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**The Committee of Estates of the Scottish Parliament, 1640-1651: an exercise in provisional government.**

Dr John R. Young

This paper will examine and analyse the Committee of Estates of the Scottish Parliament during the period 1640-1651. It was during these years that the Scottish Parliament was arguably at its most powerful stage in its history. The period 1637-1651 in Scottish history is known as the 'Wars of the Covenant' and/or 'The Covenanted revolution'. These events were also invariably entangled with wider English [The English Civil War] and Irish [The 1641 Irish rebellion and warfare thereafter in Ireland] affairs. Conceptually, these wider events have been termed The British and Irish Civil Wars or John Pocock's model of The War(s) of The Three Kingdoms within the timescale 1637-1651 – from the advent of the outbreak of the Covenanted revolution in Scotland in 1637 to the conquest of both Scotland and Ireland by Oliver Cromwell in 1651. A variant of this model has been The First War of the Three Kingdoms, 1637-51. The wider continental European perspective is also crucial in terms not only of The Thirty Years War (1618-48), but also in the conceptual framework of composite monarchies and multiple kingdoms. The most obvious context for this conference is of course the Iberian peninsula, with the 'revolts' of Catalonia and Portugal respectively in 1640. Indeed, this wider Scotland-Catalonia framework is one that is worthy of further scholarly pursuit.

The Covenanted movement, as a national movement of opposition, sought the redress of constitutional grievances from King Charles I, many of which were based on strict royal control and management of the parliaments of 1633, in which Charles was personally present and intimidated the parliamentary membership, and 1621, which was tightly managed by Crown interests acting for King James VI and I (Charles I's father). Following a failed attempt to suppress the Covenanters by military force in the First Bishops' War of 1639, the ensuing peace treaty, the 1639 Treaty of Berwick, provided that a 'free' parliament should be held in Scotland, namely a parliament that was not subject to royal intimidation. Thus, a parliament met in Edinburgh in August 1639, but thereafter had to be prorogued by the King's Royal Commissioner, John Stewart, first Earl of Traquair, in November 1639, due to the fact that the parliament was dominated by the Covenanters who were intent on implementing their

constitutional reform programme. In an act of supreme political defiance, the Scottish Parliament convened without royal consent in June 1640 and thereafter proceeded to enact a constitutional settlement in 1640-41 that enhanced the powers of the Scottish parliament at the expense of the royal prerogative of Charles I. Executive and judicial appointments would now require parliamentary consent. Charles I was forced to agree to this settlement in 1641, being personally present in Edinburgh in the autumn of 1641. Without doubt, the 1640-1 constitutional settlement was the most powerful of its kind in Scotland's history and it provided a precedent for later constitutional settlements and reform programmes in 1689-90 and 1703-4. It was also pragmatically adopted by the Jacobites in 1705, 1707 and later in 1721 for a restoration of James VIII and III as a Catholic monarch, but with constitutional restrictions and limitations placed on him.

The 1640 parliamentary session, in particular, is important. Parliament elected its own President and from 1640-1651 the Scottish Parliament had an elected President, chosen by each of the redefined parliamentary estates (nobles, baron/shire commissioners, and burgesses). This is also important for the modern Scottish Parliament and the position of The Presiding Officer. The June 1640 session abolished the clerical estate in parliament and hence from 1640-1651 there were no archbishops or bishops in parliament, conforming to Presbyterian religious structures whereby the 'church' was not to interfere with the 'state'. Furthermore, the notorious and controversial parliamentary committee known as the Lords of the Articles was abolished in 1640, as it was this committee that had managed the legislative programme through parliament on behalf of the crown in 1633 and 1621 respectively. The result of the abolition of the Lords of the Articles was that a new committee system came into being based on session and interval committees. Moreover, each estate elected its own members to parliamentary committees. Hence the electoral principle was established for The President of Parliament and for parliamentary committees. Session committees sat/had a remit for the duration of a parliamentary session, whereas interval committees sat between parliamentary sessions or between parliaments. This is important because the Scottish Parliament met on a regular basis throughout the 1640s, as a result of the 1640 Triennial Act which stated that parliaments must be held in Scotland at least every three years. A Convention of Estates was held in 1643-44. A Convention of Estates did not have as much power as a full parliament and they were often used for financial purposes, i.e. raising tax, but the 1643-44 Convention was of a different nature and it was used by the Covenanting movement to intervene in the English Civil War to fight for the English Parliamentarians against Charles I. In addition to the parliamentary sessions of 1639-41, there were two further parliaments from 1644-47 and 1648-51. The First Triennial Parliament met over six sessions,

1644-47, and the Second Triennial Parliament met over eight sessions, 1648-51. Therefore committees were extremely important for the Covenanters in how parliament operated and how the country was administered. The Scottish Parliament was the main organ of the government and administration of Scotland under the Covenanters. In many respects, it is indeed appropriate to refer to the government of Scotland by committee during this period. A wide range of financial, diplomatic, economic, social, political and constitutional committees were established, including, for example, a session committee on witch-hunting in 1650, as there was a large-scale witch-hunt in Scotland in 1649-50. The Committee of Estates in 1649 and 1650 issued commissions to investigate witchcraft at the local level that resulted in many Scottish women being strangled and then burned for the crime of witchcraft.

The most important parliamentary committee, however, was the Committee of Estates. This was also established in the June 1640 parliamentary session, on 8 June 1640. The Committee of Estates was intended to be a temporary expedient by the Covenanters as they prepared for the Second Bishops' War of 1640 against Charles I (a conflict which the Covenanters won), but it became a permanent feature of Scottish parliamentary life and the administration of Scotland under the Covenanters. It was an interval committee that reported back to the following parliamentary session or new parliament. Its membership was elected by each of the three estates, but unlike session committees its membership was not restricted to parliamentary members. Hence it was empowered to bring on board other members from the movement and those with specialist skills or expertise, such as important soldiers and military officials in the Covenanter armed forces. The Committee of Estates originally had a structure based on an Edinburgh section, which acted as a provisional government, and an army section, that in a 1640 context accompanied the Covenanter army into England. By 1646, however, the sectional nature of the Committee of Estates was now based on an Edinburgh section, three separate sections accompanying different Covenanter armies in Scotland, England and Ireland, and a diplomatic section in London. The Committee of Estates also acted as a co-ordinating link between the 'centre' in Edinburgh and the Scottish localities. This is a key feature of how Scotland was governed. There are 11 surviving manuscript registers of the Committee of Estates in the National Archives of Scotland, Edinburgh, covering the years 1643-51, and a minute book of the 1640 Committee of Estates has been located in the Special Collections Unit of Edinburgh University Library. This has been transcribed, but now yet published. The proceedings of two Committees of Estates for 1645 and 1648 have been transcribed and published in *The Government of Scotland Under the Covenanters*, edited by Professor David Stevenson (Scottish History Society, Edinburgh, 1982), but the remaining volumes await to be fully transcribed and published as an authoritative source.

Given the remit of this conference, it is also of interest that the Committee of Estates was engaged in European diplomacy. In 1641 it was involved in negotiations with the English Parliament and the Dutch for a tripartite political confederation. In 1644 the Committee of Estates sanctioned a diplomatic mission to the Dutch to extend the 1643 Solemn League and Covenant (see below) into a European Protestant defence league. At the same time there was a Swedish diplomatic mission to Edinburgh in order to secure Covenanting support for the Swedes in terms of Swedish-Danish relations. The diplomatic section of the Committee of Estates, which was also related to the Committee of Both Kingdoms, the Anglo-Scottish parliamentary executive committee [1644-6] for managing warfare issues, was involved in wider negotiations with the Swedes too. And in 1648 the Committee of Estates sought Dutch and French support for its objectives. By this point, 1648, there had been a factional change in Scottish politics and the Engagement invasion of England in the summer of 1648 sought to defend Charles I. Hence the Committee of Estates sought Dutch and French support for the Engagement.

Conceptual approaches relating to the Covenanting movement are also important for an understanding of the Committee of Estates. It has been argued that the Covenanting movement exhibited a structure of oligarchic centralism by which the movement was controlled by a radical oligarchy or caucus. In essence this was the political faction of Archibald Campbell, eighth Earl and first Marquis of Argyll, 'the British Confederate', and the leader of the movement. It was this faction that intervened in both England and Ireland in the 1640s as part of pursuing the religious objectives of a British confessional confederation based on Presbyterian religious structures. These Covenanting radicals wanted Charles I to be a Covenanted king of three Covenanted kingdoms. These were important issues that permeated political affairs in the 1640s and they also led to later challenges from other factions within the movement and from Royalists as the 1640s progressed. With the emergence of a distinct Covenanting movement by 1637-38, it is clear that the movement was tightly organised in terms of structure, aims and objectives and the central ideological document of the movement was the 1638 National Covenant, one of the most important documents in Scotland's history, followed by the 1643 Solemn League and Covenant which sought a British confessional confederation within the wider context of a confederal Britain. The structure of the movement when it came into existence was based on 'The Tables'. There were five tables in total – nobles, lairds/gentry, burgesses, ministers and the fifth table, the executive table', was where the leadership of the movement was located. Increasingly by 1638 Edinburgh was the focal point of the disaffected in the nation as large numbers of people flocked into Scotland's capital. The Tables, based in Edinburgh, therefore played an important co-ordinating role in

the movement between Edinburgh and the Scottish localities. The Tables played an important role in managing the elections of shire and burgh members to the 1639 Scottish Parliament. The structure of the Tables was also important for the new system of parliamentary committees. The Committee of Estates was not restricted to parliamentary commissioners. Therefore the Committee of Estates could draw on additional Covenanting manpower from the Scottish localities. The structure of the Tables therefore was largely continued in the structure of the Committee of Estates, with the exception of the table of ministers. Ministers of the Church of Scotland were not employed in a parliamentary context, again reflecting the Presbyterian distinction between church and state. The Church of Scotland's affairs were controlled by an annual General Assembly. When the General Assembly was not in session, its affairs were controlled by an executive committee of the Assembly known as the Commission of the Kirk. The Commission of the Kirk was staffed by ministers and lay elders. Ministers were the largest group on the Commission of the Kirk, but lay elders were often parliamentary commissioners too. Therefore a lay elder of the Commission of the Kirk was often a parliamentary commissioner and a member of the Committee of Estates. This exemplifies what is meant by oligarchic centralism and this was actually quite a sophisticated and intelligent process. The movement was still controlled by a core group, but ideological purity in terms of church-state relations was maintained.

The Committee of Estates, as the 1640s progressed, was the focal point for factional struggles. This focused on the years 1646-48 when there was a struggle between the factions of the Marquis of Argyll and James, third Marquis and first Duke of Hamilton. This was largely concerned with the decision of the Covenanting leadership in 1646 to withdraw its army from England in return for arrears of pay and leave Charles I, who at that point was with the Covenanting army at Newcastle, to the jurisdiction of the English Parliament. This resulted in the accusation that they had sold the King of Scots to the English and it brought to a head factional differences. As events unfolded, the Hamilton faction and conservative Covenanters became more dominant. The Hamilton faction dominated the 1648 parliamentary session and the decision to invade England on behalf of Charles I was sanctioned. This military invasion was the Engagement, mentioned above. Ironically, a minority of the Argyll faction was included on the 1648 Committee of Estates. With the military defeat of the Engagement at the Battle of Preston in England in August 1648, there was a coup d'état in Scotland in which the Argyll faction established a radical regime based on ideological and theological purity. What is of relevance here is that it was the 1648 Committee of Estates that was the main political mechanism for the coup d'état – the minority Argyll faction on the committee brought in committed Covenanting radicals from the localities to establish regime change, in tandem with

the Commission of the Kirk, in the autumn and winter of 1648. The radical regime was in the ascendancy from roughly September 1648 to September 1650. Political and military purging took place to ensure that Scotland was governed by the 'godly'. Thereafter there was a painstakingly slow process of a patriotic accommodation, in light of the military invasion and penetration of Scotland by Oliver Cromwell in 1650-1. The Committees of Estates of 1649-51 were involved in both the purging process and then attempted national reconciliation. A final invasion of England in 1651, headed by Charles II, ended in failure at the Battle of Worcester on 3 September 1651, ending the War of the Three Kingdoms. By 1651 both Scotland and Ireland were conquered kingdoms. Charles I had been executed in London in January 1649 and England moved to becoming a republic. When news of the execution reached Edinburgh, the response of the radical regime was to proclaim Charles II as King of Great Britain, France and Ireland, but with terms and conditions attached. Charles II was to be a Covenanted king of three Covenanted kingdoms. The Covenanting ideal of confederal Britain was in stark contrast to Cromwellian hostility to monarchy and the advent of an English republic. It took Charles II almost two years to agree to Covenanting conditions and he was finally crowned as king on 1 January 1651 at Scone in Perthshire, the traditional location for Scottish coronations.

The format of a Committee of Estates was resurrected at later dates in Scotland's history. The last Committee of Estates appointed in June 1651, prior to the final Cromwellian conquest of Scotland, was recalled in 1660 to act as a provisional government in the context of the process of restoring the Stuart monarchy on a British basis in general and for the government of Scotland in particular, before the first session of the 'Restoration Parliament' of Charles II met in 1661. The three sessions of the Restoration Parliament that met between 1661 and 1663 ironically rescinded the constitutional settlement of 1640-1 and transferred political and constitutional power back to the crown, thereby restoring the royal prerogative of Charles II, and away from the Scottish estates. The 1660 Committee of Estates met between August and December 1660 in Edinburgh. In factional terms it was staffed by Royalists and it played an important role in the management of the election of shire and burgh commissioners to the 1661 parliamentary session that convened on 1 January 1661. The manuscript committee register of the Committee of Estates, August- October 1660, and a manuscript minute book of the Committee of Estates, October-December 1660, are also located in the National Archives of Scotland, but await transcription. Later on at the Revolution settlement of 1689-90, a Committee of Estates was appointed for a short period between parliamentary sessions as part of the process of regime change in Scotland and the establishment of the Williamite regime in Scotland. A Convention of Estates, dominated by supporters of William of Orange, met in 1689 and enacted the 1689 Claim of Right whereby James VII as King of

Scotland was forfeited of the Scottish Crown. In this sense the Scottish settlement was more radical than its English counterpart whereby James II as King of England was deemed to have abdicated. The notion of contractual limited monarchy was resurrected, in contrast to the absolutist tendencies displayed in the Scottish parliamentary sessions of 1681 and 1685 on behalf of James, Duke of York, later James VII from 1685 onwards. Again, this was part of a wider British and European process. This was part of the process of the 'Glorious Revolution' in its Scottish context, albeit that term is an anglocentric one and the Revolution in Scotland, like Ireland, was certainly not 'bloodless'. A more appropriate terminology employed in recent years has been the Pocockian one of the Second War of the Three Kingdoms, 1688-91. William of Orange became King of England and thereafter King of Scotland in 1689. The 1689 Convention of Estates was thereafter constitutionally turned by King William into a full parliament and that parliament proceeded to meet over 10 sessions between 1689 and 1702. Therefore the Committee of Estates that was appointed in 1689 convened between two of the parliamentary sessions of 1689. The European context of this later period is that of the Nine Years War (1688-97) and the struggle between William of Orange and Louis XIV, and thereafter continued conflict with the War of the Spanish Succession (1702-13).

The Committee of Estates therefore has an important place in Scotland's parliamentary and constitutional history. It was at the heart of the Covenanting administration of Scotland and it was the most important parliamentary committee established by the Covenanters. As a parliamentary device for government, it was again used in 1660 and 1689, but in different political circumstances.