, and the particular regulations for trade, as it regarded England, were the subjects which first engaged attention. Though all the documents are marked by those prolix scholastic divisions of topics and arguments, which characterised the learning of the times ; they will furnish correct views of the prevailing opinions.

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\* Appendix, No. IV. p. xxvi.

† Ibid. No. V. p. xxxi.

Previously to the conference, held by the Commissioners, for discussing the grounds for the union, the probable objections to the measures were arranged in the following manner :

1. That, in general reasonings on the subject, it might be objected ;—that no public evils existed, which could establish the necessity of such an union, and that the state of the nation would not be improved by it ; that, besides, no precedents could be adduced, except those, where conquest had led to national coalitions, to vindicate the sinking the name of two nations, into one, *not* descriptive of either.

2. That the adopting of a new name, for either, or for both nations, would, inevitably, lead to new laws which could not be clearly understood, or applied to the constitution of Parliament ; to the seals which ratified the acts of government ; to the officers, to whom the administration had been committed ; to the liberties, customs, and privileges of the subjects ; to the sittings of the courts of justice, which, by usage, are held at the residence of the King ; to the oaths, either of allegiance, as taken at the King's coronation, or renewed, from time to time, by the subjects ; circumstances, which are essential to the preservation of the English constitution ; and that, at any rate,

rate, such a measure, would expose business to uncertainty and confusion, in the principles on which it ought to be transacted; evils of the most serious kind, in the event of the King's leaving no issue, because then, a new kingdom would be, like a purchase, which might be claimed by the nearest male heir of the King, though not like his Majesty, descended from the Kings of England.

3. That this new description of the kingdom, would immediately affect the English leagues, treaties, and privileges of foreign trade, for which the nation had been contracting, for ages, and from which, they had derived the most important advantages. Opportunities, thus, would be afforded to foreign powers, who had been parties in these transactions, to deny the existence of such treaties, or, at least, to insist on other terms, when renewing and confirming them with Great Britain; so that his Majesty, instead of holding his present rank among sovereigns, according to the acknowledged antiquity of his kingdom of England, would be placed (however great his sovereignty) as the most recently established monarch in Europe, and thus the dignity of England, among foreigners, be obscured, or lost.

4. That the honor of England would be affected,

affected, by adopting any name, even that of *Britain*; because, as in families, males are preferred to females, to preserve the lustre of ancestry; because the name of Britain, would efface the ancient and known characters of England and Scotland; because England would lose its precedency over Scotland; and, above all, because such a change would hurt the national feelings of a people, who have acted, in every age, on the principle of defending the honor of England \*

However general and vague these objections may appear, when examined in better times, we have the fullest evidence of the warmth and ingenuity with which they were supported, at a conference held on the subjects of them, both by Parliament, and by the English Commissioners.

Sir Francis Drake, it would appear, had the duty assigned him, of reporting to the Commons, and to the Commissioners, the propositions for an union, as recommended in the King's speech. He stated, that the general wishes of the King, in his speech, had been, that the union of the two kingdoms should be declared;—that the name of Great Britain should, for the present, be admitted:—and, that Commissioners, to treat of the terms, should proceed;—and explained, that the King,  
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\* Appendix, No. VI. p. xxxv.

so far from thinking of extinguishing the name of his kingdom of England, intended only to fix on one, that should embrace the whole island; that there existed not the most distant intention to alter the fundamental laws of the realm; and, that no encroachment, by the Scots on the English nation, had either been thought of, or would be admitted by his Majesty.

With these previous explanations, he brought forward, in writing, the King's speech and project: and five successive days were employed, in examining both.

The general opinion appears to have run against the union; when Sir Francis Bacon examined and combated the objections, by classing them under the heads of light objections, which served only to postpone the discussions; subtle objections, which served only to entangle the judgment; and high or important objections, which could only be removed by the Commissioners, who would preserve the laws of England, and its privileges, and accommodate them to the end of obtaining a solid union.

Matters were in this situation, when a Committee of the Lords took the Judges' opinion, and communicated it to the Lower House. The Committees of both Houses met, and the Lord Chancellor



cellor again repeated the intentions of his Majesty, in meaning nearly the same, with that already detailed; and illustrated farther, the King's intention to be, that as the nations were already united, in obedience to the same sovereign, and in religion and language, to assume the name of Britain, for the whole island; which would not derogate from the laws and customs of England; and which was a point, from which the King would not recede.

This explanation had nearly produced a dispute between the two Houses; it being argued by the Commons, that if the King's decision, respecting the name of Britain, was ultimate, then the subject had taken a new character: but this again was over-ruled, by the opinion of Lord Cecill, who held the King's words only to be conditional; and that his Majesty was open to conviction, if, in the course of their proceedings, it should appear to him, that there was good reason for laying aside the name.

Sir Francis Bacon, who supported the union, resorted to the method of reasoning, in the schools, of pretending to argue against the measure, by placing his topics, on that side of the question, and thus to shew their fallacy.

Sir Edward Sands, in reply, quoted from  
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history, the instances of union, which had taken place in different nations; and concluded, that though the name of England might be retained, as essential to its privileges, that did not shew the adoption of the name of Britain took them away.

Lord Northampton argued on the same ground of instances from history, and particularly dwelt on the terms of union, proposed by Edward I. in the treaty he made with the Scottish Regency, at the time, when the marriage between his son and the Maid of Norway had nearly brought the two kingdoms, under allegiance to the same sovereign, inferring that it was not then intended to relinquish the names of England and of Scotland.

Sir Edward Sands, in reply, insisted, that this was no precedent, because that case had never come under the consideration of Parliament; and therefore, that his former argument remained unanswered, that the adoption of the new name did not derogate from the old.\*

These disputes, proceeding upon the principles of preserving the national honour of England, and the laws which were deemed essential to the maintenance of the privileges of the sub-  
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\* Appendix, No. VII. p. xl.

ject, were less matters of attention to the body of the people, than the injuries, which it was apprehended would result, from admitting the Scots to participate in all the benefits arising from the English manufactures and commerce, now extended, either by their trade in general with foreign nations, or by particular companies which had vested sums, under exclusive privileges, for opening a trade with distant nations.

It was admitted, that, in internal traffic only, England, from the fertility of its soil and the value of its staple produce, would derive a benefit, from being admitted to carry goods, duty free, into Scotland, where they must be purchased by a people, inhabiting a barren country, who have no commodities to give in return for them, and who must pay a positive price for what they bought; but, it was argued, that if the Scots should be admitted to all the benefits of the English commerce, then the realm of England would sustain much injury and damage; if, for instance, the English woollen cloth shall be imported into Scotland, free of duty, the loss to his Majesty would be greater, than all the customs paid by Scotland could refund: that if wool, in its undressed state, could be imported into Scotland, the English manufacturer would

would lose all the profits arising from his labour; and that, if the cloth manufactured in England, should be carried into Scotland, by the Scots, the navigation of England would be diminished, and its marine weakened;—That the privileged companies to Muscovy, &c. would be exposed to Scotch interlopers, and thus, two parts out of three of the cloths, exported out of the kingdom under exclusive privileges, would pass into the hands of the Scots;—That if leather, candles, wool, felts, (branches of the English trade secured by so many wholesome laws) should be allowed to pass into Scotland, duty free, and might thence be exported, then the prices in England would rise, to the great distress of the inhabitants;—That the wholesome laws, which prevented the exportation of warlike stores, would be rendered void, by the frauds which the importation of them into Scotland would render practicable; and that above all, corn, sea-coals, &c. if allowed to be carried into a country, duty free, which in itself produced not quantities equal to its own consumption, the prices would so rise in England, as to bring positive distress upon the inhabitants;—

That, on the whole, it would be unwise to give the Scots, inhabiting a poor country, the benefit of the English exports; and, therefore,

that the trade ought to be placed under the following regulations :—

That it might be lawful to carry into Scotland such quantity of cloth and kerfies, as might be equal to the consumpt of that kingdom, duty free :—

That it might be lawful to carry baizes and cottons of English manufacture into Scotland, duty free, provided the exporters grant security, for their being landed and used in that country ;— And,—That it might be lawful for the Scots to ship and transport, from the ports of England, upon paying English duties and customs; provided they be not sent into countries, enjoying privileges by treaty with England, or into countries, for which England had granted exclusive privileges of trade to certain commercial companies\*.

James, who was fully informed, respecting all the points debated in either House, or at the conferences held by the Commissioners, addressed a letter to them, on the 2d of May, 1604; in which, with perhaps more feeling than prudence, he represented to them, the ungenerous suspicions which had been entertained of his intentions, the  
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\* Appendix, No. VIII. p. xlv.

cavils on frivolous subjects, and the risk which the two kingdoms run, of losing that opportunity for an union, obviously tending to the common interest of both; and warned them, of the evil consequences of their conduct, should they again plunge the nations into discord and war, in opposition to his own “ eternal regard for all his subjects\*.”

This address, however, does not appear to have produced the effect intended by the King; for, to remove one subject of their debate, by a writing, in his own hand, he directed his Minister to take the opinion of the Judges, whether he might not assume the title of *King of Great Britain*, without the consequences which had been alledged,—that of directly abrogating the laws and customs of both kingdoms †: and, it is probable, the answer he received was,—That no such consequence could arise from the assumption of the name; because a proclamation was issued, by which he assumed the title of *King of Great Britain*, ordered the crosses of St. George and St. Andrew, to be quartered in his flags, and the Scottish coins to be made current in England.

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\* Appendix, No. IX. p. 1.

† Ibid. No. X. p. liii.

The King, by this expedient, put an end for a time to the dispute about the name; and trusted, that this circumstance would induce the Parliament to enter on the great subject of the union of the kingdoms, with more temper and wisdom. This policy, however, failed, as the minds of the leading members had been irritated, by the honors which he had bestowed on Scotchmen, and they brought this circumstance, as a proof of his intention to sacrifice the interests of his new, to those of his ancient kingdom \*. Finding it therefore to be impracticable to bring Parliament to accede to his favourite plan, he prorogued it, on the 7th of July, with a speech, which strongly marks the ill terms, upon which he and his Parliament were placed.

The King stated : that though both Houses made up component parts of Parliament, yet he must consider their conduct as different, in the separate Houses :—that to the Higher House he had his warmest acknowledgments to make, for their dutiful and wise proceedings, but that to the Lower House, from his love of truth, he was compelled, rather to give reproof than thanks : that it was impossible for him to give thanks,  
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\* Rapin, Vol. II. p. 168.

where thanks were not due:—that he could not hold them “to be the true shadow of the Commons of the land,” nor would he blame his people, for the faults of their representatives:—that though many of their number were wise and great men, many of them “had idle heads, and were busy informers, who had cried down good and modest men:”—that though he did not think any of them intended to overthrow the government, he saw they had entertained an imprudent curiosity to try experiments, for the purpose of discovering his notions of his prerogative, and displaying their own talents and eloquence: that from not distinguishing, between their duty to their King and to their country, and from a desire of innovating on the established religion, notwithstanding what they had heard of the moderation with which he had governed his ancient kingdom, they had opposed the union of the two kingdoms, and the adoption of the common name of Britain, for both:—that he could have no object, but the common weal, and if no measures should be adopted by them, the natural relation, which the nations bear, the one to the other, would ultimately terminate in an union; that it was impossible he could have any predilection for one country more than for the other, without violating



ing his duty to God and to nature:—that, however, he would postpone the application of the name to the two kingdoms, but had avowed himself King of both, and both were comprehended in the island of Britain, as much as Middlesex or any other county, in England, was in that kingdom:—that he wished only to repress those sects of religion, which taught opinions contrary to the duty which the subject owed to the magistrate; and to check men, who, from a desire of novelty, wished to introduce what was against all good order:—that in regard to those who, as purveyors, had wronged the public, there existed good laws by which they might be punished; and that no apology of good intentions could palliate disloyalty:—that from birth as well as from his royal declaration, he was intitled to protect the government; at the same time, that he assured them, that no King could be more thankful to subjects, than he had been, for the instances of loyalty and obedience, which he had experienced\*.

Having thus reviewed the events, which marked the first proposals for an union in England, and traced the political circumstances which  
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\* Appendix, No. XI. p. liv.

influenced Parliament, and the commercial part of the kingdom to oppose it ; it will next be proper, to advert to the situation of Scotland, at the same juncture, and to observe the compliances of the Parliament of that kingdom with the wishes of the King.

The Scottish nobles, as has been remarked, had, for a series of ages, obstructed the efforts made by their Kings to reduce them to order ; but when James acquired the Crown of England, the increase of power of which he became possessed, convinced them, that further opposition would be fruitless and only expose them, as individuals, to the King's displeasure ; and therefore, though each rivalled the other, in apparent compliance with the wishes of the sovereign, the factions were secretly opposing them.

The reformed clergy in Scotland, who, during James's youth and residence in that country, had controuled him in almost every measure of his administration, which in any way trespassed upon their authority, began to be apprehensive, that the weight of the Crown of England would be thrown into a scale, and might weigh down their consequence ; and as their opinions assimilated more with the puritanical notions, which James had condemned, as innovations in England, they became apprehensive, that the recollection of

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their former incroachments on prerogative, would be held as approaching to puritanical disaffection. The Presbyterians, therefore, in Scotland, though they did not openly oppose the King's favorite measure of an union, yet, in all their resolutions, for preserving their establishment, discovered the greatest jealousy of the measures of the court, and were continually on the watch, to inflame the minds of the people against any articles, which might have a tendency to abridge their influence.

Though the commerce of the Scots (the produce being of small value compared with that of England) was limited, they had made treaties, particularly with the provinces of Zealand and Holland, and with France, from the political relation which had subsisted between the two countries, which, with the same narrow spirit, as has been described to be prevalent in England, they were unwilling to communicate to their neighbours. When, therefore, they found the most limited privileges were proposed to be given to them, in the English trade, they were disposed to hesitate respecting the union, or at least to struggle, in the true commercial spirit, for acquiring as many, and yielding as few advantages as possible.

The recollection of the events which had marked the efforts of a lesser, combating for its independence

dependence with a greater nation, connected with the removal of their King and seat of government to the country of their rival, operated upon all their prejudices in favour of the independent government of their country, and led them to look forward to its humiliation, in becoming a nominal kingdom only, without reflecting on the benefits which might arise, and which actually have arisen to them, from the introduction of the English arts and manufactures, from the extension of commerce, from the amelioration of property, and from the solid public advantage, of becoming an important part of one great government, which was to have a decided weight in the scale of Europe.

Such appears to have been the temper and prejudices of the people, whom James had to address, and which, but for the causes referred to, would have been worked on, by the objections raised in England against the union; objections, which struck at the pride, and at the same time went to narrow even the prospect of advantage, which otherwise might have influenced the Scottish nation.

James, knowing these facts, did not look for any open opposition to his project among his ancient subjects; and therefore, on the 8th of February, 1604, he issued a commission, dated at Hampton

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Court, appointing John Earl of Montrose Chancellor of Scotland, to summon a Parliament, to meet at Edinburgh, or at such place as the Privy Council might deem expedient, for the purpose of nominating Commissioners, on the part of Scotland, to treat with such Commissioners as might be nominated by the Parliament of England, to hear and decide on such terms of union, as besides the allegiance, which both nations owed to the King, might bring them to an union of government; specifying, however, the maintenance to the Scottish nation of their ancient laws and privileges, in as far as the same might be compatible with the consolidation of the two kingdoms into one monarchy; and requiring Lord Fyvie, President of the College of Justice, and Vice Chancellor, to see that this commission be enforced.

The Earl of Montrose was directed to appoint (conformably to the constitution of the Scottish Parliament) a Committee of Lords of Articles, to prepare such measures, for the consideration of Parliament, as might facilitate its assent to such articles for an union, as should appear to be beneficial to the kingdom; and to recommend further to this Committee and to the Scottish Parliament, the importance of the measure, as it arose out of the  
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union of the two Crowns, and was calculated to terminate for ever those animosities and hostilities, which had reciprocally desolated the two kingdoms \*. James, on the first of May, addressed a letter to the Scottish Parliament, in which all the topics in the Commission, are recapitulated, and recommended them to the attention of his loyal and ancient subjects †.

In consequence of this commission, the Earl of Montrose opened the Scottish Parliament, at Perth. As it was already instructed, in the nature of the commission which had been granted by the Parliament of England to the Commissioners for that country, it appears to have adopted, on the 11th of July, the same precautions, for in the preamble to the act appointing the Commissioners, it specifies, in precise terms, that they were to treat of such articles, for the union of the two kingdoms, as might leave entire to Scotland, its laws, customs, and privileges, but were, in all other respects, to devise terms, for effecting an union of the two kingdoms, and to treat of them with the Commissioners on the part of England, keeping a record  
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\* Appendix, No. XII. p. 1x.

† Records of the Parliament of Scotland, Vol. 10th fol, 136.

of all the proceedings, that the same might be laid before the Parliament, at its next meeting, one copy whereof to be presented to the King, another to be laid before the Parliament of Scotland, and a third before the Parliament of England. Twenty of the Commissioners were declared to be a *quorum*, competent to act in this great national business\*.

The Scottish nation were equally jealous with the English, on the subject of sinking the name of their kingdom into that of Britain, comprehending it and England: but we do not find in the records of the Scottish Parliament any traces of the dispute upon the subject. They appear, however, in the periodical publications of the times, and are marked by the same foolish pride, as those in England, respecting the rank of the nation among the European sovereignties, the effect which the adoption of the new name might have, in altering or abrogating the laws and customs, by which honours, property, offices and privileges were secured; and the same narrow views, respecting the treaties subsisting, between Scotland and the Dutch, and Scotland and France, which  
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\* Appendix, No. XIII. p. lxxv. Scotch Acts of Parliament, Vol. I. p. lxxv.

had procured to them personal privileges and commercial exemptions in those countries\*.

James, offended with these floating opinions, during the dispute, both in Parliament and at the conferences of the Commissioners in England, issued a proclamation, dated 15th November, 1604, requiring the same to be entered in the secret books of his Council in Scotland, and solemnly published, conformably to the usages of that country, by which he assumed the style and title of *King of Great Britain, &c.* expressly specifying, that this title only was to be used in all proclamations, treaties, &c. in time coming, and discharging the names of Scotland and England from being used, except in legal proceedings, instruments, and assurances, &c.†

The meeting of the Commissioners of the two kingdoms, at Westminster, had attracted, not less the attention of the King than of the public in both countries.

In the prefatory account of the proceedings of the Commissioners, it appears to have been settled,

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\* *Treatise. De Unione Britanniaë, seu de Regnorum Angliæ et Scotiæ, omniumque adjacentium Insularum Britannicarum, in unam Monarchiam, consolidatione, &c.* Edinburgh, 1604.—M.S.S. *History of the Union.*

† Appendix, No. XIV. p. lxx.



settled that a record should be kept of such articles, as might be agreed on; and that it should be subscribed by all the Commissioners.

The first subject, which occupied their attention, was the expediency of placing the articles, upon which they should agree, in the form of *propositions only*, to be laid before the Parliaments of both kingdoms.

It was next agreed, that a preliminary step to the union of the two kingdoms, ought to be, a Proposition, for repealing all those laws, by which England had declared Scotland to be its enemy, and Scotland had declared England to be its enemy. Lists of these laws were presented; and that this article might go to its full extent, not only these laws, but all others, which might be hostile in their nature, were to be annulled\*: And as a necessary consequence of the preceding article, that it should be recommended to the Parliaments of both countries, to abrogate what were termed the customs of the Marches, or Borders, by a positive act of each Legislature, which should declare, that the subjects of England and the subjects of Scotland, in these counties, were to be governed by the statutes and laws of the particular

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\* For List of these Laws, see Appendix, No. I.

cular kingdom, in which they might be resident, at the time ; and that the name of Marches, or Borders, should be extinguished.

It was next settled that provision should be made, for redress of such wrongs or crimes as might have been committed against the border laws, or customs of either country, by the king appointing Commissioners to hear and to decide on them ; and that the Parliaments of each country should devise regulations, to enable the individuals of either kingdom, to recover such debts, as might be due to them, by the decision of the former judges of the laws of the Marches and Borders ; and also, for preventing, in future, all disorders, between the King's subjects, inhabiting those limits, and for settling all pleas or suits, pending, previously to the demise of the late Queen, and since the late treaties, between the two countries, respecting the Borders, from 1506 to 1597.

It was also agreed, for more effectually effacing the memory of past animosities and hostilities, that the natives of both countries should be under the same prohibitions, in the importation of foreign merchandize, into either country ; that is, that no Englishman should bring into Scotland,

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and no Scotchman should bring into England, goods prohibited by the laws of these respective kingdoms, but that liberty be given, reciprocally, to the inhabitants of each country, to carry the produce into that of the other. In explanation, it was stated, that the privileges, which the Scots had enjoyed in France, might be deemed prejudicial to the English trade, particularly in the trade to Bourdeaux and to Normandy, and other ports of France; and therefore, that Scotch vessels should be free to transport wine from Bourdeaux to England, upon paying the same duties and customs, as the English do, and, reciprocally, that the English should have the same permission, to import the same commodities into Scotland, upon paying the duties and customs, levied there. In regard of the privileges, which the Scots had enjoyed, in buying and selling in Normandy, it was proposed, that four persons should be sent into France, two of each nation, to judge of the advantages which the merchants of either the one or the other country possessed in that province, or in any other part of France, Bourdeaux excepted; and that the importers, subjects of either country, should, upon their arrival in the port or ports of England, have the duties of customs laid on them, in the proportion of the advantages

advantages they had, in the purchase of goods, under the Scottish privilege in France; and, in like manner, the duties to be advanced in the ports of Scotland, were to be proportioned, so as to equalize the profits of the merchants of both countries.

It was recommended to the two Parliaments, that all goods, prohibited to be exported from England, or from Scotland, to any foreign nation, should be liable to the penalties and forfeitures, payable in these respective countries; but that such goods and merchandize, the exportation of which had been declared to be lawful to Englishmen, to any foreign port, might likewise be exported by Scotchmen, to that port, on their giving bond and cocket, for the payment of such duties and customs, as Englishmen do pay; and the like privilege to be extended to Englishmen, exporting from the ports in Scotland.

It was agreed, to be proposed to the two Parliaments, that such produce, of either country, as may be for the use and consumpt of the other, may be sent from and to each kingdom, free of the duty of customs, in the same manner as these goods are sent from one port in England to another, as from one port of Scotland to another; except such articles, as, by law, are reserved for

the exclusive use of the English, or the exclusive use of the Scotch nations; that is to say, wool, sheep felts, cattle, leather, hides, and linen yarn, which were not to be exported from the one country into the other; but reserving to the Scots, the exclusive privilege of fishing in their locks, friths, and bays, and within fourteen miles of the main land, from which all English, as well as foreigners, have, at all times, been excluded; but these restrictions not to be understood, as marks of division between the two countries, but only as matters of policy and conveniency for each.

It was agreed to be recommended to the two Parliaments, that all foreign merchandize, which has once paid the duty, in either country, was not to be liable to pay duty a second time, when re-exported to ports in England, or in Scotland, upon the owner or master giving bond, that these goods are not to be exported to any foreign country.

It was agreed, that Englishmen, or Scotchmen, might become members of trading companies, in either country, the native English, or native Scots, submitting to the conditions established in the respective countries: and it was further explained, respecting the preceding article, that every merchant, who has paid the duties  
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in England, or in Scotland, may enter goods, for exportation to the ports of either kingdom; but if he shall actually be found to have carried them beyond the seas, then he shall be liable to the forfeiture of the ship and cargo; and the Custom-House officers, who shall have been assisting in such fraud, were to be subjected to the loss of office and goods, and imprisoned during his Majesty's pleasure; two parts of the fine (if the customs shall not be farmed) for the benefit of his Majesty, and a third to the informer; and (if the customs be farmed) one-third to the King, one-third to the farmer, and one-third to the informer. The trial, for such offence, to be summary in both countries, and in the Exchequer, or before the justice of peace and jury of the county; and, as a further security, a bond and obligation, equal in value to the goods, was to be required from the owner (if he be present) and from the master of the ship, and from the factor, landing them, from which he or they were to be relieved, upon certificate from the officer of the customs, at the port where the goods are landed, or, if no such officer be at the port, by the magistrate of the sea-port town; of which bond, a form was given. The bond, however, was not to be recoverable, for one year, that time may be given to receive  
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the certificate, should the first copy miscarry, between the port where it was granted and the port for which the bond was given. In the event of the certificate arriving, the Custom-House officer was to mark upon the bond, the receipt of such certificate, specifying its date and contents; but if, in two years, no such certificate appeared, then the bond was to be forfeited, and any certificate offered, after that time, to be void: the sum to be recoverable in the Exchequer of the kingdom, where the bond was given, and transmitted from the Exchequer of the one realm, to that of the other.

It was agreed, to be proposed to the two Parliaments, that Englishmen, or Scotchmen, may ship articles, in foreign bottoms, upon paying the English or Scotch duties and customs, at the ports, where the goods shall be shipped.

It was particularly to be recommended to the two Parliaments, to enact laws, and establish regulations, for enlarging and improving the shipping of both kingdoms, whether those intended for trade, or for public defence, so as to bring the burden of such ships to be more on an equality.

It was recommended also, that an act may be made, containing a declaration, that the subjects

jects of both realms, born since the demise of Queen Elizabeth, or that shall hereafter be born, should, by the common laws of both realms, be enabled "to obtain, by inheritance, and to possess lands, goods, chattels, honors, dignities, offices, liberties, privileges, and benefits, ecclesiastical or civil, in Parliament, as fully and amply, as the subjects of the realm, respectively, might have done, or may do, in any sort, within the kingdom where they were born." But as his Majesty had signified his gracious intention, that the subjects of the one kingdom should not be preferred to offices in the other, till time and mutual intercourse shall have completed the union, it is to be submitted to the Parliaments of the two kingdoms, to enact, that the subjects of both kingdoms, born before the death of the late Queen, may be enabled to acquire, by purchase or inheritance, or otherways, and to dispose of, all lands, goods, offices, honors, dignities, &c. in either kingdom, in the same manner, as the natural born subjects of each do, notwithstanding any former laws, statutes, or constitution, to the contrary; except the offices of the Crown, or Judicature, or any voice or place in Parliament; these to remain, till an union of a more complete kind shall become the desire of both realms; but  
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such act, not to infringe upon the King's prerogative; on the contrary, to contain a reservation of it, and the exercise of it as freely and fully as any of his predecessors, the Kings of England or of Scotland have enjoyed.

It was to be proposed to the two Parliaments, that, for the better administration of justice, all persons committing crimes, and taking refuge in either country, shall be sent to the place where the crime was committed, there to be judged by the laws of that realm where the place is situated, particularly in cases of murder, counterfeiting the coin of the realm, and forgery of instruments, deeds, or writings.

Such were the articles devised, agreed on, and ratified by the Commissioners for both kingdoms, and subscribed by them, on the 6th of December, 1604\*.

The caution and moderation of the Commissioners in framing these articles, and their strenuous endeavours to meet the high notions which the King entertained of his prerogative, as well as to remove the jealousies of the two nations, would, at first view, have promised success to the measure; but, unfortunately, several incidents occurred,

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\* Appendix, No. XV. p. lxxiv.

red, to withdraw the attention of Parliament from the subject, and to give time to the opponents of the union to work up the minds of the people against it.

The King appears to have been fully satisfied with the conduct of the Commissioners, and to have taken an early opportunity to convey his thanks to them, by Lord Cranbourne, expressive of his hope, that no future jealousies, respecting offices or honors conferred on Scotchmen, would be felt. His intentions being, to give a preference to Englishmen, at the same time, to hold out rewards to Scotchmen, for loyal and public services\*.

The anxiety of the King to conciliate Parliament, and induce them to pass an act, confirming the articles of union, recommended to it by the Commissioners, will appear from his speech, in which he agreed to postpone the name of Great Britain, till an act should pass recognizing it; but at the same time, he adhered to his resolution of taking the titles, conformably to his prerogative and to the opinion of the Judges †.

The Gunpowder Plot occurred at this crisis, and engrossed a considerable share of attention, in the next session of Parliament. The moderation

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\* Appendix, No. XVI. p. xcvi.

† Ibid. No. XVII. p. xcvi.

of James, with respect to the Catholics, which, in better times, would have been deemed liberality, was in this age construed into a secret partiality for that sect; notwithstanding his banishing the Jesuits, and other acts of his administration, calculated to induce an opposite opinion of his principles.

The question now began to be agitated, whether Scotchmen, born in allegiance to the King, as King of Scotland, were to be deemed *aliens*, with respect to the laws and constitution of England? It would appear, from the preceding articles, proposed by the Commissioners, that this subject had been decided on, by the distinctions which they made founded upon the King's promise, respecting the subjects of either kingdom holding offices in the other, till a more perfect union could be effected; and by the proposal, respecting the succession to property, by inheritance or purchase. The Scottish subjects, of this description, were termed *ante-nati*, in opposition to those who were born after the King's accession, who had the appellation of *post-nati*. The disputes, respecting these two classes of subjects, were in themselves calculated to initiate the Scots, and to create alarm in the English, who had become apprehensive of the accessions of property, which

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the natives of their ancient rival country might obtain in England.

Commercial jealousies more strongly perhaps than any other circumstance, marked the general aversion to the union in England, though the regulations detailed in the proposed articles were calculated to remove them. The old laws were still in force, for the Parliament of neither nation had made provisions to remove them; and the customs of the Borders, over which the subjects of both countries were passing goods, each for his individual gain, still remained, notwithstanding the circumstance of the King being the sovereign of both realms, and the pending union between them being referred to commissioners; so that the delays, instead of convincing either country of the solid advantages of an union, warped their opinions the contrary way, by the temporary gains or losses which each alleged the other had obtained or suffered.

It was not, till the 11th of November, 1606, that the Parliament of England took into consideration the report of the Commissioners, on the Articles of Union. The great Sir Francis Bacon had, by this time, been promoted to be the King's Solicitor General; and if James's judgment in the choice of his servants is to be esti-

mated by his selection of this distinguished lawyer and philosopher, it is impossible he could have employed a more able advocate.

The Solicitor General introduced his opinion in favor of the Union, by observing, that comparisons, drawn from history, would not bear upon the present subject, as the question rested not on authority but on expediency;—That it could not be expected, but that difficulties must occur, in the progress towards the attainment of this good, among which was the naturalization of the Scots. This was rather to be granted, from the manifest inconveniencies which would arise from their remaining *aliens*, than from the supposed injuries which were apprehended, from their being incorporated with the subjects of England;—that the objections to that grant, resolved themselves into the single point, of their having a voice in the government, not to the contingent circumstance of individuals holding offices;—that, in regard to their having such a voice, it had been pleaded, that it would make a surcharge of people in the realm of England; but this he held to rest upon nothing better, than what he termed conjectural experience, that is, not reasoning respecting the future by the past, but resting the argument on supposition of possible events.

events. When the King acceded to the throne of England, the influx of Scotchmen, attending his court, is taken as the measure, for the numbers of Scotchmen, who under a bill of naturalization, may resort to England; but it was in the knowledge of the House, how very few from that nation had settled in the respective counties and towns which they represented; and he would pledge the answer to be, from all of them, that the number was small indeed. It was not to be presumed, that a proud but poor people would be disposed, without estate and without friends, to settle among their equally proud and richer neighbours. If the Scots had emigrated to Poland, it was because their pride would not be hurt by their exerting industry amongst strangers; and if the numbers of them in France (where the boon of naturalization had been long granted them) were few, and where the military service in which they were engaged was conformable to their pride, it was not to be presumed, that their being naturalized in England (judging from the fact in France) would bring a surcharge of inhabitants upon this realm. He appealed to the fact in the four preceding years, that a small number of Scotchmen had settled in England, and inferred, that though the Scots, like the plebeian Romans,  
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while naturalization was denied them, might anxiously seek after it, yet that like these plebeians, they might never have one plebeian consul.

2d. That, in regard to the surcharge of inhabitants which would result from the naturalization of the Scots, if the comparison was instituted, between France, or Italy, or Flanders, or some part of Germany, and England, it would be found, that in the same space of surface, as England, the population was greater; and it would not be asserted, that England, in fertility, was inferior to these countries. If we were to judge from the number of commons and marshes in England, it was demonstrable, whatever surcharge of inhabitants might be in the capital, the population of the kingdom at large was scanty. If we were to decide from the number of decayed towns in the realm, compared with the small number of new towns, which had arisen to replace them, or from the fact, of many of the members in this House, sitting for decayed and almost desolated boroughs, we should rather wish for the increase of inhabitants than make objections to so manifest a national improvement. But should even this argument be narrowed, and it be pleaded, that it is the internal, not the maritime counties, which have reason to apprehend a surcharge of inhabitants,

bitants, the fact was not less against the conclusion : the former, it is true, have nothing but the soil from which to draw the means of subsistence, but the latter have fishing, navigation, and trade, and so far are they from being surcharged with people, that the Flamands draw the greatest part of the wealth which our fisheries afford, not the inhabitants of our islands or sea-ports. We have, therefore, unoccupied scenes for industry in our waste lands and on our coasts, an unanswerable argument, that the English industry is not yet sufficiently called forth, or it would not have complained of a surcharge of people. Ireland, besides, offered a fertile and rich island now happily under the government of our King, even should that surcharge of people take place, to which colonists might be sent to find useful fields for industry. But admitting the case, that England should be surcharged with inhabitants, this alone would enable it, with its national dignity, to enlarge its limits, recover its ancient rights, repair the losses sustained by our ancestors, and enlarge the patrimony of our posterity. Though frugality be a virtue of an individual, it is not a principle for Parliaments and for kingdoms, when the greatness of a country is the object.

The second great objection to the union,  
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arises from the circumstance of the laws of England and of Scotland forming different and distinct systems of jurisprudence, and from its being the declared intention of his Majesty, that no innovation is to be made of either; and therefore, that it would be unwise to admit the Scots to the rights and privileges of Englishmen, unless they agree to submit themselves to English laws.

This objection, it will be allowed, is infinitely more substantial than the preceding one against naturalization; for, in the judgment of the person addressing the House, if the Scots could be induced to adopt the English laws, they would submit themselves to laws worthy to govern the world. To this belief, however, naturalization is the necessary preliminary, which takes out the marks of a foreigner and leaves to union of laws to make the Scotch entirely as ourselves. Naturalization removes the separation of kingdoms; union of laws the distinction of people. Does not the sovereign of nature himself promulgate different laws? One law in the celestial, another in the terrestrial worlds; and yet the beings he has made constitute one whole, without a vacuum. In the true religion, professed by people of all languages and lineages, are not their different hierarchies regulated by different ecclesiastical

fiastical polity and laws? and yet are not all naturalizants in the communion of saints and linked together by the bonds of private affection? Are not our own laws in force in Ireland, or in the dependencies of Jersey and Guernsey, and yet have not these laws attracted the confidence of the inhabitants? If England is to be the residence of the sovereign, it will also be that fountain of laws, which will win upon the affections of the Scots, not by formal acts of the Estates of Parliament, but by the secret and certain operation of time, and the intrinsic value of the laws themselves.

3. That, in regard to the barrenness of Scotland, or the poverty of its inhabitants compared with those of England, one of the wisest of our ancient sovereigns, Edward I. preferred extending his empire over Scotland, to its natural boundary the ocean, to the acquisition of foreign dominions; and if in that age the fatal result of the contest, between the two nations, proves any thing, it proves, that, in capacity, in valour, and in virtues, (perhaps too in vices,) the inhabitants are the same people, and formed to promote a common greatness with the English. If the climate and soil of the one be not so benign or so rich as the other, the intercourse of the inhabitants will produce that industry, and those improvements, which must be for

the common benefit of the whole. To make a distinction between the Scots, born before his Majesty's accession and since that happy event, is to prefer children, who cannot have deserved, to men who may have well deserved of their country; to place the elder brother, for a mere contingency, in a worse situation than the younger; a maxim, not less contrary to law than to that reason upon which all law is founded.

Thanks to the laws of England, which have made the wise distinctions of persons, between the alien born under a foreign inimical state, who receives protection, neither for his person, lands, or goods; and the alien, born under a friendly state, whose person and moveable goods the law shields, though it admits him not to freehold inheritance; assigning, as its reason, that owing allegiance to a foreign state, he may become an enemy, but while he is not one, confers on him its transitory benefits. It, at the same time, admits his being naturalized by charter or denization; so that he may purchase freehold inheritance and may convey it to his children, born after he may have been naturalized; but it prohibits benefits from pedigree, upon the principle, that affections are innate and inherent, and not capable of being bestowed as a benefit. All these

these degrees, however, are different from the state of a person, who neither is, nor can be an enemy, on whom the law, therefore, confers the full benefit of naturalization. Of such a person, it cannot be pleaded, that he was born out of the King's obedience, or in allegiance to a foreign King: the practice of England, respecting persons born in Jersey or Guernsey, and in Calais (when it was ours) illustrates this fact. Sound policy, therefore, like fame, ought to hold up to all the world the attachment of all his Majesty's subjects.

Having thus pointed out the benefits, which will arise from naturalization, he next turns to the public injuries which will result from refusing it.

It may be taken for a maxim, founded in history, that whenever states are united in sovereignty, if this shall not be followed up by naturalization, time rekindles their ancient animosities, and occasions break the links which have united them. Such were the Romans before their memorable union with the Latins, exhibiting the most cruel wars, falsely termed social, in the history of that people; such were Sparta and the other Grecian states; such was Spain before it was consolidated with the kingdom of Arragon; such were Florence and Pisa; and, without recur-

ring to other instances, such, in our own history, were the effects of naturalization, between us and our provinces on the Continent; such the effects in our own nation, from the heptarchy downwards; so that, if we have not the foresight to prevent certain evils, the foreign enemies of the state may work up the ancient animosities between the kingdoms, and thus deprive us of the benefit, arising from the united strength of the two realms.

From the union of these realms, we must derive security and greatness: security against our ancient enemy, France, and our recent enemy, Spain. To the former, Scotland was the postern-gate; to the latter, Ireland an inlet. By an union the one will be shut, and the northern approach to the other protected; and thus the avenues and approaches, by which the enemy might assail us, effectually guarded, and the kingdom placed in security. From the union, we must also derive greatness, for Scotland and England will become one, and Ireland be connected with both, while the sea-ports in the Low Countries are divided in their maritime strength, and thus our kingdom, like a small grain, may grow and spread out its greatness, fostered by our constitution, and possessing riches, not like the gold of Cræsus to be exhibited for ostentation, but in the wisdom of Solon,

lon, protected by invincible iron. The greatest monarchies have been founded in poverty. Persia was barren, but subdued Media. Macedon ignoble, till raised by Philip and Alexander. Rome rose from a few cottagers. The Barbarians overrun the Roman Empire, settled in its richer provinces, and by union, gave rise to the greatest kingdoms. It is, therefore, this principle of union, on which the security and greatness of these realms can alone be built; these are the sentiments of my heart; I have obeyed them, it was my duty.\*

This able defence of the union, it might have been supposed, would have carried conviction to the minds of the House, but the prepossessions against it were so strong, particularly on the article regarding naturalization, that the succeeding members who spoke, placed their objections in various forms.

Sir Edward Sands admitted, that many of the Scots, born before the King's accession to the Crown of England, had by their conduct merited the confidence of the English nation; and that many of them, from their character and situation in life, had the capacity and the opportunities of

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\* Appendix, No. XVIII. p. cii.

of rendering England still further services ; but as naturalization of this kind was a novelty in the law of England, which admitted not, (he contended) those distinctions of aliens, which had been borrowed from the civil law, Parliament ought to confer it with much caution, and to declare the degree of naturalization which they were willing to acquiesce in. That though an union had taken place in the two realms, owing allegiance to the same sovereign, that union was imperfect, while the nations remained subjected to different and distinct systems of law ; and that it could not be perfect, till both countries acknowledged the same government and the same laws. That if this perfection was for the present unattainable, the Scots alone were to blame, who had declared the basis of their consent to an union to be the continuance and preservation of their own laws. While, therefore, they remained in this resolution, the two kingdoms must continue distinct ; and no good reason could be given for admitting them to the benefits of the English government. It, therefore, was his opinion, to grant them only certain degrees of these benefits, for the present, that their own experience might convince them of the benefits they would derive from a more perfect union of laws. This would,  
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at some future time, serve not less to convince them of the present liberality of the English nation, than induce them to ask for the advantage of being placed under English laws.

Sir Henry Nevill objected to the naturalization, upon the principle, that the Scots, by successive treaties, were united with France, the rival of England, and were in the actual enjoyment of privileges in France, founded upon these treaties; and, farther, that these privileges had been enlarged by the present French King, that therefore, while treaties existed, by which the Scottish nobility were bound to join and support the King of France, against whatever enemies he might have, and in the event of a doubtful succession of the Crown of Scotland, to appeal to the French King, as an arbiter, he considered it to be unwise to transfer to that nation the benefits which Englishmen enjoyed; at least, he held it to be a subject for the fullest investigation, whether it was safe, advantageous, honourable, or consistent with sound policy, to grant privileges to the Scottish nation, till such time as they shall have relinquished the benefits and privileges which they enjoyed in France.

Mr. Crew thought the privileges, which a full naturalization of the Scots would convey to the  
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the Scots, under the heads of acquisition of lands, ecclesiastical benefices, civil offices, dignities and honours, and trade, would be unwise; and that, at all events, such degrees of these privileges as might be given, ought to be placed under the limitations of the 13th of Elizabeth\*, without any way derogating from the King's prerogative.

Sir Nathaniel Bacon gave it, as his opinion, that the naturalization could not be granted, except upon two conditions; that the Scots should be made subject to the same taxes and payments with the English; and that they be declared subject to the law and justice of England, in the same manner, as if they were resident in it.

Sir Francis Moore objected to the naturalization, from the effect which the education of wards, by Scotchmen, out of England, would have, on the qualifications to judge of the laws and

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\* See Statutes at Large, Vol. II. p. 585. 13 Eliz. cap. 3.—which requires denizens, departing the realm, to have the Queen's license, under the great or privy seal; and made them liable, if they did not return, within six months, to the forfeiture of their lands, during their lives, and also their goods and chattels. The like penalty they shall sustain, who, having licence, shall not return, within six months after their licences expired.

and customs of the kingdom, in the case where a person of this description might be called to exercise public offices in England, and from the opportunities of waste, which a Scotchman, being a guardian, might have of retiring to Scotland, before his ward came of age, and thus be out of the reach of the law to which the ward was entitled to resort for protection; and recommended, that a regulation should be made, to prevent Scotchmen marrying English wards, without consent of guardians; an evil which would bring much injury on English subjects.

Sir John Bennett recommended, that the natives of Scotland should be excluded from becoming Archbishops or Bishops, these being places of honour, as well as a part of the judicature of the realm; but thought, they might be admitted to Deaneries and Archdeaconships, with cure, but without judicial authority: that they might enjoy one dignity and one benefice; but not two benefices and a dignity, or two dignities and a benefice; that they should be excluded from a dignity in a cathedral, unless they have acquired the degree of a Bachelor in Divinity, but rendered incapable of holding a benefice, unless they were Masters of Arts; and, in general, that it should

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not be competent for Scotchmen to hold more than one tenth part of the benefices of the realm.

Sir George Moore doubted, if it would be expedient to allow Scotchmen to hold the offices of Sheriffs, or Justices of the Peace, it being in the power of the former officer, to raise the *posse comitatus*, and in any two of the latter, to call sessions, and thus become judges of life and death by the laws of a country in which they had not been educated: and the same objections lay against their becoming Coroners, Under Sheriffs, &c. That, indeed, the granting of such privileges did not appear to be required, in the King's message, which asked nothing beyond loyalty to his Majesty, a due care of the English constitution, and a proper regard to the Scottish nation, now in common allegiance with the English to the same sovereign.

Sir Edwin Sandis was of opinion, that the business ought to be adjourned, for future consideration; because the objections to the measure, as well as the measure itself, were at present in such a state, as to require the fullest deliberation; and that no resolutions which the House could come to, in this stage of the business, could be held as binding or ultimate, or could preclude  
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it from receiving other propositions on the subject\*.

Conformably to this opinion, the Commons sent up to the Lords, propositions, which appeared to them essential to be adopted, *viz.* That it was for consideration, whether the naturalization should not be limited:—that the union of allegiance be perfect, but the laws, customs, and privileges reserved, as in Scotland:—that the ancient treaties, between France and Scotland, which were formed against England as the common enemy of both, should be annulled:—that the natives of Scotland might be allowed to purchase lands, &c. but these lands to be subject to all charges and subsidies in England, and the produce not to be carried out of England:—that no native of Scotland be capable of being an Archbishop or Bishop, to prevent their sitting as Barons, in Parliament:—that they should not be heads of colleges:—and, in general, that the natives of Scotland should not, at any time, hold more than one tenth of inferior benefices; and of this tenth, no individual of that country should hold two benefices and two dignities, or more than one dignity and one benefice; nor even these,

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unless

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\* Appendix, No. XIX. p. cxxix.

unless he have taken the degree of Bachelor in Divinity in one of the English Universities, and performed his exercises, without dispensation; nor one benefice, unless he have attained the degree of Master of Arts:—that it was for consideration, whether a Scotchman could be a guardian of any of the King's wards, as it might give him an undue influence over the person and the lands of the ward, and entitle him to the penalty, if the ward refused the marriage offered him by the guardian:—and that it was also for consideration, whether Scotchmen could be Sheriffs, because, in this capacity, they would be superiors of judicatures, have the return of writs, and the empanneling of juries;—or whether they could be Justices of the Peace, because it would enable them to hold sessions, vest them with the execution of penal statutes, and give them influence in raising subsidies\*.

James, who was fully informed of the opposition, which had been made in Parliament, to his favorite measure, and not less irritated, at the interpretations which had been given of his speech, when he opened the sessions, commanded both Houses to attend him, on the 2d of May, 1607, and

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\* Appendix, No. XX. p. cxxxvii.

and addressed them in a speech, of which the following is the substance :

That, when he first proposed the measure of an union between the two kingdoms, their general approbation promised him the happiest conclusion :—That he was sorry to find, they had misinterpreted his meaning, in his first speech, and therefore he was now to examine their objections, and to give them his directions for their proceedings in this great national concern :—That some of them, while they recommended a perfect union, had at the same time, raised objections which would render impracticable any union :—That time alone could give it perfection, and that, to the most ordinary capacity it must be obvious, the union must proceed by degrees, till the subjects of both realms could be fully incorporated :—Different, however, had been his conduct, from that of Henry VIII. ; for, instead of commanding, he had required them only to appoint Commissioners to examine the subject, and to propose terms :—That the union of the Crowns was perfect, at his accession, but the union of the nations must be gradual :—that, at the first opening of the business they had resorted to the example of other countries, where an union had been completed, but in the progress of their debates, they  
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had receded from examples, and did little more than start objections :—That if his presence was objectionable, he could reside, one year in England, and one year in Scotland ; or he could reside at York ; but he trusted, their observations on that subject might be ascribed to weakness, not to want of duty :—That he felt it hard to be encountered by his own subjects :—That the objection of want of security was unreasonable, as he offered them his honour for their security :—That the offering the Scots partial privileges, that they might desire more complete ones, was illiberal, since the people with whom they were united were not a foreign nation, like France, but neighbours, connected with them in allegiance to the same sovereign :—That if a reservation had been made of fundamental laws, the blame was their own, in not giving unlimited powers to their Commissioners :—That in repealing the hostile laws, they granted nothing, because the moment he became King, that moment hostility between the two countries ceased ; but though, like other men, he was subject to passions, he would not blame either the whole House or the nation, for the provocations given him by individuals : and he conjured them to reflect, that they were acting in the presence of God, and required them, by their loyalty

ty to their King, and their duty to their country, seriously to direct their attention to a measure, upon which the glory of the Sovereign, and the happiness of the Subject depended; and not to make themselves, by their disputes, objects of derision to their enemies\*.

This speech, which James expected would have convinced his Parliament, and removed all the difficulties which had been raised against the union, produced a perfectly opposite effect; for instead of entering again on the consideration of the subject, nothing was done, but passing an act, repealing, provisionally, the hostile Border Laws; so that in fact the union was rejected. It is probable, that the proclamation which the King had issued, declaring all those who were born in Scotland, since his accession to the Crown of England, to be naturalized, contributed to bring the Commons to this indirect refusal.

In the preamble to the act, abolishing the hostile laws, it proceeds, upon the principle of forwarding the union, already begun in the King's royal person, then enumerates the laws and declares them to be repealed, and of no effect †.

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\* Appendix, No. XXI, p. cxlii.

† Statutes at Large, Vol. III. p. 62.—4th James I. cap. 1.



Finding therefore that there was little prospect of bringing Parliament to accede to his measures, James prorogued it on the 4th of July, to the 10th of November, and afterwards to the 9th of February.\*

The King though unable to bring the Parliament to accord with his proclamation in favor of his Scottish subjects, born after his accession to the Crown of England, was more fortunate, two years after this period, in the decision of his Judges. Robert Colville, son of Lord Colville of Culrofs, and born in Scotland after the accession of James to the Crown of England, claimed as an inheritance, the property of an house in the City of London. It was objected, that the claimant was born out of the allegiance of the sovereign of the country where the property was situated, which country was and still is governed by its own estates and laws, and not by the laws of England. The case received judgment, in the Court of King's Bench, and was brought before Lord Elefmere, in the Court of Chancery, who decided, " that  
 " the *post-nati* are not aliens to the King, nor to  
 " his kingdom of England, but, by their birth-  
 " right, are liege subjects to the King, and capa-  
 " ble

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\* Rapin, Vol. II, p. 175.—Hume, Vol. VI, p. 40.

“ ble of estate of inheritance, in England, and  
“ freehold of lands in England, and maintain, as  
“ well real as personal actions, for the same.”

Notwithstanding this solemn decision, the alarm became more general, and various representations were given in periodical publications, of the Chancellor's opinion on this subject, calculated to inflame the minds of the people, and more deeply to root their prejudices against the union, till the King at last ordered Lord Ellesmere to draw up a printed statement of his opinion, for publication, a circumstance which strongly marks the prevailing prejudices against the union as well as the King's anxiety to remove them.\*

It does not appear, that the subject of the union was again revived, during the remainder of this reign, probably from the prevailing discontents, respecting their privileges, which subsisted between the King and the Commons, and probably from the King's attention being turned to foreign affairs, particularly those of the Palatinate; and towards the latter end of his reign, from the difficulties in which he found himself involved with Spain, obliging him to yield, to Par-  
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\* The Speech of the Lord Chancellor of England, in the Exchequer Chamber, touching the *Post-nati*.

liament as part of its privileges, what at his accession he deemed some of the most important branches of his prerogative. \*

From the circumstances which have already been referred to; in particular, from the Scottish nobility finding their opposition to the sovereign, which had marked their characters for so many ages, now to be unavailing; from the expectations of promotion which they indulged, and from the constitution of the Scottish Parliament, to which laws were, in a measure, prescribed by the "Lords of the Articles" who were immediately under the influence of the Crown; we have already noticed the ready compliance of this Parliament, in appointing Commissioners, to meet with those of England, to form propositions for an union, which were to be laid before the Parliaments of both countries.

It does not appear, in any of these articles, even those at which it might have been expected the Scottish Commissioners would have taken alarm, if not offence, particularly the articles regarding naturalization, that any obstruction was given, on their part; and no evidence remains to shew that they retaliated, by starting  
objections

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\* Hume, Vol. VI. p. 144.

objections against the English being admitted to honors, privileges, or franchises, in Scotland.

If, on the one hand, the most important advantages were opening to the Scots, by being admitted to a participation in the English commerce, on the other, security to the only accessible frontier of their kingdom, an increase of strength by the Scottish forces, the having the seat of government removed to England, were manifest advantages which the Scots had to give in return.

Under all these circumstances, it might have been expected, that some objection would have appeared in the Scottish Parliament; but so far from this being the case, we discover, that in 1606, at the period when the animosities of the English Parliament were at their greatest height, the Scots Parliament passed an act, calculated, by its provisos, to ascertain the actual state of the trade between the two countries. It provided, that books should be kept by the farmers of customs, in Scotland, specifying the goods, and the ships, intended for England, and the port in that kingdom to which the vessel was bound; that a book also should be kept, specifying the goods imported from England, the name of the ship, and the port from which it had come; and that, every half year, copies of these books should be sent by

the farmers of customs in Scotland to the farmers of customs in England, and *vice versa*. That the cockets do pass in the names of the principal owners of the goods, that they might be known in England: that prohibited goods shall not have a transit, by the waste grounds, from Scotland to England, and *vice versa*: and farther enacted, that the transit of goods be limited to the towns of Berwick and Carlisle; and required, that certificates be sent from the farmers' deputies at Edinburgh to the farmers' deputies at Carlisle, or Berwick, sanctioning these provisos with the penalty of confiscation of the goods\*.

The disposition of the Scottish Parliament is fully expressed, in an act passed August 11th, 1607, immediately after the English Parliament had indirectly rejected the terms of union, recommended to it by the joint voices of its own and of the Scottish Commissioners. The circumstance of this act remaining on the records of the Scottish Parliament, and not being to be found in the printed acts of that nation, makes it probable, that after being informed, the articles agreed upon by the Commissioners had been rejected, or in the best view of the subject, postponed by the English Par-

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\* Scotch Acts of Parliament, Vol. I. p. 806.—18 Parliament, James VI. cap. 6.

Parliament, the Scots, from a natural feeling of illiberal treatment, prevented the act from being published, and yet for the satisfaction of the King allowed it to remain on their records.

The preamble proceeds (after expressing loyal attachment to the King, and a resolution to meet his wishes of consolidating the two realms of Scotland and England into one monarchy) on the appointment of the Commissioners, by the Parliament held at Perth, in 1604, and then approves of the transactions of these Commissioners, as exhibited to them in the propositions which they, with those of England, had devised and signed at Westminster, in the preceding September. It approves of the condition, which declared, that the clauses should not be binding, till the articles should be ratified by the Parliament of England; and it reserved to his Majesty, his prerogative in its full extent.

The first proviso of this act of the Parliament of Scotland, is, that all the hostile laws, passed by the successive Parliaments of Scotland, shall be repealed and declared henceforth to have no effect.

That all the Scottish customs and laws, as well as treaties regarding the Borders, shall be declared void; and that the subjects of Scotland, inhabiting  
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the late wardenries, shall be declared to be under the common law and statutes of the kingdom, and the name of Borders be extinguished.

That the subjects, or their sureties, inhabiting the Border Counties, shall not be amenable to courts of justice, for any wrongs or crimes, committed before his Majesty's accession to the Crown of England.

That all wrongs or crimes done or committed, since his Majesty's accession to the Crown of England, by the inhabitants either of England or Scotland, in the Border Counties, within the realm of Scotland, shall be judged of by the sheriffs of Berwick, Roxburgh, Selkirk, Peebles, and Dumfries, before assessors possessed, at least, of one hundred marks of yearly rent, before whom it shall be competent to the defendant, to bring witnesses; the said justices to have the power of modifying the expences to be paid to witnesses, and to bind the pursuer, or plaintiff, to such penalties, on failing to give true evidence, as they shall prescribe, to be levied by his Majesty's Treasurer. And in default of the appearance of the defendant, such persons, as have been accessory to the wrong or crime, are declared to be liable for the damages, or to the punishment, applicable to the principal. The defendant only to have the  
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power of challenging five of the assessors (jury) on suspicion of partiality ; and in the event of being found guilty, to forfeit only his moveables, his heretable property remaining entire to his heirs, but subject to the burdens attaching to them. The subjects of England, coming into Scotland, to obtain justice in such suits, are to be protected, while there, from the consequences of any crimes or wrongs, done in England ; except the crimes of manslaughter and treason : and if accused of a crime done in England, in the Scotch court, and the party plead in defence, his having been tried and acquitted in England ; the same, when proper information shall be obtained, to be held, as precluding from any further prosecution for the alleged crime.

That no Scotchman shall be sent out of Scotland, for any treason, or other crime, alledged to have been committed in England, to be judged in that country, but shall be brought to trial and judged by the laws of Scotland. On such trials, the assessors or jury are to receive such sworn witnesses as appear competent to them ; with reservation to the Lords of Parliament, to be tried by their Peers. These regulations to remain in force *only*, till such time as the Commissioners for the Union, appointed by the Parliaments of both kingdoms,



kingdoms, should devise and agree upon a more competent system of jurisdiction, applicable to the subjects of each.

That it shall not be legal for any Englishman, to bring or import foreign commodities into Scotland, prohibited by the laws of that kingdom, for importation by Scotchmen ; reserving, however, to Englishmen, the importation of commodities, the produce of England ; but Englishmen to be allowed to import, free, into Scotland, foreign goods, as Bourdeaux wine, in the same manner as Scotchmen do, that is, on paying the established duties in the ports of Scotland.

That, with respect to the article of the treaty, proceeding upon the idea, that Scotchmen had an advantage by their privileges in France, in the purchase of goods, particularly in Normandy, it being agreed by the Commissioners, that two English and two Scotch Merchants should be sent to France, to examine and report, on these supposed advantages ; and as Thomas Fisher and William Speir, for Scotland, and Robert Bell and William Williamson, for England, had been sent into France, for this purpose, and had reported, that the advantages were of so insignificant a kind, as by no means, to stand in the way of a commercial union, therefore the Estates  
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of Scotland agree, that Englishmen may trade to these ports, and thence to Scotland, as freely as the Scottish merchants.

That such goods, as are prohibited in Scotland, to be exported by Scotchmen, in like manner, shall be prohibited to be exported by Englishmen; but that such goods, as it is lawful for Scotchmen to export, may, in like manner, be exported by Englishmen, with the reservation, in favor of privileged Scottish companies; but that all other goods, the produce of Scotland, may be as freely exported into England, as if carried from one port in Scotland to another; such articles excepted, as are of necessary consumption in Scotland, *viz.* wool, sheep skins and felts, cattle, leather, hides, and linen yarn, reserving to the Scots their fisheries, within fourteen miles of the coasts, from which, not only Englishmen but foreigners have uniformly been excluded, and that foreign goods, having paid the duty inward in Scotch ports, by Englishmen, shall not pay any additional duty on re-export to a foreign country.

That Englishmen may be admitted associates into any Scottish company, on the same conditions as Scotchmen.

That the liberty of exportation of Scotch  
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produce, by Englishmen, shall be limited to England, securities, by bond and cocket (as described in the preceding account of the report of the Commissioners) to be taken.

That, for the purpose of bringing the burden of the Scottish ships, whether used for trade or war, to bear a proportion to those of England, Commissioners shall be appointed from the ports of Edinburgh, Perth, Dundee, Aberdeen, Glasgow, Air, St. Andrews, Montrose, Kircudbright, Irving, Craill, Burnt-Island, and Culrofs, to devise measures for this purpose; and their report to be held as binding, as if enacted by this statute.

That all the subjects of England, born since the accession of the King to that Crown, shall be entitled to privileges in Parliament, and of every kind, and without exception, as the natives of Scotland are, or have been.

The act then concludes with the condition, already specified, of the provisos in it not being binding, till such time as the Parliament of England grant the like privileges to the subjects of Scotland, to be enjoyed by them, within the realm of England\*.

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\* Appendix, No. XXII, p. cxlviii—or Extracts from the Records of the Parliament of Scotland, Vol. XX.

As the English had repealed the Border Laws, the Parliament, of Scotland, in 1609, rendered this repeal more effectual, by passing an act, requiring a roll, or list to be kept, and returns to be made to the High Commissioner, of such persons as had endeavoured, by passing the Borders, to evade justice and shelter themselves in the one or the other country, from the punishment due to their crimes.

In the preamble it recites, that various cruelties and thefts had been committed, by persons passing the borders of one country to take shelter in the other, who had carried the goods which they had stolen into the middle counties, for sale, and returned with other stolen goods, for the like purpose. That others had, to revenge ancient injuries, passed, under the like concealment, into the borders of both countries. The act therefore ordains, that all persons inhabiting the Borders, shall, for the future, not retain in his service any person, without having knowledge of his character, or a true certificate from his Majesty's Commissioner, or his deputies of the late Borders, under pain of being made answerable for the actions and crimes of such servant. That if such certificate shall be used by any other than the person for whom it was intended, or if they

shall be forged, the person shall be punished with death; and that, in fine, a roll or list shall be kept of such fugitives, and copies of the same affixed to the market crosses in the respective towns\*.

But it would appear, that notwithstanding this act, vexatious and fruitless prosecutions, for wrongs or crimes, had been continued; as an act passed in the Scottish Parliament, in 1612, the preamble of which sets forth, that suits were still carried on, for the purpose of recovering damages, or bringing to punishment, persons, for wrongs or crimes committed by the inhabitants of the Border Counties of Berwick, Roxburgh, Dumfries, and Annandale, before the King's accession to England; and therefore it enacts, that all such prosecutions shall cease and determine; reserving, however, the consequences of such judgments as have already been obtained, or such prosecutions, as his Majesty's officers of his courts of justice may deem expedient to institute, at the King's instance; and this act of oblivion not to extend to, or be a protection to persons who  
have

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\* Scots Acts of Parliament, Vol. I. p. 842.—20 Parliament, James VI. Cap. 10.

have committed wrongs, or crimes, since his Majesty's accession to the Crown of England\*.

This review, from documents, of the transactions of England and of Scotland, when the two Crowns devolved on the same Sovereign, and when a laudable effort was made by him, to consolidate his empire, by an union of the government, suggests the following observations :

1. That where an ancient rivalship of nations has settled into habitual prejudices, the most wise measure which could be devised, for the consolidation of their interests, or raising them to that eminence among neighbouring states, which neither, separately, might have attained, will meet with opposition, not less from feelings being an over-match for reason, than from false comparisons of trivial present advantages with prospects of future prosperity. Had England foreseen the accession of strength to its fleets and to its armies, or had it looked at the prospect of them, exhibited to Parliament by Sir Francis Bacon, it would readily have laid aside the narrow policy of attempting to subject, at once, the Scots to laws, which however perfect, were to them foreign and unintelligible ; and as manners are only the common-

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\* Scots Acts of Parliament, Vol. I. p. 862.—21 Parliament, James VI. cap. 6.

mon-life pictures of the laws of any country, it was not to be expected, that the manners of the Scots could assimilate with those of the English, till time and intercourse had worn out distinctions, and made the laws of the one country, approach to those of the other; for manners not only lead to laws but are the visible transcript of them.

2. That the commerce of England, though far advanced beyond that of Scotland, at the period when this union was first attempted, was itself narrow in its characters. The arts, which have improved the produce of England, were then few; the manufactures which portion out industry and skill in the subdivisions of labour, and while they improve the commodity lower its price, and find it a market at home and abroad, were then, in a great measure, to create; the merchants of England were but beginning to combine their stocks, and to be supported by exclusive privileges; the liberal principles of profitable exchanges and ascertained credits were then little known; circumstances which account for the jealousies entertained of the influx of poor and supposed numerous neighbours, whose very poverty was a security for their industry, and whose numbers, exercising that industry, would have necessarily added to the wealth of the nation employing them. The very reasons assigned

assigned by the English Parliament, for rejecting the union, would in more enlightened times have been unanswerable arguments for its adoption.

3. That the narrow distinctions of admitting to the privileges of the English laws, subjects of Scotland born after the accession of the King, and excluding those born before this epocha, is, perhaps, the only instance, in the history of England, where, after deliberate discussion, the manly sense of the nation sunk under the narrow passions which so frequently have characterized the Continental States; but the knowledge of this fact had this use (and in the subsequent accounts of the union the proofs will appear) that it called forward that good sense to prevent prejudices from interrupting measures, calculated for the general interests and glory of the empire. These prejudices perhaps would have less appeared, had the measures originated in Parliament, not in the Sovereign, or they would have been dispelled, had that Sovereign possessed the talents and vigor of his predecessor.

### III.—*Events*



III.—*Events and Circumstances, which prevented the Continuation of the Plan of an Union, during the Reign of Charles I, and produced the Semblance of a general Union of the Three Kingdoms, during the calamitous Period of Cromwell's Ufurpation.*

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If history has to hold up the conduct of a nation, as a lesson to itself, no event in that of Great Britain is better calculated to convey instruction, than the contrast between the union attempted by James, and the semblance of an union commanded by Cromwell. In the one, a King recommended to his Parliament a measure arising out of the event of his becoming sovereign of the two countries. In itself, this measure was wise and beneficial; and the discussions, irregular and turbulent as they were, terminated in more precise characters being given to the prerogatives of the Prince, and to the privileges of the subject. In the other, licentiousness leaning on bigotry, bore down all distinctions; sedition and rebellion, under the stolen name of liberty, overturned the government and murdered the King,  
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the Commander of an army vested a committee of his associates, with the honourable name of a Council of State ; ordered the farce of elections, to bring together, under the degraded aspect of a Parliament, tools, who were to declare his usurpation legitimate, and to convey his power to his descendants.

To understand the sources of this melancholy change, it will be necessary to make a general reference to the events and circumstances, which occurred towards the latter end of the reign of James, and during that of Charles I. ; because these events prepared Britain for a submission, which was servile and unnatural to the character of its inhabitants.

These events and circumstances may be clas-  
sed under the heads of disputes on the subjects of prerogative, of ecclesiastical establishments, of civil privileges, and of forms of government.

1. The *disputes respecting prerogative*, took a serious aspect, between James and the Commons, immediately after his accession to the throne of England. As he possessed a power which confirmed his prerogative in Scotland, he ventured on the exercise of it in England, without appreciating his own talents, or the changing opinions of his new subjects; he had observed, indeed,

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that his able predecessor had exercised this prerogative; but instead of awaiting, till observation of the English character should instruct him, in the means of accommodating himself to the prejudices of the people, he at once attempted to reconcile them to what he deemed his right. No subject, it was obvious, was better calculated for the experiment, than an union between nations which had for ages lived in hostility, but were now in allegiance to the same sovereign. Hurt however at the rejection of his plan, but not instructed in the true reason of his disappointment, James took trivial opportunities to bring forward his prerogative, and in every defeat, indirectly weakened that which he intended to establish.

Charles I. at his accession, by his mild and amiable manners, if he had not adopted the high notions of prerogative which his father had taught him, would probably have escaped, as well as his subjects, from the calamities which ensued. The narrow revenues of the crown, the scanty taxation then known, the wars in which he was engaged, in the early part of his reign, the disappointments he experienced in his applications to successive Parliaments, the levying of money to which his necessities compelled him, and the fe-  
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vere sanctions which these measures required, in the judicatures employed to enforce them ; all terminated in the civil war, which desolated the kingdom and ruined the monarch.

2. The *disputes* respecting *ecclesiastical establishments*, formed a second source of the events, which prevented the continuation of the plan of an union.

The new opinions which produced the Church of England, in the reign of Henry VIII. had given a general bent to the minds of the English nation, which was favourable to ecclesiastical innovations. This bias became stronger, even during the able administration of Elizabeth. Numerous sects had then started up, were daily gaining strength, and endeavoring to undermine that reformed hierarchy which had succeeded to the Catholic Church. At James's accession, the disputes of the *sectaries* ran high, and this Prince, who had received a scholastic education, vainly imagined that his, or the talents or learning of any man could comprehend, or could mark out a system that would be to the satisfaction of any party. The *mysteries* of dogmatical casuistry were every day becoming more *mysterious* ; and each leader of a sect engrafting on his system, doctrines, that went to the subversion of the government. James,

however, ordered the parties before him, which in fact was indirectly ratifying the tenets of each, and acknowledging the influence of their leaders over his subjects. These leaders went away dissatisfied, and each suspected that the King was an enemy to his particular creed, and to his liberty.

On the accession of Charles I. all the ecclesiastical sects may be considered, as opposing themselves to the established Church of England. The Catholics, who had been put under penal laws, were naturally adverse to the government which had abolished their system ; but this system being understood and defined, their opposition was more easily resisted.

The Puritans, who at first were of the English Church, but had entertained scruples respecting some of its forms, had, during the reign of James, increased in numbers, and many of them, for non-conformity, had been excluded from their offices and been banished.

In the House of Commons, however, the Puritans had become numerous, and opposed the measures of the Court, from principles which they did not avow, till they had obtained the lead in all the Parliaments which preceded the civil wars.

The Presbyterians next arose. The Puritans  
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had only disputed with the Church of England about a few forms; the Presbyterians opposed the English Church by new church forms. Their system had already been prevalent in Scotland, where their leaders guided equally the government and the people, and example had taught them to seek after a like ascendancy in England.

The animosities, between them and the votaries of prelacy, were becoming greater, and their efforts were now directed to bear down the established church and the kingly power, but terminated in degrading themselves into subjection to the Independents, still more rigid than themselves, and whose notions went directly to levelling and anarchy.

Of all the sects, the most dangerous were the Independents;—They supposed themselves possessed of supernatural powers, studied all the arts by which their influence might be spread, carried their pretensions much higher than the Puritans or Presbyterians had done, declared not only the church, but all the other sects, in a state of abhorrence by Heaven, pronounced all ecclesiastical establishments to be usurpations, successfully confounded the established church of England with the arbitrary proceedings of the high Court of Commission, formed themselves into congrega-  
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tions, the voices of which constituted equally laymen and priests as instructors :—These instructors preached sedition, under the specious pretext of *reforming* grievances, and at last formed themselves into a Parliament, who usurped the government and swept away the prerogatives of the Crown and the liberties of the subject.

3. The *disputes, respecting civil privileges*, were intimately blended with those between the church and the sects.

The Star Chamber had possessed, in civil matters, a very high authority. Anterior to the accession of the Stuarts, the meetings of Parliament had been unfrequent, and all its struggles against the Crown had been followed by civil wars and calamities, so that, till the opinions referred to, began to mix themselves with notions of civil privileges, and to become questions in the House of Commons, little danger was apprehended, from the exercise of these latent powers of the Crown. The imprudent exercise of prerogative, in the case of proclamations, superceded the recommendations of the King, on the subject of an union of the two kingdoms. The powers of the Star Chamber began to be questioned, and the events, in the subsequent reign, led to their gradual abridgment, and introduced those discussions

cussions on civil privileges, which were intermingled with the casuistry of the sects, and prepared the nation for a revolution.

The frequent applications of Charles to his Parliaments, for supplies, and its as frequent refusal, led to rapid dissolutions and to the irregular levies of money. Hence the severities of the Star Chamber;—so that, when the Parliament assembled, in 1640, the disputes about prerogative and privilege had worked up the minds of the nation into a ferment which was fast hastening them on to a civil war.

The malcontents had now triumphed over the Judges and over the Church; political and religious innovators formed but one character; the authority of the Commons became supreme; the triennial bill was introduced; the high Commission and Star Chamber were abolished; the King obliged to leave London; and the civil war commenced. Fairfax, Cromwell, and the leaders of the Independents placed themselves at the head of the army, composed of Independents, till at last this army became the opponents of the Parliaments who had employed it, but now saw they could no longer defend themselves against the military leaders, who formed a military Parliament, to be dictated to by a Council of Officers.

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The question, thus, about prerogative and civil privileges, terminated equally in the destruction of both.

4. The *disputes*, as the dissolution of the monarchy approached, ran into that extreme which might have been expected, or into a general question, respecting *the best form of government*. This question was itself a proof of anarchy; because no substitute, accommodated to the manners of the people, was to be found. Almost every individual, therefore, imagined himself capable of forming a system of government, and held, that every other but the one he had hatched in his own little mind, was an usurpation which it was his duty to resist. Arms, thus, not reason, commanded the people.

The death of the unhappy monarch was followed by the Commons declaring the House of Peers useless, and that the public business should, in future, be carried on in the name of "the Keepers of the liberties of England;" and the year, in which the government of their country was overturned, in the true levelling jargon, was declared to be "the first year of freedom."

This event however did not annihilate the disputes, respecting forms of government, for every leader, every party, and every sect, pretended to  
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a new and more perfect theory, and insisted, that all that was wanting to complete the happiness of the people, was the reducing this theory into practice. These extremes led to greater extremes; for the levellers now disclaimed all subordination, and were for an equal distribution of property. The fifth monarchy men were for suspending all human government, in expectation of an approaching divine institution. Some of the Independents were for an appeal to certain internal and mysterious principles of conduct, and for abolishing the authority of magistrates in religion; some of the casuists went farther, and were for abolishing magistrates, annulling the laws of England, and making an appeal to a more simple distribution of justice; while the true Republicans were for privileges to themselves, without coming under any obligation to others.

Amid such contradictory and absurd opinions, about forms of government, the leaders of the army took the only means that was practicable, for establishing any order. The army consisted of about fifty thousand men, ready for any new violence that suited the ambition of their leaders. Over this army Cromwell had obtained a complete influence. That part of the House of Commons, which had assumed the name and authority

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of Parliament, began now to be alarmed for the very army which had supported them against the King, and therefore resolved to strengthen themselves by issuing out new writs, for such places as they knew would return members, suited to their purposes. Till these elections could be made, they named a Council of State, to exercise the functions of government, and to prepare the business for Parliament.

Cromwell had marched into Scotland, where Charles II. had been invited by the Presbyterian leaders. The Scots were defeated at the battle of Dunbar, an event which dissolved the government of that country; for we find Cromwell writing to Parliament, from Edinburgh, on the 8th day of April, 1651, requiring it to send Commissioners, to administer the affairs of that kingdom. The Parliament referred his letter to the Council of State, desiring it to send the names of fit persons for this duty, with instructions by which they were to be guided.

It does not appear, that the Council thought it expedient, at this time, to adopt this measure, as a similar order was made by Parliament, on the 25th of September; and then an appointment had taken place; for an order was given, for defraying the charges of the Commissioners in Scotland,

land, during the time they might remain there, in the exercise of this duty \*.

Cromwell had now returned to England, and defeated the royal army, at Worcester; so that, in fact, there remained only to contend with each other, the Parliament and the army, and the business of each was, to excite jealousies in the people, against the other.

The Parliament created a High Court of Justice, which was to receive all indictments from the Council of State, and to try the parties.

In order to weaken the influence of the army, Parliament next began to extol the services of the navy in the Dutch war, and directed some regiments to be sent on board the fleet, to serve as marines.

Cromwell, supported by the army, saw, that the Parliament which had been the instrument he employed in subverting the monarchy, would no longer serve his ends, and therefore determined to dissolve them. For this purpose, he summoned a General Council of Officers, who resolved to share among themselves the power and the riches, which the republican shadow of a Parliament had hitherto enjoyed.

That he might, however, still keep up the  
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\* Appendix, No. XXIII. p. clxix.—Parliamentary History, 1651—1656, page 82.

farce of respect for the Parliament, this military Council framed a petition and remonstrance, “re-  
 “quiring their arrears of pay, that they might not  
 “be compelled to take free quarters upon their  
 “fellow subjects, who already paid so great con-  
 “tribution and taxes, which they were well  
 “assured, if well managed, would defray all the  
 “charges of the war, and of the government.”\*  
 This petition was rejected, and a second sent up,  
 “directing the Parliament to dissolve itself, and  
 “to summon a new one, which would be the most  
 “popular act they could perform,” and to allow  
 the people that free government, which had been so  
 long promised them. This petition the Parlia-  
 ment resisted, and were resorting to the expedient  
 of issuing new writs, when Cromwell, having first  
 placed a body of troops round the House, dismissed  
 the Parliament on the 10th of April, 1653, and  
 ordered the doors to be locked †.

Such was the termination of an assembly,  
 which contributed to raise the Usurper to absolute  
 power, and which he now threw behind him, as  
 useless; and such the fate of the Independents,  
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\* Rapin, Vol. II. page 589.—Clarendon, Phillips, and  
 Whitlocke.—Parliamentary History, 1651—1656, page 97.

† Ibid.—Hume, Vol. VII.—Parliamentary History,  
 1651—1656, page 137.

whose efforts and crimes brought them into the situation of reflecting on the change they had experienced, from paying an honest allegiance to a virtuous Prince, to bowing to the will of an Usurper; proving thus—"that illegal violence, with  
 "whatever pretext it may be covered, and what-  
 "ever object it may pursue, must inevitably end  
 "in the arbitrary and despotic government of a  
 "single person."\*

Though Cromwell might have assumed the administration of the government, by the same authority that he had expelled the Parliament, he was too well instructed in the prejudices of the people, in favour of Parliaments, not to prefer making his elevation appear to be an act of their own; he therefore published a declaration, justifying his conduct in dismissing the Parliament, and summoned the same Council of Officers, who had presented the petition to it, in which it was resolved, that the government should be vested in one hundred and forty-four persons, many of whom were of the lowest orders of the people; and as he foresaw their incapacity for business, he concluded, they would soon afford him a pretence for assuming the government †.

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\* Hume, Vol. VII: page 220.

† Parliamentary History, 1651—1656, page 151.

This assembly met at Whitehall, on the 4th July, 1653, and by an instrument, signed by Cromwell and his Officers, were vested by them with the supreme power, which they were to hold, till the 3d day of November, 1654; but, three months before this period, they were to make choice of their successors, who, in like manner, were, in the space of one year, to make choice of their successors. It was this assembly, known by the name of Barebone's Parliament, which continued its ineffectual and nominal existence, till the 12th of December, 1653, when it resolved to resign the government into the hands of the Council of Officers, from whom it had been received\*.

The Speaker, therefore, with a few of the members, appeared before the Council; and after declaring themselves unequal to the trust, which had been reposed in them, returned the instrument, which had vested them with the government, beseeching the Council to provide for the safety of the country.†

By this artifice, however gross or absurd, Cromwell had the authority of a nominal Parliament, for publicly assuming the supreme power.

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\* Parliamentary History, 1651—1656, page 176.

† Ibid. page 238.

On the 16th of December, the Council of State, consisting of ten, assembled and resolved, that a proclamation should be issued, accompanied with a letter to the several sheriffs, signed by Mr. Secretary Thurloe, declaring, that as the late Parliament had dissolved themselves, and resigned the power, with which they had been entrusted, into the hands of the Council, it had determined, that the Commonwealth of England, Scotland, and Ireland should be vested in a Lord Protector, and in successive triennial Parliaments:—That Oliver Cromwell, Captain General of all the Forces, had been declared Lord Protector;—and that his authority should be published in all the counties and towns of the realm\*.

For this purpose, a warrant, signed on the 19th of December, by thirteen of the Council, was issued, and addressed to the Serjeant at Arms, requiring him, to cause the said proclamation to be published, by sound of trumpet, and in the most solemn manner, in all the public places in London and Westminster, on that day, and the  
other

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\* Appendix, No. XXIV. p. clxxi.—The Minutes of this Council have been preserved at the State Paper Office; but the other papers, which would have thrown light on the secret history of the times, are not to be found.



other Serjeants at Arms, were required to attend, and to see the proclamation so published\*.

On the 27th, Mr. Thurloe was directed to prepare, what was termed an *instrument*, for the *government* of the *Commonwealth* of England, Scotland, and Ireland, that it might be printed and published†.

It appears, that the articles had already been finally settled in the Council; as on the 5th of January, 1653-4, it was ordered, to be engrossed in the Parliament rolls, and in all the courts at Westminster‡.

The substance of the instrument is as follows :  
—That the government of the three kingdoms, and the dominions belonging to them, shall be vested in a Lord Protector and in a Parliament; and that Oliver Cromwell be Protector, to be assisted by a Council, consisting of a number, not exceeding twenty-one, and not less than thirteen :

—That all writs, now running in the *names of the Keepers of the Liberties of England*, shall run, in future, in the name of the LORD PROTECTOR, as head of the Magistracy and the source of all honours, and who is to have the power of granting pardons,

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\* Appendix, No. XXV. page clxxiv.

† Ibid.

‡ Ibid.

pardons, in all cases, but those of murder and treason ; to have the benefit of forfeitures, for the public use ; and to govern by the advice of a Council, according to Law :—

—That the Protector, during the sitting of Parliament, shall, by its consent, dispose of the military force, and during its recess, by the consent of the Council :—

—That, with like consent, the Protector shall transact with foreign nations, and have the power of war and of peace.—

—That no law shall be altered or repealed, and no new law made, exacting taxes from the people, but with consent of Parliament ; *except, in the urgencies of war, or of internal disorders ; when the Protector and Council may issue orders for levying money, and these to remain in force only, till the next meeting of Parliament :—*

—That a new Parliament shall meet at Westminster, on the 3d of September, 1654, and continue for three years, from the dissolution of the late Parliament ; and that, successively, new Parliaments shall be summoned every three years :—

—That Parliament shall not be adjourned, prorogued, or dissolved, for five months, from the day of its meeting, without its own consent :—

—That the Parliament for England and  
U Wales,

Wales, Berwick, and the isles of Guernsey and Jersey, shall not exceed the number of four hundred members; the members for Scotland, and for Ireland, not to exceed thirty for each; and the number for counties and towns be proportioned, as follows:—

Bedfordshire and Town,	- - - - -	6
Berkshire and Towns,	- - - - -	7
Buckinghamshire and Town,	- - - - -	8
Cambridgeshire, Isle of Ely, and Towns,		8
Cheshire and Towns,	- - - - -	5
Cornwall and Towns,	- - - - -	12
Derbyshire and Towns,	- - - - -	5
Devonshire and Towns,	- - - - -	20
Durham and Towns,	- - - - -	3
Yorkshire Ridings and Towns,	- - - - -	22
Essex and Towns,	- - - - -	16
Gloucestershire and Towns,	- - - - -	9
Herefordshire and Towns,	- - - - -	7
Hertfordshire and Towns,	- - - - -	7
Huntingdonshire and Town,	- - - - -	4
Kent and Towns,	- - - - -	18
Lancashire and Towns,	- - - - -	8
Leicestershire and Town,	- - - - -	6
Lincolnshire and Towns,	- - - - -	16
Middlesex and Westminster,	- - - - -	6
City of London,	- - - - -	6

Monmouth-

Monmouthshire and Towns, - - - -	3
Norfolk and Towns, - - - -	16
Northamptonshire and Towns, - - -	8
Nottinghamshire and Towns, - - - -	6
Northumberland and Towns, - - - -	5
Oxfordshire University and Towns, - -	8
Rutlandshire, - - - -	2
Salop and Towns, - - - -	8
Staffordshire and Towns, - - - -	6
Somersetshire and Towns, - - - -	16
City of Bristol, - - - -	2
Southampton and Towns, - - - -	14
Suffolk and Towns, - - - -	16
Surry and Towns, - - - -	10
Suffex and Towns, - - - -	14
Westmorland, - - - -	2
Warwickshire and Towns, - - - -	7
Worcestershire and Worcester, - - -	7
Wiltshire and Towns, - - - -	14
Anglesea, - - - -	2
Brecon, - - - -	2
Cardiganshire, - - - -	2
Carmarthenhire, - - - -	2
Caernarvonshire, - - - -	2
Denbyshire, - - - -	2
Flintshire, - - - -	2
Glamorganshire and Town, - - - -	3
U 2	Merioneth-

Merionethshire, - - - - -	1
Montgomeryshire, - - - - -	2
Pembrokeshire, - - - - -	3
Radnorshire, - - - - -	2
	<hr/>
	388*
	<hr/>

—That the distribution for Scotland, and for Ireland, be reserved for the future consideration of the Protector and Council, before issuing writs for the next Parliament:—

—That the writs shall be issued under the great seal of England, and directed to the several sheriffs, with instructions by the Protector and Council, and sent to the Chancellor and Commissioners of the Great Seal, under the Protector's warrant; but if such writs shall not be issued before the 1st day of June; or for the triennial Parliaments, before the first day of August, in every third year; then the Chancellor and Commissioners of the Great Seal shall issue such writs, without warrant, and direct them to the sheriffs of England, Scotland, and Ireland; and that,  
within

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\* *Note.*—It would appear from this document, that the members amounted only to 388.—*Parliamentary History, 1651—1656, page 248.*

within seven days after the first of August, in every year :—

—That the sheriffs, within ten days after the receipt of the writs, shall proclaim the same, in the principal towns, between the hours of twelve and three o'clock, specifying the day and month for the election, to be five weeks after the date of the writ ; and to appoint the place, most convenient for the county to meet :—

That he shall, also, issue precepts, for the cities or towns, to the mayors, or head officers, within three days after the receipt of such writ, who are required to make publication, and to fix the day of election :—

—That the Sheriffs, Mayors, &c. shall make their return, into the Chancery, within twenty days after the elections, signed and sealed by them, and by the electors, specifying, that the members shall not have power to change the form of the government, as settled on the Protector and Parliament :—

—That the Sheriffs or others, making a false return, shall incur the penalty of two thousand marks, English money :—

—That all persons, who have advised, or made war against the Parliament, since the 1st January, 1641 (unless they have given proof of their

their attachment to Parliament, since that time) shall be disqualified from being electors, or elected :—

—That all persons, who have advised or assisted in the rebellion in Ireland, or who profess the Roman Catholic religion, shall, in like manner, be disqualified :—

—That all votes, given contrary to these regulations, shall subject the person to a forfeiture of one year's full value of his real estate, and one third part of his personal estate :—

—That the persons elected shall be of the age of twenty-one years, and of good character :—

—That all persons possessed of an estate, real or personal, of two hundred pounds a year, and not coming under the preceding exceptions, may be elected members for counties :—

—That the Chancellor, Keeper, or Commissioners of the Great Seal, at entering on their offices, be sworn to issue such writs truly ; and for the neglect or failure of their duty, be declared guilty of high treason :—

—That, in case of such neglect, Parliament shall, fifteen days after the time, assemble at the fixed time and place ; and within thirty days, after the expiration of the fifteen, cause persons to be chosen for the places not having sent returns, by  
issuing

issuing a writ, under the great seal; and if the Sheriffs neglect the discharge of their duty, they shall be declared guilty of high treason:—

—That the Clerk of the Commonwealth, in Chancery, and his successors, to whom returns shall be made, for the next and two succeeding triennial Parliaments, shall, on the next day after receiving a return, send the same to the Council, who are to examine, whether the persons elected have the requisite qualifications; and if the majority of the Council certify, accordingly, that then the person be admitted to a seat in Parliament:—

—That sixty members of Parliament be sufficient to form a House, which, with the Protector, shall be declared to have vested in them, the legislative power:—

—That the Protector and Council may, in cases, where the necessities of the State require it, summon Parliaments, in the manner before specified, but without power to adjourn them, for three months, without their consent; and in case of any foreign wars, Parliament shall be forthwith summoned, to give their advice:—

—That all bills be presented to the Protector, for his consent, which, if not given, within twenty days, or satisfactory reasons why he has not consented, such bills shall pass into laws; provided



vided they contain nothing contrary to these instruments.—

—That the Council shall consist of fifteen, whose names are specified, any seven of whom shall be competent to act; and in the event of a death or removal, Parliament shall make up a list of six, three of whom shall be selected by the Council, from which the Protector shall chuse one; and if Parliament, within twenty days after notice given, do not nominate, then the Council shall give a list of three to the Protector, from which he shall select one; but during the vacancy the remaining members of Council to have full powers to act:—

—In cases, where a member of Council may be accused of miscarriage or corruption, Parliament to elect seven of their number, and the Council six, who, with the Chancellor and Keeper, or Commissioners of the Great Seal, shall have power to hear and determine on the case, and award punishment, without power in the Protector, to grant pardon:—

—The Protector and the majority of the Council, during the recess of Parliament, to have power to suspend any number, accused of such miscarriage or corruption, till the meeting of Parliament:—

—That

—That the Protector and Council may add, whom they chose, to the Council, provided the number do not exceed twenty-one:—

—That a yearly revenue shall be raised and established, for maintaining ten thousand horse and twenty thousand foot, and a suitable navy; and that £.2,000, annually, be granted, for defraying the charges of administering justice; and such revenue to be from the customs, or other ways and means, as shall be agreed on by the Protector and Council; and this revenue not to be altered, but by the consent of the Protector and Parliament, and to be paid into the public treasury, and issued out for these purposes:—

—That in case a lesser force be found sufficient, that then the savings be lodged in the Bank, and not applied to any other use, except by consent of Parliament, if fitting; and during the recess, by order of the Protector and his Council; and the extraordinary powers, already specified, as given to the Protector and his Council, to be exercised to levy money, in cases of public emergency:—

—That the lands, jurisdictions, hereditaments, &c. belonging to the Commonwealth, not already disposed of by act of Parliament (reserving however the forests, honors, and manors,

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belonging

belonging to the lands of the rebels, in four countries in Ireland, those of rebels in Scotland, and of papists and delinquents in England, not yet compounded for, that is, for the re-purchase of which by the proprietors, Cromwell and his Council as yet had not received their contributions) shall be vested in the Protector and his successors, and not be alienated, without consent of Parliament; and that all debts, fines, &c. due to the Keepers of the Liberties of England, shall be declared applicable to the use of the Protector, and payable into his public receipt:—

—That the office of Protector shall be for life; and in the event of his death, the Council to elect a successor, any thirteen of whom immediately to declare the person elected, and to proclaim him, with the usual solemnities, without any exception, unless of the descendants of the late King, and his family; and that Oliver Cromwell be declared by the Council, Protector, during his life:—

—That the Chancellor, Keeper of the Great Seals, Treasurers, and Governors of Ireland and of Scotland, and the Chief Justices, shall be chosen by the approbation of Parliament, and during the recess, by the Protector and his Council, for the approbation of Parliament:—

—That

—That the Christian Religion, as contained in the Scriptures, be recommended, as the public profession of these nations; and a provision, less subject to scruples, and more certain, be made for the teachers of the people, and for discovery of heresies:—

—That the present provision for such teachers to remain, till another be made; and that no person be compelled by penalties, to this public profession: nonconformists to which to be protected in the exercise of their religion, provided they do not disturb the public peace; but this protection not to extend to Popery or Prelacy, or to those who practice licentiousness; and all statutes, contrary to this purpose, to be void and null:—

—That the acts of Parliament, for sale of the property of the Royal Family, Bishops, and Deans and Chapters, lands of delinquents, and forest lands, belonging to the Commonwealth, shall not be declared invalid, upon any pretence whatever:—

—That all treaties made with the enemy, and afterwards confirmed by Parliament, shall be deemed binding; but that all appeals for relief, concerning bills of sale of delinquent's estates, shall be determined by the next Parliament:—

—Tha

—That the Protector and his successor shall, in presence of the Council, and of such as the Council shall call in to assist them, take a solemn oath to administer, according to this instrument, for the public peace, and according to law, statutes, and customs; and that the members of Council take a like oath of fidelity, particularly in the choice of a Protector, without regard to any promise, fear, favour, or reward.

The oath taken by the Protector, proceeds upon the declaration of incapacity by the former, or Barebone's Parliament, to administer public affairs, expressed in a resolution, signed by all its members, and therefore, on the necessity of establishing the government, on a basis that shall be certain and fixed; that he will administer, according to the preceding constitution, and in all other things for the benefit and advantage of the nation, in causing justice and law to be executed.

This oath was taken before the Commissioners of the Great Seal, and a similar oath was taken by the Lord Mayor and Aldermen of London, the Judges, the Officers of the State, and army\*, &c.

Whoever attentively peruses this system, as the result of all the fatal theories, which had over-  
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\* Appendix, No. XXVI. p. clxxvi.

set the government of England, and compares it with the *objections* which the factions made to the prerogatives of the Crown, during the reigns of James and Charles, the disputes respecting ecclesiastical establishments, civil privileges, and forms of government, will perceive, that all the evils, of which these *reformers* had complained, are here under different names, re-established, with double effrontery, and placed under severities more intolerant and stronger.

1. The power and authority vested in the Protector and his Council exceeded, in measure, the prerogatives, which at any time had been claimed by the Crown. He was declared the judge, and he and his Council were to decide, not Parliament, whether elections were made of proper persons. He and his Council were vested with a large sum to support a standing army; and if it should appear to them, that the number of this army could be lessened at any time, the money was not to be applied to other purposes, but by consent of Parliament if it was fitting; but if not fitting, then by himself and his Council, who were to apply it, without responsibility. He and his Council, and his Officers of State were to be the majority of a Commission, for trying themselves, for mismanagement or corruption, and punishing any individual; but without power of  
pardon

pardon in the Protector, that he might divide the odium with his Council. He and his Council were also to have the power of either keeping the number at thirteen, or filling it up to twenty-one, and thus controuling it in its decisions, or modelling it at his pleasure.

2. The power and authority, vested in the Protector and his Council, was not less absolute in matters of revenue than it was in the constitution of Parliament; for notwithstanding all the precautions taken, about issuing writs, making returns, &c. the number of four hundred was not filled up, and the power of judging of those filled, was vested in the Council: a large sum was appropriated to the army and navy; but a discretionary power left with the Protector, in case of emergency, to levy a greater.

3. All the Crown lands, rights, &c. seized and taken from the late King, the Bishops, and Chapters, were placed, under the pretext of belonging to the *Commonwealth*, or *Nation*, at the disposal of the Parliament; except such, as had already been unjustly wrested from the King; but all lands forfeited, or that might be forfeited, in the three kingdoms, and all the sums levied from the owners, compelled to redeem their own property, under the head of *compounding*, were vested in the Protector, at his, and the disposal of the Parliament

liament; but all the royal forests, hereditaments, &c. were vested in himself and in his successors in the Protectorate\*.

4. The established religion of the kingdom was overturned, its adherents declared to be excluded from privileges, in the same manner as the Catholics, and in its place was substituted a general tolerance and protection to all the sectaries professing the Christian Religion, and a provision to be made for the teachers, provided they did not disturb the public peace; but who these teachers were to be, whether Puritans, Presbyterians, Independents, or any of the indiscriminate sectaries, which, at that time, distracted the public mind, is not said; so that by this regulation, the Protector and his Council had it in their power to reward such teachers only, as were active, in carrying the opinion of the people to support their power, not such as decided according to the moral tenets inculcated by the religion which they professed to promulgate; and, at the same time, he had the power, under pretence, if these teachers were not acting for the public good, to deprive them of the provision they

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\* *Note*, In the four folio volumes, entitled *Usurper's Council Book*, not one meeting of Council occurs, in which the sums exacted from individuals, for redeeming their lands, and other property, do not exhibit proofs of the oppression and tyranny, which these *Reformers* and *Upholders of the Liberties of England*, exercised over the defenceless subjects of the realm.



they might have received, or to punish them, according to any rule, which he and his Council might devise.

In all these views, therefore, this memorable constitution proves, that the greatest of all tyrants are those, who under the pretext of rendering a people more free, bring them into subjection to the despotism, which they have been the instruments of establishing ; and that whenever a nation have the misfortune to prefer specious and apparently better systems to the government established by the wisdom of their ancestors, instead of improving upon that system, by laws arising out of its spirit, they must become, first, dupes to their own vague nonsense, and then slaves to their ambitious and designing leaders.

Though Cromwell had reached the elevation, for which all his crimes had been committed, he soon discovered, that the different sects which had been contending for a share in the authority, were discontented with that portion of power which each had acquired ; and that all men felt, the authority had been conferred on their new rulers, by men who had no right to give it. The Royalists considered this system, as a fatal blow to the restoration of the legal monarch ; the Presbyterians, who had great influence in the Church, detested the ascendancy given to the Independents ;  
and

and what heightened their aversion, was, the Protector having conferred upon his immediate dependents all the lucrative offices. To this sect, however, knowing their influence in the election for the approaching Parliament, he paid the greatest attention\*; but what particularly disgusted it, was the abolishing of the general assembly of the Kirk of Scotland, in which country, he knew it would be impossible to command obedience, while the influence of the clergy remained †.

As the instrument of government had required the Parliament to meet on the 3d September, 1654, the writs were accordingly issued, attended with a strict order, that no persons, or their sons, should be elected, who had borne arms in the late King's service ‡; and that the number of the representatives should be proportioned to the number of inhabitants, in the counties and boroughs.

Though such were the public measures of Cromwell, with respect to England, it appears  
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from

\* Rapin, Vol. II. p. 591.—Clarendon, Vol. III. p. 363.

† Ibid.

‡ Clarendon, Vol. III. p. 386.—Whitlocke, p. 591.—Parliamentary History, 1651—1656, p. 291.

from his council books, that immediately after publishing the instrument of government, he formed a plan for commanding an union with Scotland, and for admitting thirty representatives of that country.

On the 20th January, 1653-4, an ordinance was read in Council, for the first and second time, and committed, for the purpose of filling up the clauses, in the act for uniting that kingdom with England\*; and on the 23d, certain alterations, which had been suggested by the Committee, were reported by Major General Lambert, agreed to, and ordered to be presented to the Protector, as the advice of his Council †.

On the 2d February, the subject was debated in the Council, clause by clause, and that which regarded the mottos omitted ‡.

On the 12th of April, the ordinance was read a third time, the blanks filled up, and passed by the Protector and his Council.

The substance of the ordinance is as follows:

—That in order to put an end to the unhappy wars which had subsisted in this island, Parliament

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\* Appendix, No. XXVII. p. cciii.

† Ibid.

‡ Ibid.

ment had sent Commissioners into Scotland, in 1651, to invite that nation to an union, at which time the Deputies of Shires and Towns had met at Dalkeith, and afterwards at Edinburgh, and accepted the said project of an union. That on the basis of this acceptance, the Protector and the Council had declared the union to be fixed, between England, Scotland, and Ireland, and the dominions thereto belonging; Scotland and Ireland therefore, were declared to be incorporated with the Commonwealth of England; and thirty persons were to be chosen to represent Scotland; and the people discharged of all fealty and allegiance to the descendants of the late King, Charles, or any claiming under his title:—That the kingly government, as well as that of the Parliament of Scotland, be, for ever, abolished:—That the arms of Scotland be borne, in common with those of the Commonwealth of England, as a badge of this union; and all the seals of the bodies corporate, in Scotland, carry the seal of the union:—That all goods, carried from England into Scotland, or from Scotland into England, be duty free; but that goods prohibited in England, be also prohibited in Scotland;—That all rates and duties be proportionably levied on all the inhabitants in the Commonwealth:—That all servitude, or vassallage, or dominion of tenures, or

superiorities, be abolished in Scotland:—That all superiorities, lordships, jurisdictions, &c. be likewise abolished, and parties discharged from appearing in such courts; that all military attendance on lords or superiors, and all casualties, formerly held of the King, or other superiors, be annulled; and finally, that all forfeitures, escheats, &c. which fell to the King, lords of regalities, or other superiors, be, henceforth, forfeited to the Lord Protector, for the time being\*.

On the 22d of April, an order of Council passed, directing, that the ordinance of pardon † and grace to the people of Scotland—the ordinance for uniting ‡ Scotland in one Commonwealth with England, and the ordinance for erecting courts § baron in Scotland, be sent to the Commander in Chief, in that country, with instructions to see that the same be published in the different shires.

On the 2d of June, General Lambert reported to the Council, the divisions of the shires of Scotland, to be represented by twenty persons;  
and

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\* Appendix, No. XXVII. p. cciii.

† Scobell, p. 288.

‡ Ibid. p. 293.

§ Ibid. p. 295.

and also, the divisions of the boroughs, to be represented by ten persons ; with the places of meeting, for the elections of both descriptions, as follows :

For the Shires of	- Orkney, - -	}	I
	- Shetland, - -		
	- Caithness, - -		
- - - - -	- Sutherland, - -	}	I
	- Ross, - -		
	- Cromarty, - -		
- - - - -	- Inverness, - -		I
- - - - -	- Elgin, - -	}	I
	- Nairn, - -		
- - - - -	- Banff, - -		I
- - - - -	- Aberdeen, - -		I
- - - - -	- Kincardine, - -	}	I
	- Forfar, - -		
- - - - -	- Fife, - -	}	I
	- Kinross, - -		
- - - - -	- Perth, - -		I
- - - - -	- Linlithgow, - -	}	I
	- Stirling, - -		
	- Clackmannan, - -		
- - - - -	- Dumbarton, - -	}	I
	- Argyle, - -		
	- Bute, - -		
- - - - -	- Ayr, - -	}	I
	- Renfrew, - -		
- - - - -	- Lanark, - -		I

For

For the Shires of - Mid Lothian	I
— — — — — Berwick - -	I
— — — — — Roxburgh -	I
— — — — — Selkirk - -	} I
— — — — — Peebles - -	
— — — — — Dumfries - -	I
— — — — — Wigtown - -	I
— — — — — East Lothian	I

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20

For the Boroughs of Dornoch -	} I
Tain - - -	
Inverness - -	
Dingwall - -	
Nairn - - -	
Elgin - - -	
Forres - - -	
— — — — — Banff - - -	} I
Cullen - - -	
Aberdeen - -	
— — — — — Forfar - - -	} I
Dundee - - -	
Arbroath - -	
Montrose - -	
Brechin - - -	
— — — — — Linlithgow -	} I
Queensferry	
Perth - - -	
Culrofs - - -	
Stirling - - -	

For

For the Boroughs of St. Andrews -	}	1
Dyfart - -		
Kircaldie - -		
Cupar - -		
Anstruther East		
Pittenweem -		
Crail - - -		
Dumfermlin -		
Anstruther -		
Inverkeithing		
Kilrenny -		
Burnt-Island -		
Kinghorn -		
-----Edinburgh -	2	
-----Lanark - -	}	1
Glasgow - -		
Rutherglen -		
Rothsay - -		
Renfrew - -		
Ayr - - -		
Irvine - -		
Dumbarton -		
-----Dumfries -	}	1
Sanquhar - -		
Lochmaben -		
Annan - -		
Wigtown -		
Kircudbright		
Whitehorn -		
Galloway - -		
	For	



For the Boroughs of Peebles - -	}	1	
Selkirk - -			
Jedburgh -			
Lauder - -			
North-Berwick			10
Dunbar - -			—
Haddington			30

This proportion, for the shires and boroughs of Scotland, being confirmed, the form of writs for elections was read, and committed in the Council on the 2d of June; and on the 29th, a letter wrote to General Monk, the Commander in Chief in Scotland, or in his absence, to the Commissioners for the Administration of Justice, directing them to send off the writs, to the different places, for the purpose of holding the elections.

It does not appear, however, till the following year, that a Council for Scotland was appointed; when nine persons, of whom General Monk was the chief, were nominated to discharge that duty\*.

It would appear, that on the same day, 2d June, 1654, Major General Lambert reported to the Council, the plan for extending this union to Ireland, and for electing thirty persons, for that country,

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\* Appendix, No. XXVII. p. cciii. — Parliamentary History, 1651—1656, p. 297.

country, to serve in the ensuing Parliament of the Commonwealth. In the same manner as in Scotland, a new division of the provinces and counties was established, in the following manner :

Counties of	- -	Meath	- -	}	2
		Louth	- -		
		Kildare	- -	}	2
		Wicklow	- -		
City of	- - - -	Dublin	- -		2
Counties of	- -	Carlow	- -	}	2
		Wexford	- -		
		Kilkenny	- -		
		Queen's County	- -		
- - - - -	- -	Westmeath	- -	}	2
		Longford	- -		
		King's County	- -		
- - - - -	- -	Down	- -	}	2
		Antrim	- -		
		Armagh	- -		
Towns of	- -	Carrickfergus	- -	}	1
		Belfast	- -		
- - - - -	- -	Derry	- -	}	2
Counties of	- -	Donegal	- -		
		Tyrone	- -		
Towns of	- - -	Derry	- -	}	1
		Colrairie	- -		
Counties of	- -	Cavan	- -	}	1
		Fermanagh	- -		
		Monaghan	- -		

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Counties

Counties of	- -	Kerry	- -	}	2
		Limerick	- -		
		Clare	- -		
City of	- - -	Limerick	- -	}	1
		Killmallock	- -		
County of	- -	Cork	- - -	}	1
Towns of	- - -	Cork	- - -		
		Youghall	- -	}	1
		Bandon	- -		
		Kinfale	- -		
Counties of	- -	Tipperary	- -	}	2
		Waterford	- -		
Cities of	- - -	Waterford	- -	}	1
		Clonmell	- -		
Counties of	- -	Sligo	- - -	}	2
		Roscommon	- -		
		Leitrim	- -		
		Galway	- -	}	2*
		Mayo	- -		

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Though this proportion was settled, for Ireland, it would appear that some difficulties had arisen in the Council, respecting a new assessment for that country, which was postponed till the Protector's pleasure could be further known. On the 21st of the month, however, the forms of the writs for Ireland was committed in the Council; and on the 29th, a letter was written to the Commissioners for managing the Affairs of Ireland

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\* Appendix, No. XXVII. p. cciii.

land, directing them to send the lists to the Sheriffs, agreeably to the directions given, accompanied with copies of the instrument of government, establishing the Commonwealth of England, Scotland, and Ireland, which were ordered to be read at the time of proclaiming the writs.

The pleasure of the Protector was signified, in his instructions to *Fleetwood*, his Deputy, for the management of that country, which were to continue in force for three years, of which the following is the substance :—That he had nominated and appointed six persons, to assist him as his deputy in the dominion of Ireland, and to his Council, by the advice of which he was to act :—That they were to endeavour to promulgate the true religion, by causing salaries to be paid out of the public revenue to the teachers of it ; and to give encouragement to persons employed in instructing the youth :—That he and his Council were to have power to commit to prison all persons, disturbing the public peace ; and to send into England, or such place as they might think most fit, all persons, whom they might think dangerous to the state ; but to permit them to return, upon seeing just cause for such indulgence :—That, for the maintenance of justice, the laws of England were to be put in force in Ireland ; and the courts of law and of equity, which had been discontinued during the

late war, were to be re-established, but with power to take away, or continue any court of judicature, and to issue commission for new courts to act in obedience to the present government, until further instructions shall be sent:—These courts to act under the new seals and forms, as are already settled, or to be settled, by Cromwell; and in future:—That the Deputy and Council were to have power to remove all magistrates, governors, &c. except those afterwards mentioned, who were to be in the Protector's immediate disposal, or to suspend them from their functions, on signifying the reasons to the Protector:—That all Papists be excluded from offices, or from practising as counsellors at law, or from being teachers of youth:—That this Council, in particular, was to levy the revenue, and fix the time of payments for all debts due to the Crown, in the year 1638, or to the Commonwealth, since the year 1640, whether by forfeitures, confiscations, excise, customs, or otherways; and to transmit a just account of the same, and that annually; and to add such measures, as they may think expedient, for the better administration thereof, to the end that the arrears may be recovered for the state; and in particular, to send an account of what the Commissioners for Ireland have done, since the 2<sup>d</sup> of June, 1653, in making up of surveys

surveys of the property of the Crown and Church ; and to complete such surveys, with those of forests and forfeited lands, which remain undisposed of by Parliament, or in its recess, by the Protector and Council :—That a particular account is to be rendered of the estates of delinquents, Papists, and Churchmen, and all acts and regulations of Council put in force against them, as well as for recovering the duties of customs and excise :—That the Deputy and his Council shall let all lands, houses, &c. belonging to the Commonwealth, for a term, not exceeding seven years, at a rent, not less than they yielded in 1640, or six years before that period ; and to cause to be collected the rents, as well of these lands, as of the benefices of ejected delinquents, and also of all vacant benefices :—That they were to inform themselves of the manner, in which the treasury of that country has hitherto been managed, and of the sums received and issued ; and to give their opinion, respecting the establishment of a grand treasury in Ireland, with a list of the persons who ought to be entrusted with the management of it :—mean time, to appoint proper officers, as collectors of the same, with suitable salaries :—That they were to cause assessments to be made and collected, from all the estates of the people of Ireland, to be applied for  
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payment of the army and garrisons, and other public charges of the Commonwealth, in Ireland ; the collectors of which to have suitable salaries :— That the Deputy, by his own warrant, was to have power to charge the treasury, for payment of the army, either in money or in provisions, and to issue ammunition from the magazines ; but all other warrants to be by the advice of his Council :— That the Deputy and his Council were to have power to reduce the forces into fewer regiments, to regulate their pay, and to lessen the number of castles or garrisons, as the condition of affairs might admit :—That they were to put in force all acts and ordinances, and issue proclamations against offenders, counterfeiting the coin :—That they were to give particular directions, for preserving the forests of the Commonwealth, and to certify to the Protector, the quantity of timber which may be cut, and sent to the sea ports, for the use of the navy :—That they were to put in force all the orders, given by the Commander in Chief, and particularly, the acts and ordinances, for payment of arrears due to the army, and due for the encouragement of the Protestants, since the year 1653 ; and to exercise a dispensing power, after proclamation, in transporting the inhabitants of the counties of Connaught and of Clare, to such places

places, as they may think expedient:—That they might grant such salaries to Judges, Commissioners, and other persons, as they may think expedient, for putting these instructions into execution; administering to them such oath, as they may think expedient:—That the Deputy was to have the power of disposing of all temporal offices, except those of Presidents of Provinces, Chancellor, Treasurer, Under-Treasurer, Master of Ordnance, Chief Justice and Justices of the Bench, Chief Justice and Justices of the Common Pleas, Chief Baron of Exchequer, Master of the Rolls, Serjeant at Law, and Attorney and Solicitor General, Treasurer at War, Marshall, and Clerk of the Cheque; which offices were to be at the disposal of the Protector: And, finally, that they were to render to the Protector, and to his Council, regular notice of their proceedings:—In the event of the death of the Deputy, the Council, or any five of them, might execute these orders, as fully as the Deputy and Council were empowered to do\*.

These instructions explain, very fully, the state of Ireland at this juncture. Ormond, because a Protestant, had been obliged to retire,  
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\* Appendix, No. XXVIII. p. ccxxi.



and Clanricard, though a Catholic, was rejected, because he had been appointed by a Protestant. The Duke of Loraine, whom the Catholics had invited to the Government, refused to accept of it; and from this bigotry of the Catholics, an opportunity was given to Cromwell, to send Fleetwood, under the instructions which have been detailed, to administer the Government of that turbulent People\*.

Though Scotland was subdued, the people were not less discontented than the Irish; but being without arms and with scanty resources, the royal party were in a great measure confined to the inaccessible Highlands, and at last obliged, with the King's consent, to disperse. The discontented however still continued; for when Cromwell dissolved the General Assembly of the Kirk, he deprived the people of their covenant, to which they had been so zealously attached.

Under such circumstances, the three kingdoms, though arbitrarily erected into one Commonwealth, sent members to a new General Parliament, by no means disposed to support the usurped authority of a self-created Protector. Probably, from a kind of superstition of good fortune,  
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\* Rapin, Vol. II. p. 995.—Whitlocke, p. 593.

on the 3d of September, the day on which he had gained his greatest victories, he met this Parliament at Westminster; and in a speech of great length enumerated his services to the nation, and informed this Assembly, that what he valued himself most on, was his bringing together and meeting a free Parliament, agreeably to the wishes of the English nation.

Lenthall, who had been Speaker to the Long Parliament, was placed in the Chair; but so little disposed was this assembly to second the Protector's views, that the very first subject of discussion, was an examination of the authority by which they had been convoked, which not a few maintained was imaginary and illegal.

The officers and adherents of Cromwell, who were members, had no other means of averting a decision which would have been fatal to the Protector's plan, but long speeches and adjournments.

Irritated at this disappointment, he summoned them before him in the Painted Chamber; told them with anger that the subject of their debate, in calling the established government in question, from which they, as well as himself had derived their authority, was indecent; but instead of leaving them to profit by the rebuke, he resorted to his usual convincing argu-

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ment, of placing a military guard at the door of the House, ordering admittance to be refused to all who would not take an oath of fidelity to the Protector and Commonwealth, and bind themselves not to consent to any alteration of the established government. Many refused to sign and were excluded: many who did sign, took their seats only to renew the discussion; so that Cromwell found it necessary to dissolve a Parliament, which though it sat five months had not sent up one bill to him; and got rid of the difficulty in the instrument of government, by which he had bound himself, not to dissolve a Parliament till it had sat five months, by the subterfuge, that a month, strictly speaking, consisted of only twenty-eight days.\*

In this manner therefore terminated, for a time, the projected union of the three kingdoms by a Parliament composed of members from each, to represent them as a Commonwealth; and Cromwell, who well knew the temper of what we may term his subjects, endeavoured to divert them by foreign wars and conquests, from attention,

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\* Clarendon, Vol. III. p. 389.—Whitlocke, p. 605, 618.—Rapin, Vol. II. p. 593.—Hume, Vol. VII. p. 242.—Parliamentary History, 1651—1656, p. 348.

tion to his usurped authority. In the mean time, he conciliated the army, the real source of his power and the only effectual instrument by which he could maintain it. In 1656, though the Protector had suppressed the several conspiracies which had been formed against him, he became fully sensible, that the nation felt he had no legal authority by which he could try or condemn those, who acted against the Commonwealth; and calculating upon the popularity which he had obtained by his success in war, and on the internal tranquillity of the kingdom, the result of his vigilance and vigour, he determined to call a new Parliament, with the object of having his authority recognized by a name, which, he was fully sensible, could alone give it the aspect of being legal.

For this purpose, in the month of September, he summoned a Parliament to meet him, and previously took every possible measure, that returns should be made of members favourable to his views. If we may judge from the previous conduct of the persons, whose names are to be found in the returns, he had reason to think, that he would have met with a decided support. The majority of the members for England were men, who had distinguished themselves in the civil

wars against the King. The majority for Scotland and for Ireland were officers, upon whom he had been accustomed to rely \*.

In his expectations of support in this Parliament he found himself disappointed. Reflecting perhaps on his own conduct, during the legal Parliaments, of which he had been a member, in voting the deposition of the King and the abolition of the House of Peers, it is paradoxical, that a mind so strong and well framed as Cromwell's should not have known, that Englishmen, however chosen, would when they came to act, return to better notions of duty, and of what had been held to be the legislature of their country.

The temptation however of having his authority recognized by Parliament, superseded these reflections; and as the 17th of September, the day for the meeting of Parliament, approached, he took measures, for compelling the members to sign an obligation, promising to do nothing against the established government †. One hundred or more of the members refused this test, and were excluded from the House. Having obtained the command of the remainder, an act passed declaring

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\* Appendix, No. XXIX. p. ccxxxiii.

† Parliamentary History, 1651—1656, page 382.

ing the title of Charles Stuart, as King, to be void, which was signed by all the members present; and was followed by an act declaring it high treason to attempt any thing against the life of the Protector. These acts were followed by grants of money, for the maintenance of the civil and military establishments, and for the prosecution of the war against Spain; and afterwards a general act\* passed, recognizing a number of ordinances of Council, and among others, the ordinance of 1654, entitled, "An Ordinance for uniting Scotland into one Commonwealth with England." †

These compliances of the House were preparatory to a more serious scheme, which the Protector had in view, and for which he had laid down such measures, as he apprehended were calculated to ensure success; *that of having his title as King*, declared and recognized. For this purpose, he had courted the Presbyterians, by insinuating, that his sentiments had now become nearly the same with theirs; by attentions to the nobility he endeavoured to gain them over; and by a degree  
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\* Clarendon, Vol. III. p. 460.—Scobell's Collections of Treaties, p. 371.—Whitelocke.

† Scobell, p. 389.—Parliamentary History, 1651.—1656, p. 372.

of lenity to the Royalists to soften their abhorrences.

At last an Alderman and one of the members of the city of London proposed, that the Protector might be invested with the title of King ! Some of Cromwell's friends supported the measure, as agreeable to him, and his enemies recommended it, as the best method of ruining him.

This scheme, Fleetwood and some of his immediate connexions perceived, and opposed the measure ; but it was carried by a majority, and a committee appointed, to attend the Protector with the offer of the Crown of England !

Cromwell however on better consideration, found it would be dangerous to assume the title of King, and rejected it\*.

In order, however, to sanction his government with the appearance of being legal, the humble petition and advice was presented to him, containing, among other articles, a request, that he would name a person to succeed him, and that he would call a Parliament annually consisting of two Houses†.

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\* Clarendon, Vol. III. p. 463.—Rapin, Vol. II. p. 596.  
—Hume, Vol. VII. p. 272.

† Scobell, p. 378, has preserved a copy of this Petition.

On the 26th June, Cromwell took an oath for his inauguration, as Protector of the Commonwealth, and thus obtained what he had so long desired, the authority of Parliament establishing his power. This done, the House adjourned to the 20th January, 1657-8.\*

By the second article of the humble petition and address, the Protector had bound himself to call an annual Parliament, consisting of two Houses, to meet at Westminster, on the 20th January†, and issued a summons at the same time to the principal officers and members in the three Kingdoms, requiring their attendance to give council and advice.‡

Though he admitted the excluded members, the conspiracies against him multiplied; and partly from the agitation of mind which these excited, and partly from domestic calamities, he died on the 3d September, the day which he had ever considered as the fortunate one of his life, and  
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\* Whitlocke, p. 662.—Ludlow, Tom. II. p. 592.—Clarendon, Vol. III. p. 468.

† Whitlocke, p. 666.—Clarendon, Vol. III. p. 472.—Rapin, Vol. II. p. 588.

‡ Appendix, No. XXX. p. ccxlv.—The original parchment is preserved in the British Museum, or the Summons sent to Richard Cromwell, then Governor of Ireland.



which, in this case, in all probability was truly so, as delivering him from the degradation and perhaps punishment to which his public crimes would have subjected him.

Richard his son, was declared Protector, but all the factions, which his father had managed with so much dexterity, were now opening their minds to a revolution, in which each hoped for its own elevation.

Richard however called a Parliament; but by attempting to control his Council and to reduce the army to submission, and from possessing none of the talents or vigour of his father, the fabric of the Commonwealth broke to pieces, and the King and legal government were restored.

Such was the termination of the union of the three kingdoms, projected and enforced by Cromwell; proving, that however beneficial it may be to the British Isles to be connected in strict union, as one great government, acting for common defence in war or in peace, such an union cannot arise but out of that constitution itself, and out of those laws which equally secure the Monarch on his throne, the Estates of Parliament in their privileges, and the Subjects in their lives and properties.

IV.—*Events which again brought forward the Plan of an Union, between England and Scotland, soon after the Restoration of Charles II. with the Causes which, during that factious Period, prevented its Adoption.*

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The restoration of the established government of the kingdoms is one of those memorable events, which strongly mark the moral characters of the human mind, and the good sense of the English nation.

The fortunate contingencies of the death of the Usurper and of the incapacity of his son to perpetuate the system of which the foundations had been recently laid, allowed all parties to take a calm retrospect of their errors and crimes, and this retrospect necessarily terminated in zeal to restore the liberties of their country.

The first meetings of Charles with the remains of the legal Parliament, discover not less the anxieties of the King, to acquire and to deserve the confidence of his people, than the returning loyalty of the remaining members of the

Legislature to repair the venerable fabric of the constitution transmitted to them by their ancestors.

Though summoned as a convention only, an act passed, recognising the meeting as a Parliament; and to prevent the confusions which would have arisen from the judicial decrees of so many years being overset, they were ratified by law.

The turbulent proceedings of this Parliament, during the civil wars, now rendered it necessary to resort to an election; at the same time it was deemed unwise to put confidence in an army, which however brave and disciplined, had been trained up in sedition and rebellion: the Parliament, therefore was dissolved and the army disbanded.

Though the Act of Indemnity seemed to promise tranquillity, that promise was soon found to be illusory. Factions re-appeared; but they rather rallied in contests for power, than for the opinions which had been the source of so many calamities.

The first event, which roused up the ancient jealousies between the English and the Scottish nations, was the celebrated Act of Navigation. This act, was the true source, first of the treaty for trade, between the two kingdoms, and next of the plan of an union. To understand the true causes of the adoption and rejection of this plan,  
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we must trace them to the contests for privileges of trade between the two countries.

The Act of Navigation provided, “ that no goods shall be imported from the Plantations, but in English ships ; and it excluded *aliens* from exercising the occupation of merchants or factors in them.” Though this proviso was declared, “ not to extend to Scotland,” yet this declaration, was not explained, by specifying, “ that *aliens*’ duty was not to be laid on any corn, the growth of Scotland, nor on any salt made in Scotland, or fish caught and cured by that people, and imported, directly from Scotland, in Scottish built ships, whereof the master, and three-fourths of the mariners were of his Majesty’s subjects.” This circumstance narrowed, at once, the privileges which the Scots had been tacitly enjoying for a series of years, and which, during the usurpation, when the three kingdoms were under one government, had been understood as a common right to the subjects of all \*.

An act passed the following year, for continuing the preceding act, without alterations †. This farther excited the apprehensions of the

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\* Statutes at Large, Vol. III. page 184, 12 Charles II. cap. 18.

† Ibid. page 212, 13 Charles II. cap. 14.

Scots; and though measures were taken for introducing order in the Border Counties, a new act was required, to render the intercourse between the two nations more safe\*.

The foundations were thus laid for those commercial jealousies, which we shall find operating as one cause, in preventing the union of the kingdoms.

In the Parliament held at Edinburgh, in 1661, a similar act to that of the Navigation Act in England, passed, placing the English precisely in the same situation with regard to Scotland, that the English had done the Scots, with regard to England†; and in 1663, the importations of English goods, into Scotland had been so great, that an act passed, imposing a duty upon English commodities, so imported‡, followed by an act, imposing a duty of customs upon corn, imported from Ireland into Scotland§.

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\* Statutes at Large, Vol. III. page 255, 12 Charles II. cap. 22.

† Scotch Acts of Parliament, Vol. II. page 242—1 Charles II. cap. 44.

‡ Ibid. page 328—3d Session of 1st Parliament, Charles II, cap. 13.

§ Ibid. cap. 14.

These acts of the two Parliaments fully account for the application which was made by the Scots, to have Commissioners nominated in 1666 for adjusting the commercial differences, subsisting between the two nations\*.

The Commissioners appear to have met on the 21st of January, 1667, when those for Scotland delivered in a proposal, to the following effect:—

—That they had been authorized by a Commission under the great seal of Scotland, not only to treat and consult, but to determine, in an amicable manner, with the Commissioners for England, concerning the freedom of trade between the two kingdoms:—That the subjects of Scotland, born since the accession of the late King James, have been declared, by the laws of England, *not to be aliens*, but to be entitled to the privileges of the natural born subjects of England:—That for fifty-six years, they had enjoyed these privileges in the colonies and plantations; but that since the 25th of March, in the twelfth year of the King, they had, by some acts passed in the English Parliament, been debarred from the privileges enjoyed by his Majesty's other subjects, their ships not coming under the description of those belonging to the

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\* De Foe, Edinburgh Edition, 1709, p. 20.

people of England, Ireland, dominion of Wales, and town of Berwick upon Tweed, and therefore exposed to forfeiture :—That in consequence, the goods and commodities of Scotland have, in some instances, been charged with sixteen times more, than goods of the like kind have paid in the counties of Northumberland and Westmorland ; therefore they submitted, that the same freedom and liberty of trade may be continued to them, which they formerly enjoyed, as being a necessary encouragement to the shipping and seamen of Scotland, and not less necessary to prevent their trade from being carried into foreign countries :—They further specified, that the act passed the twelfth year of the King, and ratified in the thirteenth, by an act, entituled, “ an Act for encouraging Shipping and Navigation,” had materially injured the trade of Scotland ; and therefore they desire, first, that Scottish ships, whereof the master and three-fourth parts are Scotchmen, or his Majesty’s subjects, may be allowed the same privileges, as ships belonging to Ireland, Wales, and Berwick, trading to Asia, Africa, or America, do enjoy :—That the natives of Scotland may not be comprehended in the description of those, “ not born within the allegiance of the “ King,” who are excluded from being merchants,

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“ chants, in these foreign British dependencies :—That Scotch ships, navigated by his Majesty’s subjects, may be allowed to bring foreign merchandize into England, under the same restrictions and limitations, as have been in use, since the accession of King James :—That all the privileges granted to the subjects in Ireland, Wales, and town of Berwick, may be extended to the subjects of Scotland ; and that they be declared, not liable to the penalties imposed upon aliens, by the Act of Navigation.

That farther, during the late usurpation, many of the ships, belonging to the subjects of Scotland, had been burned or destroyed, and many ships have been purchased since his Majesty’s return, which were foreign built ; it was therefore expedient, that it be declared, that the lawful prizes taken from the King’s enemies shall be deemed the same, as if built in England or Scotland, or may be deemed British as if they had been built within his Majesty’s dominions : a list of such ships being first given in, by a specified time, to be registered in his Majesty’s books of customs in England, it being understood, that it shall not be lawful for the subjects of Scotland to add to this list any new foreign ships, but to be bound to trade in ships built in Scotland, or in some of the dominions



dominions of the King:—That both descriptions of ships shall be navigated by crews, three fourths of which to be his Majesty's subjects:—That the natives of Scotland may be subjected to the same duties in the Plantations, as the natives of Ireland, &c. security being given, that the cargoes shall be brought by such Scotch ships, into the ports of England; except such number as it shall be agreed upon, to pass direct to Scotland, for the purpose of supplying his Majesty's subjects there, with commodities, the produce of the Plantations.\*

It appears (from a draft, stating the objections, which the English Commissioners were disposed to make to these demands of the Scottish Commissioners) that it was to be insisted, on the part of England, that the demands of the Scots were for greater privileges, than the English themselves, at this time, actually possessed, from the restraints in trade, under which they had been put, since the treaty of union projected by King James:—That

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\* Appendix, No. XXXI. p. ccxlviii.—*Note.* De Foe, p. 20, states, that he has given a copy of this paper, from a M.S. given him by Sir Geo. Mackenzie, and inserts this M.S. p. 109 of his Appendix; but the original, signed by order of the Commissioners for Scotland, John Donn, forms this number of the Appendix.

—That many of the articles of trade then prohibited, particularly that in cattle, had since been enjoyed by the Scots:—That the reason of the Irish, &c. enjoying privileges, in common with the English, was their being subjected to the Crown and laws of England:—That the duty imposed on Scotch salt, was necessary to encourage the salt manufactures in England; and therefore the English Commissioners are to give one general answer to the Scotch demands, without entering into particulars, *viz.* that they require from them further information and explanations on their demands.\*

This general reply of the English Commissioners, of the 25th of January, produced an explanation from the Scotch Commissioners on the 29th, in which they asserted:—That since the accession of James, they had enjoyed the same privileges of trade as Englishmen, till the passing of the Act of Navigation; and they complained, that since the 25th of March, in the twelfth year of the King, they had been subjected to new restraints, by several acts of the English Parliament, and therefore required a more specific answer, because, without some encouragement being given, the shipping and seamen of Scotland must be disabled

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\* Appendix, No. XXXII. p. ccliv.

from continuing their trade,\* or gaining the means of subsistence.

The reply of the English Commissioners, on the 1st of February was, that they insisted on having before them, the whole of the demands of the Scotch Commissioners, one article being so dependent on another, that it is impossible to conclude on them separately; and therefore they desire the Scotch Commissioners to point out the particular hardships, to which the trade has been exposed, since passing the Navigation Act, to enable them to judge of each separately, and in connexion.†

This reiterated demand produced a reply, on the 3d of February, in which the Scotch Commissioners assert:—That the Act of Navigation contained provisos, contrary to the privileges enjoyed by the subjects of Scotland, since the accession of James:—That besides this act, subsequent acts had imposed on them a duty, above the value of the goods, particularly that on Scotch cattle, brought into England after the 24th of August; and farther, that sixteen shillings and eight pence on each weigh of Scotch salt, when only  
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\* Appendix, No. XXXIII. p. cclviii.

† Ibid. No. XXXIV. p. cclx.

one shilling is paid on foreign salt, to which also are to be superadded, the new customs in the ports of Cumberland and Northumberland, amounted to a positive prohibition of the trade in Scottish salt.

In order, further, that the extent of the Scotch demands may be fully explained, they state:—That they demand a repeal of all acts of Parliament imposing restraints on the subjects of Scotland, beyond what are laid upon his Majesty's other subjects by the Act of Navigation, by the Act for encouraging Trade, 15 Charles II. cap. 7. and by the Act imposing a Duty on Scotch Cattle, from 24th of August to the 20th of December, and also the duty laid on fresh, salted, or dried fish; of the duty laid on Scotch linens, by the acts of Tonnage and Poundage, which is one full moiety more than what is specified in the book of rates; and of the 14 Charles II. cap. 7. which prohibits the carrying of hides, tanned or untanned, into Scotland; and also, an explanation of the act, 14 Charles II. cap. 2, which limits the transit of goods, between the two kingdoms, to Berwick and Carlisle:—And they require the removal of the duty of sixteen times more on Scotch salt, than on foreign salt, and the ten shillings per barrel, laid on Scotch beer, by 18 Charles II. cap. 5:

—They request, finally, that when foreigners are mentioned in any English act, it be declared, that his Majesty's subjects of Scotland are not meant to be comprehended under that description. A specification is then given of the heavy duties laid on horses, wheat, barley, &c. carried from Scotland into Cumberland or Northumberland, a practice not excusable under any colour of law.

These answers conclude with again asserting, that it is impossible to come to any agreement, respecting the freedom of trade between the two nations, till the English Commissioners shall signify their opinion, as to the propriety of removing the restraints laid upon the subjects of Scotland, by the Act of Navigation\*.

To this explanation, the English Commissioners declined making a reply, till the 10th March, when, under the hand of their Secretary, they stated:—

That though the two kingdoms owe allegiance to the same sovereign, each has the privilege of making such laws, regarding trade and commerce, as shall appear to itself to be advantageous to the subject:—That the Act of Navigation, or any subsequent acts made in England,  
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\* Appendix, No. XXXV. p. cclxiii.

do not trench on any privilege of the Scots, and therefore all the propositions which the English Commissioners can make, must be understood as not founded upon a claim of *right* in the subjects of Scotland, but upon the principle of *prudence*, for strengthening the connexion between the subjects of the two kingdoms, and on the presumption of corresponding privileges being granted to English subjects, trading to Scotland, that may be granted to Scotch subjects, trading to England.

The Commissioners for England did not find, that any such right was claimed, by either party, in the Treaty of Union, signed by the Commissioners during the reign of King James; and have not been able to discover, that any provisions had been made, in any of the acts passed since 1660, which go so far, in restricting the trade of Scotland, as the propositions made by the Parliament of Scotland to the King do in that year:—

That, in regard to the freedom of trade, hinted at as enjoyed by the subjects of Scotland, for fifty-six years, so far is this from having been the fact, that in the Articles of Union, signed in the time of King James, the prohibitions in the ancient laws against sending wool, sheep, sheep-felts, cattle, &c. were confirmed, and this confirmation afterwards explained by the Scots themselves,

selves, as not meant to be a mark of disunion between the two countries, but as matter of *policy* for each ; nor is this custom singular, as each of the Seven United Provinces exercised the like powers of laying restrictions, each for its particular benefit, on the trade of the other:—That the claim of the Scots to have all restrictions on trade annulled, which have been enacted since the accession of King James, would, in fact, be revoking all the privileges, which had been granted to trading companies in England, and at the same time, enforcing the prohibition on the passage of leather, and other commodities, into Scotland ; a circumstance which would manifestly be to its disadvantage:—That if the Acts of Navigation and Trade should be repealed, in so far as regarded the subjects of Scotland, the consequence would be, that the subjects of England would remain under the restrictions contained in the acts, and the subjects of Scotland be free from restrictions of any kind:—

—That, in regard to particular claims, such as freedom for the subjects of Scotland to trade to the English colonies in Asia, Africa, and America, the Scots have already liberty to trade to Tangiers, and are not placed under greater restrictions, in respect to the trade to the East-Indies, to Africa,  
and

and to some places in the West-Indies, than the subjects of England are, except the English bodies corporate or companies, which have exclusive privileges, by charter, to trade to these countries:—That the claim to trade, as English subjects, to the colonies in America, is an unreasonable demand on the part of Scotland, those colonies having been planted, at an immense expence, by English subjects, who, therefore, have a just claim to reap the exclusive benefits of them, as they do belong to the Crown of England only:—This practice is not solitary, for when Spain and Portugal were united, the Spaniards only were allowed to trade to the West-Indies, and the Portuguese to the East-Indies: the Dutch East and West-India Companies only, not the other subjects of the United States, trade to these distant countries; so that it would be discouraging the spirit of trade in England, if after establishing distant commerce at a vast expence, others of the King's subjects might come and reap the benefit:—Nor are the Scots debarred from exercising the business of merchants, or factors, in any of these settlements, any more than the subjects of England are:—

—That compliance with the demand for ships of Scotland to bring foreign merchandize  
into



into England, would be a severe blow to the trade and navigation of the Kingdom; and cannot be consented to, because the kingdom of Scotland being independent of that of England, its subjects could not be made answerable to the laws of England, which enforce the regulations in the Act of Navigation:—

—The Act of Navigation, besides, is not new in England, but, under various forms, has appeared in different periods of its history:—  
—That the case of Ireland, by no means applied, because Ireland belongs to the Crown of England, and the same laws bind the Irish and English subjects; and besides, laws made by the Parliament of Ireland, first pass the Privy Council of England:—That the orders of the Council, and the great seal of England, have effect in Ireland, and the Treasurer and the other great officers in England, have jurisdiction in it, circumstances which enable England to give them common privileges, because they can be, by law, obliged to observe the restrictions, under which these privileges may be exercised.

That the argument for abolishing the Act of Navigation, in so far as regards Scotland, as being absolutely necessary for keeping up the shipping and seamen in that country, for the King's service,

vice, is answered, by an equal necessity of keeping up the shipping and seamen in England, for the King's service there; and the necessity is still stronger, because the royal navy, which defends the kingdoms, is kept up in England only:— The English seamen besides are equal to the English trade, and the alteration would diminish their number more than it could be augmented by the supply of seamen from Scotland; nor would such an alteration in any degree increase the English duties of customs.

Though these objections to the proposals of the Scotch Commissioners must be adhered to, the English Commissioners made the following offers:—

1. That Scotch ships, navigated agreeably to the Act of Navigation, may import fish and fish oil, of their own taking.

2. That Scotch ships, under the restrictions of the Act of Navigation, may have liberty to import into England, salt (not of Scottish manufacture) pitch, tar, rosin, hemp or flax, raisins, figs, prunes, olive oil, corn or grain, sugar, pot-ashes, wines, vinegar, aqua-vitæ, and brandy, and the produce of Muscovy or Turkey, from the places from which they are now imported, upon paying the same duties as the

shipping of these countries do, and that for six years; as also, during the like period, Norway timber, upon paying the same duties the English shipping do\*; and after the expiration of that period, upon paying the duties which the shipping of these countries pay, or the duties these goods pay, if imported in any other shipping than those of England.

3. That Scotch ships may export from England, upon paying the same duties as English shipping do. As to the permission for Scotch ships to carry goods from one port in England to another, it is prohibited by an ancient Law of Navigation; and the repeal of all other restrictions would be, to grant more to the Scots than the English enjoy, who in some cases pay aliens' duties.

4. That for the said term of six years, the foreign built ships, which now belong to subjects of Scotland, may be admitted as Scotch ships, provided a true list be given of the vessels which come under this description; but that after that period, no such distinction of ships can be  
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\* *Note.* The reason assigned for granting this indulgence, was, that a great supply of timber was wanted, to rebuild the houses consumed by the great fire in London.

allowed ; and they must either be Scotch built ships, or English built ships, bought by Scotchmen.\*

On the 18th, the Scotch Commissioners required farther information, respecting the assertion, “ that the Parliament of Scotland had made offers to the King, in 1660, which would remove all these difficulties, but that they knew of no such offer.” †

On the 1st of April, the English Commissioners replied ;—That they referred to a letter of the Parliament of Scotland, dated 24th of April, 1661, in which it requested his Majesty might be “ pleased to order, that all the forces, to be made use of in that Kingdom, may consist of natives, and that all others may be removed ;” and this at the very time, when not only a part of his Majesty’s guards were Scotch, and offices, civil, military, and ecclesiastical, held by Scotchmen, without exception, which was a restriction upon Englishmen, greater than that imposed by the Act of Navigation upon Scotchmen ; and farther give the Scotch Commissioners to understand, that the offer made,

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\* Appendix, No. XXXVI. p. cclxviii.

† Appendix, No. XXXVII. p. cclxxix.

to allow Scotch ships to import timber, for rebuilding of London, was not to be deemed as binding, " unless the whole matter treated of " shall be agreed on by the Commissioners of both " Kingdoms." \*

The Scotch Commissioners, at this period of the negociation, appear to have felt themselves treated with indignity, as they made a complaint to the King, who required an account from the English Commissioners, of all the propositions and answers that had passed in the negociation. An abstract was accordingly sent to the King, containing the propositions only, without the supercilious observations which had been made on them; but these last were clearly the source of the complaint †.

It was not, however, till the 28th of May, that the Scotch Commissioners replied to the objections, and explained themselves, on the offers made by the English Commissioners. They set out with observing, that their meaning, in considering the Act of Navigation as depriving them of their privileges, was, that by a decision of the judges of England, solemnly pronounced by Lord  
Elesmere,

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\* Appendix, No. XXXVIII. p. cclxxxii.

† Ibid. No. XXXIX. p. cclxxxv.

Elsmere, the subjects of Scotland, born after the accession of James, were declared not to be *aliens*, but precisely in the same situation as the subjects of England;—That they perfectly admitted England had a right to make what laws it deemed expedient, regarding trade and commerce, and asked for nothing more, than that the subjects of Scotland, born in allegiance to the same King, should be placed in the same condition with the subjects of England, not founding, however, this demand upon the articles of union, agreed on in the time of King James:—

—That they pretended not to know the ancient laws of England, in regard to trade, but know precisely the specification of the articles, prohibited by both parties in the treaty of union 1604-7; and only assert, that the usage has been contrary to these prohibitions, without pretending to have heard of those acts of state, which laid the restrictions on Scotch salt, and on the Baltic trade; and if they existed, knew only, that they were not observed, previously to the act 1660.

The case of the United Provinces, they considered, by no means, to apply, as they are seven distinct sovereignties, not acknowledging any one head, whereas England and Scotland are countries, owing allegiance to the same King:—

That

—That so far from wishing to take away the privileges of incorporated companies, they asked only to be placed under the same commercial privileges with the subjects of Ireland, and instead of wishing to be under less restrictions than the English, desired to be admitted only to the same privileges:—

—That they neither demanded liberty to trade to the East-Indies, nor to the coast of Guinea, but only that Scotch ships may be placed under the same regulations as Irish ships are, by the Act of Navigation:—

—That so far from the case of Spain being applicable, it is the reverse; for though the kingdoms of Aragon and Castile obey different laws, they have the same privileges of trade to all the Spanish dominions, in Europe and America.

That they admitted, many of the Colonies had been settled by the English; but they believed, Barbadoes, and the other Charibee Islands, were rendered settlements by the Earl of Carlisle, who was a Scotchman:—Without, however, founding upon this fact, they can assert, that many hundred of Scotchmen were banished to these Plantations, for their adherence to the Royal cause; and only ask, that goods, the produce of the Plantations, may be allowed to be imported  
into

into England by Scotch ships, and that a single exception of such a number of Scotch ships may be made, to enable them to carry such quantities of the produce of the Colonies into Scotland, as may be necessary for the consumption of that country only :—As to the offer of allowing Scotch merchants and factors to be traders in any of the Plantations, it will be of little advantage, if all trade with their country be forbidden :—

That they cannot conceive any blow can be given to the navigation of England, by permitting English merchants to freight Scotch ships, to sail from and return to the port of London; but on the contrary, that this indulgence would encrease the trade of the kingdom, and of course the duties of customs. And that waving any remarks on the connexion between England and Ireland, they only observe, that if security can be had only by the King's subjects, who are under the government and laws of the kingdom of England, then treaties of commerce, of every kind, are impracticable :—

—That the offer of a privilege, in certain articles, for six years, is in fact, taking away the basis, upon which this treaty was begun, which was to establish a permanent commercial connexion; and if the Scots are to be subjected to *aliens'* duties, it is, in fact, prohibiting their trade altogether. —

That



That if the subjects of Scotland shall import, in any other than ships of that nation, then they ought to be subjected to aliens' duties; but they only desire, not to be deemed *aliens*, and a privilege to be extended to the ships actually allowed to be in their possession, of which a list shall be forthwith produced:—They ask, in fine, to be considered as the King's subjects:—

—That if the shipping of England amount to three times the tonnage of the shipping of Scotland, the prohibition will only tend to diminish this small number, or to compel them to go to foreign markets, to purchase the merchandize which they could bring from England. In these markets they can purchase, at a lower price than in England, and share their fishing with foreign nations, instead of doing so with a kingdom, in the same allegiance with themselves\*.

The treaty remained in this situation, till the 29th July 1668, and the English Commissioners account for this lapse of time, before they could give in their final proposals, by the Scotch Commissioners not having furnished them with a list of the shipping of that country. To bring matters, however, to an issue, they now make the following final propositions:

1. That

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\* Appendix, No. XL. p. cclxxxix.

1. That the subjects of England, trading to Scotland, shall not be liable to an act passed in Scotland, in 1661, concerning bullion, or to any former act of the same kind, affecting the merchandize they import or export from Scotland; nor to an act passed in the same year, prohibiting the importation of "made-work," in so far as regards English manufactures; nor to an act prohibiting the exportation of skins and hides from Scotland: and require further, that the Act of Navigation, passed in Scotland, in 1661, be strictly put in execution, in so far as regards the goods of Asia, Africa, America, Turkey, Muscovy, and Italy, excepting only such goods as shall come from England, in English or Scottish bottoms, under the Act of Navigation.—They further require a prohibition against the importation of nutmegs, cinnamon, cloves, and mace, from Holland, or other parts of Europe, excepting only the produce of the Spanish and Portuguese plantations; and for these purposes, that an explanatory Act of Navigation be passed in Scotland.

2. That a book of rates shall be settled in Scotland, ascertaining the duties to be paid on goods imported in English shipping; and the rate to be not above five per cent. and until such rates be fixed, the goods to pass, *ad valorem*, on the

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merchant's

merchant's oath, as is the practice in England; excepting tobacco imported from England, and wines, at a duty to be agreed on by treaty.

3. That English vessels, importing goods into Scotland, either from England, or parts allowed by the Act of Navigation, shall have liberty to dispose of them, in any place in Scotland, as the Scotch shall have in the port of London.

4. That specified rates shall be paid, on all sorts of cattle, brought out of Scotland into England, or out of England into Scotland; and that these duties shall be collected at Berwick, Wooller, Rathburg, in Northumberland, and at Carlisle and Brampton, in Cumberland; and that places for the same purposes shall be fixed on in Scotland.

5. That timber the growth of Scotland, or timber the growth of England, may be reciprocally imported into either country, duty free for two years; and after that period, to pay half duty of what other nations pay.

6. That the duty of one half-penny per gallon on Scotch salt, imported into England, be continued, this appearing necessary from a table given in by the salt makers in England, for putting the manufactures of the two countries in equal balance,  
unless

unless such table shall, upon more strict examination, be found incorrect.

7. That the additional duty on the importation of Scottish linen into England, shall be taken off; and that the trade in leather has already been provided for, by an act, allowing the free exportation of it out of England.

These concessions, it was apprehended, would fully do away the demand made by the Scottish Commissioners, that the subjects of that kingdom should not, in any future act of the English Parliament, be mentioned as aliens\*.

From this correspondence it appears, that the events and circumstances which led to the *union*, attempted during the reign of Charles II, had originated in the celebrated Act of Navigation, passed soon after the Restoration; and that though the Scottish Parliament, in the following year, passed an Act of Navigation, which was a transcript of that of England, such act was rather intended to manifest national spirit, than to establish regulations of trade.

That the immediate effect of the Act of Navigation in England, was the depriving the Scots of that trade with England, and with foreign  
E e 2 countries,

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\* Appendix, No. XLI, p. ccc.

countries, as English ships, which the Scots had tacitly enjoyed from the year 1607, when the treaty of union by James was broken off, to the Restoration 1660; so that though the treaty of James was not effected, it had the use of leading to commercial interferences, and to more frequent intercourse with the English merchants:—That the Act of Navigation, and subsequent acts in the same spirit, gave a sudden check to the commercial exertions of the Scots, and to their intercourse with the English, and brought back that people to be nearly in the same situation, with respect to the English, as during the first years of the reign of James.— If the question of naturalization was not now stated, in its aspect of rights of inheritance, holding offices, civil, ecclesiastical, &c. as it then was, it appears in another form, the English placing the Scots in the situation of aliens, in regard to trade. The advances of commerce in Scotland, during this lapse of years, fully explains this change. Their exchanges, during the last years of James, and the first years of Charles, had become considerable, and though interrupted by the civil wars, the progress was rapid, during the Usurpation. The union of the three kingdoms, by the instrument of government under Cromwell, though contrary to every principle of govern-

government in Britain, had had the effect to extinguish the foolish distinctions of English and aliens, whether Scotch or Irish, and therefore had given a field for the industry of both nations. To favour this liberal principle, he had checked the incorporated companies, and in the instance of the East-India Company, had taken away its exclusive privilege, though in a short time he restored it. The Scots besides had entered into other branches of the foreign English trade, particularly that to America, under the same privileges, as the English enjoyed; hence their towns, particularly those on the west coast, had risen to eminence; so that the continuation of this trade to them, derived, it will be allowed, from the authority of the Ufurper, was that which the Commissioners were contending for, though in the discussions with the English Commissioners, this fact was blended with the particular article of their produce and manufactures. When therefore, the Act of Navigation began to exclude them from the benefit of trading to the English colonies in America, and to cut them off, also, from carrying their produce and manufactures to the English markets, in order thence to be re-exported, they were compelled to resort to the King's authority, to have Commissioners appointed for both countries,

tries, to settle a commercial treaty, that should restore to them the privileges, in part, into which they had silently crept, or had been commanded for them, under Cromwell.

These events and circumstances discover the true source of that commercial jealousy in the English Commissioners, which lengthened out the treaty for six months, and terminated it, at last, in an application from the King to the Parliaments of both countries, to appoint Commissioners, with the more general object of uniting the two kingdoms into one government, as the only measure which could do away the narrow spirit of partial gains which then prevailed.

It is probable, that the Commissioners for settling the treaty of trade for Scotland, on finding that no terms were to be obtained from the English Commissioners, which in any degree would meet the wishes of the merchants of their country, made an application to the King, to revive the treaty of Union, upon the same principles, which had been so fully discussed in the reign of King James, and this opinion is strengthened, by the ready compliance which we shall discover in the Parliament of Scotland, opposed to the harsh delays which disfigured the proceedings of the English Commons.

At

At the opening of Parliament, on the 19th of October, 1669, the King, in his speech to both Houses, recommended to their consideration, the importance of uniting England and Scotland, and the Lord Keeper, after referring to the difficulties which had been experienced in devising a treaty of trade between England and Scotland, appearing in the ineffectual meetings of the Commissioners appointed upon that business, recapitulated the plan of an union, which James had recommended, in the first year of his reign; and explained, that though the Commissioners, then authorised to treat and consult with Commissioners for Scotland, had submitted the terms of a treaty to the Parliaments of both countries, and though that treaty had not been ratified, from the difficulties which at that time prevailed, many of these evils had now disappeared, and rendered the settlement of this great national business, not less practicable than desirable.

The hostile laws had been repealed; the Scottish subjects, born after the accession of James, had been declared by the Judges of England, not to be aliens; and that now, after the subjects of the two countries had been under allegiance to the same sovereign for sixty-seven years, it was to be hoped, that Commissioners would be appointed,



pointed, who would propose such terms to the Parliaments of both kingdoms, as might be found, on mature deliberation, to be acceptable\*.

When the King's speech, and this explanation of the Lord Keeper's on it, came under the consideration, the House of Commons waved meeting it with the zeal its importance required. They began with what they deemed of more importance still, the dispute between the two Houses, respecting the privileges of the Commons.

This event, like† the contest between James and the Commons about prerogative, gave but an unfavourable appearance of success, at the very opening of the business. It is not improbable, that many of the English Commissioners, who had been employed to settle the treaty of trade, and who had discovered so fixed a resolution to exclude the Scottish merchants from the benefits of the English commerce in the Colonies, influenced both Houses of Parliament, in postponing the consideration of the King's message.—From the Journals it does not appear to have been mentioned, till the 14th February, 1669-70, when the Lord Keeper reminded the House, of the proposal of the  
King,

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\* Lord's Journals, Vol. XIII, p. 252.

† History of the Proceedings of the House of Commons, Vol. I. p. 129.

King, for an Union ; and informed it, that the  
“ Parliament of Scotland had declared to his Ma-  
“ jesty, that such Commissioners, as the King shall  
“ name, shall be authorised, on their part, to  
“ treat with Commissioners for England, upon the  
“ grounds and conditions of an Union, and there-  
“ fore, that the King recommended to Parlia-  
“ ment, to take the matter into its serious con-  
“ sideration\*.

On 28th February, the business was postponed  
to the following day † ; and on the first of March,  
again postponed to the third ‡. At last, the Lord  
Chamberlain reported the resolution of a Commit-  
tee, which was adopted by the House, “ that his  
“ Majesty be humbly desired to name Commis-  
“ sioners for the kingdom of England, who may  
“ be authorised by act of Parliament, to treat  
“ with the Commissioners to be appointed by his  
“ Majesty for Scotland, about the grounds of an  
“ union between the two kingdoms, reserving al-  
“ ways to his Majesty, and his two Houses of  
“ Parliament (to whom the resolution of these  
“ Commissioners is to be returned) the entire  
F f “ consideration

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\* Lord's Journals, Vol. XII. p. 288.

† Ibid, p. 295.

‡ Ibid, p. 296.

“ consideration of the whole, and the allowing or  
“ disallowing thereof, or any part thereof, as they  
“ shall think fit\*.”

*And* On the 4th March, a message was sent to the Commons, desiring their concurrence with this resolution†; and on the 20th, a message was brought from the Commons, to acquaint the Lords, that the House had concurred in the votes sent down to them, concerning the union. ~~And~~ it was ordered, that both Houses attend the King, to present him with this vote‡.

The House accordingly attended the King on the following day§; and an act passed, entituled, “ An Act authorizing certain Commissioners of the Realm of England to treat with Commissioners of Scotland, for the Weal of both Kingdoms||”; and the King, when giving his royal assent thanked both Houses, for having “ so well complied with his desires in the progress they had made towards an union between the two kingdoms¶.”

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\* Lord's Journal, Vol. XII. p. 298.

† Ibid, p. 299.

‡ Ibid, p. 305.

§ Ibid, p. 306.

|| States at Large, Vol. III. p. 330. 22 Chas. II. cap. 9.

¶ Lord's Journals, Vol. XII. p. 351.

The instructions to these Commissioners were precisely the same, as those given to the Commissioners in the time of King James. They were appointed to meet at Westminster, on the 14th of September. Thirteen were to be deemed a *quorum*. They were to reduce their resolutions into writing; and three copies were to be made, one for the King, one for the Parliament of England, and one for the Parliament of Scotland.\* With these proceedings in England, we have next to compare the conduct of the Parliament of Scotland. It met at Edinburgh on the same day, the 19th of October, 1669, in which the King had opened the Parliament in England, and offered the proposal of an union to it.

The Earl of Lauderdale, the King's High Commissioner, delivered a letter from his Majesty to the Parliament, dated at Hampton Court, the 15th September, 1669, in which, after expressing his confidence in the loyalty and attachment of his subjects in Scotland, he recommends it to Parliament, to take measures for uniting the two Kingdoms; an event, the accomplishment of which, he adds, "will raise our satisfaction almost as high as our wishes;" reminding them,

F f 2 that

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\* Appendix, No. XLII, p. cccvii.

that the same measure had been proposed by his Royal Grandfather, King James.

This letter was engrossed in the records, and "the Lords of the Articles," were directed to draw up a fit answer to the King's letter.

On the 22d October, this answer was approved of. It expressed loyalty and attachment, gave the fullest assurances of concurrence in appointing Commissioners to treat with such as may be authorized by the Parliament of England, and reserved to itself the power to approve or disapprove of the articles, but offered to the King, the nomination of such persons, as in his wisdom, he might deem qualified for this great trust.

This ready compliance, on the part of the Parliament of Scotland, contrasted with the delays in the Parliament of England, appears to have made a deep impression on the mind of Charles, who wrote a second letter, on the 9th day of December, to the Parliament of Scotland, in which, after expressing his thankfulness to it for its ready compliance, and his acceptance of the offer to nominate the Commissioners, he acquaints the Parliament, that though he had expected the "Houses of Parliament in England  
" might

“ might, by this time, have taken his recom-  
“ mendation of an union into consideration, yet  
“ they had been taken up with important affairs ;  
“ and that he could not think fit to mind them  
“ of it, but to leave them to their own method ;  
“ but doubts not, that the Parliament of Scot-  
“ land will, when they again meet, give him  
“ the proofs of their confidence and affection.”  
The Scottish Parliament was then adjourned, till  
the 22d of July, 1670.

On the 11th of April, the English Parlia-  
ment had passed an act, authorizing Commissioners  
to treat on the part of England : and the King  
on the 7th of July, wrote a letter to the Parlia-  
ment of Scotland, in which he informs it, that  
the Houses of Parliament had concurred, in  
authorising him to name Commissioners, and re-  
quiring of the Parliament of Scotland, to take  
the necessary measures for forwarding the treaty of  
union.

The Lords of the Articles were directed to  
frame an answer ; and an act passed on the 30th,  
authorizing such persons as might be nominated  
by his Majesty, by a commission under the great  
seal of Scotland, to consult and treat with the  
Commissioners, authorized and appointed by the  
Parlia-

Parliament of England, and to settle such articles, as might be laid before the Parliaments of both Kingdoms for decision:\*

Twenty-five Commissioners were appointed for each kingdom, and thirteen of each declared to be a quorum\*. The Commissioners of both kingdoms met on the 14th of September, 1670, in the Exchequer Chamber at Westminster, where the commissions were read by the clerk attending those for England, and by the clerk attending those for Scotland; and Somerset House appointed by his Majesty, for the place of their deliberations†.

On the 17th of September, his Majesty sent a message to the Commissioners, expressive of his satisfaction, that Parliament had authorised them to treat of a measure, of so much importance to the interest and happiness of the two kingdoms, and trusted, that they would devise such conditions, as would meet the approbation of both Parliaments; because the King conceived, that the accomplishment of the union, was the most effectual means for preserving the government and  
peace

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\* Appendix, No. XLIII. p. cccxi:

† Ibid. No. XLIV. p. cccxxii.

‡ De Foe, p. 21.

peace of the island, and for removing, for ever, animosities and jealousies, and, in particular, that, it would encrease the commerce and fisheries, and therefore the riches and strength of the two nations :—That his anxiety for the happy conclusion of this Union, had induced him to frame and propose to them the following heads for their discussion, as matters for consideration and debate, viz.

1.—“ The preserving to either kingdome, “ their lawes, civill and ecclesiasticall, entire.”

2.—“ The reducing of both Parliaments into “ one.”

3.—“ The uniteing the two kingdoms into “ one monarchy, under his Majestie, his heires, “ and successors, inseperably.”

4.—“ The stateing of all privileges, trade, “ and other advantages.”

5.—“ The securing the condicions of the “ union\*.”

On the 17th of September, the Commissioners met and agreed, that all resolutions should be reduced into writing; but that nothing assented to should be deemed a resolution, unless reduced into an *instrument tripartite*, under their hands and seals,

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\* Appendix, No. XLV. p. cccxxv.



seals, and until the same had been presented to, approved of, and ratified by the respective Parliaments. The Commissioners for each nation had an apartment assigned for their separate consultations, and the great chamber for their joint meetings.

The English Commissioners opened the conference, by proposing that the third subject recommended by his Majesty, should first be brought under discussion; and at a general meeting on the 22d, this proposal was acceded to by the Scotch Commissioners. It was next settled, that a committee of *three* English and *three* Scotch Commissioners should be appointed, to reduce the articles, as they might be agreed on, into writing.

The first debate was respecting the words in the King's message, *and successors*. After discussion it was settled, not to insert these words in the resolution; a circumstance which strongly marks, even at this period, the apprehensions entertained of the Duke of York's attachment to the Catholics, and may be considered as the first public avowal of an opinion, which afterwards terminated in the Act of Exclusion.

The article was therefore thus expressed:  
“ That the two kingdoms shall be inseparably  
“ united into one monarchy, under his Majesty;  
“ and

“ and the heirs of his body, and for want of such  
“ heirs, under the body of King James, his Ma-  
“ jesty’s Royal Grandfather, of glorious me-  
“ mory.”

The next subject for consideration was the first proposition stated in his Majesty’s message, *viz.*  
“ The preserving to either kingdom, the laws,  
“ civil and ecclesiastical, entire.”

The Scotch Commissioners proposed, that the resolution should run in the following terms:  
“ That the laws and customs, civil, criminal, and  
“ ecclesiastical judicatories, and offices of either  
“ kingdom, be preserved, and remain entire, in  
“ all time coming, as they are before the union;  
“ and that all actions, processes, causes, and ques-  
“ tions, civil, criminal, or ecclesiastical, concern-  
“ ing the subjects of *Scotland*, or any of them, in  
“ their lives, rights, properties, or other inter-  
“ ests in *Scotland*, be only tried, judged, and de-  
“ termined in *Scotland*, by the ordinary and com-  
“ petent judicatories there, and shall not be heard,  
“ pursued, or judged in *England*, in the first in-  
“ stance, or by way of appeal, review, reduction,  
“ or by any other way whatsoever.”

The Commissioners for England required an explanation; because as these words were expressed, the Parliament of Great Britain would

not have a legislative power to alter or change any law, however grievous it might be; and as no Parliament would remain in Scotland to repeal such law, it must continue, even if the subjects of Scotland should desire to have it repealed.

This objection being so forcible, the Commissioners for Scotland, before they could explain themselves fully, proposed, that the second proposition in his Majesty's message should be first examined and settled, that is, "That the two Parliaments should be reduced into one."

On the 1st of November, the English Commissioners desired to know from the Scotch, what number or proportion of members, they would require to sit in the Parliament of Great Britain. The Scotch Commissioners replied, that they did not see, that the number could be less than it now is in the Parliament of Scotland, without incapacitating some of the Peers, or depriving some of the shires and burghs from sending members to Parliament, a proposition which they could scarcely make to the Parliament of Scotland.

The English Commissioners replied, that such a proposition had never been in their view, and time would be required to consider of it; and determined

terminated to take the opinion of the Attorney General on this important point.

On the 8th, the meeting was postponed to the 12th; but on the 11th, his Majesty sent a message, desiring the meeting to be adjourned to the last Thursday in March following.\*

In this manner terminated the projected treaty of union of Charles II. From the events detailed, as well as from the measures pursued by the cabal or leaders of the prevailing faction who were involving the two Houses of Parliament in constant disputes, connected with the narrow resources which Charles possessed, we may infer, that however beneficial the measure in itself was admitted to be, the public were not as yet sufficiently prepared for its reception.

The causes, therefore, which prevented the adoption of the union, during this factious period, seem to be the following:—

1. The same Commissioners, who had differed so widely in the treaty of commerce, and who in their correspondence appeared to have acted with ill temper, and with national prejudices, were not fitted to decide on a great national subject, which required liberality and wisdom. It could not be expected,

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\* De Foe, p. 21 to 30.

expected, that the same men would agree on general measures, when these must necessarily involve in them, the very privileges of trade, which the Scots had asked and the English had refused.

2. The propositions coming from the King, seems a second cause for the plan being received with jealousy. The Restoration had been recent; factions still prevailed. Charles appears therefore to have forgotten the example of his Grand-father's anxiety for the union having defeated his scheme, and not to have reflected, that though time had altered the aspects of the subjects debated on, it had by no means changed the principles on which the debates might proceed. The views of the subjects of both countries were, as yet, but narrow and contracted, and not guided by the general interests of the empire, which alone could have effaced selfish and temporary prejudices.

3. Though it was a natural wish in Charles, looking back to the calamities which had overtaken his father and to the hardships which had preceded his restoration, to recommend the introducing as the basis of an union, the confirmation of the monarchy, under himself, "his heirs, and successors, inseparably," yet from his having no descendants, and from his brother the  
Duke

Duke of York, having, by his attachment to the Catholics, excited ~~the~~ jealousies of a people who were adverse to that system, it was not to be expected, but that precautions would be taken by the Commissioners upon this point, and that these very precautions would disgust the Court at the union itself.

4. The proposition of forming one Parliament of the two, by uniting them in whole, alarmed the English, and called up the old jealousy which had subsisted in the time of James, and which had kindled up the civil wars which proved fatal to Charles I. It could not, therefore, be expected, that either the English Commissioners, or Parliament, would accede to the admission of the Scotch Parliament in whole, because this involved in it difficulties which were insurmountable. The constitution of the two Parliaments was different, and neither could be made compatible with the other. The English Parliament had been contending for their privileges, and had fixed the most important of them; no such contest had existed in Scotland.

Though Prelacy had been re-established in that country, the body of the people were Presbyterians, and evidently tending towards the establishing of that form.

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It was not, besides, practicable, to admit the Scottish Bishops, to a seat in the British House of Peers, which would have given them judicial powers in England, and an influence which might have been turned against the popular religion of their country; and it was not consistent with the Presbyterian system, to allow any of its members, legislative rank. The Scottish peerage would have increased, at once, the House of Lords to an undue proportion, and though the number of the knights of its shires was not so great, but they might have been admitted, its burghs that were royal, and therefore entitled to send representatives to the Scottish Parliament, were as numerous, as many of them were inconsiderable.

Under these circumstances, the Court, as well as the Parliaments of both kingdoms, relinquished the plan of an union.

V.—*Revival of the Plan of an Union, during the Reign of King William, and in the first Years of the Reign of Queen Anne, with the Events and Circumstances which prevented its Adoption, and those which produced the important Treaty of Union, in 1707.*

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The establishment of King William on the throne of these realms, having fixed the prerogatives of the Crown, the privileges of Parliament, and the liberties of the subject, in that constitution which has been not less the source of happiness to the British Empire, than of envy to surrounding nations, it might have been expected, would have led to more liberal conduct between the two kingdoms of England and Scotland, than had hitherto been experienced, since they had been in allegiance to the same Sovereign.—From however the distinct characters in the constitution of the government in the two countries, from commercial jealousies inducing the English nation to exclude the subjects of Scotland from participating in their trade, and from the difference of opinion in the one country and in the

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the other, respecting ecclesiastical establishments, it will be found, that the same causes still operated to prevent that union, which since its completion, has proved the source of national strength and prosperity.

King William and Queen Mary being recognized Sovereigns of England, it became necessary for the tranquillity and safety of the island, that they should, in like manner, be legally acknowledged in Scotland. The Estates of that country met on the 16th March 1689, when an attempt was made to introduce a letter from the late sovereign, which was rejected. As the meeting had been called, in consequence of an address of the Scottish nobility and gentlemen in London, requesting King William to take on him the administration of the government, a letter from him was presented by the Earl of Leven, dated at Hampton Court, 7th March, in substance stating the fullest confidence of his Majesty in the Estates of Scotland, that they would adopt measures for the security of the religion and liberties of the kingdom; that he felt satisfaction, in so many of the nobility and gentlemen having so strongly expressed their inclination for an union of the two kingdoms, as the only means for giving happiness to both, and for obliterating those animosities

mosities and jealousies which must evidently tend to the ruin of Britain; and expressing his resolution to use his utmost endeavours, for advancing every measure which may conduce to establish this important national benefit.

In reply, the Estates, on the 23d of March, addressed the King with assurances of their attachment, acknowledged him to be the deliverer of their country; and that they were in equal readiness with the kingdom of England, to take measures for accomplishing an union, as the best means for securing the happiness of both nations. This letter was subscribed by the nobility, the knights of the shires, and the members for the towns.

On the 27th of March, a Committee was elected for settling the government;\* and on the 11th of April the Estates published the declaration of the kingdom, containing the claim of right, and the offer of the Crown to King William and Queen Mary †. On the same day, a proclamation was issued by the Estates, declaring them to be King and Queen of Scotland.

On the 13th, the articles of grievances were

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\* Acts of Parliament of Scotland, Vol. III. p. 137.

† lb. p. 147.

presented to the King; and on the 23d an act passed, nominating Commissioners to treat concerning an union of the two kingdoms.

On the 24th, the estates addressed a letter to the King and Queen, and sent the Earl of Argyle, Sir James Montgomery, and Sir John Dalrymple, with powers to administer the coronation oath, and to assure his Majesty, that they trusted it had been reserved for his wisdom, to unite the two kingdoms in one Parliament: That for this important purpose, they had nominated Commissioners, with powers to meet and treat with the Commissioners for England, at such time and place, as the King might appoint: and farther, that if any difficulties should arise in the treaty, they would refer the decision to his Majesty's wisdom, always reserving, however, the church establishment, as it may be at the time of signing the union\*.

These transactions, between the Estates of Scotland and King William, explain the motives for that part of this speech, which he addressed to the Parliament of England, on the 21st of March:—"I must recommend," said the King, "to your consideration, an union with *Scotland*.  
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\* Appendix, No. XLVI. p. cccxxviii.

“ I do not mean it should now be entered upon ;  
“ but they having proposed this to me some time  
“ since, and the Parliament there having nomi-  
“ nated Commissioners for that purpose, I should  
“ be glad, that Commissioners might also be no-  
“ minated here, to treat with them, and to see if  
“ such terms could be agreed on as might be  
“ for the benefit of both nations, so as to be ready  
“ to be presented to you, in some future session \*.

On the 24th of March, the English House of Lords met, to take the King's speech into consideration ; and after declaring the acts of the last Parliament to be of full force and effect, as laws of the realm, they postponed the consideration of the other paragraphs : But it does not appear from the Journals, that any further notice was taken of the recommendation to appoint Commissioners to treat of an union.

It is probable, that the commercial jealousies which had run so high in England, for so many years, still subsisted, and that the demand made by the Scotch Commissioners in 1670, for an entire union of the two Parliaments, influenced that of England, at the very opening of the business of

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\* Appendix, No. XLVII. p. cccxxxviii. and Lords Journals, Vol. XIV. p. 434.

the nation, to make no answer to that part of the King's speech, which recommended an union with Scotland. The constitution had been but recently established; prerogative and privilege accurately defined; and it was held premature, to pass immediately to so difficult a transaction as the union of the two kingdoms.

It may easily be supposed, that this tacit rejection of the offer to renew a treaty of union by the English Parliament, was felt in Scotland as an insult, and perhaps may have been one reason, which not a little influenced the conduct of those who unhappily adhered to the pretensions of the late King, though from the readiness with which King William received the application for an union, and the earnestness with which he recommended it to the English Parliament, the prejudices against the English constitutional Sovereign were as unfounded and unreasonable, as those against the English Parliament were natural but unwise.

In subsequent periods of King William's reign, his opinion was frequently given, that without an union, the happiness of the island could not be completed. "I have done all I can, said the King, in that affair, but I do not see a temper in  
" either

“either nation, that looks like it: It may be done, but not yet.”\*

Though the Parliament of Scotland had now obtained the redress of those grievances, civil and ecclesiastical which they had asked of the King at his establishment on the throne, commercial grievances still remained; and the subjects in Scotland found themselves under the new, as under the old government, liable to those restrictions in their attempts to trade with the English settlements, for the removal of which the treaty of commerce in 1668, and the treaty of union in 1670, had been in vain attempted. Considering, therefore, every future attempt to remove these restrictions to be unavailing, they took to the natural, but rash expedient, of forming commercial establishments for themselves, without reflecting, that the countries to which they proposed to trade, were either already pre-occupied by the English, with whom therefore they must be in constant opposition; or to countries pre-occupied by foreign nations, and this right ratified by treaties with the Crown of England, whose Sovereign this plan involved in a double difficulty. The King could not patronise the Scots' plans of distant commerce, without interfering

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\* De Foe, page 32.

fering with the right of the English to their plantations, and with exclusive privileges of their mercantile companies. These privileges had formerly been grants of the Crown, but now they rested upon charters, proceeding upon acts of Parliament, and upon rights given for a valuable consideration. The King, besides, could not listen to the Scotch claims, because the Crown of England being in alliance with Spain, could not grant, without breach of treaty, privileges to the subjects of Scotland, to trade to countries claimed as a part of the Spanish Indies.

The Scots, however, felt, that the hardship was great, if they were to be made a sacrifice, either to the interests of the English subjects, or to the engagements of the Crown of England with foreign nations, and yet, that all the advances they had made, particularly the recent one, though recommended by the King, were either treated with silence, or opposed with decision.

Under these circumstances, in 1695, an act passed in the Parliament of Scotland, entitled “ An Act for a Company trading to Africa and the Indies,” by which the merchants of Scotland were empowered to contract and to enter into societies and companies for carrying on trade to any part of the world, not being at war with his Majesty,

jefty, and particularly to the kingdoms and countries in Europe, to the East and West Indies, to the Straits, to the Mediterranean, to the coast of Africa, and to the northern countries. These companies were to have all rights and privileges as to their persons, rules, and orders, that by the laws are given to companies allowed to be erected for manufactures. The act then recites, that the King did give to these companies his promise of his letters patent, under the great seal, and to confirm to them, whatever other encouragement the act of Parliament for encouraging foreign trade had established.—It then constitutes certain persons to form a company, and to trade on a joint stock, under the name of “the Company of Scotland trading to Africa and the Indies.”—One half of the stock was to be allotted to Scotchmen, resident in the kingdom, and if that half be not filled up against a specified day, it may be subscribed to by Scotchmen, resident abroad or by foreigners\*.

The establishment of a Company, privileged to trade to the very countries in which the English had already considered themselves to be possessed of exclusive commercial rights, re-kindled the national animosities, and the East-India Company,  
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\* Scots Act of Parliament, Vol. III. p. 408.



in a particular manner, exerted itself, to prevent subscriptions being obtained by the new Scotch Company.

This last had sent agents to Hamburgh, for the purpose of procuring subscribers to its stock, who were opposed by agents from England; and it appears, that both parties had acted with considerable violence\*.

During this contest, however, the old, or London East-India Company, found itself attacked in a quarter which it was less able to resist, by an offer from the new English Company to Parliament of £.2,000,000, on condition of being allowed to trade to the East-Indies. This offer being accepted this new or English Company obtained a charter in 1698, and thus, at one time, in Britain, there were three East India Companies, each opposing the other, and all, by their opposition, giving those advantages to the Dutch East India Companies, which though they retained their different chambers, had already been united.

The London East-India Company had applied to Parliament for a prohibition to the subjects of England to subscribe in the Scotch Company's fund, and to have it declared, that the Scotch  
merchants,

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\* - Cartare's State Papers, p. 303. -

merchants, resident in England, who were subscribers to the Scotch East India Company, should be held guilty of a misdemeanor ; but as Parliament was near its close, these impeachments dropped. The Scotch Company, in this situation, were obliged to relinquish the trade to the East Indies, and therefore projected a scheme of fixing a colony at Darien, upon the plan of opening a trade, on the one side with the Spanish West Indies, and, on the other, through the Pacific Ocean, with the East Indies, and fitted out two ships for this purpose.

This important spot was claimed by the Spaniards, who were prepared to resist the new settlers by force, and who required of the King of England, on the basis of a treaty, that no supplies or assistance should be given to the Scotch Company, from the English colonists in America.

It was not, however, either the one or the other of these precautions, which could have prevented the establishment of the Scottish colony, had their funds been equal to the purposes of trade ; but these funds being embarrassed by the subscriptions being withdrawn or bought up by the English Company, and a run being made on them, the settlement ended in disaster and in the sufferings of the adventurers.—

The Scotch nation took a lively interest in the hard fates of their trading companies, and ascribed all their misfortunes and sufferings at Darien, to what they termed the persecutions of the English.

Still, however, the Scots continued to struggle with their difficulties and to make application to the Crown for relief ; and we find an act\* passed in the Parliament of Scotland, 11th January, 1701, renewing the privileges, for nine years after the expiration of the term granted on the 16th of January, 1695, to the Scottish Company trading to Africa and the Indies, now known in Scotland by the name of the African Company only.

The English Parliament, in January 1699-1700, resolved to take into consideration, the present posture of affairs in Scotland, relating to the business of Darien †. On the 18th, the Lords, proceeding upon the opinion of the Commissioners of Trade and Plantations upon the memorial of the Spanish Ambassador, claiming the observance of the treaty with Spain, 1670, and upon an address to the King, in 1695 ; resolved, that the proclamation, prohibiting the governors of the plantations

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\* Scotch Acts of Parliament, Vol. III. p. 590.

† Lord's Journal, Vol. XVI. p. 491.

tations to supply the Scotch settlement at Darien, was agreeable to the address of the House on the 13th of December 1695\*.

This measure, was followed on the 10th of February, by a resolution to appoint a time, for taking into consideration an union between England and Scotland †. The King replied to the address of the House, on the subject of Darien, on the 12th, assuring them that he will always have a great regard to their opinion, and never be wanting to promote the advantage and good of the trade of England; at the same time he cannot, he added, but have a great concern for his kingdom of Scotland, and was touched with the loss his subjects had sustained at Darien. He then concluded, that difficulties in the different interests of trade in the two kingdoms must often arise, unless some way be found out, to unite them more nearly and completely. He therefore reminded them, of what he had recommended soon after his accession to the throne, that they would consider of an union between the two kingdoms: that he was inclined to hope, after the nation had been a hundred years,

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\* Lord's Journal, Vol. XVI. p. 497.

† Ibid. p. 512.

under the same head, some happy expedient may be found, for making them one people; and earnestly recommended this matter for their consideration\*.

On the 16th, a bill appears to have been brought into Parliament, for authorising certain Commissioners to treat with the Commissioners of Scotland, for the weal of both kingdoms†, and on the 22d, farther progress was made in this bill‡. On the 28th, the bill appears to have passed, and a conference with the Commons to have been resolved on §, and to give it more weight, the bill was sent down by two Judges with a special recommendation, as a bill of great consequence||. The Commons rejected it ¶.

As Parliament was dissolved soon after this event, we do not find the subject again revived, till the 12th of June, 1701; when a Committee was proposed by the Lords, to consider of, and lay

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\* Appendix, No. XLVII. p. cccxxxiii, and Lords' Journals, Vol. XVI. p. 514.

† Ibid. p. 518.

‡ Ibid. p. 524.

§ Ibid. p. 529.

|| Ibid. p. 530.

¶ History of the Proceedings of the House of Lords, connected with the Transaction of the Commons and History of the Times, Vol. II. p. 11.

lay before the House, what may be proper to be done, and what hath been done, towards an union between England and Scotland \*.

On the 12th, this proposal was postponed; on the 13th it was again postponed †; and on the 19th, a Committee of nine Lords was appointed, to be chosen by ballot, to inspect and examine what proceedings have formerly been taken, in relation to an union between England and Scotland, and to report their proceedings to the House ‡.

The ballot accordingly took place on the 24th, when nine were chosen, any three of them to act and to meet, when, where, and as often as they pleased §.

It does not appear that this Committee made any report; for on the 28th of February, during that illness of the King, which deprived the nation of its deliverer, and perhaps of the wisest sovereign who had ever sat on the throne, he sent a message to the House, expressive of his opinion, “ that nothing can contribute more to the present  
“ and future peace, security, and happiness of  
“ England

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\* Lords' Journals, Vol. XVI. p. 740.

† Ibid. p. 747.

‡ Ibid. p. 758.

§ Ibid. p. 768.

“ England and Scotland, than a firm and entire  
“ union between them; and that he could not  
“ but hope, that a general disposition will be  
“ formed to this union; and therefore, in the  
“ most earnest manner, recommended this affair  
“ to their consideration \*.

The act of the Scottish Legislature, appointing Commissioners for an union with England, immediately after the accession of King William, has already been mentioned, and contrasted with the silent rejection of this plan by the Parliament of England, notwithstanding the King's recommendation of it.

The Scots, conceiving that this rejection proceeded from a determination, which the English House of Commons had for so many years manifested, of excluding them from all the benefits of the English trade, had resorted to the expedient of creating a general trading company to themselves, the fate of which at Darien, and the renewal of the privileges to the African Company, have also been referred to.

The Scots, during the reign of King William, ascribed their foreign misfortunes to the English, and in many instances with reason; and

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\* Lords' Journal, Vol. XXII. p. 57.

and this circumstance accounts for the national animosities being rekindled, and matters being brought between the two countries to that crisis, in the first years of Queen Anne, that either a civil war or the adoption of conciliatory measures on the part of England, by a liberal treaty of union, must unavoidably have taken place. — Events however and circumstances had occurred in the internal administration of Scotland, which unhappily strengthened the national aversions: such was the unfortunate transaction at Glencoe, which gave a cast to the minds of the Highland chieftains, that has required almost a century to obliterate. These disputes between the two kingdoms fully account for the King's anxiety to promote the union, and for the parental expressions which he used, in his last message to the Parliament of England, that he would esteem it a particular felicity, during his reign, if some happy expedient for making both kingdoms one might take place\*.

Queen Anne, at her accession, adopted the the politics of King William, in regard to the union of the two Kingdoms. In her first speech to Parliament, on the 11th of March 1701, she acquainted

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\* De Foe, p. 35.



acquainted it, “ that she thought it necessary to  
 “ desire Parliament would consider of proper me-  
 “ thods, towards attaining an union between Eng-  
 “ land and Scotland, so lately recommended to it,  
 “ as a matter that nearly concerned the peace and  
 “ security of both kingdoms.” \*

The Commons appear, for the first time, to have seriously met the wishes of the Sovereign, upon this important subject; and a bill passed their House, soon after the recommendation given from the throne, and was sent up to the Lords on the 4th of April, desiring their concurrence in an act, to enable her Majesty to appoint Commissioners to treat for an union between the kingdoms; a bill for this purpose was read a first time †; and on the 16th, notice was given to the Commons, that the Lords had agreed to the bill, and committed it ‡. It passed on the 20th §, and in the same terms as the former bills for the like purpose ||; and received the Royal assent on the 6th of May ¶.

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\* Lords Journals, Vol. XVII. p. 68.

† Ibid. p. 97.

‡ Ibid. p. 100.

§ Ibid. p. 102.

|| Statutes at Large, Vol. IV. p. 95.—*Note.* The bill is not inserted but reference made to 12 and 13 William III. cap. 1,—and 11 and 12 William III. cap. 2.

¶ Journals of the Lords, Vol. XVII. page 117.

The warrant appointing twenty-seven Commissioners, is dated the 25th of August, 1702. They were to meet on the 27th of October, with such Commissioners for Scotland as may be appointed under the like authority, by an act of Parliament; and the major part of them, with the Commissioners for Scotland, were to consult, treat of and decide on articles of union, for the weal of both realms, and to reduce their decisions into instruments quadrupartite, to be subscribed and sealed, one copy for the Queen, one for each of the Houses of Parliament of England, and one for the Parliament of Scotland, and these articles were to be submitted to the wisdom of the two Parliaments\*.

The meeting of the Commissioners was postponed by a warrant from the Queen, dated the 26th of October, to the 10th of November; and by a warrant, 31st January, 1702-3, thirteen of the Commissioners who had been declared to be a *quorum*, were reduced to *seven*, who were authorised to execute the trust reposed in them †.

The Queen had judged it expedient, that the

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\* Appendix, No. XLVIII. p. cccxlii.

† Ibid. p. cccxlviii.

measures, regarding an union should not only originate in the House of Commons in England, but that the act empowering her Majesty to name Commissioners, should pass in that kingdom, before similar measures should be introduced into the Parliament of Scotland, guarding thus against jealousies between the Commons and the Lords, in which last house all propositions of the kind had formerly originated, and preventing the Parliament of Scotland from being again exposed to the mortification, and to the prejudices, which might result from the measure originating with them or their passing an act which might not meet a corresponding return in England.

The Queen's letter to the Scotch Parliament is dated 9th of June. After expressing the security and happiness which would result from an union of the two kingdoms, she informs it, that she had been empowered by the Parliament of England to name Commissioners, and doubted not of the endeavours of the Parliament of Scotland, to contribute their utmost to so beneficial a measure\*.

On the 11th of June, the Queen addressed a second letter to the Parliament of Scotland, in  
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\* Appendix, No. XLIX. p. ccclii;

which she expressed her resolution, to maintain the sovereignty and independency of her ancient kingdom against all encroachments and invasions; to preserve equally the prerogatives of the Crown and the liberties of the kingdom; and to avoid all measures of misunderstanding or differences, between the two realms; and concludes by referring to the inclinations towards an union, which had been expressed by the Parliament of England.

On the 18th, the Parliament of Scotland, in answer to the Queen's letter, referred to the readiness with which they had met the plan of an union recommended by the late King at his accession to the throne, from their judging it the most effectual means for promoting the peace and happiness of both nations; and assured her Majesty, that they will take the necessary steps, for making a suitable return to the advances which had been made by the Parliament of England\*.

On the 25th, drafts of a bill and of a letter to the Queen, were presented to the Parliament by the Lords of the Articles. The letter to the Queen particularly specifies the hope of the Parliament, that particular regard would be had to the maintenance of the Presbyterian government of

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\* Appendix, No. XLIX. p. ccclii.

the church. An improvement was proposed, that the Commissioners should be precluded from treating on any article, tending to re-introduce Prelacy; as this ecclesiastical establishment had been abolished by the Bill of Rights.

The act proceeds upon the desire of an union, which the Parliament of Scotland had signified to the late King William, and upon the desire which her Majesty had expressed to the Parliaments of both kingdoms; it then refers to the act passed in the Parliament of England, authorising the Queen to appoint Commissioners; and specifies, that an union would be of great importance to the defence of the true Protestant religion and to the peace and safety of the two realms; and enacts, that such persons and quorum thereof, as shall be nominated and appointed by her Majesty, shall be vested with full powers to treat with the Commissioners for England, at such times and places as the Queen may appoint, upon such articles as may be for the good of both realms; the terms to be reduced into four writings, each verified by the signatures and seals of the Commissioners of the two kingdoms, that the articles may come under the consideration of Parliament, but to be of no effect, till confirmed by both legislatures.

**This**

This act was accompanied by a letter to the Queen, expressive of the obedience to her Majesty's recommendation, in passing an act authorising her to name Commissioners to treat of an union on the part of Scotland, and explaining, that when the Parliament of Scotland did grant a like authority to the late King, it reserved the preservation of the church government, as it should be established at the time of the union:— Parliament had the fullest confidence in the Queen's endeavours to preserve this form, as established by law and trusted that the Queen would name Commissioners, who would have a due regard to this privilege of Scotland, as well as to the general interests of that kingdom\*.

From these transactions it would appear, that the Parliament of Scotland, influenced not less by the events which had prevented the union during the reign of King William than cautious, in any concessions which would make the appointment of Commissioners appear to be more an object with them than with the Parliament of England, had determined to prevent the possibility of any  
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\* Appendix, No. XLIX. page ccclv.—and Scotch Acts of Parliament, Vol. III. p. 615.

attempt being made to introduce that prelacy, which had been so unwisely (considering the temper of the nation) forced upon them, during the reign of Charles II. The recollection, perhaps, of the persecutions of that period, better than any other circumstance, explains their laying their own Commissioners under the restriction, that they were not even to treat of any change in the church government, without specifying to them what had been the leading point in all the former constructions, the preservation of the laws, rights, and privileges.

The Commissioners of both kingdoms thus authorized, met at the Cockpit, at Westminster, on the 27th October 1702, and by an order from the Queen, were adjourned to the 10th of November. The conferences opened with the reading of the commissions, when the Lord Keeper, on the part of England, expressed the desire of the Commissioners to perfect an union already established in allegiance, and become necessary for the happiness of both countries; to which the Duke of Queensberry replied, that an union had been desired by the Parliament of Scotland, since the period when both kingdoms had owed allegiance to the same sovereign; that it had become necessary for the security of the Protestant

testant religion ; and that the Commissioners for Scotland were prepared to accommodate any difficulties which might arise, and to bring upon fair and reasonable terms, the treaty to a conclusion.

The commissions were exchanged on the 16th of November ; that for England delivered to the Scotch Commissioners, and that for Scotland to the English Commissioners.

Some objections were made to the terms in the Scotch commission, but upon explanation by Lord Seafield, they were over-ruled.

The Queen came to the conference, and expressed her wishes, that some effectual method for establishing an union might be devised, as she was convinced it was the most likely means to consolidate the government and to secure the peace and encrease the trade, of both countries.\*

On the Queen's with-drawing, the Lord Keeper made propositions to the following effect :

All proposals to be in writing, but not discussed the day on which they are offered.

The opinions on them to be verbal and only reduced to writing when agreed on ; but  
not



not deemed obligatory, till the whole be in a state to be laid before the Queen and the two Parliaments. The Duke of Queensberry added, on the 20th, that the terms were not to be obligatory, till ratified by the two Parliaments; and that a Committee should be appointed to revise the minutes of the Commissioners. These preliminaries being settled, the Commissioners for England proposed, that the two Kingdoms be united under the name of Great-Britain and that the succession to this monarchy be settled, according to the limitations mentioned in the English Act, 12 and 13 of King William, entitled “ an Act for the farther limitation of the “ Crown, and better securing the Rights and “ Liberties of the subject.\*

In answer, the Duke of Queensberry proposed, as the basis of a treaty:—

That the two kingdoms be united into one monarchy.

That they be represented in one Parliament; and

That

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Appendix, No. L. p. cclxiv. Statutes at Large, Vol. IV. p. 61. *Note.* By this act, the Princess Sophia, Electress Dowager of Hanover, and her heirs, being Protestants, were declared next successors to the Crown, after the King and the Princess Ann Princess of Denmark and their issue.

That a mutual communication of trade, and other privileges be established.

On the 25th, the English Commissioners stated, that the acts of Parliament in both kingdoms, which had appointed them, had declared the articles not to be binding, till ratified by both Parliaments; and it was agreed by the Scotch Commissioners, that such articles should be obligatory only, when matters should be so far adjusted as to be agreed upon, as proper to be laid before the two Parliaments. It was further explained, that the terms to be drawn up by the Committee should not be entered on the respective books, 'till after report had been made to the respective Commissioners.

The Scotch Commissioners postponed giving any public answer on the subject of the succession to the monarchy, till the English Commissioners should explain themselves respecting the mutual communications of trade. It was agreed by the English Commissioners, that the two kingdoms should be united into one monarchy, and that the two nations should be represented in one Parliament, under the reservation in this last article, of waiting till such time, as proposals shall be made by the Scottish Commissioners, pointing out the means by which

such union of Parliament can be rendered practicable.

On the 30th, the English Commissioners admitted, that a communication of trade and other privileges was essential to a complete union ; but required of the Scots to explain themselves on the subject of the succession.\*

On the 5th of December, the Duke of Queensberry acquainted the English Commissioners, that those for Scotland would agree to the uniting the kingdoms into one monarchy in the same line of succession, and into one Parliament, if the English Commissioners would agree to the mutual communication of the privileges of trade †.

In reply, the English Commissioners stated, that the union cannot be complete, till all the terms be adjusted upon which it is to be constituted ; that therefore, though the communication of trade would be a necessary result, they must first know the terms and conditions upon which it is to be granted, and particularly, if the Scots would agree to the succession. The Scotch Commissioners required, in the first place, an answer on the subject of trade,

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\* Appendix, No. L, p. ccclxvi.

† Ibid. p. ccclxvii.

It would appear, the English Commissioners wished to evade this point and to bring forward as preliminaries, the two propositions respecting the monarchy and the succession. At last, the Scotch Commissioners yielded, with the reservation only, that the trade must be settled in the farther progress of the treaty.

The reply of the English Commissioners was general. They admitted the reasonableness of a communication of trade: and a general Committee was appointed to report on the subject.

On the 9th of December, the Scotch Commissioners finding that the question of trade was evaded, proposed, that there be a free trade between the two kingdoms; that a book of rates be kept to regulate importation and exportation; that equal access be allowed in the plantations to the shipping and seamen of both kingdoms; that all the parts of the act of navigation which may be contrary to or inconsistent with this common trade, be repealed; that neither kingdom be burdened with the debts contracted by the others, before the union; and that on equalizing the duties, an exception be made of those, which the English Parliament had appropriated to the payment of their debts or if this be thought impracticable,

ble, that an equivalent be given to the Scots, for submitting to this duty.

That these propositions shall not affect the companies of merchants or of manufacturers of either kingdom, whose privileges must be reserved for future consideration\*.

These propositions the English Commissioners referred to the Committee,

It would appear at this period of the treaty, that the English Commissioners wished to postpone the article regarding trade, and that the Queen became doubtful of the success of the negotiation; for on the 14th, she came to the meeting, desiring to know what progress had been made, and with assurances, that nothing shall be wanting on her part to bring the union to perfection\*.

The Lord Keeper acquainted her Majesty, that they had been deliberating on propositions respecting trade, as offered by the Scottish Commissioners, which were therefore read to the Queen but no answer given†.

On the 16th, the Commissioners for England proposed:—That there be a free trade between the two kingdoms, for the products and manufactures of the respective countries, with the exception  
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\* Appendix, No. L. p. cclxx.

† Ibid. p. cclxxi.

of wool, sheep, and sheep felts, and without any distinction of duties, which must be equal in both kingdoms :—That the masters and mariners be placed under the same regulations, securities and penalties :—That the prohibitions on importations and exportations be the same :—That the trade to the plantations cannot be granted till all the other particulars are adjusted, because the law requires, that no European goods can be carried to the Plantations but what have been first landed in England, except salt, salted fish, Scottish provisions, servants, horses, wine of Madeira, and of the Azores ; nor can the produce of the Plantations be carried to other parts of Europe, till landed in England :—That the subjects of Scotland be liable to be pressed for the service of the navy :—That the Act of Navigation must be framed, so as to be adopted to the terms of the union :—That as all the funds of England are appropriated to the debts of the nation, these debts having been contracted in defending the dominions of both kingdoms, that the union cannot be completed, unless an equality of duties on goods, for home consumption, be admitted ; and therefore, that the equivalent must depend on the proportion Scotland shall take of the burdens\*.

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\* Appendix, No. L. p. ccclxxii.

The Scotch Commissioners, on the 19th, required an answer to their propositions, before they could reply to those now detailed.

On the 30th, it would appear, the subjects of the conferences had been made public, and therefore it was resolved to confine them, in future, to the meetings of the Commissioners:—

On the 2d of January, 1702-3, the English Commissioners consented to the following articles:

That the subjects of both kingdoms have equal trade to the Plantations and the seamen be equally liable to service in the navy:—That the Act of Navigation, in both kingdoms, be adopted to the terms in the union; and that the further proposition, regarding trade, as well as the duties on plantation goods, for home consumption, be matters for future consideration\*.

On the 18th, the Scotch Commissioners proposed, that neither kingdom be burdened with the debts of the other, contracted before the union; and that no general excise be extended to Scotland, till the debts contracted before the union be satisfied:—That after the union, Scotland be subject to such excise, as the Parliament of Great Britain may think just, provided it do not exceed what shall be laid upon the counties of England, bordering on  
Scotland

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\* Appendix, No. L. p. ccclxxv.

Scotland :—That the goods in Scotland, not subject to excise, if imported into England, shall pay this duty there:—That an equivalent be given to Scotland, on becoming subject to the English regulations of import and export, and this equivalent applied to the encouragement of fishing and trade in Scotland:—That this equivalent be £.10,000 yearly:—That £.48,000 shall be the proportion of Scotland, when the English land-tax amounts to four shillings in the pound, and so progressively \*.

On the 21st of January, a deputation from the English Commissioners informed those for Scotland, that they were to apply to the Queen for a new commission, reducing the quorum of the respective Commissioners to *seven*; which Commission was communicated on the 23d, when the English Commissioners offered for consideration, that as the debts of England had been contracted for the common defence against France, and as the Scots had enjoyed the benefits of a coasting trade to England, during the war, that therefore the like duties be levied in Scotland, and applied in the same manner; but as to imposing only such duties, till the debts contracted by England be paid, it was postponing them beyond the present  
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\* Appendix, No. L. cclxxvii.



age ; for the 4th and 5th William and Mary had granted to the King and Queen the fund for the first million for ninety-nine years, and the duties on salt, stamp paper, &c. were nearly of the same description, though in the last case there were clauses of redemption.

If, therefore, the duties in Scotland were to remain as they now are, the manufacturers could undersell those of England, because a person can maintain his family, at four pence per day, per head, in Scotland, as well as in England at eight pence per day. The duties upon home consumpt, therefore, must be the same, it being a mistake, that the northern counties pay less than the midland. Though, for a time, the benefits of the union may not be felt in Scotland, an exemption can only be given in home consumpts for that time ; but if the goods are brought into England, the duties must be paid. A free communication in trade, admits not of an equivalent being given ; and it was impossible to decide on the land-tax, till information be obtained respecting the value of lands in Scotland \*.

The Scotch Commissioners in reply, on the 25th stated, that they insisted, neither kingdom be bound

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\* Appendix, No. L. p. ccclxix.

bound for the debts of the other, contracted previously to the union :—That if duties had not been laid on Scotland during the war, their soldiers and seamen had contributed their part in the service :—That the distance of Scotland from the seat of government did not afford it the same advantages of consumption with England, a circumstance which ought to exempt it from equal burdens :—That their present burdens were applied to defray the expences of government, which could not be supported, if these duties were to go to the payments of the debts of England :—That they were willing to pay the duty of nine pence on the ale, for the million granted for ninety nine years, provided no other duties should be laid on, for the purpose of paying the debts of England ; but still that an allowance must be due to Scotland :—That the inequality of taxes is only proposed, till both countries shall be in the same situation with respect to their debts :—That it was proposed, that Scotland should be placed in the same situation in respect of excise, with the Border Counties of England :—That with regard to the exemption from duties, there can be no period so proper, as when the debts of England shall be liquidated ; and they were ready to hear what regulations may be necessary for preventing frauds :

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—That they had already explained, either that they should be free from impositions of the duties appropriated to pay particular debts or have an equivalent:—That the losses in the Darien affair, had disabled the people of Scotland, for a long time, from foreign commercial adventures, and therefore that a sum must be appropriated, for encouraging their fishing and linen trade:—That they only insisted, the land-tax should not be higher than it formerly had been, but that a new survey of lands would be grievous and burdensome; and at all events that proposition had nothing to do with trade\*.

On the 27th, the English Commissioners proposed, that the equality of duties, on home consumption, be left to the Parliaments of the two kingdoms, but that the produce must be applied to the payments of the debts in England.

The Scotch Commissioners adhered to their former opinion, that no duties on home consumption should be applied in payment of such debts, till such time as that country reaped the benefits of the privileges of trade; and farther, that the privileges of the Scotch Company do remain.†

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\* Appendix, No. L. p. ccclxxxii.

† Ibid: p. ccclxxxviii:

On the 28th, the Commissioners for England consented, that the Scotch duties should not be applicable to the payment of English debts, till such time as the benefits of trade derived from the union, enabled Scotland to pay equal duties on home consumpt; and that this subject be left to the determination of the respective Parliaments; but declared it to be inconsistent with union, to agree to the continuance of the Scottish Company, it having been found destructive, to allow two companies of the same nation to trade to the same foreign country.

The Scotch Commissioners explained, that they did not insist on an absolute exemption, but for a specified time; and it was agreed, that it be entered on the records, that neither kingdom be burdened with the debts of the other, contracted before the union; that no duty be levied in Scotland on home consumption, applicable to the payment of English debts; and that a time be allowed to the Scots to improve their trade, so as to be in a situation to bear additional duties on home consumpt\*.

On the 1st of February, the Commissioners for Scotland claimed the continuance of the Afri-

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\* Appendix, No. L. p. ccclxxxix and cccxci.

can Company, because upon the public faith, the adventurers had vested a stock of £.200,000 and had experienced losses, by the discouragement given them by the English; but if the existence of the two Companies be destructive, it was reasonable, that an equivalent should be given to the Scotch Company, for relinquishing their privileges\*.

On the 3d of February, the Commissioners for England informed those for Scotland, that they expected a message from the Queen, adjourning the meeting, and made some propositions for future consideration. While these propositions were under consideration, the Queen's letter arrived, adjourning the meeting to the 4th of October; and in this manner terminated the first treaty of union by Queen Anne.

From the review of these proceedings, it will appear;

1st. That, the calamities of the Scots in their Darien expedition had made such an impression on them, that they met the Commissioners of England, with a resolution, either to obtain those privileges of trade which would exempt their countrymen from like disasters or to consider the  
union

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\* Appendix, No. L. p. cccxcii.

union to be impracticable; for no difficulties appear to have been made on the subject of uniting the Parliaments, or admitting the act of succession, but only delays in acquiescing, till the privileges of trade should be conceded; for it was admitted, that the country which gave up its commercial companies, was to make a sacrifice to the other, and the Scots had no difficulty in relinquishing theirs, provided an equivalent should be given, which would leave the English Company unembarrassed with a competitor.

2. That the English Commissioners, notwithstanding the progress of trade for a century, still entertained the narrow maxim, that the profits of this trade would be abridged, by introducing the industry of the Scots; a principle now relinquished, by the extension of industry being found to be the true source of the wealth of nations.

As the breaking off of the treaty of union, in 1702-3, contrary to the wishes of the Queen, evidently proceeded from the resolution of England to retain an exclusive commerce, little notice was taken of this event, either in Parliament or by the public in England. The case, however, was very different in Scotland, where reflecting on the advances which had been made by the reiterated appointment

pointment of Commissioners to treat of an union, during a century; and on the uniform refusal, by England, to admit the Scots to commercial privileges; both the Parliament and the people felt the highest resentment.

On the meeting of Parliament on the 9th of September, it called on the Commissioners who had been appointed to treat of an union in England, for the minutes of their proceedings and decreed, that the commission was terminated, and that no new commission should be issued without the consent of Parliament\*; manifesting thus, that resentment which was ready, on the first opportunity, to proceed either to improvident measures or to violence.

The Scottish Parliament, in this state of fullen resentment, brought forward the plan which afterwards terminated in the Act of Security and which almost amounted to a declaration of hostility against England, but were adjourned and did not again meet till the 6th of July, 1704; and on the 11th, a letter from the Queen was laid before them, of which the following is the substance :—

That the distracted state of affairs in her ancient kingdom had occasioned much anxiety, but that

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\* Appendix, No. LI. p. cccxcv.

that she was persuaded, the foundations of the animosities did not lay so deep, but that the measures she had pursued (she had hoped) would have produced something, very different from giving her enemies the prospect of profiting from the distracted state of her dominions :—That she trusted, the ministers in which she had put her confidence, would adopt such measures, as would satisfy her subjects of Scotland of their error :—That she was persuaded, their late proceedings had originated in this error only, not in disloyalty ; and in this belief, she hoped measures would be adopted for remedying abuses :—That she recommended to them, in particular, the settling the succession in the Protestant line, as absolutely necessary for the safety of all her dominions ; and without which, their country would be exposed, in common with her other dominions, to the calamities of war :—That she had given full powers to her High Commissioner to consent to whatever measures might be deemed necessary for the safety of her kingdom\*.

On the 13th of July, the Parliament took this letter into consideration, and notwithstanding the strenuous endeavours of the Lord Chancellor, Lord Chromarty the Secretary of State, and the other

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\* Appendix, No. LII. p. cccxcvi.



other ministers, it was resolved by a majority of fifty-five, that the Parliaments would not nominate a successor, unless a treaty of commerce with England should be previously made, and until such limitations and conditions shall be settled by Parliament, as may secure the religion, liberty, and independence of the nation\*.

As the acquiescence in the succession was the great object of the Queen, the supplies for the support of the forces were withheld, till the Queen's pleasure should be known respecting the Act of Security, which had been debated in the preceding sessions; and it was resolved to mark on this act and on that for the supply, a first reading only, till her Majesty's Commissioner should receive instructions on the Act of Security; the Parliament therefore was adjourned to the 3d of August.

On the 5th of August it would appear, that the High Commissioner had received the Queen's consent to the Act of Security; the Act was in substance as follows:—That in the event of the demise of the Queen, or the death of any of her Majesty's heirs or successors, the present Parliament, or any other Parliament that shall be then  
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\* Appendix, No. LIII, p. cccci.

in being, shall not be dissolved but shall be required and ordained to sit and act at Edinburgh, on the twentieth day after the said demise; and if the Parliament be adjourned at the time of the said demise, it shall notwithstanding meet on the said day; and if no Parliament be in being at the time of the demise, that then the Estates or members of the last preceding Parliament shall assemble at Edinburgh, without regard to any Parliament that may be "indicted" but never met; and if there be any vacancies of members, shall have power to supply them in the accustomed manner:—That all persons who were or have been Papists, unless they shall subscribe the formula, agreeably to the act 1700, shall be excluded from being electors or being elected members; and that all Englishmen or foreigners who may have a Scotch title and do not possess 12,000 pounds Scots yearly rent, in the kingdom, shall have no vote in the meeting of the Estates:—That such Estates shall be empowered to administer the government, and to read to the heir or successor, the claim of right and the coronation oath, within thirty days after the meeting of the Estates, to enable him to assume the regal power; and in case the said heir be a minor, to administer the like oaths to the regent or regents:—That the above

Estates shall have powers to name the successor to the Crown, provided he be of the royal line of Scotland and of the Protestant religion and be not heir to the Crown of England, unless, during her Majesty's life, provision be made for recognising the independence of the Crown of Scotland, and the freedom and frequent meetings of Parliament, and such regulations regarding the established religion and the trade of the nation, as may prevent the influence of the English or any foreign power, which may be inconsistent with the privileges of the kingdom; and also to add such farther conditions of government, as they may think necessary and consistent with any acts of Parliament that may be enacted, during her Majesty's reign:—That it shall be deemed high treason, for any person to administer the coronation oath, but by the appointment of the Estates, or to own any person as sovereign of the kingdom, till they have taken the coronation oath and the claim of rights, and agree to such conditions as the Estates may deem expedient:—The government to be vested, during the twenty days after the demise of the Queen, in such members of the Estates of Parliament and of the Privy Council, as may be at Edinburgh at the time of the demise, or may come to it within the said space of twenty days:—That thirty  
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of such members shall be a quorum:—That all commissions granted by the former King or Queen, shall become void, except those of sheriffs, justices of the peace, &c.—That all Protestants prepare fire arms, and be disciplined once every month, and all officers repair to their respective garrisons, on hearing of such demise:—And finally, that all other acts, inconsistent with this act, be rescinded, and declared null and void\*.

This act was evidently intended, either to bring the English Parliament to reasonable terms, in a treaty of Union, particularly in the article of trade, or once more to separate the two countries, and place them in their ancient state of hostility.

To prevent immediate violence the Parliament was adjourned, and did not again meet till the 28th of June, 1705; when the Queen's ministry being changed, conciliatory measures were adopted for again bringing forward the treaty of union.

Several events occurred, during this crisis, which had nearly forced the multitude to a less

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\* Appendix, No. LIV. p. cccii.—Scotch Acts of Parliament, Vol. III. p. 649.

governed opposition, than Parliament on reflection would have been susceptible of.

The losses of the African Company had been considerable, and in the minds of the people these misfortunes were uniformly ascribed to the English in their foreign settlements.

The *Worcester*, Captain Green, an English East-Indiaman, had, by contrary winds or for convoy, put into the harbour of Burnt-island. The English East-India Company had at this time seized a ship of the Scotch African Company, at London, and the *Worcester* was detained by way of reprisal. Some of her crew accused Green of having made prize of a Scotch vessel in the East-Indies, and of having murdered Drummond her commander, and all his crew. Green was tried for piracy, robbery, and murder, and with two of his crew executed.\*

The fury of the populace against these unfortunate men was so great, as to threaten a general tumult and even the life of the Chancellor was endangered.

The populace in England were equally violent, and such was the ferment in the one nation against the other, that the minds of both were prepared for every act of violence and hostility.

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\* De Foe, p. 46.

While the kingdoms were in this agitation, the Act of Security was considered in England, both in Parliament and out of it, as a declaration of war, and the newspapers informed their credulous English readers, that 60,000 Scots were trained and prepared for an invasion.\*

The clause in the Act of Security, which excluded the successor to the Crown from governing both kingdoms, was held to be a declaration of an intention to restore King James; and matters were brought to that crisis, that either a war or a treaty was unavoidable.

Soon after the meeting of Parliament the disputes between the kingdoms took a serious aspect. An inquiry respecting the state of the nation, in reference to Scotland, was instituted; and on the 23d of November, the House of Peers resolved to go into a Committee on the 29th.\*

On the 6th of December, this Committee reported; that upon consideration of the several acts of Parliament lately passed in Scotland, and the dangerous consequences that may follow from them as to the trade, and to the present and future peace of England, the most proper way to prevent

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\* De Foe, p. 51.

† Lord's Journal, Vol. XVII, p. 584.

vent those ills, will be to pass a law for opposing them.\*

On the 11th, Lord Sunderland reported; that it is the opinion of the Committee, that one proper head of a bill, to prevent the ill effects of the late acts of Parliament in Scotland would be, to empower her Majesty to nominate and appoint Commissioners, on the part of England, to treat of a perfect and entire union with Scotland; these Commissioners to meet with such as might be appointed by the Parliament of Scotland:—That another bill should be, the prohibiting the subjects of Scotland, except such as may be settled inhabitants in England, Ireland, or the Plantations, or employed in the fleet and army, from having the freedom or privileges of Englishmen, till such time as an union be settled between the two kingdoms, or the succession to the Crown declared by act of Parliament in Scotland:—That a third bill should be, for prohibiting cattle or sheep being brought from Scotland into England or Ireland, till the same events take place:—That a fourth bill should be, to enable the Lord High Admiral of England to give instructions to the commanders of the navy, to seize on all Scotch ships, trading

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\* Lord's Journal, Vol. XVII. p. 592.

ding with her Majesty's enemies:—And that a fifth bill should pass, prohibiting the exportation of wool, from England or Ireland, to Scotland:—which bills were accordingly ordered.\*

On the 16th of December, the Committee gave it further as their opinion, that an address be offered to the Queen to issue orders to put Newcastle, Tinmouth, Berwick, Carlisle, and Hull, in a state of defence: to direct the laws to be put in force, in respect of the arms and horses in the possession of Papists, or persons neglecting to take the oaths: to cause the militia of the four northern counties to be disciplined, and a competent number of troops to be kept up on the northern borders. And two bills were then read a first time, one relating to an union with Scotland, and another for preventing the exportation of wool into that country, and for preventing its trading with her Majesty's enemies†.

The bill for the union of Scotland was again read on the 16th‡, and engrossed on the 18th§; and was passed on the 20th, and sent down to the Commons¶. On the 21st, an address was ordered  
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\* Appendix, No. LV. p. ccccix.

† Ibid. Lords Journals, Vol. XVII. p. 602.

‡ Ibid. p. 603.

§ Ibid. p. 605.

¶ Ibid. p. 606.



to the Queen by the whole House, requesting to give orders, agreeably to the preceding resolutions, for putting the northern counties in a state of defence, and for calling out the militia in them\*. This address was presented on the 22d†,—when the Queen gave for answer, that she would order the proper survey to be made, and such troops as could be spared, to be quartered on the northern borders‡.

On the 15th January, 1704-5, a message was sent by the Lords to the Commons, to put them in mind of the bill for appointing Commissioners, and for preventing the inconveniencies of different laws lately made in Scotland§, as both bills highly concerned the peace and welfare of the nation.

On the 1st of February, the Commons sent up a bill for securing the kingdom against the dangers that may arise from several acts passed in the Parliament of Scotland, which was read a first and second time||,—and passed by the Lords on the 2d¶.

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\* Appendix, No. LV. p. cccix. Lords Journals, Vol. XVII. p. 607.

† Ibid. p. 608.

‡ Ibid. 609.

§ Ibid. p. 116.

|| Ibid. p. 641,

¶ Ibid. p. 645.

By this act, the Queen was empowered to appoint Commissioners, under the great seal, to treat with Commissioners authorized by the Parliament of Scotland; but this commission not to commence till the Parliament of Scotland should pass an act to the like effect.

This act comprehended also clauses, prohibiting the natives of Scotland from being supplied with arms and ammunition by England, and scotch cattle being brought into England\*; but Parliament was dissolved during this ferment, on the 5th of April, 1705,—and a new one directed to meet on the 1st of May†.

The new Parliament did not however meet till the 27th of October, 1705, when the Queen acquainted both Houses, that an act had lately passed in Scotland, authorizing her to appoint Commissioners to treat with those of England, for an union, which she was persuaded was the only means which could effectually conduce to the peace and happiness of both nations; and that her intention was, in a short time, to cause a commission to be made out‡.

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\* Appendix, No. LVI. p. ccccxiv. Statutes at Large, Vol. IV. p. 178.

† Lords Journals, Vol. XVII. p. 720.

‡ Ibid. Vol. XVIII. p. 7.

On the 13th November, an address was ordered, beseeching her Majesty to order to be laid before the House, what had passed since the last session of Parliament in England, in relation to the succession of the Crown of Scotland, that the House might be better enabled to give her Majesty advice and assistance upon this occasion\*.

On the 14th, the Queen gave orders accordingly †; and on the 23d, the papers were laid before the Lords ‡. They consisted of the Queen's letters to the Parliament of Scotland, dated 18th June 1705, and the resolutions of the Parliament of Scotland to authorize the Queen to appoint Commissioners, under certain conditions.

It will be proper, in this stage of the business, to advert to the proceedings in the Parliament of Scotland, that we may ascertain the dispositions with which they met the Queen's recommendation, and the measures which they adopted, to counterbalance the laws which had been made against them by the Parliament of England.

In a letter from the Queen, dated 18th June, and read in the Scotch Parliament the 3d July,

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\* Lords, Journals, Vol. XVIII. p. 17.

† Ib. p. 18.

‡ Ib. p. 23.

July, she assures it of her wishes to preserve the government, as by law established; reminds it of her great earnestness for the settlement of the succession in the Protestant line, and of her wishes that it would proceed on that business, in preference to all other matters; expresses her desire, that it would take into consideration the great benefit which would arise from an union with England, which she considered to be the only means of composing the differences between the two nations; recommends the passing an Act, as the Parliament of England had done, empowering her to appoint Commissioners, and the granting the necessary supplies for the war; and informs it, that she had empowered the Duke of Argyle, her High Commissioner, to give the royal assent to whatever laws may be found for the good and advantage of the kingdom, or may contribute to the happiness and satisfaction of the people\*.

The Duke of Argyle stated to the Parliament, the necessity of settling the succession in the Protestant line, as the most effectual means for disappointing the designs of the enemy, and the granting a commission for an union, as not less so, to secure the national tranquillity.

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\* Appendix, No. LVII. p. ccccxviii.

The Chancellor warmly seconded these recommendations, but such was the resentment, on account of the late acts passed in England, that the following motions were made :

That the Parliament shall first take into consideration, the limitations and conditions, under which it will be necessary to place the next successor to the Crown in the Protestant line :—That it will next enter on the adoption of regulations for trade and coin, with the circumstances of the nation relatively to England, and the grounds upon which a treaty with that country could be entered on. This last motion was withdrawn ; but after a debate of six hours it was carried, to proceed first to the consideration of coin and trade.

Two acts were introduced on the 10th July, one prohibiting the importation of corn from England or Ireland, and another the importation of English, Irish, and other foreign butter and cheese.\*

On the 17th June, the Parliament came to the following resolutions: That it would not proceed to the nomination of a successor to the Crown previously to a treaty with England, in relation to  
commerce

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\* A collection of the Parliamentary Debates in England, published in 1742, to which is added Debates in the Scotch Parliament, 1704-5, Vol. IV. p. 458.

commerce and other concerns with that nation; and in the mean time, that it would enact such limitations and conditions of government, for the improvement of the constitution, as may secure the liberty, religion, and independency of the kingdom, and then consider of the nomination of Commissioners.

On the 26th July, Mr. Fletcher of Salton moved, that it was not consistent with the honor and interest of this independent kingdom, to make any act, or to appoint Commissioners, until the Parliament of England do propose the same, “in a more neighbourly manner;” but that notwithstanding the act for effectually securing the kingdom of England, &c. the Parliament of Scotland were willing, in order to a good understanding between the two nations, to enter into a treaty with England.

The debates became extremely violent, and propositions, directly subversive of the constitution, were brought forward; such were, That under the next succession to the Crown, a Parliament should be elected annually:—That the successor to the Crown shall not, without consent of Parliament, have the power of making peace or war, or any treaty with any other state:—That no military establishment shall in future be kept  
up,

up but by consent of Parliament:—That all the fencible men of the nation, from sixteen to sixty, shall be armed with firelocks and bayonets, and have suitable ammunition, &c.\*

These extravagant opinions were followed by proposals for an act for a triennial Parliament; and it was debated, whether this measure should take effect during the Queen's reign, or not till the reign of her successor.†

A short time appears, however, to have brought the Scottish Parliament to a more temperate conduct, as from its records it appears, that on the 31st of August, it agreed to an act for a treaty of union with England.

On the 1st of September, the draft of this act was read and debated; and it was moved first, to take under consideration the clause in the English act which declared the subjects of Scotland to be aliens, after the 25th day of December, 1705, and resolved, as a preliminary to any treaty of union, that the Commissioners to be appointed, shall not leave Scotland, till this act be repealed by England.

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\* Collection of Parliamentary Debates, Vol. IV. p. 459 to 461.

† Ibid. p. 463.

The more temperate proposed, that this resolution should be the subject of a separate act; which was agreed to.

The next question agitated was, whether the Commissioners should be nominated by her Majesty, or by the Estates of Parliament. It was agreed by a majority, to leave the nomination to the Queen; against which the Duke of Athol, and a very large minority protested.

On the 4th, the draft of an address to the Queen was read by the Earl of Sutherland, and a counter address by Mr. Fletcher, of Salton.

A refinement was here introduced, whether the parliament should proceed by way of *order* of Parliament, or by *Act* of Parliament, and after a long debate, it was carried by way of *order* and *address*.

This being settled, it was unanimously agreed, that the Commissioners to be named by her Majesty for Scotland shall not commence the treaty of union, until a clause in the English act, declaring the subjects of Scotland aliens, be rescinded.

An address to the Queen was then approved of, to the following purpose:—That in compliance with her Majesty's desire, signified in her letter, recommending to the Parliament of Scotland to pass an act, for a commission to treat of

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an union between the kingdoms of Scotland and England, as a measure that would contribute to the honor of the Queen, and the good and advantage of both kingdoms, the Parliament of Scotland had agreed to the passing of such act, in the most fair and equal terms that could be expected, leaving to her Majesty the nomination of the Commissioners, and the appointment of the time and place of meeting with the Commissioners of England:— That though it had forborne, to take any notice of a clause in the act of the Parliament of England, for securing it against the dangers, that may arise from several acts lately passed in Scotland, yet, as this clause had declared her subjects of Scotland to be aliens, born out of the allegiance of the Queen of England, they with submission signified to her Majesty, that both her Parliament and the whole nation of Scotland are most sensible of the great injury done them, in being denied those rights and privileges in England, which the subjects of England do enjoy in Scotland; and those rights and privileges which the subjects of Scotland have constantly possessed, as a legal or a necessary consequence of being the natural born subjects of the same sovereign; and privileges which had been admitted by the courts and judicatures of both nations:—That therefore, they had unanimously

nimously agreed, that the Commissioners to be named for Scotland shall not commence any treaty with England, until the said clause in the English act shall be previously repealed; and therefore they pray her Majesty to give directions, that the said act be repealed, in order that the treaty of union, so much desired, may commence and proceed with the wished for success.

On the 21st of September, after having thus conditionally agreed to a commission, the Parliament of Scotland took into consideration the settlement of the succession in the Protestant line, failing heirs to the Queen, which had been so earnestly recommended to it; and also, the means to be adopted, for entering into a treaty with England, for extinguishing the animosities which had unhappily prevailed between the two nations; and resolved, that such persons as shall be nominated by her Majesty, shall be deemed to have full power to meet and to consult, at such times and places as her Majesty may appoint, and to treat with those who may be authorized by the Parliament of England, concerning the union of the two kingdoms, or such other matters, as upon mature consideration, the Commissioners for England and Scotland may think necessary and convenient,

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for the honor of her Majesty and the good of both realms.

These Commissioners were to reduce their proceedings into three several writings, to be subscribed and sealed, one to be presented to the Queen, another to the Parliament of Scotland, and a third to the Parliament of England, at the next sessions to be held respectively in each kingdom, to the end that such further proceedings may take place, as her Majesty and the two Parliaments may deem to be for the good of both realms, reserving to the said Parliaments the entire consideration of the whole subject, and the allowing or disallowing the same or any part thereof, as they shall think fit; and that no part of the articles agreed on by the Commissioners shall have any strength or effect till confirmed by authority of the Parliament of Scotland; declaring besides that the said Commissioners shall have no power to treat, of or concerning any alteration of the worship, discipline, or government of the church of Scotland, as by law established\*.

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\* Scots Acts of Parliament, Vol. III. page 696.—2 Ann. Parliament, cap. 4.—Appendix, No. LIX. p. ccccxxii.

*Note,* This Appendix, which is taken from the records in the

We left the English Parliament with the papers regarding the transactions in Scotland, as laid before the House of Lords on the 23d of November, 1705, and have therefore now to follow up its transactions, till like the Parliament of Scotland, it authorized the Queen to appoint Commissioners to treat of an union.

The Earl of Manchester reported to the House of Lords, on the 23d of November, that it was the opinion of the Committee, that her Ma-

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the Parliaments of Scotland, shews, that the papers laid before the House of Lords in England, on the 13th of November, 1705, comprehended only such general proceedings of the Scottish Parliament, as were the least calculated to rekindle the animosities between the two nations.

The Queen's letter is dated according to the Lords Journals, 18th of June, but by the Scotch records, on the 3d of July, is printed in the Lords Journals, Vol. XVIII. p. 26, and is verbatim, as inserted in the Scotch records. But the act of the Estates of the Parliament of Scotland, appointing Commissioners, did not take place till the 21st of September, and is inserted in the Lords Journals, under date of 17th of July; and previously to the letter of the Estates to the Queen, which was, in fact, agreed on at the meeting of the Parliament of Scotland on the 4th of September; so that in the Journals it would appear, the Queen's ministers had, with much prudence, produced only such papers, and in such form, as would in the least irritate the English Parliament, by any circumstance that might retard the treaty of union.

Majesty had, in the most earnest manner, recommended to the Parliament of Scotland the settlement of the succession of the Crown in the Protestant line, and done what in her lay, to procure an entire union of the two kingdoms:—That for these ends, all the clauses in the act for effectually securing the kingdom of England, from the apparent dangers which may arise from the several acts lately passed in Scotland, be repealed, except those that relate to the empowering her Majesty to name Commissioners for a treaty of union with Scotland. The Judges therefore were directed to prepare and bring in a bill, upon this resolution\*.

This bill was proceeded on, at the same time with those for the security of the Queen's person, and for the naturalization of the Princess Sophia, Electress Dowager of Hanover, and read a second time on the 28th of November, † passed on the 29th, and sent to the Commons on that day. ‡ This act passed both Houses, and received the royal assent on the 21st of December, when the Queen, in a speech, thanked the  
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\* Lord's Journals, Vol. XVIII. p. 27 and 28.

† Ibid. p. 33.

‡ Ibid. p. 34.

Parliament for the good disposition it had shewn towards an union with Scotland, and trusted, that it would prove for the advantage and quiet of both kingdoms.\*

Her Majesty was thus empowered to appoint Commissioners, under the great seal of England, to treat with Commissioners for the Parliament of Scotland, for an union of the two kingdoms. These Commissioners were to reduce their proceedings into writings, quadrupartite, one part for the Queen, one for each House of Parliament, and one for the Parliament of Scotland. The articles were not to have force till confirmed by the two Parliaments. The Commissioners were prohibited to treat, as those of Scotland had been, regarding their church, of any alteration in the liturgy or church government of the church of England.

The part thus of the act, 3 and 4 of Q. Anne, cap. 7, which empowered the Queen to appoint Commissioners to treat of an union, was freed from those objectionable clauses which  
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\* Lord's Journals, Vol. XVIII. p. 59. Vol. IV. p. 186. 3 and 4. Queen Anne, cap. 3.

had created such offence in Scotland ; \* and the Queen, at the close of the session, on the 19th of March 1705, returned her thanks to Parliament, for the wise and effectual provisions it had made, for securing the Protestant succession in the kingdom, and the advances towards procuring the like settlement, in the kingdom of Scotland and an happy union of both nations. †

The acts of Parliament in Scotland and in England, having empowered her Majesty to name Commissioners, we find the nomination for the former kingdom took place on the 27th day of February, and that for the latter, on the 10th of April, 1706.

The Scotch commission proceeds upon the circumstance of an act having passed in the English Parliament, authorizing the Queen to name Commissioners, as a measure calculated for the common interest of both kingdoms ; and empowers the commissioners to deliberate and agree on such articles, as have already been specified in the English act of Parliament. The number of the Commissioners was thirty, nine  
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\* Appendix, No. LX — Statutes at Large, Vol. IV. p. 178.—3 and 4 Q. Anne, cap. 7.

† Lord's Journals. Vol. XVIII. p. 164.

of whom were to be a quorum, to meet with the English Commissioners at Westminster, on the 16th day of April; and the articles which might be agreed on, were to be signed and sealed by the Commissioners for both kingdoms, one copy to be presented to the Queen, one to the Parliament of Scotland, and one to the Parliament of England.\*

The commission, in like manner, for England comprehended thirty persons, any seven or more of whom were to be a *quorum*, and to meet at the Cockpit, Whitehall, on the 16th day of April, with the Commissioners for Scotland, and to reduce their writing into instruments quadrupartite, which, in like manner, were to be subscribed and sealed, and copies to be presented to the Queen, to each House of Parliament in England, and to the Parliament in Scotland; specifying the power of Parliament to allow and disallow the articles, and directing, that they should be signed and sealed by the Commissioners of both kingdoms †.

From the rank and offices held by the Commissioners in both kingdoms, the selection made  
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† Appendix, No. LX. p. ccccxxxv.

† Ibid, No. LXI. p. ccccxli.



by the Queen appears to have consisted of men of the greatest influence in each kingdom\*.

The Lord Keeper of the Great Seal of England opened the business on the 16th of April, with assurances to the Commissioners for Scotland, of zeal to promote the common advantage of both kingdoms, and of their intentions to remove all difficulties, so as to render the union satisfactory to her Majesty and to both Parliaments †.

The Lord Chancellor of Scotland made similar professions, trusting that as the kingdoms were united in allegiance, every effort would be made by the Commissioners for Scotland, to meet her Majesty's gracious intentions, and to bring the treaty to such a conclusion, as might be acceptable to the Queen and the Parliaments of both kingdoms ‡.

On the 22d, the following preliminaries were agreed on:—All proposals were to be reduced to writings:—The writings were not to be obligatory till the articles should be finally adjusted, as proper to be laid before the Queen and the two Parliaments:—A Committee was to be appointed

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\* Appendix, No. LXII. p. ccccxlvii.

† Ibid, No. LXIII. p. cccl.

‡ Ibid, p. cccclii.

to revise the minutes, before insertion by the respective Secretaries, and the proceedings during the treaty were to be kept secret\*.

The treaty opened with a proposal of the Commissioners for England, that Scotland and England should be united into the kingdom of Great Britain, the succession to the throne of which to be conformably to the act in England, the 12 and 13 of King William †.

The Commissioners for Scotland accorded, in so far as regarded the succession, specifying in explanation, that the subjects of Scotland and England were to enjoy, reciprocally, the same privileges in both kingdoms, the same intercourse of trade and navigation; and that all laws should be repealed, contrary to this union. These specifications however the Commissioners for England wished to have postponed, till the general articles should be agreed on ‡.

On the 25th, the Scotch Commissioners acceded to the general proposals, which had been offered on the part of the English, as to the kingdom of Great Britain; subjoining, that it be re-

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\* Appendix, No. LXIII. p. ccccliii.

† Ibid, p. ccccliv.

‡ Ibid, p. cccclv.

presented by one Parliament; and failing heirs of her Majesty, that the succession be in the Electress Dowager of Hanover, and her heirs, being Protestants, still explaining this acquiescence, as proceeding upon a freedom of trade and navigation being given to the united kingdom. To this the English Commissioners agreed, with the reserve of, in so far as such agreement might be consistent with the subsequent terms in the treaty\*.

On the 29th, the Commissioners for England proposed, that the same customs, excise, and all other taxes, and the same prohibitions, restrictions, and regulations should be established, throughout the united kingdom†.

On this the Commissioners for Scotland suggested the appointment of a General Committee, to report. Eleven on each side were appointed on the 1st of May, any six of whom were authorized to proceed‡.

On the 6th of May, an account of the revenues and income of England, and of its debts was produced, and on the 9th, a similar account of those of Scotland; and it was explained by  
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\* Appendix, No. LXIII. p. cccclvi.

† Ibid. p. cccclvii.

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the Commissioners of the latter kingdom, that they agreed, that all parts of the united kingdom should be under the same regulations, &c. and liable to the same duties of import and export; but in regard, that several of the duties of customs in England had been appropriated for the payment of debts belonging to England, they proposed, that an equivalent should be allowed to Scotland; and farther, that the subjects of either kingdom should be liable to an equal land-tax, provided the proportion for Scotland should only be for £.12,000, when one shilling in the pound land-tax was imposed on England, so that £.48,000 in Scotland, should be reckoned equal to the four shillings in the pound, now imposed on England, and so proportionably, but free of all charges; and further, that neither of the kingdoms should be burdened with the debts of the other, contracted before the union.

On the 13th, the Scotch Commissioners agreed, that the excise do extend to ale, beer, mum, cyder, sweets, perry, low wines, aqua vitæ, and spirits, but requiring exemptions from all other burdens of excise, for a competent time, to be settled in the course of the treaty; but if an equal proportion of excise should be laid on the exports from Scotland, they were ready to enter

on the consideration of an equivalent, in consequence of being taxed for payment of the debts of England.

The Commissioners for England explained, that the duties should be upon exports in Scotland, in general, not to the Plantations only ; and on the 15th of May, specified the particular duties, not included in those to which the Scots had acceded, *viz.* the duties on stamped paper, vellum, and parchment, from which Scotland might be exempted till the 1st of August, 1710 ; the duties on windows and lights, till the said term ; the duties on coals and culm, to the same term, to be consumed in the kingdom of Scotland ; the duty on malt to the same term ; the duties on salt used in Scotland, for a competent time, to be settled in the progress of the treaty, provided effectual means be taken, that the same duties as are payable in England, be paid and collected in Scotland after the union : The general principle of an equality of excises and burdens, on goods exported to all places whatsoever, was fixed ; but the Scotch Commissioners pleaded the necessity of proposing a general exemption to Scotland, for a competent time, from all other excises

excises and burdens, besides those great duties and taxes already specified.\*

The Commissioners for England, on the 18th replied, that it cannot be supposed the Parliament of Great Britain would lay any burdens on the united kingdom, but what may be necessary for the preservation and good of the whole, and that to allow any supposition to the contrary, would be to set up an argument against the union, therefore, they required the Commissioners for Scotland to take the several particulars, on which exemptions were asked, into their farther consideration.

On the 21st, the Commissioners for Scotland stated; First, that as the duties on stamped paper, vellum, and parchment can have no influence on trade and manufactures, and would affect the securities of land in Scotland, and besides would be of small value and chargeable in the collecting, therefore that the exemption on this article should extend beyond the year 1710:—Second, that with respect to the other duties, which expired in the year 1710, or sooner, they do understand, that the exemption is to extend to the duty laid on cinders:—Third, that as to  
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\* Appendix, No. LXIII. p. cccclix.

the duty on salt, since the Commissioners for England had agreed to the exemption to Scotland, for a competent time after the union, of all salt consumed in kind, or used for provisions, within Scotland, provided that effectual measures be devised for securing the like duties in Scotland after the union, as are now payable in England, on all salt exported from Scotland, they would submit a scheme of regulations for that effect, but were ready to agree to whatever farther methods the Commissioners for England might suggest for that security, and doubted not, but Scotland would be exempted from any duties laid on by the Parliament of England before the union, except those already agreed on; with this explanation, they did not insist on this point, but would allow the exemption to be determined by the Parliament of Great Britain.\*

The plan for securing the duty on salt consisted in;—a prohibition to carry salt from Scotland to England by land; an entry of all salt at the Custom House (if the salt be water-borne) specifying the port to which the ship should be bound, and if within Scotland, a security given for the duty, payable in six months, on condition  
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\* Appendix, No. LXIII. p. cccclix.

that a certificate be returned from a collector at the port, that the quantity was found loaded in the ship, without fraud, a reasonable allowance being made for waste; the security, in this case, for the duty, to become void, but in case the vessel be bound for England or the Plantations, the duty chargeable on like salt in England, to be presently paid in money, and a certificate given, subscribed by the collectors, expressing the quantity entered, and the duty paid:—In case of evading these conditions, the ship to be confiscated, and the master imprisoned for three months; or in case of fraud or connivance in the Custom House officers, such officers to be liable to pay one year's salary, and to be deprived of his office.

With respect to provisions salted for exportation, the same being appointed to be cured with foreign salt, by the law of Scotland, such foreign salt to be used without any mixture, either of Scotch or English salt, but this point to come under the regulations for foreign trade\*.

While the treaty was in this state of progress, the Queen came to the meeting of the Commissioners, expressed her anxious concern for the  
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\* Appendix, No. LXIII. p. cccclix.



happy settlement of the union, and recommended as much dispatch as the nature of the business would admit, and trusted, that difficulties might be overcome, for the attainment of so great and public a good: and in the same manner, on the 26th of June, expressed her anxiety for a speedy and happy conclusion of the business. \*

On the 23d of May, the Commissioners for England agreed, that as it had been already settled, Scotland should be exempted from the duty on stamped paper, vellum and parchment, till the 1st of August 1710, it should not be charged with any other part of that duty, by any law now in force in England. They next agreed, that Scotland should be exempted from the duty on coals, culm, &c.

On the subject of securities against fraud in the salt trade, they postponed fixing the time of exemption to Scotland, till they could receive farther information from the officers employed in England in that department, but admitted an exemption to Scotland, for the charges of the service, for the year 1707, provided, if the Parliament of England shall lay a farther duty of customs and excise, the Parliament of Scotland do bear an equal burden

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\* Appendix, No. LXIII. p. cccclxviii:

den in such taxes; and lastly, contended, that whenever the sum of £1,997,763. 8s. 4½*d.* shall be enacted by the Parliament of Great Britain, to be raised in England on land, that the kingdom of Scotland shall be charged by the same act, for £48,000 as the quota of that kingdom, and so proportionably for any greater or lesser sum, raised in the kingdom of England, by any tax upon land, or other things, usually charged together with the land-tax\*.

On the 24th of May, the Commissioners for Scotland agreed to accept the terms, respecting the duties on stamped paper, vellum, parchment, cinders, and the quota of land-tax, and acquiesced in the delay respecting the salt; but held the proposal about providing for the service 1707, as an admission, on the part of England, that Scotland shall remain exempted from all other duties laid on by the Parliament of England before the union, except those consented to, and to bear an equal burden in farther duties of customs and excise, provided an equivalent be settled by the Parliament of Great Britain,

On the 29th of May, the Commissioners for Scotland introduced their important proposal, re-

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\* Appendix, No. LXIII. p. cccclxix.

specting the government and laws of the country, explaining, that as an equality of customs and excise had already been consented to, and the same regulations for trade admitted, for the united kingdom after the union, they now submit:—

—That all other laws in use within Scotland, do remain in the same force as before the union, but alterable by the Parliament of Great Britain, with this distinction, that the laws concerning public right, policy, and government, be made the same in the whole united kingdom, but that no alteration be made in the laws which concern private right, except for evident utility to the subjects of Scotland:—

—That the Judicatures, *viz.* the Court of Session or College of Justice, do remain, in all time coming within Scotland, as it is now constituted by the laws in that kingdom, subject to such regulations for the better administration of Justice, as shall be made by the Parliament of Great Britain —

—That the Court of Justiciary do, in like manner, remain, but subject to similar regulations made by the Parliament of Great Britain, and without prejudice to other rights of justiciary.

That all other Courts within the kingdom of Scotland, do remain subject to like alterations by the Parliament of Great Britain; and that all inferior

inferior courts remain subordinate, as they now are, to the supreme courts of justice :—

—That no causes in the kingdom of Scotland be cognizable by the Courts of Chancery, Queen's Bench, Common Pleas, or any other court in Westminster Hall, which shall have no power to review or alter the acts or sentences of the judicatures within Scotland, or stop the execution of the same.

That there be a Court of Exchequer in Scotland, after the union, for judging in all questions regarding the revenues of customs and excise, with the same powers and authority as the Court of Exchequer has in England ; and to pass signatures, gifts, tutories, &c. as the Court of Exchequer, at present in Scotland have, which court to remain till a new Court of Exchequer be settled by the Parliament of Great Britain.

—That after the union, the Queen and her successors may continue a Privy Council in Scotland, for preserving public peace and order, until the Parliament of Great Britain shall think fit to alter it, or establish any other effectual method for that end :—

—That all heretable offices and jurisdictions, and all offices of jurisdiction for life, be reserved to the owners as right of property, notwithstanding

ing this treaty, and be enjoyed as they now are by the law of Scotland:—

—That the rights and privileges of the royal boroughs in Scotland do remain entire, after the union.—

On the 30th of May, the Commissioners for England agreed to these propositions, reserving only for further consideration, the Courts of Admiralty\*.

On the 5th of June, the Commissioners for England gave their explanation, on the salt trade between England and Scotland, *viz* ;—

—That the transport of salt from Scotland to England, by land, be prohibited, under the penalty of the forfeiture of the salt, the cattle, and carriages, a fine of twenty shillings for each bushel and the imprisonment of the party for six months, or until the penalty be paid :—

—That salt water-borne, be under the regulations proposed by the Commissioners for Scotland; but that the salt, so imported, pay the same duties as on salt made in England; and that these duties be levied and secured in the same manner as those on foreign salt :—

—That salt may be exported from Scotland to the Plantations, or to other foreign countries, without

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\* Appendix, No. LXIII. p. cccclxxiii.

without such duty, in regard the duty paid for the same is to be repaid :—

That the duty on salted fish shall be paid in England, upon the importation, and repaid upon the said fish being exported to foreign parts.

That salted flesh exported from Scotland, in regard that this article is cured with salt, for which the duty has been paid on the salt used in curing, that is, in each hundred weight, a duty equal to the duty payable in England, amounting to two shillings, the said two shillings shall not be exacted in England, upon every hundred weight of salted flesh imported from Scotland, provided entry has been first made at the Custom House in Scotland, of the quantity, the port in England to which the vessel is bound, and security given, that the said goods shall be landed at the port, for which the same has been entered, or at some other port in England, sea hazard and enemies excepted, the bond then to be delivered up, on a certificate from the officers of Customs at the port where the goods have been landed. The said duty of two shillings to be paid in Scotland, if the salted flesh be exported from thence to any other part, besides England; and the transport of such goods by land, to be liable to the same penalties as those on salt, so carried. These temporary regulations  
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to be subject to such provisions, as may be thought fit by the Parliament of Great Britain; and, finally, that the exemption from duty on salt, for home consumption, be for the term of seven years after the union.

The Commissioners for Scotland, on the 7th, required, that it be understood, that a double duty be not laid on foreign salt, exported from Scotland to England, or one duty in Scotland and another in England, but only that the foreign salt be charged with the same duties in Scotland, after the union, as the like salt is charged with in England, a certificate being produced from the Custom House in Scotland to the Custom House in England, that the duty has already been paid; and farther required, that a distinction be made between fish cured with Scotch and foreign salt, and flesh so cured not to pay a second duty in England; and if, at the expiration of the seven years, a new duty be laid on salt, that Scotland have an equivalent.

The Commissioners for England replied, on the 15th, it was not their intention, that foreign salt should pay double duties, one duty in Scotland and another in England, but that the same duty only should be paid in Scotland as in England; and that Scotch salt, exported to the Plan-

tations, should pay the same duties as English salt did :—That salted fish or flesh, with Scotch or a mixture of Scotch and foreign salt, should be liable to confiscation, if brought into England or carried to the Plantations ; and that the equivalent for such salt duty in Scotland, was only to be given in consideration of such part of said duty, as shall be applied in payment of the debts of England.\*

The Scotch Commissioners, on the 21st, agreed to this explanation ; but as the whole duty on salt was to go in payment of the English debts, it was to be understood, that an equivalent was to be given.

The Commissioners for England replied, on the 22d, that the whole duties on salt were not appropriated to the payment of the debts of England : for instance, that twelve-pence per bushel was appropriated no longer than till the 1st of August, 1710, and the two shillings and four-pence per bushel, with other duties, were appropriated to the payment of £.160,000 to the East India Company, and redeemable by Parliament :—That the surplufage above that sum, was not appropriated to the debts of England,

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\* Appendix, No. LXIII. p. cccclxxvi.



so that the equivalent which Scotland was to receive, ought to be extended to such part of the duty only, as might be applicable to the payment of English debts. In this, the Commissioners for Scotland acquiesced, on the 25th of June.

In connexion with this subject, the Commissioners for Scotland had proposed, on the 22d of June, that the laws in Scotland, regarding pining, curing, and packing of herrings, white fish and salmon, with foreign salt only, for exportation, be continued; but subject to alteration by the Parliament of Great Britain; and that the same premiums and drawbacks be allowed on these articles exported from Scotland, as were allowed in England; to which the Commissioners for England agreed, on the 28th.

The Commissioners for England, on the 5th of June proposed, that the Admiralty jurisdiction should be under the Lord High Admiral of Great Britain, &c. with the right of appeal to the Queen.

On the 11th, the Commissioners for Scotland replied, that the Court of Admiralty now in Scotland, be continued till the Parliament of Great Britain shall make such alterations and regulations, as may be judged expedient; provided always, that there be in Scotland a Court of Admiralty,  
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such as is in England, for judging of maritime cases, relating to private rights; and that the rights of Admiralty and Vice Admiralty, be reserved to the respective proprietors, as rights of property: to which proposal the Commissioners for England acceded on the 12th; with this amendment, that the heretable rights must be subject to such regulations and alterations, as may be deemed proper by the Parliament of Great Britain. \*

On the 7th of June, the Commissioners for England introduced the discussion of the union of Parliaments, and proposed, that thirty-eight persons be the number to represent Scotland in the House of Commons in the Parliament of Great Britain.

On the 11th the Commissioners for Scotland proposed a conference upon this subject, as they considered a greater number would be necessary, for attaining the purposes of an union between the two kingdoms. This conference was accordingly held on the 15th; and the Commissioners for England consented, that forty-five members and no more, should represent that  
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\* Appendix, No. LXIII. p. cccclxxxvii.

part of Great Britain called Scotland, in the House of Commons of the united kingdoms, and that the number of Peers be sixteen, in order to bear a proportion with the number of Commoners.

On the 18th, the Commissioners for Scotland acceded to this proposition; provided, that from and after the union, the Peers of Scotland be declared and reckoned Peers of Great Britain; and enjoy all other titles, dignities, pre-eminences, as fully and freely as the Peers of England do at present enjoy, or the Peers of Britain may enjoy hereafter; and provided the Peers of Scotland for the time being enjoy the rank and precedence of all Peers to be created hereafter, of the like order and degree, in the united kingdom.\* In this the Commissioners for England acceded on the 19th, with this explanation:— That such Peers of Scotland, as shall not have a right to sit in Parliament, shall not be capable of sitting upon the trial of any Peer, or have the privileges of Parliament, but that the Scotch Peers may enjoy precedence, provided it be understood, that the Peers of England, at the time of the union, retain the rank and precedence of their respective degrees, before the same degree of Peers of Scotland.

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\* Appendix, LXIII, p. cccclxxxviii.

On the 22d, the Commissioners for England explained, that the Peers of Scotland were to be reckoned and declared Peers of Great Britain, and to be tried as such, and to possess all other rights and privileges, except that of sitting in the House of Lords and on the trial of Peers; and in the case of adjournment or prorogation of Parliament, that the sixteen Peers were to be summoned and to have the same right and privilege in trials, as the Peers of Great Britain; and in case there be no Parliament, the sixteen Peers of Scotland, who sat in the preceding one, were to be summoned and have the same power and privileges at such trials, as the other Peers of Great Britain; and on the 25th of June, the Scotch Commissioners agreed to the article with this explanation.

On the 19th of June, the Commissioners for England proposed, that the coin, weights, and measures, be the same throughout the united kingdom, as now established in England. On the 21st, the Commissioners for Scotland agreed to the proposal; provided consideration be had to the losses of private persons, in reducing the coin to the English standard, and provided the mint at Edinburgh be continued, and considered as under the same rules with the mint in the Tower of

London, and that the weights and measures be kept by those boroughs, which have that right and privilege.\*

On the same day, the Commissioners for England proposed, that the losses be made up, out of the sums to be given for the fisheries, manufactures and improvements of Scotland; and on the 1st of July, the Commissioners for England added the provision, that the weights and measures of Scotland be kept from a standard, that is in the Exchequer at Westminster, and that the mint at Edinburgh remain under the same rules as the mint of England, subject to such regulations as the Parliament of Great Britain may think fit.†

On the 19th June, the Commissioners for England proposed, that all laws and statutes, in either kingdom which are contrary to, and inconsistent with the terms of the union, shall be repealed:—To this, on the 21st, the Commissioners for Scotland agreed.

On the 21st of June, the Commissioners for Scotland proposed, that the rights and privileges of the Scotch Company trading to Africa and to  
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\* Ib, p. cccxciii.

† Ib. p. cccxcv.

the Indies do continue after the union, or if these privileges be inconvenient for the trade of the united kingdom, that the private rights of the said Company, be purchased from the proprietors.

On the 25th, the Commissioners for England, blending their answer with the equivalent to be given to Scotland, for becoming subject to the same duties of customs and excise, reported from the Committee of the Commissioners, that the sum of £.398,085. 10s. should be the equivalent to be answered to Scotland, and therefore agreed to the same.

The Commissioners for Scotland proposed, that a book should be kept, to shew the improvement of the revenue of customs and excise, in which the Commissioners for England acquiesced, to the end that it may appear, what equivalent Scotland ought to receive for its proportion of the increase. The Commissioners for England farther gave it as their opinion, that the Scotch Company trading to Africa and the Indies, must cease and determine; but agreed, that regard be had to the losses of this Company, in consequence of the misunderstandings between the two kingdoms.

The Commissioners for England farther proposed, that the sum to be granted as an equivalent, shall be proportioned to the increase of the revenue

nue in Scotland, applied to such parts of the English debt, as that kingdom may pay after the union, and that the sum arising from the increase of the revenues of customs and excises, shall, for the term of seven years after the union, be applied by Commissioners appointed and accountable to the Parliament of Great Britain as follows, *viz.* the £.398,085 10s. to be applied to the payment of the public debts of Scotland and to redeem the capital stock of the African and Indian Companies, together with the interest on this stock, at the rate of five per cent. per ann. from the respective times of payment thereof; the said Company to be dissolved and neither to trade nor give licence to trade; and that whatever sums may arise from these duties, during the said seven years, may be applied to compensate the losses of private persons, and in promoting the fisheries and other manufactures in Scotland; *specifying* farther, on the 28th, that the premiums and draw-backs, now allowed by the laws of England for exporting fish, be allowed out of this sum by Scotland for the same purposes.

The Commissioners for Scotland, on the 26th, agreed to the equivalent, with the following additions and explanations:—That the accounts and estimates, from which it has appeared  
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this equivalent will be due, be entered on [the journal books of this treaty. And explained, that they understand this sum was to be granted to her Majesty by the Parliament of England, at or before ratifying the treaty of union in both Parliaments. The Commissioners for the equivalent to be empowered to call for, receive, and dispose of the said sum of £.398,085 10s. for the purposes above specified, and have authority to inspect the books of the Collectors of the Revenues of Customs and Excise, and the books of all other duties, from whence the equivalent may arise, from time to time. To have their office within the limits of Scotland, and their books to be open for the inspection of all the subjects of that kingdom. On the 3d of July, the Commissioners for England agreed to these proposals\*.

The Commissioners for Scotland, on the 21st of June, proposed, that all ships belonging to the subjects of Scotland, at the time of the union, be deemed and passed as ships of the build of Great Britain, the owner or owners making oath before the officer of customs at the port nearest where he or they reside, which oath to be transmitted to  
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the Commissioners of Customs at Edinburgh, within twelve months after the union, specifying that the same did belong to him or them, at the commencement of the union, and does then belong to him or them, and that no foreigner has a share or part thereof.

To this proposal, the Commissioners for England agreed on the 22d, with this alteration, that the same be entered in the general Register Book of all the trading ships belonging to Great Britain, to which alteration the Commissioners for Scotland consented on the 25th\*.

On the 22d of June, the Commissioners for England proposed, that there be one great seal for the United Kingdom, to be used in writs to elect and summon Parliament, in all public and mandatory writs, public acts, or orders of state, and grants; and in such instruments relating to public justice, policy, and government, as are proper to be sealed with a great seal; and that a seal after the union, shall be kept and made use of in Scotland in all things relating to private rights and justice, in the same manner as the great seal has been used, subject to such regulations as Parliament may hereafter make;  
but

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\* Appendix, No. LXIII. p. dix.

but till such great seal be provided, the great seal of Scotland to be continued in use.

On the 28th, the Commissioners for Scotland agreed to this proposal, with the addition of the great seal of the United Kingdom being used in all treaties with foreign princes and states; and specified, that it be different from the seals now used in either kingdom: the quartering of the arms, as may best suit the union, to be left to her Majesty; in the mean time, the great seal of England to be used as the seal of the United Kingdom; but as the laws and customs of both kingdoms are to be reserved to them, a seal to be kept and used in Scotland, in all things relating to private rights or grants, which have usually passed the great seal, and which only concern offices, grants, commissions, and private rights, within that kingdom: also the privy seal, signet, signet of the justiciary court, quarter seal, and other seals of courts, now used in Scotland, to be continued, but may be altered and adapted to the union, as her Majesty shall think fit. On the 3d of July, the Commissioners for England agreed to these proposals\*.

On the 28th of June, the Commissioners for Scotland proposed, on calling the first Parliament

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\* Appendix, No. LXIII, p. dvii.

of Great Britain, and until this Parliament should make further provision therein, that the method of summoning the members for Scotland be as follows :—by a writ under the great seal, directed to such court, officers, or office, and executed and returned in such manner as by the Parliament of Scotland shall be settled, at or before ratifying the treaty.

On the 3d of July, the Commissioners for England proposed, that the writ be issued under the great seal of the United Kingdom, directed to the Privy Council of Scotland, commanding it to cause sixteen Peers to be summoned, and forty-five members to be elected to sit in the House of Commons, according to the agreement between the two kingdoms, in this treaty, in such manner as the Parliament of Scotland shall settle before ratifying the treaty; the names to be returned by the Privy Council in Scotland, into the court from whence the writ did issue\*. On the 4th of July the Scotch Commissioners agreed to this plan.

On the 28th of June, the Commissioners for Scotland proposed, for removing national distinctions after the union, that the crosses of St. Andrew and St. George be conjoined, and used in flags, banners,

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\* Appendix, No. LXIII. p. dix.

banners, standards, and ensigns, both at sea and land. The 3d of July, the Commissioners for England agreed to this proposal, it being left to her Majesty to settle the ensigns armorial for the United Kingdoms, to which the Commissioners for Scotland, on the 4th consented\*.

On the 11th of July, the Commissioners for England proposed, that the union should take place on the first day of May 1707, and that her Majesty, on or before such day, may declare, under the great seal of England, that the Peers and Commons of the present Parliament of England may be members of the respective Houses of the first Parliament of Great Britain, and by proclamation appoint the said Parliament of Great Britain to meet, at such time and place, as her Majesty shall think fit, not less than forty-two days after the date of the proclamation.—That the time and place being so appointed, the Queen may issue, under the great seal of Great Britain, a writ, directed to the Privy Council of Scotland, for summoning sixteen Peers, and for electing forty-five Commoners, to represent Scotland in the Parliament of Great Britain, in its respective Houses:—That the Parliament continue the same time, as the

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\* Appendix, No. LXIII. p. dxi.

present Parliament of England might have continued, if the union had not taken place, unless sooner dissolved by her Majesty :—That the members of both Houses for Scotland shall be obliged to take and subscribe the oaths agreeably to the act or acts of Parliament now in force in England, under the penalties therein contained.

On the 13th, the Commissioners for Scotland consented, with this alteration,—that instead of forty-two days, it be fifty days after the proclamation ; and that when the members of the Parliament of Great Britain take the oaths, it shall be understood, that the meaning is not, *crown and realm of England*, but *the crown and realm of Great Britain* \*.

The articles of union were thus agreed on, a draft of them made on the 16th of July, and on the 22d, signed and sealed by the respective Commissioners, and entered into the journals of the treaty of union.

On the 23d July, the Lord Keeper presented, conformably to the instructions in his commission, a copy to the Queen, at St. James's, and in his address, described the treaty as the effects of the continued and faithful endeavours of the Commissioners of  
both

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\* Appendix, No. LXIII. p. cxii.

both kingdoms, leaving to her Majesty and to the two Parliaments to approve and confirm the articles, and referred to the unanimity with which a treaty had been finished, which he trusted would secure the happiness of the people, and the peace and tranquillity of the Island to the latest posterity.

The Chancellor of Scotland in like manner, presented a copy of the treaty, conformably to his instructions, expressing his conviction that the unanimity with which it had been conducted, was to be referred to the earnestness with which her Majesty had recommended it, and trusted, that it would be acceptable to the Queen and ratified by both Parliaments.

The Answer of the Queen was, That the terms seemed so reasonable, she hoped they would meet with the approbation of both Parliaments; — That she wished her servants of Scotland would lose no time in proposing the treaty to her subjects of that kingdom\*.

The substance of the articles of union is, as follows;—

1. The kingdoms of England and Scotland, upon the 1st day of May, 1707, to be united into  
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\* Appendix, No. LXIV. p. dxvi.]

one kingdom, by the name of Great Britain, and the ensigns armorial of the United Kingdom, to be the crosses of St. George and St. Andrew, conjoined, in such manner as her Majesty shall think fit; and used in all flags, standards, &c. both at sea and land.

2. The succession to the monarchy, in default of heirs of her Majesty, to be in the Princess Sophia, Electress Dowager of Hanover, and her heirs, being Protestants, excluding all Papists or persons married to Papists.

3. The united kingdom of Great Britain to be represented in one and the same Parliament.

4. The subjects of the United Kingdom to have full freedom and intercourse of trade and navigation, to all its dominions and plantations; and all other rights and privileges, which may belong to the subjects of either kingdom, except where it is otherways agreed on in this treaty.

5. The ships of the subjects of Scotland to be deemed British built, the owner making oath, that the ship did belong to him at the signing of this treaty, and that no foreigner has interest or share therein; a duplicate of such certificate to be sent to Edinburgh and to London, to be entered in the general register of the trading ships of Great Britain.

6. The

6. The same allowances and encouragements, the same prohibitions, restrictions, and regulations of trade, and the same duties on import and export, as settled in England when the union commences, to take place in the United Kingdom.

7. The same duties of excise, settled in England when the union commences, to take place in the United Kingdom.

8. The foreign salt imported into Scotland, to be chargeable with the same duties as the like salt in England, to be levied and secured in the same manner; but Scotland to be exempted, for seven years, from paying duty for salt made there, as is paid for salt made in England, but after this term, to pay the same duties, and to have the like allowances and drawbacks; and when such salt is imported into England, to pay the same duty as English made salt, the duties to be levied in the same manner as upon foreign salt:—No Scotch salt to be transported to England, by land, under penalty of forfeiture; the fine of twenty shillings, for every bushel, and imprisonment for six months:—Salted fish and flesh, exported from Scotland to England, or made use of for victualling ships, in Scotland, or exported to parts beyond seas, if salted with a mixture of Scottish and foreign salt,



salt, to be confiscated:—The pining, curing, and packing herrings, white fish, and salmon, for exportation, to be with foreign salt only; and the regulations for preventing frauds, to continue, but subject to alterations by the British Parliament; and fish cured with foreign salt, to have the same drawbacks as in England.

When the sum of £1,997,743. 8s. 4½d. is enacted by the Parliament of Great Britain, under the head of land-tax, Scotland to be charged by the same act with £48,000. free of all charges; and to be raised in Scotland as the cess now is, but subject also to regulations by the Parliament of Great Britain.

10. The duties on stamped paper, vellum and parchment, now in force in England, not to extend to Scotland.

11. The duties in England on windows and lights, which determine on the first of August, 1710, not to extend to Scotland.

12. The duties in England on coals, culm, and cinders, which determine on the 30th of September, 1710, not to extend to Scotland, on the like articles consumed in Scotland.

13. The duties payable on malt in England, which determine the 24th of June, 1707, not to extend to Scotland.

14. Scot-

14. Scotland not to be charged with any other duties, laid by the Parliament of England before the union, except those consented to in this treaty, in regard the Parliament of Scotland is to make provision for the service of that kingdom, for 1707; but if the Parliament of England do levy any new duties of customs or excise, with which, by virtue of this treaty, Scotland is to be charged equally with England, in that case Scotland to be liable to these duties, but to have an equivalent, settled by the Parliament of Great Britain, and no further exemption insisted on, but what is agreed on, in this treaty.

15. That as Scotland will be liable to several duties of customs and excise, applicable to the payment of the debts of England, contracted before the union, it shall have an equivalent, in manner following; the sum of £398,085, 10s. to be granted to her Majesty by the Parliament of England, being an equivalent for such duties of customs and excise, as Scotland may be charged with, applicable to the payment of the debts of England, according to the proportion the present computed customs of Scotland, £.30,000, do bear to the customs of England, or £.1,341,559 per annum; and the computed duties of excise in Scotland, £.33,500, bear to those in England,

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or £.947,602 per annum, which sum £.398,085, 10s to be due from the time of the union. And in regard that after the union, Scotland will be liable to the same customs and duties on imports and exports, and to the same duties of excise as England, and as the increase of these duties, above their present estimate, will be considerable; an equivalent to be given to Scotland for such part of the duties of customs and excise, as shall be applied towards payment of the debts of England, and generally, an equivalent for such duties, as Scotland is to pay, by reason of the union;—That out of the sum of £398,085, 10s. to be granted for such equivalent, the public debt of Scotland be paid, and also the capital stock of the African and Indian Company, with five per cent. per annum:—The said Company to be dissolved and to cease, from the time the act shall pass in England, for raising the above equivalent; the surplus, after paying the debts of Scotland, capital of the said Company, and the increase of customs and excise, above their present value, during the said seven years, with the equivalent that shall become due, to be applied, as a consideration for the losses private persons may sustain, by reducing the coin of Scotland to the standard of England, and  
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afterwards to the encouragement of fisheries and manufactures; — Commissioners to be empowered by her Majesty to manage such equivalent, with powers to call for, receive and dispose of this sum, and inspect the collector's books of revenues, who are to give them abreviates of the produce; these Commissioners are to have their office in Scotland, their books to be open to all the subjects in that realm, and themselves to be responsible to the Parliament of Great Britain.

16. The coin, after the union, to be of the same standard in the United Kingdom, as it now is in England, and subject to such regulations as the Queen, her successors, and the Parliament of Great Britain may think fit: and the mint continued in Scotland, under the same regulations as are observed in England.

17. The same measures and weights to be used in the United Kingdom, as are now established in England, and to be kept in the boroughs in Scotland under their special right, but agreeably to the standard in the Exchequer in Westminster; and subject to regulation by the Parliament of Great Britain.

18. That the laws concerning the regulation of trade, customs and excise, be the same in Scotland, from and after the union, as in Eng-

land ; all other laws in use in Scotland to remain, unless contrary to this treaty, but alterable by the Parliament of Great Britain, distinguishing, however, the laws which regard public right, policy, and civil government, from those which regard private right ; the former to be the same in the whole United Kingdom, the latter to admit of no alteration, except for evident utility to the subjects of Scotland.

19. The Court of Session or College of Justice in Scotland to remain after the union, as constituted by the laws of that kingdom, subject nevertheless to such regulations, for the better administration of justice, as shall be made by the Parliament of Great Britain. The Court of Justiciary, in like manner, to remain, and without prejudice to other rights of justiciary.—The Admiralty Jurisdiction to be under the Lord High Admiral, or Commissioners for the Admiralty of Great Britain, but the Court of Admiralty now in Scotland to be continued, until the Parliament of Great Britain make such alterations and regulations, as may be expedient for the United Kingdoms, it being understood, that there is always to continue in Scotland a Court of Admiralty, such as is in England, for determining maritime cases relating to private rights, subject in like manner

manner to alterations by the Parliament of Great Britain; reserving however to the Proprietors, their heretable rights of Admiralty and Vice Admiralties, subject also to the regulations above specified:—All inferior courts to remain as they now are, subject to the Supreme Courts of Justice; and no causes in Scotland to be cognizable by the Courts of Chancery, Queen's Bench, Common Pleas, or other courts in Westminster Hall; which after the union, shall have no power to review or stop the execution of the judicatures within Scotland:—A Court of Exchequer to be established in Scotland after the union, the same as in England, for judging and deciding on cases of revenue; but the Court of Exchequer now in Scotland to remain, till a new Court be settled by the Parliament of Great Britain:—The Privy Council to remain in Scotland, for preserving public peace and order, till the Parliament of Great Britain shall establish some other effectual method for that end.

20. All heretable offices, superiorities and heretable jurisdictions, &c. to be reserved to the owners as rights of property, as now enjoyed by the laws of Scotland, notwithstanding this treaty of union.

21. The rights and privileges of the royal boroughs,

boroughs of Scotland to remain entire *after the union.*

22. Sixteen Peers of Scotland to sit and vote in the House of Lords, and forty-five members in the House of Commons, in the Parliament of Great Britain; and when her Majesty shall call such Parliament, and until it make further provision, a writ be issued under the great seal of the United Kingdom, to the Privy Council of Scotland, commanding it to cause sixteen Peers to be summoned, and forty-five Commoners to be elected, in such manner as shall be settled by the Parliament of Scotland before the union:—The names to be returned into the Court, from whence the writ did issue:—If her Majesty, before the *first day of May, 1707*, should think it expedient, that the present Parliament of England continue for England, they shall be deemed members of the first Parliament of Great Britain, and meet not less than fifty days after the date of the proclamation; immediately after issuing of which, a writ shall be directed to the Privy Council in Scotland, for summoning sixteen Peers, and electing forty-five Commoners, to represent Scotland; so that the sixteen Peers being returned and the forty-five members, being elected agreeably to the treaty, shall assemble in the  
 respective

respective Houses of the Parliament of Great Britain, and with the members for England, be the first Parliament of Great Britain; which Parliament to continue only as long as the present Parliament of England might have continued, if no union had been made, unless sooner dissolved by her Majesty:—The members from both kingdoms to take the oaths appointed to be taken, instead of those of allegiance and supremacy by the first of King William and Queen Mary, and the declaration agreeably to the act 30. Charles II. and the oath 1st of the Queen, for the security, of her Majesty's person and succession to the Crown, under the penalties and disabilities in the respective acts contained:—The words *crown* and *realm* to mean the *crown and realm of Great Britain*.—

23. The sixteen Peers of Scotland to have all privileges of Parliament which the Peers of England now have, or shall have, after the union, particularly the right of sitting, upon trials of Peers: To be summoned in times of adjournment or prorogation, as the other Peers of Great Britain, and if no Parliament be in being, the sixteen Peers who sat last in the preceding Parliament to have the same power and privileges as the other Peers of Great Britain.—The Peers of Scotland to have rank and precedence as Peers of Great Britain,  
before



before the like orders and degrees created after the union, as fully as the Peers of England do now, or may hereafter enjoy, except the right of fitting in the House of Peers, and upon trials of Peers.

24. One great seal to be for the united kingdom of Great Britain, different from the seals now used in either kingdom :—The quartering of the arms as may suit the union, to be left to her Majesty ; and the great seal of England used as that of the United Kingdom, till another be devised :—The great seal of the united kingdom to be put to writs, for electing and summoning Parliament, to treaties with foreign princes and states, and to all public acts and orders of state, which concern the United Kingdom, as the great seal of England is now used :—A seal, after the union, to be kept in Scotland, and used in all things relating to private rights or grants which used to pass under the great seal ; and until such seal be appointed by her Majesty, the present great seal of Scotland to be used for such purposes :—The privy seal, signet, cassette, signet of the justiciary courts, quarter seal, and the seals of Courts in Scotland, to be continued, but altered to the union, as her Majesty may think fit ; and the seals and the keepers of them, to be subject to such regulations, as the Parliament of Great Britain may hereafter make.

25 That

25. That all laws and statutes in either kingdom, inconsistent with the articles of the treaty of union, shall cease and determine and be so declared by the respective Parliaments.

Such were the events and circumstances which produced the treaty of union between the two kingdoms of England and Scotland, It remains only to trace those which marked its ratification in the Parliaments of both kingdoms.

As the Parliament of Scotland met on the 3d October, while that of England did not meet till the 3d December, we shall begin with the proceedings in the former country.

The Scots had hitherto been found ready to meet the plans of union, during the whole of the 17th century ; but from prejudices not less new than unhappy, were disposed, when the treaty had been brought to a conclusion, to resist, what experience has proved to be the source of the civilization and prosperity of their country.

Scotland was divided at this time by four parties. The Jacobite party who opposed the act of succession and now opposed the union, because they saw in the ratification of the treaty the exclusion of that family from the throne to which they adhered.

The Episcopal Party, who saw the Presbyterian

terian Church Government confirmed by the articles of the union, and therefore concluded, that if these articles should be ratified by both Parliaments, there remained no prospect to them of re-establishing prelacy in Scotland.

The Presbyterian Church-men, who, though the union was calculated for the security of their establishment, yet conceived it as interfering with their national covenant.

The Political Leaders of Faction, who from not having been employed in conducting the treaty of union, were determined to oppose it.

Though the three first of these parties were as opposite to each other in their civil and religious principles as men could be, and though in the last of them, the individuals professed equally opposite principles from each other, yet all of these parties opposed the union in different ways.

The Jacobites from principles and the recollection of the ill-fated expedition of Lord Dundee; the adherents to the episcopal church from aversion to the Presbyterians, and the termination to their hopes of recovering their ancient rank and affluence; the Presbyterians, from unreasonable fears that as the representation of Scotland in Parliament was small, compared with  
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that of England, the British Parliament might, notwithstanding the positive terms in which the Presbyterian government was established in the treaty of union, be induced, under the influence of the English bishops, to restore prelacy in Scotland, while the factionists who were out of office, as in all periods of British history, worked upon the popular prejudices of the less informed of the people, to gain the appearance of national support and force themselves into offices, in which we must suppose they would have thrown behind them the steps by which they had ascended, and acted upon the same public principles, as those whom they now villified as the instruments of the Court.

Unhappily for the peace of the country, each of these parties by inflammatory pamphlets, by calling meetings, and making speeches to men little qualified to judge of the question, brought before them, seduced multitudes into those tumults and insurrection, particularly the Jacobites at Glasgow, and the Presbyterians at Dumfries, leaving these misguided instruments to suffer the consequences of lawless violence:

These party men held out, to the poor the heavy taxes on salt and malt; to the merchant,

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excessive

excessive customs and excise; to the farmer, the unprofitable trade to England in cattle and in linen; and to the nation at large, the annihilation of its name, and of the Crown and Parliament by which it had, with valour and honour, maintained its independence, openly insisting that though its laws, liberties, and religion, had been provided for nominally in the articles of union, yet discretionary powers had been left in the English Parliament to make such alterations as suited England only. That the foreign English trade to which the Scots had been admitted, was a mere commercial delusion, since the most valuable branches of it were vested in English Companies, with exclusive privileges, and that their own commercial company, already borne down by the oppressions of the English, was satisfied with a trifling sum as an equivalent, not to be applied to relieve the losses of the people, but as a boon to the avarice of the Commissioners. Such was the temper of the factions, when the Parliament of Scotland were to meet, on the 3d of October, to deliberate on the articles of union agreed on by the Commissioners, whom they had authorized the Sovereign to appoint, and who had obtained those articles for Scotland, which experience has shewn to have raised that country to prosperity.

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The Duke of Queensberry, not less eminent for talents and moderation, than for his private virtues, was entrusted with the important duty of the Queen's High Commissioner, and on opening the Parliament on the 3d of October, laid before it a letter from the Queen, dated at Windsor Castle, the 31st of July 1706.

Her Majesty referring to her nomination of Commissioners to treat of an union, expressed her approbation of the care and diligence with which they had accomplished it, and that she trusted the terms would be acceptable to the Parliament of Scotland:—That as such an union must prove the greatest happiness to her people, she would esteem the ratification of it as the greatest glory of her reign, for an union alone could effectually secure religion, liberty, and property, remove jealousies between the two kingdoms, increase the strength, riches, and trade of the whole island, and enable her to maintain the Protestant interest, and liberties of Europe:—That on this occasion she renewed her assurances to maintain the government of the church, as by law established; and that Parliament now had an opportunity of doing what was further necessary for its security: she then recommended to them provision for the necessary services of the year; expressed her confidence  
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in the noble person who represented her, whom she had instructed in whatever was necessary on the present occasion, and after referring to the great success of her arms, considered the prospect of peace, as immediately connected with the establishment of an union, which would powerfully tend to frustrate the ambitious views of her own, and of their enemies.

The High Commissioners stated to Parliament, the diligence and zeal of the Commissioners, their opinion of the reasonableness of the terms, and the security obtained for the church establishment.

These assurances were further confirmed by the Chancellor, Lord Seafield, who considered the terms as calculated to unite the two nations in affections and interest, and by an equality of rights and privileges, to augment to strengthen and to increase trade and riches; explaining, that the Commissioners had only treated of the civil government, of trade, and of taxes, reserving, agreeably to their instructions, the security of the church to the decision of Parliament.

The treaty of union was then read, and ordered to be printed, and copies delivered to the members of Parliament; and the Parliament adjourned

adjourned to the 10th, and afterwards to the 12th,\* when the articles were read, and copies of all treaties between the two kingdoms ordered to be laid on the table.

On the 15th, the question was stated, to proceed to the consideration of the articles, or to delay; and carried, proceed,—116 to 52.†

On the 16th, the first sixteen articles were read, and the proceedings of the Commissioners on them.‡

On the 17th, an address of the Commission of the general Assembly of the Church was presented, and assurances given, that every necessary measure should be adopted for its security.§

On the 19th, the fifteenth article which regarded the equivalent, and the correctness of the calculations upon which it proceeded, came under discussion, and on the 22d, a Committee was appointed to examine the calculations, and to report. Several members insisted on a compensation being given for all the losses of the Darien Company,

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\* Appendix, LXVI. p. dxlii.—Periodical pamphlets of the times.

† Parliamentary Debates in the Scotch Parliament, relating to the union, in a Collection of Parliamentary Debates of England, Vol. V. p. 8.

‡ Parliamentary Debates, Vol. V, p. 8

§ De Foe.



Company, and it was agreed, that as the equivalent to the African Company was to be given out of the Scotch customs and excise, therefore the property of that Company ought to belong to the kingdom, and not to be abandoned, for an inadequate price\*

On the 23d, a large Committee was appointed to examine the calculations upon which the equivalent had proceeded, and directions were given, that the English regulations of trade, customs, and excise be printed for the use of Parliament.

The tumults at Edinburgh, by this time, had begun, and the Privy Council had been obliged to call in the troops for the preservation of the peace. Instructions from the little town of Lauder to its representative, directing him to oppose the union, unless a Parliament should be continued in Scotland, were presented to the members as they entered the House. The debates now ran high; It had been said in the House, that the interest and honor of the nation had been betrayed by the Commissioners, and that an unfair precedency had been given to the English Peers above the Scotch Peers of the same rank.†

Nothing

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\* De Foe.

† Ibid, p. 13.

Nothing material happened till the 1st of November, when the questions were agitated, whether to proceed to the consideration of the articles in whole, or seperately? and whether to wait till the sentiments of the Parliament of England should be known, that members might have time to consult their constituents? During this interval, various addressees and petitions were presented to the Parliament, procured by the leaders of the different parties, not from counties only but from the lesser burroughs. Counter petitions were brought forward, approving of an incorporating union. It was agreed at last to read the articles one by one.

On the 2d of November, the first article of the Union was read, and it was objected, that an incorporating union was contrary to the claim of rights, and to the 1st of the Queen, which had ratified the meeting of the Estates, as a Parliament. A question was here stated, whether they should first enter on the security of the church, or on the first article of the union? but it was explained, that whatever resolution they should come to respecting the church, should not be obligatory, till all the rest of the articles of the union were agreed on.

It was upon this occasion, that Lord Belhaven, who was the chief opposer of the union,

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represented Scotland as an independent kingdom surrendering its liberties;—a national church, formed on the claim of right putting itself on a level with a sect; the honorable peerage of Scotland degraded to a state of humiliation in England;—the barons, and the representatives of boroughs, laying down their franchises at the feet of a rival nation; the Scotch judges becoming students of English law, and the soldiers learning the trade of planters in America; the industrious tradesman bowing under taxes, and the farmer without a market; the landholder bound in the golden chain of an equivalent, and the seamen compelled to trade with the Dutch, or to servitude in the English navy; in one word, Scotland itself annihilated. This *vision*, as his Lordship properly termed it, was to be dispelled by deliberation; for he considered the man who would agree to the union, to be a paricide of his country; “No longer would the noble Lord have to represent his sovereign, no longer would they have to defend the honorable privileges of their ancestors, and no longer, though they were under a mild reign, have the power to resist an arbitrary prince.”—The parties in England and in Scotland, said his Lordship, were different. In the former, the Whig opposed the King;

King; in the latter, the Whig opposed the Kirk; whereas a Tory in both, if he preserved his rank and his benefices, was indifferent who held the government:—

He then represented the Commissioners in the treaty, as having sacrificed the ancient privileges of their country and the great names which they bore, and after holding out the taxes to which Scotland would be subjected, concluded with proposing to delay the discussion of the three first articles, and to begin with the fourth. After much contest however, it was agreed to consider the articles in their order\*. This poetical rhapsody was very prudently received with silence.

On the 4th, the Marquis of Anandale proposed it should be resolved, that instead of agreeing to the first article of the union, Scotland should reserve to itself the independency of the monarchy, the privileges of the kingdom, and the constitution the government, in church and state, but be ready to unite its interests, in all wars and alliances and in trade with England.

The Duke of Atholl protested against an in-

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\* De Foe, and Parliamentary Debates, Vol. V. p. 15 to 34.

corporating union, as being contrary to the Act 130. of James VI. Parl<sup>t</sup> 8 by which the subjects of Scotland were prohibited from calling in question the dignity and authority of the three Estates in Parliament, under pain of treason. It was besides contrary to the claim of right, and to the 3<sup>d</sup> of the Queen 1704, which makes it treason to call in question the claim of right. After much debate, it was at last agreed to approve of the first article of the union, with the reservations, that if the other articles should not be approved of, this consent should not be obligatory.

In this stage of the business, the act for the security of the Church establishment was introduced, and consisted of four clauses; one declaratory of the established government of the Church being ratified for ever, as well as the 1st of William and Mary, which restored the Presbyterian Church government of Kirk-sessions, presbyteries, provincial synods, and general assemblies; another declaring that the principals and professors of the universities or schools, within the kingdom, should acknowledge the civil government, and subscribe the confession of faith;—A third, declaring that no test, inconsistent with the Presbyterian church government, should be required or given in this kingdom, because the English could hold offices  
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in Scotland without a test, therefore the Scots ought to be capable of offices in England; but this was over-ruled by the observation, that the Scotch Parliament had no power to decide on this question:— And a fourth clause declaring that all successors to the throne shall take an oath to preserve the established government and Church, and this to be held as a fundamental law of the constitution:—Lord Bellhaven protested, that this act was no security to the church, in the event of an incorporating union taking place;—but it was approved of.

On the 14th, the second article of union or that which regarded the succession, was read; after a variety of previous questions, tending to clog the decision with the conditions, to which the successor to the throne was to be bound, and with protests against these conditions, this article also was approved\*.

On the 18th, the third article or the representation of Great Britain in one Parliament, was taken into consideration, and a delay attempted, by endeavouring to bring up the question in the fourth article or that on trade and navigation; but

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\* Parliamentary Debates, Vol. V. p. 43.

but the third article was approved of by a majority of thirty.

On the 19th, the fourth article or that regarding trade and navigation, was brought forward. The Duke of Athol stated, as a previous question, that the Parliament of Great Britain should, once in three years, sit in Scotland. This was got rid of, by postponing the subject of the discussion, till the question respecting the Peers and Commoners who were to sit in the Parliament of Great Britain should come under consideration. Still farther to procrastinate the business, the Duke of Hamilton moved, that the laws regarding the English trade should first be taken into consideration. The fourth article was also approved of;—To bring popular odium on the supporters of the measure, it was voted, that the names of the members voting *pro* and *con* should be recorded and printed.

On the 19th, the fifth article or that regarding the shipping of Scotland, being included in the Act of Navigation, came under consideration, and it was agreed, that the ships belonging to the subjects of Scotland may be registered, within twelve months after the union. The Duke of Hamilton endeavoured to introduce a clause, that the pressing of seamen for the navy should not be authorized for seven years after the union. This was negatived, and the article approved.

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On the 26th, the sixth article, or that which regarded uniformity in the exports and imports of the United Kingdom was brought forward. Various clauses were attempted to be introduced; such as a bounty on the export of oats and oatmeal, for the encouragement of agriculture; liberty to export sheep-skins and wool, the produce of Scotland; permission to export salted provisions to the Plantations; a reciprocal freedom of toll, on the transit of black cattle into either kingdom; and liberty to manufacture certain woollen stuffs and stockings, which had long been a staple branch in Scotland. These subjects were postponed, till the equivalent should come under consideration.

On the 28th, the seventh article or the equality of excise upon liquors was discussed, and was agreed to with the amendment, that the thirty-four gallon English, equal to twelve gallon Scotch, be liable only to two shillings sterling.

On the 7th of December, the fifteenth article or the equivalent to be allowed to Scotland for becoming liable to certain duties of customs and excise, applicable to the payment of English debts contracted before the union, and which had been remitted to the Committee on the sixth article or that which regarded the allowances and prohibitions  
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of trade, and the eighth article, or the duties on salt, salted fish, cattle, &c. came under consideration; and a report by Dr. Gregory and Dr. Bower, Professors of Mathematicks at Edinburgh and Aberdeen, was referred to, which had pronounced the calculations correct. The first clause of the fifteenth article or that Scotland should become liable, on account of receiving an equivalent to the duties of excise and customs payable in England, was carried. The sixth article or that Scotland should be subject to the same regulations of trade, was also approved of.

The eighth article, or the equalizing the duties on salt and salted provisions, occupied the attention of Parliament from the 17th to the 26th December, when it was approved of; and on the 30th, the fifteenth article or the equivalent, was ratified. On the same day, the sixteenth and seventeenth articles, regarding the standard of coin, weights, and measures, were approved of.

On the same day, the eighteenth article, or the uniformity of the laws in both kingdoms, as public acts of government, treaties, &c, and the permanency of the laws applicable to private rights, were brought under consideration. A motion was made, that overtures from the Court of Session should be attended to, in making laws applicable

plicable to Scotland, and the exemption to be allowed to Scotland, from taking the test in England was again attempted, but the article passed without amendment\*.

On the 2d of January 1706-7, the nineteenth article or the Courts of Justice, was approved of, with certain regulations which were merely local, as to the qualifications of advocates and writers, who might become members of the College of Justice.

On the 6th, the twentieth article or the heretable offices, and the twenty-first, or the royal boroughs, were approved of; and on the 7th the twenty-second article, or summonses and writs for the Peers and Commoners, was taken into consideration, and after a variety of protests, in which the questions respecting the Parliaments setting once in three years in Scotland, and Scotchmen taking the test in England, or Englishmen holding offices in Scotland, signing the formula, was finally approved in its original form on the 8th.

On the 13th, the twenty-third article or the privilege and precedence of the Peers, was discussed, and clauses attempted to be introduced, for ex-

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† Parliamentary Debates, Vol. V. p. 60.

tending the privileges to all Scotch Peers and for entitling them to sit covered in the House of Peers, were brought forward and negatived, and the article approved, in its original form.

On the 14th, the twenty-fourth article or the seals and armorial bearings, was considered, and with the amendments of settling the rank of Lion King at Arms, and that the regalia and records of Parliament should remain in Scotland, was ratified; and on the same day, the twenty-fifth article or the abrogating of all laws contrary to the union, was agreed to.

On the 15th, the act for ratifying and approving the union was brought forward\*.

Meantime the Commission of the General Assembly, still apprehending, that the discretionary powers in the British Parliament might go to make alterations on the church government established in Scotland, presented a representation and petition to Parliament, expressive of these apprehensions, and deprecating the consequences of such an innovation.

On the 16th, the act for security of the Protestant Religion and Presbyterian church government,

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\* Parliamentary Debates, Vol. V. p. 68.

ment, and the act\* finally ratifying the union, passed, one hundred and ten voting for, and sixty nine against :—

The High Commissioner then, (in the manner which had been in practice from the accession of James I, when the sovereign had ceased to reside in Scotland) touched the treaty with the sceptre, as the symbol of his giving the royal assent.

In passing an act, settling the mode for electing the Peers, the question was stated, whether it should be by election or by rotation, and whether the votes in the election should be expressed or given by ballot ; and it was carried to be by election, and by giving in lists.

It was next settled that thirty members should represent the shires, and fifteen the boroughs, and that of this fifteen, Edinburgh should have *one* exclusively, and the other boroughs to be formed into fourteen districts, each to have a member.

The following sums were allowed to each Commissioner for the union, to be charged on the equivalent as a public debt.

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\* Scotch Acts of Parliament, Vol. III. p. 720.

	<i>lb. Scotch</i>	<i>£. Stg.</i>
To each Nobleman, -	12,000	or 1,000
To every other Com- missioner, - - -	6,000	or 500
To the Secretary, -	4,800	or 400
To the three Account- ants, - - each.	2,400	or 200

And to prevent discontents which would have arisen among the Commissioners of the union attempted in 1702-3, they were allowed, *viz.*

	<i>£. Stg.</i>
The Noblemen, - - - -	500 each.
The Barons, or Knights of the Shire, - - - - -	300
And the Representatives of the the Borough, - - - -	200 each.*

In this manner terminated a treaty of union, which prevented a civil war between the two nations, introduced the arrangements which have gradually diminished the national prejudices, and by consolidating the strength of Great Britain into one government, secured the public peace and national independence.

It could not be expected, however, that the party spirit which ran so high while the treaty was yet

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\* Scotch Acts of Parliament, Vol. III. p. 71.

yet a subject for deliberation, could immediately subside.

The Jacobites, the following year, building partly upon the discontents on the subject of the union during the discussions in Parliament, and partly on the tumults and commotions it had occasioned, favoured the attempt of an invasion by France, which was happily prevented by the vigilance of the British fleet.

The Presbyterians, who though jealous of the church establishment during the discussions of the union Parliament, were now alarmed for that security which this Parliament had procured them, and became the steady friends of government; so that in the different attempts which have been made, by the Jacobites, supported by the French interest, the church was uniform in its support of the established government.

The rapid progress of manufactures and trade, during the last fifty years, and since these fatal attempts had ceased, have led all men to forget the prejudices which divided the country, in the prosperity which the union has produced.

We have next to follow the progress of the treaty of union in the Parliament of England, the sessions of which did not open till the 3d of December, 1706, at the time the parties in Scotland  
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were exerting their influence against the ratification, although acting from the most opposite principles of conduct.

In the speech with which the Queen opened the Parliament she informs it, that in pursuance of the powers vested in her by the Parliaments of the two kingdoms, she had appointed Commissioners to treat of an union, that such had been their application, as to have overcome the difficulties which had hitherto prevented a treaty, evidently for the mutual advantage of both realms, and as the business was before the Parliament of Scotland, she was in the hope, that in a short time, an opportunity would be afforded her, of laying before her Parliament in *England*, the success of the measure in *Scotland*—That there were several matters in the articles of union, which would come under consideration of the Parliament of Great Britain, in order to produce the full advantages which will arise from the treaty which she deemed the happiest circumstance of her reign, as it would do away the schemes of the enemies of Britain to disturb the peace and happiness of her dominions, and extinguish all jealousies, regarding either civil or religious rights in the United Kingdom\*.

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\* Lord's Journals, Vol. XVIII. p. 174.

The Commons in their address, assured her Majesty of their readiness to embrace all occasions, for confirming and improving the advantages of this happy union \*; which address her Majesty answered, by assurances of her thanks upon this occasion †. And in like manner the House of Lords expressed their gratitude to the Queen, for the wisdom and foresight which had marked her Majesty's endeavours to settle an entire and complete union of the kingdoms of England and Scotland ‡.

The treaty having been ratified in Scotland, on the 16th of January 1706-7, the Queen came to the House of Lords on the 28th, and the Commons attending, she informed both Houses, that it was with great satisfaction she had to inform them, the treaty of union had been ratified by the Parliament of Scotland, with some alterations and additions, and she had directed the treaty, as agreed on by the Commissioners, and the act of ratification in Scotland, to be laid before them; and hoped to meet with their concurrence and approbation. She informed the Commons, that Scotland was to have an equivalent, for what it was

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\* Parliamentary Debates in England, Vol. V. p. 133.

† *Ib.* p. 134.

‡ Lord's Journals, Vol. XVIII. p. 176.



to contribute in paying the debts of England, for which she recommended provision to be made; and informed both Houses, that they had now an opportunity of putting the last hand to an union, which she hoped would add to the wealth and power of the whole island and to the security of the Protestant Religion; an event which she deemed the particular happiness of her reign\*.

When the house was resumed, Lord Sunderland laid before the Lords the minutes of the Commissioners, and copy of the treaty which they had agreed on with the Commissioners for Scotland, and also the act ratifying and approving the treaty by the Parliament of Scotland, with the act for securing the Protestant Religion and Presbyterian Church government in that kingdom †.

Lord Coningsby on the return of the Commons to their own House, moved an address to the Queen, to have the minutes of the Commissioners' proceedings on the union, in the first year of her reign laid before the House, which was negatived, and an address of thanks moved to the Queen for the communications respecting the late treaty.

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\* Appendix, No. LXVII. p. dxlvi.—Lord's Journals, Vol. XVIII. p. 207.

† *Ib.* 219.

treaty. The Queen expressed her thanks, that what she had done was so much to the satisfaction of her faithful Commons\*.

As the Scotch Parliament had passed an act for the security of the Presbyterian establishment in that kingdom, the Archbishop of Canterbury was directed to bring in a bill for the security of the Church of England, which was read a first time on the 31st of January and a second time on the 3d of February†.

The question was then put, that it be an instruction to the Committee of the whole House, to insert in the bill, as a fundamental condition of the intended union, particular and express words, declaring unalterable the act 25 Charles II. for preventing the dangers which may happen from Popish recusants, which was negatived; and the bill being committed and read a third time, passed. The object of this bill was to prevent Dissenters from holding offices, without taking the tests; and though the Queen was present, several dissents were entered‡.

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\* Debates of the Parliaments of England, Vol. V. p. 103.

† Lords' Journal, Vol. XVIII. p. 222.

‡ Parliamentary Debates, Vol. V. p. 105.

Upon this occasion, the House of Commons appear to have been more forward in entering upon the business of the union, than the Lords.

On the 4th, the Commons resolved themselves into a Committee of the whole House to consider of the articles of union and the act of ratification by the Parliament of Scotland. Against both, Sir John Packington objected. He held an incorporating union to be dangerous, and endeavoured to establish, that the consent of the Scotch Parliament had been obtained by unjustifiable means; that besides, there was a contradiction in her Majesty taking in England one coronation oath to maintain the Church of England, and another oath to defend the Kirk of Scotland, while at the same time the kingdoms were to become one or united.

The House considered, this objection as of no weight.

When it was proposed that the first article of the treaty be read, in the same manner as had happened in the Scotch Parliament, it was moved, that this be postponed till after consideration of the other articles, a great majority having rejected this mode of involving the business: The first article, or the uniting the two kingdoms into one, under the name of Great Britain; the second, or the succession; the third, or the representation by  
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one Parliament; and the fourth, or the freedom of trade and navigation, were approved of; and the fifth, or the navigation act, read: and on the 8th, the Commons, in a Committee of the whole House, went through the other articles, and approved of the treaty.\*

During these short debates, the minority peevishly left the House, because their arguments were not listened to, except a very few, who remained to make the general objection, of a business of so much importance being improperly hurried through the House.

The Commons next went on the bill for securing the Church of England, and only added the clause, "*although effectually and sufficiently provided for, in the former bill;*" but this being objected to, the bill passed, and was sent back to the Lords, and with it the bill ratifying the union, as it had passed in Scotland.†

In the House of Lords, on the 15th of February, the treaty of union, and act of Scotch Parliament were referred to a committee. ‡ Farther

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\* Parliamentary Debates, Vol. V. p. 107.

† Ibid. p.

‡ Lord's Journals, Vol. XVIII, p. 239.

progress reported on the 19th,\* and farther progress on the 22d;† and the Bishop of Salisbury on the 24th informed the House, that the Committee had gone through the articles, and were ready to make report.‡

The debates, during these proceedings of the Committee, were chiefly on the followings points:

The Earl of Nottingham brought up the old objection, made in the time of James I, that the assuming the name of Great Britain, was an innovation on the monarchy of England and subversive of the laws, but was answered by the unanimous opinion of the judges: That the constitution of the realm and the laws would remain entire, and the same as they had been before the union, except such alterations as might be inconsistent with such an union.§

Lord Haversham reprobated authority, as derived from the recommendation of the Queen, or ratification of the Scotch Parliament, and proposed a fœderal union, an union of interest and succession, but not an incorporating union; the latter being against the English constitution, which provided

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\* Lord's Journals, Vol. XVIII, p 245.

† Ibid 249.

‡ Ibid 251.

§ Parliamentary Debates, Vol. V, p. 109

provided equally for the safety of the monarchy and the safety of the people, both of which would be endangered by admitting sixty-one members into the Houses of the British Parliament. The Parliament of Great Britain might deprive the Peers of England of their birthright and privileges as the Scotch Parliament had done these of above one hundred of their Peers; and because the Spiritual Lords were to agree to an act for the security of the Kirk of Scotland, a sect against which they had contended for thirty years; but above all, because the union was disagreeable to the body of the Scottish nation, whose discontents might lead to new revolutions.

Lords North and Grey, objected to the small proportion of land-tax to be paid by Scotland, which was abler to pay than Wales, and which was not allowed one half of the representatives proposed to be granted to Scotland.

Lord Halifax, in reply shewed, that this was no novelty even in England itself; as Gloucestershire paid more land-tax than Cornwall, though the latter had five times as many representatives as the former; and that besides, by the Scotch constitutional laws, there existed an impossibility of that country paying more. If then in some instances, the Scots had the advantage in the treaty, more important advantages in strength and security

security would be gained by England. The articles therefore were approved of, from the first to the thirteenth, inclusive. The Queen's anxiety led her to be present, during these debates.

On the 21st of February, when the fifteenth article, or the equivalent, came under consideration; the Earl of Nottingham insisted, that it was unreasonable to admit the Scots to all the advantages of trade, who had paid so little towards the support of the war; and at the same time, to give an equivalent of so large a sum, and which might be applied by a few persons, without indemnifying the adventurers in the unhappy Darien enterprize†.

Lord Halifax considered the equivalent, not as a gift, but as an actual purchase of the Scotch revenues and customs, to be applied in payment of the debts of England, and that, in fact, that nation were no more gainers by it, than England was by the sale of annuities, at fifteen or sixteen years purchase.—Besides, as the sum given belonged to them, it was reasonable they should have the liberty of applying it; and yet this application was guarded, by making the Commissioners responsible to the Parliament of Great Britain.

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† Parliamentary Debates, Vol. V. p. 116.

While the House was considering the twentieth article, [which regards heritable jurisdictions, the Queen being present, Lord Thanet observed, that he held the office of perpetual Sheriff of Westmorland, and the Lord Chamberlain seconded him, as also holding an heritable office; the judges gave it as their opinion, that these remained entire, as before the union, except in so far as they might be inconsistent with it\*.

The Earl of Rochester objected to the twenty-second article, which made Peers elective who had been hereditary, and that it was inconsistent to admit Peers by election to sit among Peers by birth.

Lord Nottingham farther objected, that the Scotch Peers attached to the Kirk would, from their principles, be dangerous in questions regarding the Church of England.

The Earl of Wharton replied, that this danger was imaginary, as there were occasional conformists among their Lordships.

Lord Haverham replied, that both churches were Protestant; but the Bishop of Bath and Wells considered the admission of the sixteen Peers, as bringing the Church into danger.

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\* Parliamentary Debates, Vol. V. p. 117.



On reading the twenty-fifth article, the Earl of Arran wished to have the opinion of the Judges, of the laws which would be repealed by the union, and those which would remain in force, still urging as an objection, that the union would be a subversive of the laws of England.

As this objection however had been twice over-ruled by the opinion of the Judges, it received no answer\*.

The Bishop of Salisbury, on the 27th of February, brought up the report of the Committee of the whole House, to whom had been referred the consideration of the articles of union, and stated, that the Committee had agreed to the several articles and matters referred to them, and had come to the resolution of adopting the articles as they had passed in Scotland, ratifying and approving of the union, against which a variety of protests were taken †.

On the 1st of March, a message was brought from the Commons, with a bill, entitled, *an Act for the Union of the two Kingdoms of England and Scotland*, which was read a first time, and on the 3d of March, a second time, and on the 4th of March

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\* Ibid. p. 120.

† Lords Journals, Vol. XVIII. p. 253, and 261.

March, a third time, and passed \*, accompanied by several protests of the discontented party †.

The only remaining difficulty arose from the circumstance of the Parliament of Scotland having inserted several articles, for drawbacks and allowances upon different commodities, the growth of that kingdom. This circumstance led the House of Commons to resolutions to the following effect :—That foreign salt imported into England shall be cellared, the importer giving security, payable in six months, for the quantity he receives from the officer :—That on English salt carried coast-ways, allowance be made for wastage :—That the like allowances be given in England as in Scotland, upon the exportation of white herrings and salted beef or pork, after the 1st of May, 1707 :—That the same premium be granted on oatmeal and grain, called beer and big in England as in Scotland.

A bill to this purpose was therefore passed, and with the ratification of the union, received the royal assent on the 6th of March, when the Queen addressed the House, expressing the greatest satisfaction at passing a bill for uniting England and

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\* Ibid. p. 268.

† Statutes at Large, Vol. IV. p. 223.

Scotland, which she considered as a matter of the greatest importance to the wealth, strength, and security of the whole island, a measure which she doubted not would be spoken of hereafter, to the honor of those who had brought it to a happy conclusion, recommending every possible kindness and respect to her subjects, whom this act had made one people, now united <sup>in</sup> the security of their religion, and the protestant succession.

Both Houses of Parliament agreed on a joint address, expressive of their thanks to the Queen for her approbation of the share they had taken, in bringing to a conclusion what seemed designed by Providence to add a new lustre to the glories of her reign; to which the Queen's answer was; that Parliament could not do a more acceptable service, than by using their utmost endeavours to improve the good consequences of the union

On the 29th of April, the Parliament was adjourned, when the Queen, in her speech, informed it of her intention to continue the present Parliament of England, as members and representatives of the Parliament of Great-Britain, for and on the part of England; and recommending to them, on their return to their counties, to make her subjects sensible of the security, and bene-

benefits they might reasonably expect from this happy union.

In this progress of the treaty of union through the Houses of the English Parliament, compared with all the discussions which on former occasions had taken place in the Houses of that Assembly, there appears a striking contrast, explicable only by the circumstances of the times.

In all former plans, from the period of James to the first union attempted by Queen Anne, the opposition arose in the House of Commons and rested on one subject only, that of excluding the Scots from the privileges and benefits of the English trade. In the passage of the bill through the House of Commons, scarcely one objection was made of any weight, and as to the bill which afterwards passed on drawbacks and premiums, it was merely a counterpart of what had been done in Scotland.

This change we can only explain by a reference to the inconveniences which were at last perceived, of having different laws of Navigation and Commerce for subjects owing allegiance to the same sovereign, serving in the same fleets and armies in the memorable wars which had preserved the balance of power in Europe;

and had rendered Britain the centre upon which that balance turned; and which now therefore opened to the minds of that liberal body, the merchants of England, the uniform system which has directed the industry of an ingenious and active people.

In all former unions, attempted during a century, the House of Peers had met the wishes and recommendation of the Sovereign, and left the odium of the disappointment to rest on the Commons and commercial interest, by which means they preserved their influence, without hazarding an extension of their privileges to the Scottish nobility; but in this last instance, though only sixteen of that nobility were to obtain voices in their House, they became jealous of this privilege, without avowing this feeling as the motive of their conduct. At one time, the opposition placing their objections on the circumstance of Peers sitting by election with Peers who voted from birth-right or creation; at another time alarming the Bishops with the English Church being in danger, though no representatives from the Scottish Church were brought to oppose it; and thus seeking, in secondary arguments, to veil the real one, their desire to remove the ministers  
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who had conducted the measure, that they might occupy their places ;—for we cannot suppose any of them looking forward to public convulsions, when that succession should take place, the fixing of which had been one of the great motives with wise and considerate men, in devising and perfecting the union.

VI.—*Results from the Union of England and of Scotland, marking the Effects of that Event on the Government and Jurisdiction, on the Revenues and Trade of the United Kingdoms, and on the political and commercial Influence of Great Britain, in the Balance of Power in Europe.*

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The union of two kingdoms, which had for so many ages divided the strength of Great Britain, was an event which gave to that kingdom a new character and influence among the European nations: It will therefore form an interesting conclusion to a review of this event, if we connect with it, the effects which it produced on the internal administration, and on the external relations of the British Empire.

“ The first change was made on the Legislature of the United Kingdom.”

In the preceding details it has been found, that the constitution of the Parliaments of England and of Scotland was different: the Parliament of England consisted of three distinct estates,

tates, the King in his political capacity forming one ; the Lords Spiritual and Temporal forming another, and meeting in their own House, with defined privileges, partly legislative and partly judicial ; and the Commons sitting by themselves, as the representatives of counties and towns, forming also a distinct House with defined privileges, which were legislative only, but exclusively entitling them to introduce the money bills, by which taxes were to be levied from their constituents, and to appropriate the amounts to the civil and military services of the state.

The Parliament of Scotland consisted also of Lords Spiritual and Temporal, Knights or Barons representing shires, and burgessees representing towns, but formed one House only. The component parts of this Parliament therefore, had no distinctive or defined privileges, and the Parliament itself had not even the power of chusing its own Speaker, the Lord Chancellor being always, by the usages of the realm, its President. Besides this narrow constitution, the Parliament of Scotland was still farther limited by the controul which the Lords of the Articles possessed over it, who in the first instance, prepared and judged of all bills, which were to be brought under deliberation, and was therefore a kind of Privy Council



cil of the King, and directed the proceedings of the public council of the nation.

Under such circumstances in the constitution of the two Parliaments, the consolidation of them into one legislature, formed one of those difficulties, which were found insurmountable in the plans of union suggested by James I, Charles II, and even by Queen Anne, in 1702-3.

It has not appeared however in the debates of Parliament, either in England or in Scotland, that the different constitutions of the two Legislatures formed so much the subject of contest, as the numbers of the Scottish Peers and Commoners, who were to represent Scotland in the British Houses of Parliament. It was the numbers only, which divided the opinions of the Commissioners who at last settled the important treaty of the union.

It may therefore be inferred, that the Scots were disposed to relinquish their own defective constitution of Parliament, and to embrace the more perfect one of England.

By the treaty of union, the representatives of Scotland acquired distinctive privileges, both as members of the Houses of British Peers and Commons, and privileges which were already defined and established, at the settlement of the government,

vernment of England, in 1688. The sixteen Peers of Scotland, by the treaty of union, became vested with the same legislative and judicial powers with the Peers of England, and the representatives of the shires and burghs of Scotland, with the same privileges as the House of Commons in England possessed.

Instead therefore of receiving the acts or edicts prepared for them by the Lords of the Articles, the Peers were now entitled, in their own House, to originate measures, and the representatives in the Commons House to exercise the exclusive privilege, like those of England, not only of originating all money bills, which were to impose duties or taxes upon their constituents, but to give their voices, along with the Commons of England, in the appropriation of the national revenues to the different branches of the public service.

The first effect therefore of the Union on the Legislature of Scotland was, that the representatives of that part of the kingdom, became members of distinct Houses of Parliament, and were brought forward to this perfection in the constitution, without experiencing the fatal convulsions which had disturbed England for a century; and the change in England was, that the happy equipoise which fixes the prerogative of the Crown and

liberties of the Subject, as well as the distinctive privileges of the two Houses of Parliament, was extended over the whole island and rival kingdoms, by this constitution of the Parliament, cemented by a common interest.

“ The second change produced by the union was, on the public laws, which were rendered consistent and uniform in both kingdoms.”

Though the same sovereign from the accession of James I. (except during the Interregnum of twelve years) had governed the two kingdoms, each, besides having a distinct legislature, had also a distinct Privy Council, for watching over the public peace and tranquillity of the *separate realms*; and in Scotland, this Council was composed of, nearly the same persons, the Lords of the Articles, in whom the laws in a great measure originated.

At the union of the Crowns, the Scots looked forward to a participation in the privileges of trade possessed by the English; and the English jealous of their privileges in the three first plans of union, uniformly excluded the Scots from their trade. It was this difficulty which broke off all the treaties.

The public laws which preserved order in the one kingdom, had been at variance with those  
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which preserved order in the other, and that too, on a subject in which the private interests of the English and Scottish subjects were daily in opposition.

From the accession of James I. the Scots had been gradually working themselves into a part of the English trade, and during the usurpation of Cromwell, when he abolished all distinctions between the two nations, they had been allowed, in common with the English, to direct their industry and navigation to the English plantations, and indeed to all foreign countries, except those to which English companies traded under exclusive privileges.

At the Restoration, the English Parliament passed its wise and celebrated Act of Navigation; an act which has been not less the source of commercial prosperity, than of naval greatness; but it was this act which brought forward the necessity of an union: it struck at once at all the permissions to trade, which the Scots, in greater or lesser degrees, had enjoyed, as they stated in the discussions on the union projected by Charles II. The animosities between the two countries which had been gradually wearing out, were therefore again revived by the Act of Navigation, though under a new aspect. Both countries acknow-

ledged the same sovereign, but the interests of one part of the subjects were opposed to those of the other; an union or a civil war became the alternative.

Hence every plan of union which was proposed and rejected on the part of England, even that one which was brought up after the English constitution became fixed on its present basis, had this tendency, because the public laws, upon which the order and peace of the two kingdoms depended, were left at as great variance, as they had been while the constitution was uncertain. It was this circumstance which led King William, in the very first year of his reign, to recommend an union, and in his last message to the *English Parliament*, to repeat this recommendation:—It was this circumstance which compelled the Scots to the fatal measure of forming a company for trade to Africa and to the Indies;—and it was this circumstance which revived, though under different aspects, those hostile laws, which the Parliaments of the two countries enacted, on the trying questions of trade and succession to the Crown;—and, it was this circumstance which was preparing the inhabitants of both kingdoms for war, and which happily convinced the Parliaments of both, that an uniformity of public law, and introducing and establishing

establishing common privileges of trade to the subjects of both realms, were the only means for maintaining the public peace, by consolidating the two kingdoms into one monarchy, granting to the Scots an equivalent for the losses which they had sustained, admitting their industry to contribute to the common resources, and obtaining by this communication, the services of their seamen and soldiers, in the general defence of the empire.

“ A third change was made on jurisdiction.”—

From the first proposals of an union under James, to the treaty which established it under Queen Anne, each nation had taken as the basis of a treaty, the preservation of its own laws, law courts, and the rights and privileges of individuals; and the reason of such a condition was not less obvious than it was strong. The laws had been established for the maintenance and protection of private property and personal rights; both had arisen out of the usages and events of nations obeying different sovereigns, and living under a distinct government: It was therefore impracticable to transfer the laws and jurisdictions which prevailed in the one country to the other, without oversetting the tenures by  
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which property had been held, and the usages by which rank, rights, and privileges had been acquired; and it was not less impracticable, to transfer the laws themselves, than the Law Courts which administered them. The laws had sprung from different sources, and had been interpreted in different courts of justice by different maxims.

The laws of England had arisen out of the situations of the people, and were divided into common and statute; the former consisting of general customs, interpreted\* by practice alone; the latter consisting of statutes, acts, and edicts, made by the King's Majesty, by and with the consent of the Lords spiritual and temporal and Commons, in Parliament assembled †, interpreted, except in ecclesiastical courts, and courts of admiralty, by themselves only.

The laws of Scotland had also arisen out of the statutes and consuetudes of the country, but were interpreted in the courts of justice, chiefly by the maxims of the Civil or Roman law ‡.

Under such circumstances, therefore, neither the private interest of the subjects in the separate nations,

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\* Blackstone, Vol. I. p. 70.

† Ibid. p. 84.

‡ Erskine's Institutes of the Laws of Scotland.

nations, nor the laws by which that interest had been protected, nor the courts of law which were proper in one country, could be transferred to the other, so that the argument at the union attempted by James, that it was impossible to unite the Parliaments of the two realms, without obliging the Scots to become subject to the laws of England, proves only the incorrect views then taken of an union, and that from the fact in the union of Queen Anne, the two nations could be united, and yet each be allowed to preserve its own laws and law courts, in so far as they regarded private rights and property. A mode however was devised, of indirectly improving upon the laws of Scotland, by appeals being made competent to the House of Peers, coming in the place of the Scottish Parliament and Privy Council; by the decisions of these Peers leading to new acts of the British Legislature, for rendering private rights more perfect; and by abolishing those jurisdictions, which were found to be inconsistent with the due administration of it, extending however the laws of England to Scotland, in all cases which regarded the revenue paid by the subjects of that country from their being admitted under the public laws of the United Kingdom, to the privileges of commerce. Hence the article in the union, for establishing a Court of Exchequer in Scotland, under  
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the same regulations as that in England, in place of the former Court of Exchequer, which had judged and decided on the fiscal maxims which obtained in that country, while its resources and commerce were narrow and local.

The general result therefore from this review of the government and jurisdiction seems to be:

*—That the union introduced one uniform and defined legislature, common to the two kingdoms; gave to the representatives of the Peerage of Scotland the same legislative and judicial powers and privileges which were secured to the English Peerage at the settlement of the government; and to the commons representatives of Scotland, the same privileges of all money bills, affecting their constituents, originating in the House of which they were a component part; and a voice, in the same manner, in the appropriation of the amounts for public service:—That the union also established one system of public law, for the preservation of peace and order in both kingdoms:—That while it left their laws and law courts to each nation, it indirectly improved on the laws of Scotland, by the decisions of the House of Peers, leading to new acts calculated to meet the progressive advances of manufactures and trade; and that it introduced an uniformity of judgements in the courts of revenue in both Kingdoms.*

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“ The fourth change was, on the resources or revenues, of the two kingdoms.”

The revenues of the Crown of England, in feudal ages, were narrow and limited, arising from the Crown land's or King's domains, and from such aids as, from time to time, the great council of the Nation or Parliament, granted to the King, to enable him to carry on the foreign wars in which he was engaged, or to levy and maintain forces and equip fleets, for the defence of the realm. These revenues however, had been gradually increased with the advances of commerce, and after the Commons House became a distinct branch of the constitution, it brought forward its privilege, that money bills should originate in the representatives of the people only.

The grants, however, given by the Commons, were for a limited time; in some cases during the life of the reigning sovereign, in other cases, for a specified number of years. This was the state of the revenue, even in the time of Queen Elizabeth. These sums were limited and precarious, and it was the narrow state of the resources of the Crown, connected with the factious spirit which prevailed during the reign of Charles I, that drove that unfortunate monarch to measures equally fatal to himself and to the country.

The same cause continued during the reign of Charles II; and it was not till after the accession of King William, and during the struggles made for maintaining the balance of power in Europe, that the revenues began to take the new aspect of national funds, enabling the government to maintain those armies and fleets, required either for the protection of the kingdom and its foreign dominions, or to give it that influence among the European nations, to which, from local situation and from naval power, it was entitled.

The revenues of Scotland corresponded with the narrow commerce of that country, at the time of the accession of James. They arose from the crown lands, and such temporary aids as the appearances of invasion of the borders drew from the nobles and the landed proprietors, and from the temporary contributions by the towns; so that its Kings were compelled to receive aids which France gave, to keep open a communication with Scotland, for creating a diversion on the most defenceless frontier of England. In return, the Scots reinforced the French armies, which acted against the remaining English provinces on the Continent.

The state of the revenues will be found in the documents produced before the Commissioners who  
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who settled the treaty of union, and will afford a correct view of the resources of both countries at that memorable transaction. After the union of the two Crowns, those military connexions with France were at an end, but during the turbulent reigns of the Stuarts, secret negotiations with that country were carried on, in which the narrow resources of the Crown of England alone explain its Kings's submitting to receive pecuniary aids from France. A comparison of the amounts of the revenues of England and of Scotland, at that time, with the progressive advances of the same revenues at this period, will furnish a striking proof of the benefits arising from the union.

The amount of the revenues and public income, in the Kingdom of England in 1705, as they were appropriated for the support of her Majesty's household, and the honor and dignity of the Crown, was £.5,691,803. 3s. 4½d.\*

The debts of the kingdom of England, borrowed on several funds established by act of Parliament, amounted at that time to £15,585,722. 15s. 7d. so that there was a difference between the revenues and the debts of £9,893,919.†

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\* Appendix, No. LXVIII. p. dl.

† Ibid, p. dlx.

It was certain duties of customs and *excise*, applicable to the payment of particular parts of this revenue, which formed one of the principal subjects of discussion in the treaty of union, it being proposed on the one hand to extend those duties to Scotland, and it being required on the other, that if such duties should be extended to that country, it should have an equivalent, because the amounts to be raised by such duties in Scotland, were to be made applicable to the payment of debts contracted by England before the union. The sum to be appropriated for this purpose, was, what was termed the equivalent, amounting to £.389,085. 10s. which sum was to be advanced by *England* in the first instance ; but this advance to be set off against the duties which were to be progressively obtained from certain duties of customs and excise of England, being for a specified time to be imposed on Scotland.

In order to perceive the state of the revenue at this period in Scotland, its computed amount, or £.160,000 was produced, but from this sum was to be deducted the debts due to the army, and the sum allotted the civil list, which were calculated at nearly the same amount with that

that computed revenue \*. Such were the general views taken of the subject; and in order to illustrate the state of the revenues and debts of the two countries, the following accounts were made up, with the object of ascertaining the equivalent; but in the present time, they will also serve to institute a comparison between the former and the present revenues of the two kingdoms, and while they shew the progressive increase of the same revenues, they will prove the beneficial consequences of the union, on the resources of the united kingdoms.

An account was therefore next produced of the annual produce of the customs of England, taken from a medium of three years, ending at Michaelmas 1705, specifying the times or terms for which these customs were to continue, and the services to which they were to be applied. The amount in this account was £.1,341,559; but to this was added the duties on coal, culm, &c. appropriated towards the payment of annuities, amounting to £.110,958.†

In order to shew the proportions which the customs of Scotland did bear to those of England,  
exclusive

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\* Appendix, No. LXVIII. p. dlxx.

† Ibid: p. dlxxiv:

exclusive of such increase, as might arise by higher duties or greater importations after the union, another computation was made of the amount of the duties of customs in Scotland, stating the sum at £.30,000, of which the whole, by computation, was appropriated, except £.570.\*

An account was next made up of the produce of excise on beer and ale in England, from the same medium of the three years, ending at Michaelmas 1705, specifying the times or terms which the several branches of it were to continue. The sum stated was £.677,765, from which certain items were to be deducted, so that there only remained unappropriated £85,581. 6s. leaving the total of the duty of excise applicable to the payment of debts, at the sum of £592,183. 14s. per annum †.

In order to shew the proposition which the duties of excise upon liquors in Scotland, did bear to that revenue in England, exclusive of the increase that may arise by the higher duties or greater consumption, after the union, an account was produced, shewing by computation, the amount  
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\* Appendix, No. LXVII. p. dlxxv.

† Ibid. p. dlxxxii.

to be £33,500, of which the whole, by a like computation, was appropriated, except £3,025\*.

From those vouchers it was concluded, that if the customs of Scotland now let at £.30,000, per annum, be applied, according to the principle upon which the equivalent was to be given, that is, the proposition in which these duties raised in Scotland were to be applied to the payment of English debts, £23,761, would be so applied, £.5669 to the civil list, and £.550 to the general expence; and it was thence inferred, that for every £.1000 increase of duties of customs in Scotland, applicable to the payment of English debts, the proportion would be for such debts £792, for the civil list £.189, and for the general expence £ 19.

A like account, by computation, was instituted respecting the excise in Scotland, and the sum stated was £.33,500, so that the proportions were for English debts £.20,936, for civil list £.9,539, and for general expence £.3,025. It was thence inferred, as in the preceding case, that for every £.1,000 of increase of duty of excise in  
Scotland,

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\* Ibid. p. dlxxxi.



Scotland, £.625 would go to English debt, £.285 to the civil list, and £. 90 to general expence\*.

These documents go to establish the state of the revenues in both countries, when the treaty of union took effect, and will explain the nature of the equivalent, as well as the principle upon which it was given, to be the consolidation of the revenues and resources of the united kingdoms.

In order to perceive the effect produced by the union, we shall next state what the revenues and customs of England have been in a later period.

In 1791, the gross receipt of the customs was £.5,758,500, the net produce was £.3,936,499.

In 1797, the gross receipt was £.6,065,203, the net produce was £.3,903,313†.

The revenues of excise in 1791, were gross receipt £.9,310,497, net produce £7,821,461.

In 1797, the gross receipt was £.11,069,668, the net produce £.9,438,380.

With these views of the English duties of customs and excise, we have to connect the amount of the similar duties in Scotland.

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\* Appendix, No. LXVIII. p. dlxxxiii.

† Appendix, No. LXIX. p. dlxxxvii.

In 1791, the gross receipt of the customs in Scotland was £287,318. 2s. 11d., nett produce £139,538. 8s. 0d.

In 1797, the gross receipt was £274,645. 17s. 4d., the net produce, £119,594. 3s. 4d.

In 1791, the duties of excise were, gross receipt £498,411, net produce £375,667.

In 1797, the gross receipt was £851,775 nett \* produce £695,412, 16s. 1d.

The inference from this comparison between what these duties of customs and excise amounted to both in England and in Scotland at the union; and what the recent amounts have been, shews in the first place, the state of the resources of the nation, in the beginning and in the end of the present century; and next, that this difference does not arise in either country, in having had these amounts laid upon property, landed or commercial, remaining of the same value, but upon property of both descriptions, in consequence of improvements in agriculture, the introduction of arts and manufactures having brought both to that value, which enables the proprietors to contribute so largely to the public resources.

“ A fifth change was made on the Navigation  
“ and Commerce of the Two Kingdoms.”

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\* Ibid.

From an account of the total value of the imports into and exports from England, from 1755 to 1797, distinguishing in each year the British manufactures from the foreign merchandize exported ; the change will appear in the following proportions :

Years.	IMPORTS.			EXPORTS.					
	£.	s.	d.	British Manufactures.			Foreign Merchandize.		
1755	8,772,865	2	10	7,914,864	3	3	3,150,379	4	6
1765	10,980,883	12	2	10,122,031	15	4	4,451,097	10	—
1775	13,548,467	10	11	9,728,795	5	3	5,473,570	8	7
1785	14,899,942	15	7	11,074,825	—	—	4,687,268	14	5
1795	21,468,369	8	1	15,489,751	3	7	10,656,595	14	7
1796	21,462,709	15	5	17,967,803	10	6	11,228,386	18	1
1797	19,520,872	8	6	15,865,426	8	2	11,834,462	16	9

\* Appendix, No. LXX. p. dlxxxix.

No account appears to have been kept in Scotland, at the time of the union, of the imports and exports of that kingdom. One fact however is striking, that in the contests which arose between the Commissioners of both countries, on the subject of admitting the Scots to the privilege of trading to the British Plantations in 1702-3, the Scotch Commissioners were willing to give up the general right, provided that *four* vessels were allowed annually to go direct from Scotland to the Plantations, and to return with produce to Scotland, for consumption in that country only; and this at the very time, when they were seeking reparation for the injuries which the Scotch Company had experienced at *Darien*, and while their African Company was struggling for existence only. After the union however had conferred upon the Scots the same privileges of trade with the English, the situation of Glasgow, and of other towns of Scotland, enabled them to open an extensive trade to America, which not only raised those towns to considerable wealth and increase of inhabitants, but introduced those arts and manufactures, which have kept up their trade, since the independence of America enabled it to send tobacco and other produce, to the European markets in general.

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The accounts of imports and exports to Scotland, from 1755 to 1797, will appear in the following proportions, *viz.*

<i>*Years</i>	<i>Imports.</i>	<i>Exports.</i>
	£.	£.
1755	465,411	284,700
1765	922,401	400,888
1775	1,267,388	348,667
1785	1,379,476	659,546
1795	1,268,520	848,461
1796	1,724,610	1,134,416
1797	1,493,084	1,037,676

Connected with this increase of imports and exports in both kingdoms, is the corresponding advances of their navigation.

The number of British vessels, with the amounts of their tonnage, including their repeated voyages, which entered inwards and cleared outwards, in the several ports of England, was

<i>Years†</i>	<i>INWARDS.</i>		<i>OUTWARDS.</i>	
	<i>Vessels.</i>	<i>Tons.</i>	<i>Vessels.</i>	<i>Tons.</i>
1772	6,008	645,310	8,061	882,008
1797	7,323	993,950	7,756	974,596

And

\* Appendix, No. LXXI. p. dxcī.

† Ibid. LXXII, p. dxciii.

And the number of British vessels, with the amount of their tonnage, including the repeated voyages, which entered inwards and cleared outwards, in the several ports of Scotland, was,

Years*	INWARDS.		OUTWARDS.	
	Vessels.	Tons.	Vessels.	Tons.
1772	1,690	112,492	1,347	95,803
1797	1,758	127,754	1,365	103,239

The inference from these accounts seems to be, that the union has tended in almost an indefinite proportion, not only to encrease the commerce and navigation of England, but has created in a great measure, an extensive commerce and navigation in Scotland, adding thus equally to the resources, and to the naval strength of the united kingdom.

The general result therefore from this review, of the revenues, commerce and navigation of England and Scotland, since the period of the union is :—

*—That the establishment of the same public law, for guarding the internal tranquility and peace of the two realms, and the establishing of similar courts of revenue*

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\* Appendix, No. LXXII. p. dxciii.

*venues, for protecting the rights of the Crown and of the subject, in both kingdoms, connected with the common privileges of trade, which the British subjects enjoy, has increased the resources of the united kingdoms, by calling forward the industry of all the inhabitants, and extending the commerce and navigation of both to a degree of magnitude which neither could have been expected nor even augured.*

The most important effect of the union, which however may be considered only as a consequence of the changes already enumerated, was the security given to the political and commercial influence of Great Britain, in the balance of power in Europe.—

Towards the close of the seventeenth century, the ambition of Louis XIV had projected the conquest of Flanders and of Holland, which would have opened the North of Germany to his armies, while a branch of his family was placed on the throne of Spain to command the south of Europe, and thus lay the foundations of an universal monarchy.—

After the accession of King William to the throne of England, alliances between the maritime powers, and with the greater German States were formed, to counteract these mighty projects of France, or to preserve a balance of power in Europe.

Among



Among the projects of France, was that exciting a rebellion in Scotland. The pretext was the restoring of the abdicated family ; the reality was, to oblige the English government to withdraw forces from the allied armies.—

The succession to the throne had been settled in England in the Protestant line, but the Scottish Parliament and nation had refused to pass a similar act, not because they were less disposed than the English, for the Protestant succession, but because they saw the importance of making this succession the means of procuring for them the English privileges of trade.

England therefore communicated its privileges of trade to Scotland at the union, and Scotland passed an act for the same succession to the Crown, as that which had been settled in England.

France perceived the wisdom of these political arrangements, and determined, if possible, to overturn them.

The year after the union 1708, this restless nation fitted out an armament, to support the adherents of the abdicated family, and trusted to the co-operation of the factions, in Scotland, who had declared against the union. The vigilance of the British fleet prevented the invasion. Both nations began

began to perceive the benefits of the union, and time made them as zealous in supporting it, as they at first had been in resisting it.—Hence, in 1715, and 1745-6, when rebellions in Scotland actually took place, the promises of the invaders to annul the treaty of union, and to restore the Parliament of Scotland, were not listened to by the nation, and scarcely heard among the rebels. This fact proves, that the union, by giving security to the internal government of Great Britain, and invigorating the strength of both realms, gave a new weight to the united kingdom in the scale of Europe.

The commercial effects have already been established upon the most positive evidence; so that those evils of a degraded Scottish nobility, a neglected and nominal representation of counties and towns, or commercial ruin from duties of customs and excise, which were prognosticated by the opponents to the union\*, in the Scottish Parliament, so far from having been realised by the treaty of union, now held to be a fundamental law of both realms, have in all these instances produced instead of evil, substantial national benefits, and

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\* Lord Belhaven's speech or *vision*, delivered and published in Scotland at the time of the union.

placed Great Britain in that proud situation, in which it now stands, that of being the only country in Europe, possessed of resources and spirit to resist that anarchical ruin which at present desolates the continent.

*The result therefore seems to be, that the union, by consolidating the strength of Great Britain, and by giving equal opportunities to the subjects of every description for the exercise of industry, has not only enabled Great Britain to add to its political and commercial influence, and to preserve the balance of power in Europe for a century, but when that balance has ceased to be upheld by the continental Powers, to maintain its own power and trade against the unprincipled Republic of France, now sweeping before it the venerable fabrics of ancient arts and civilization; and we trust will preserve it, leaving the surviving nations of Europe to regret that inactivity and those jealousies, which have been the sources of all their calamities.*

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I have thus endeavoured to place before your Grace the evidence regarding the memorable union between England and Scotland; an event which has been the source of security to personal right and to property in the two kingdoms, and has consolidated the constitution, upon which the safety and happiness of the British nation are placed.—

It

It cannot have escaped your Grace's notice, that a century was required, and many calamities in that century, to open the minds of the subjects of either country, to the conviction of what experience has proved to be, a measure calculated to promote equally their national greatness, and to give to both kingdoms a commercial prosperity, unknown to any people. This fact establishes the useful lesson, that when men are guided by their prejudices, they are the authors of their own misfortunes, and in danger of becoming a prey to an insidious and ambitious enemy.

*I have the honor to be  
My Lord  
Your Grace's  
most faithful and  
most obliged servant  
John Bruce*

*To*

*His Grace*

*The Duke of Portland*

*&c, &c, &c,*

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Small handwritten mark or character.



