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INTRODUCTION: 1707, 2014 AND THE CONSTITUTIONAL IMPERATIVE IN SCOTLAND'S NATIONAL PRESS AND CIVIL SOCIETY

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Abstract

This essay provides an historical, cultural and institutional juxtaposition of the Scottish national press' relationship to constitutional change, using the Union of 1707 and the 2014 independence referendum as key markers of this relationship. It reviews the parallels between both historical events in the context of structural changes to Scottish civil society, and the role played by the media in amplifying and facilitating these changes. Finally, the essay maps the work of a number of historical and literary scholars, media experts, civil society actors, and journalists who have contributed to the *Scottish Affairs* special issue, *1707 and 2014: The National Press, Civil Society and Constitutional Identity in Scotland*.

Keywords: 1707 Union; 2014 independence referendum; Scottish national press; civil society; Scottish Parliament

Introduction

This special issue for *Scottish Affairs* emerges from two Royal Society of Edinburgh-funded interdisciplinary seminars held in the autumn of 2016 and

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spring of 2017, hosted by the University of Glasgow's Centre for Cultural Policy Research. They addressed the distinctive role played by Scotland's press in constructing the nation's constitutional identity before, during and after two watershed political events: the Acts of Union 1707; and the independence referendum of 2014. Both seminars brought together leading Scottish historians, literary scholars, policymakers, media and constitutional experts, and journalists to explore the unique – and changing – relationship of Scotland's media to the nation's key civil society institutions; a relationship that was catalyzed by the popular constitutional debates of 1706–7 and 2014, and whose UK-wide relevance continues to be highlighted in the aftermath of the 2016 EU referendum. This special issue provides a welcome opportunity to juxtapose the institutional, constitutional and press contexts from both of these historical events, as well as to comparatively assess their respective impact on the material shape, ideological concerns and wider UK- relevance of the Scottish public sphere at a time of major political and constitutional upheaval, both in the UK and in Europe.

1707 and After: the State of the Press, Political Debate and Civil Society in Scotland

Ironically, with the 1707 Union under unprecedented structural, constitutional and ideological pressure from recent events on both sides of the Border, its impact on Scotland's present political discourse and future national aspirations continues to be a central issue of public debate. It is perhaps time to reconsider the cultural legacy of the Union through the development of Scotland's civil society and the press in the eighteenth century, in part to assess the degree to which the post-1707 public sphere has been transformed by those grassroots, social media, and movement-based formations that emerged around the independence referendum of 2014. This engagement with the historical and contemporary constitutional dynamics animating Scotland's national press comes at a time of increasing public awareness of the nation's distinctive political identity and place within the Union, reminding us of the contested nature of the original Union 'settlement' of 1706–7.

Important recent historical scholarship by Karin Bowie (2007) and Christopher Whatley (2014) has demonstrated how the negotiating process over the terms of that Union was shaped in part by critiques of, and agitation against, a full incorporating Union; critiques and agitations carried out in the Scottish public sphere of the early eighteenth century. Indeed, as Bowie – one of the contributors to this special issue – put it in her influential study

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Scottish Public Opinion and the Anglo-Scottish Union, 1699–1707, ‘the government went to great lengths to provide an alternative view of incorporation as the path to peaceful prosperity’ (Bowie, 2007: 165), highlighting the key role played by an emerging body of popular Scottish public opinion in shaping the parliamentary debates on the Union.

We might gain new insights into the ongoing constitutional contest between Westminster and Holyrood over Scotland’s political future – a struggle that has only intensified since the 2014 independence referendum and 2016 EU referendum vote – by re-examining that original struggle in the run up to 1707 between those differing constitutional notions of Union, incorporating and confederal, that left their mark on the final Treaty, and have continued to resonate since the eighteenth century in the institutional structure of Scottish civil society, the role of the press in Scotland, and the enduring cultural rivalry with England.

With this constitutional and cultural history in mind, we can better appreciate how much the press and print media have helped to shape Scotland’s public and political sense of itself, right back to the period of Union over three hundred years ago. As Hamish Mathison observed in a recent essay: ‘From the first, the newspaper press in Scotland and commentators upon it associated the printing of newspapers with the status and self-understanding of the nation itself’ (Mathison, 2005: 149). This was particularly apparent in the early years after the Union settlement, when leading Scottish newspaper publishers like James Watson – an opponent of the 1707 Treaty – sought to encourage a new form of cultural patriotism through the revival of what he called the ‘ART OF PRINTING’ in Scotland. Writing in 1713 to fellow Scots printers, perhaps in an implicit critique of the economic imperatives driving the recent constitutional agreement with England, he stressed the significance of the press and print to Scotland’s national identity: ‘we shall have this Honour, which is truly more valuable than immense Sums of Money or opulent Estates, that, for the Glory of our Country, we have retrieved the ART OF PRINTING, and brought It to as great Perfection as ever It was here in former Times’ (Watson, 1963 [1713]: 4). This patriotic imperative sought to make ‘print a site for sustaining Scottish identity against the subsuming threat of Britishness’, according to Stephen Brown and Warren McDougall (2012: 9); a threat materialized for the early eighteenth-century Scottish media industry in the increasing availability of English newsheets as a result of the cross border trade encouraged by the new Union, embodied in the Treaty’s fourth article (Articles of Union, 1707).

This patriotic aspiration took on a different ideological inflection a generation later in the founding of what became the nation’s monthly

periodical of record, viewing the Union as a springboard for a project of national improvement to equal the material development of Scotland's southern neighbour. This vision was articulated in the preface to the first volume of the *Scots Magazine* in 1739, where the journal's conductors declared 'for as our labours, so are our wishes employed on the PROSPERITY OF SCOTLAND' (*Scots Magazine*, 1739: iv). From these two distinctive patriotic statements by leading early Scottish periodical publishers we can begin to grasp how the political, cultural and material implications of the Union encouraged the nation's press to see itself as a principal means of re-framing Scotland's national identity in the eighteenth century.

As well as the national press, Scotland's formal civil society institutions played a key role in representing the national interest, both leading up to, during, and after the Union settlement. The Scottish national church's significance is made clear in the introductory text to the 1707 Act ratifying the Treaty, securing 'Presbyterian Church Government' as a 'fundamentall and essentiall Condition of the said Treaty or Union in all time coming', thus giving a constitutional dimension to the Kirk's annual General Assembly in the Scottish capital (Union with England Act, 1707). Article XIX secured the autonomy and efficacy of Scots Law and the central roles of Scotland's legal institutions, specifically protecting 'the Court of Session, or College of Justice' and 'the Court of Justiciary', which, it stipulated, are to 'remain, in all time coming within Scotland, as it is now constituted by the Laws of that Kingdom, and with the same Authority and Privileges as before the Union'. The autonomy and interests of local government in Scotland's Royal Burghs, including the nation's primary ports and trading centres, were protected in article XXI, giving constitutional weight to the lobbying role of the Convention of Royal Burghs and empowering the expanding merchant class in cities like Glasgow, Aberdeen and Edinburgh (see Articles of Union, 1707).

How were these constitutional protections to Scottish civil society relevant to the development of the press in Scotland? One was the manner in which they helped to shape a distinctive middle-class of lawyers, academics, ministers and merchants – those key institutional stakeholders who made up a crucial portion of the readership for the early Scottish press, and who had a material interest in upholding the national autonomy of Scotland's civil society. Indeed, this convergence of stakeholder interest with the development of Scotland's press predated the 1707 Union, as illustrated in the subsidy awarded in 1699 by the Convention of Royal Burghs to Scotland's first sustained newspaper, the *Edinburgh Gazette*, published by James Watson (see Bowie, 2007: 22).

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As well as this often direct stakeholder interest in the Scottish press before the Union, the need to differentiate its content from commercially dominant London papers became a key concern after 1707. One way this could be done was by providing its domestic readers with reports, notices, and intelligence directly related to the activities of Scotland's civil society institutions, in addition to selectively digesting news from the London press. One of Scotland's first national newspapers, the *Caledonian Mercury*, founded in 1720, increased its coverage of Scottish affairs under the control of Thomas Ruddiman from 1729, as a means both to grow advertising revenue and to appeal more directly to the needs of its domestic readership (Brown, 2012: 355). The advantages to be gained over English-based periodicals in particular by embracing Scotland's distinctive institutional identity was made explicit by the *Scots Magazine* in 1749, when the conductors of that crucial periodical of the nation's public sphere emphasized the benefit of being headquartered in the Scottish capital, and thus uniquely placed to report on – and facilitate debate within – the institutions of Scotland's civil society: 'Its being published in the capital,' the conductors wrote, 'where the Supreme courts civil and ecclesiastical hold their sessions, and where the other national affairs relating to this country are usually transacted, must give it some singular advantages' (*Scots Magazine*, 1749: iii).

This brief overview shows that the Union of 1707 had a significant social and cultural – as well as political – impact on Scotland in the eighteenth century, encouraging a close relationship between the nation's civil society and its developing national press.

1999, 2014 and After: Constitutional Change and the Changing Anatomy of Civil Society and the Media in Scotland

Scotland's recent constitutional development and the debates associated with it, have resonated in some of the new formations of its national press, and in the changing structure of Scottish civil society, particularly since the re-convening of the Scottish Parliament in 1999. These changes were manifest in the grassroots, social media and movement-based expressions which emerged around the independence referendum in September of 2014. This recent, partly constitutionally-driven re-configuration of the Scottish public sphere paralleled the similar transformation in the Scottish press and civil society during the run up to the 1707 Union. Karin Bowie has detailed how popular constitutional debates at that historical moment, particularly stimulated by those resisting the incorporating Union model proposed by

Court leaders, were given voice in the context of a public sphere whose boundaries were expanding, with new possibilities for print media like pamphlets, and mass expressions of public opinion through petitioning (Bowie, 2007: 167–8).

These new forms of political communication in early modern Scotland often linked networks of local communities in defence of Presbyterian government embodied in institutions like the General Assembly of the Church of Scotland, and gave expression to key corporate bodies like the Convention of Royal Burghs through the printing of its addresses about contemporary parliamentary negotiations over the Treaty of Union. These interventions ‘forced the Court to make key concessions on issues of religion and trade to buttress its majority and reduce public pressure on parliament’ (Bowie, 2007: 137). In his contribution to this special issue, Rev. Doug Gay discusses how the independence referendum debate was framed in the General Assembly of May 2014. His role as a keynote speaker on behalf of the Yes position in the Respectful Dialogue on Independence held by the Assembly, demonstrated how a key traditional institutional pillar of Scottish civil society remained relevant during a campaign noted for its extra-institutional grassroots aspects.

So the constitutional and cultural moment of 1707 has some truly surprising parallels with that of 2014, particularly in relation to the emergence of new popular publics and new media contesting the very basis of traditional political debate in Scotland. In their contributions Iain Macwhirter and Philip Schlesinger assess the constitutional watersheds of 1997 and 1999 and their impact on media and political institutions. Macwhirter has recently noted in the *Sunday Herald* that the newspaper was a direct outcome of the 1997 referendum that re-established the Scottish Parliament (Macwhirter, 2017). Launched only months before the first sitting of the Parliament in 1999, the newspaper was dedicated to ‘becom[ing] an essential part of the forging of a New Scotland – helping to facilitate debate and inject new thinking’ (*Sunday Herald*, 1999: 1). The first editorial makes a point of emphasizing the nation’s distinctive civil society since 1707, and the principal role played by the national press in ‘keeping alive the idea of Scotland as a nation’ (1999: 2). It was no coincidence that many of Scotland’s most prominent national newspapers of the eighteenth century were founded in the wake of the popular debate stimulated by the passing of the Acts of Union in 1707, with the new Scottish press at that time playing a crucial role in ‘sustaining Scottish identity’ (Brown and McDougall 2012: 9) by mediating between, as well as disseminating, the activities of the nation’s civil society institutions protected by the Union settlement.

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This distinctive constitutional history in Scotland frames a 'different conception of the relationship between the people and political power' that helps to explain why, 'for Scots the restoration of the Edinburgh parliament... was an issue of great historical importance, a matter perhaps not adequately understood outside the country', according to *Open Scotland?* (Schlesinger, Miller and Dinan, 2001: 5). The new Parliament was the culmination of a longer process of recent Scottish civil society initiatives going back to the Campaign for a Scottish Assembly after the 1987 general election, and the Scottish Constitutional Convention of 1989, as the authors of this important study make clear (2001: 8). The notion of popular sovereignty animating these movements in pre-Devolution era Scotland has re-emerged at the centre of a potential UK-wide constitutional crisis triggered by the EU referendum vote of 2016, with the diverse Scottish and UK votes on EU membership.

The Scottish First Minister, Nicola Sturgeon, responded thus:

There are those who argue that, as the vote was a UK-wide one, the result in Scotland is essentially an irrelevance, of mere academic interest ... However, to do so is to deny a long-established constitutional and political tradition in Scotland ... Namely that Scotland – as a nation – should always have the right to determine its own destiny, and that the people of this nation should be able to determine the form of government best suited to their needs.

(quoted in Learmonth, 2017: 6).

The First Minister's constitutional claims were reported in Scotland's newest daily newspaper, *The National*. That a new daily print Scottish newspaper like *The National* has survived at a time of rapidly declining circulation and daunting economic prospects for the print press underlines the unique relationship between Scotland's national press, its changing civil society and a constituency for constitutional debate in the country after 2014.

The constitutional imperatives behind the First Minister's statement were amplified in her dramatic announcement, only weeks later, laying out Scottish Government plans for a second independence referendum, 'when the options are clearer than they are now – but before it is too late to decide on our own path' (Sturgeon, 2017). This announcement was streamed live into our second RSE seminar on the relationship of the independence referendum of 2014 to the changing anatomy of civil society and the media in Scotland, attended by some of Scotland's most prominent journalists, intellectuals, sociologists and civil society activists (Benchimol and Schlesinger, 2017), whose distinctive

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perspectives on this timely topic in Scottish constitutional and cultural affairs are given voice in the following pages.

The Scottish constitutional position behind Sturgeon's March 2017 announcement has become a continuing feature of wider discussions on Brexit. Long-familiar debates in Scotland's national press and public sphere now have a place in British media discussions, as Neil Blain has noted in his afterword to *Scotland's Referendum and the Media* (Blain, 2016: 236). In her contribution to this special issue, Marina Dekavalla highlights an underappreciated aspect of the 2014 referendum: namely, that the most prominent indigenous national Scottish newspaper titles all recognized the need for further devolution, even if the *Sunday Herald* stood out as the only title supporting outright independence. This was indeed a shift in the Scottish press landscape from that which greeted the new Scottish Parliament in 1999 with sustained scepticism, as highlighted by Iain MacWhirter in his contribution.

Conclusion: 1707 and 2014: The National Press, Civil Society and Constitutional Identity in Scotland

These essays explore the extent to which Scotland's constitutional development, and the associated debates in 1707 and 2014, were a consequence of the expanding boundaries of its national public sphere and the new modes of print expression that accompanied it. In the immediate run up to the Union of 1707, this was reflected in the pamphlet wars addressing and the parliamentary speeches assessing the proposed Union, as discussed in Ralph McLean's contribution. Karin Bowie's essay examines how popular public petitioning allowed opponents of an incorporating Union to project 'the publicly expressed mind of the nation' as a basis for their arguments. As she argues, this kind of extra-parliamentary national opinion continued to be articulated through the Scottish press and petitions after 1707, sustaining a distinctive sense of Scottish national identity within the United Kingdom.

The independence referendum of 2014 witnessed an equally dramatic expansion of public engagement with Scotland's constitutional future, manifest in online media that emerged through the grassroots expressions of the Yes campaign. These both fractured and expanded the Scottish media landscape while calling into question the relevance, purpose and very idea of a coherent national press, discussed in contributions by Iain MacWhirter, Richard Walker, and Gerry Hassan. In his afterword to this issue,

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Scotland's leading sociologist David McCrone discusses how the structural decline of the Scottish press, and the challenges from new media during the 2014 campaign, suggest that it may no longer be vital to the development of the Scottish political project in the 21st century.

As important as these debates on Scottish political autonomy were to the shaping and re-constituting of Scotland's press, it was the nation's distinctive civil society institutions that often provided a corporate expression to Scottish constitutional concerns, reflected in the pages of its periodical press. An accessible overview of the changing relationship of Scotland's media to the nation's civil society is provided in the pages of this issue by Gerry Hassan. Scotland's Kirk remained a central national civil society institution after 1707, and its annual General Assembly often acted as a surrogate parliament during the eighteenth century, examined in Alex Benchimol's contribution on the debates about constitutional reform inside the General Assembly of 1790, as reported in the *Glasgow Advertiser*, the forerunner to today's *Herald* newspaper.

The autonomy of Scotland's legal system was one of the key 'opt outs' secured by those challenging the vision for an incorporating Union with England in 1707. The significant institutional role played by Scots Law has had a profound impact on the shape of Scottish civil society ever since, and one who's influence continues to be felt in the current debates about the Scottish incorporation of European law, given a new urgency by the complex legal implications of the proposed Brexit. In this issue Michael Clancy dissects the institutional and constitutional issues related to Scottish law and the 1707 Union, and to key legislative milestones since, like the Scotland Acts of 1998, 2012 and 2016, and the coming challenge of reshaping Scots Law after the proposed UK exit from the EU. Rhona Brown provides a fascinating historical case study for our current Brexit anxieties that was played out in the Scottish and English press of the 1760s and 1770s. Of course, perhaps the most important and high profile institutional embodiment of the ongoing distinctiveness of Scottish civil society is the Scottish Parliament itself, re-convened in 1999. Philip Schlesinger gives a valuable insider account in this issue of his role in the communications audit of the Scottish Parliament in its early days; a study whose existence has never before been discussed.

In their varying ways then, and from a range of distinct perspectives, we trust that readers will find that this collection of essays offers critical insights into key moments in Scotland's political and communicative development.

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