

# Scottish parliamentary record scholarship in the devolution era<sup>1</sup>

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## SUMMARY

In 1707 Scotland's parliament ceased to exist. Yet it has since been the subject of two monumental acts of record scholarship; the *Acts of the Parliaments of Scotland* (1814-1875) in the nineteenth century and the *Records of the Parliaments of Scotland* (2007) in the twenty-first. Using the first of these as a touchstone, this article examines the ways in which the records of the pre-1707 parliament are presented, positioned and interpreted in the second. Unlike the nineteenth-century edition, which was produced in an era when adherence to the 1707 Act of Union with England went all but unquestioned, the twenty-first century version was created during a period of constitutional devolution amidst a national debate over the question of independence from the United Kingdom. Approaching this new edition of parliamentary records as a cultural product, shaped and informed by the context in which it was created, therefore enables us to learn much about how the relationship between history and national identity in Scotland has changed since its predecessor was published. From there, the article questions the assumption that present-day understandings of Scottish identity are primarily civic and forward-looking, and argues that they are in fact partly based on claims which, whether secessionist or devolutionist, are fundamentally historical.

## Introduction

Despite its incorporation into the new Parliament of Great Britain in 1707, the old Scottish Parliament has remained a subject of interest to Scots over the subsequent 300 years. The scholarly manifestations of that attention peaked in the early nineteenth century with the publication of the *Acts of the Parliaments of Scotland* (1814-1875, henceforth *APS*). I have discussed the *APS* elsewhere, arguing that its editors Thomas Thomson and Cosmo Innes used legislative history to assert the existence and value of Scottish distinctiveness within the Union

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with England.<sup>2</sup> The *APS* stood as the authoritative representation of the activities of Scotland's original parliament for over 150 years. In the 1990s, however, academic interest in the records of that institution began to rise once more. In 1996 Keith Brown of the University of St Andrews established the Scottish Parliament Project (henceforth SPP) to begin work on a new edition of Scotland's parliamentary records. The project's goal was realized in 2007 when the *Records of the Parliaments of Scotland* website (henceforth *RPS*) came online.<sup>3</sup> Both the *APS* and the *RPS* sought to illuminate Scotland's pre-Union history. However, they can also be read as cultural products shaped by the contexts in which they were created. That is an approach I have already applied to the *APS*; interpreting it as a commentary on Scotland's relationship with its own history at the time when the country was part of a unitary British state and the virtue of Union went all but unquestioned. Using the *APS* as a touchstone, the aim of this article is to undertake the same task for the *RPS*, created as it was during a period of constitutional devolution amidst a national debate over the question of outright independence. If we accept that conceptualisations of the past can inform current constructions of nationhood, then an examination of the *RPS* can tell us something significant about Scottish identity in the twenty-first century.

### **Contrasting contexts**

Unlike many stateless nations, Scotland had no political nationalist movement when the *APS* was published. Instead, the superiority of England's constitutional tradition was taken as read by most Scots. The middle and upper classes in particular embraced the Whiggish assumption that order, liberty and prosperity had been gifted to Scotland through parliamentary Union. In contrast, they saw Scotland's pre-1707 parliament as a tool of monarchical tyranny and a crucible of aristocratic ambition that had failed to safeguard the rights and freedoms of Scots at the individual or national level. The benefits of parliamentary union within a unitary British state thus remained widely accepted throughout the nineteenth century.<sup>4</sup> Given these hostile historiographical waters, it

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<sup>2</sup> R. Marsden, *Cosmo Innes and the Defence of Scotland's Past c.1825-1875* (Farnham, 2014), pp. 55-90; see also M. Ash, *The Strange Death of Scottish History* (Edinburgh, 1980), pp. 41-58.

<sup>3</sup> M. Brown, 'The Records of the Parliaments of Scotland up to 1707 by Gillian H. Mackintosh; Alastair J. Mann; Pamela E. Ritchie; Roland J. Tanner', *English Historical Review* 127, (2012), pp. 1204-7.

<sup>4</sup> C. Kidd, *Subverting Scotland's Past; Scottish Whig Historians and the Creation of an Anglo-British Identity 1689-c.1830* (Cambridge, 1993). pp. 107-28; M. Fry, 'The Whig interpretation of

seems odd that the *APS* was ever published. To an extent this can be explained by the fact that it was part of a wider programme for publishing the legislative records of both Scotland and England. In that sense, it was part of an endeavour undertaken by the British state to furnish both nations with legislative histories based on authentic records.<sup>5</sup> Yet whilst the impetus for its creation was United Kingdom-wide, it was created in an intellectual and political context that was particular to Scotland. There was a growing sense amongst Scots in that era that their nation's cultural and institutional distinctiveness, including its legal system, was under threat from an increasingly interventionist parliament at Westminster.<sup>6</sup> One of the abiding issues for nineteenth-century Scotland, therefore, was the value or otherwise of Scottish law in the post-Union setting. As I have elsewhere suggested, the *APS* was shaped by that debate; indeed its very existence is indicative of the importance that was attached to the nation's historic jurisprudence. For its editors Thomas Thomson and Cosmo Innes, there existed a causal relationship between the nation's vanished constitution, and more specifically its legislative history, and the mores and 'manners' of modern Scots. From their perspective, now strongly disputed by more recent scholarship, parliament had failed to provide the freedoms and safeguards that were expected of an effective representative assembly. Yet for Thomson and Innes it had nonetheless, through legislation and the political culture that developed around it, been instrumental in forging a distinct legal and juridical culture which even in the nineteenth century distinguished Scotland from its southern neighbour. The assumption underpinning the *APS* was that Scottish law had, since as far back as the twelfth century, been both an influence on and reflection of the character of the Scottish people themselves.<sup>7</sup>

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Scottish history', *The Manufacture of Scottish History*, ed. I. Donnachie & C. Whatley (Edinburgh, 1992), pp. 80-3.

<sup>5</sup> P. Goldesbrough, 'The Record Commission and Scotland', in F. Ranger (ed.), *Prisca Munimenta; Studies in Archival and Administrative History Presented to Dr. A. E. J. Hollander* (London, 1973), pp. 19-21; P. Walne, 'The Record Commissions 1800-1837', *Journal of the Society of Archivists* 2, (1960), pp. 10-11.

<sup>6</sup> C. Kidd, 'Sentiment, race and revival: Scottish identities in the aftermath of Enlightenment', in *A Union of Multiple Identities: The British Isles c.1750 - c.1850*, ed. L. Brockliss & D. Eastwood (Manchester, 1997), pp. 110-126; I. G. C. Hutchison, 'Anglo-Scottish political relations in the nineteenth century c. 1815-1915', in T. C. Smout (ed.), *Anglo-Scottish Relations from 1603-1900* (Oxford, 2005), pp. 247-66.

<sup>7</sup> Marsden, *Cosmo Innes*, pp. 73-84.

By the end of the twentieth century, however, many Scots saw Union with England in less nuanced terms. National sentiment, whether cultural, devolutionist or directed towards political independence, was resurgent when the Scottish Parliament Project was founded in 1996. Labour had already committed itself to a referendum on devolution and in response the Conservative government then in power was looking to support gestures of cultural nationalism which could demonstrate that the Union could deliver for Scotland.<sup>8</sup> It was in that context that Keith Brown, then Head of History at St Andrews University and by the time the RPS was completed Deputy Principal at the same institution, made his approach to the Tory Scottish Secretary of State Michael Forsyth. In his letter to Forsyth, Brown suggested that a new edition of parliamentary records would be a fitting way to mark the impending tercentenary of the Union. He also felt that ‘such a project should not be owned by any partisan tradition within Scotland, but should be seen as a means of enriching our culture as a whole and of better understanding our history.’<sup>9</sup> In other words, the nation’s history was important to all Scots, whatever their views on the Union. Brown’s approach was successful and an initial grant from the Conservative government at Westminster was quickly forthcoming.<sup>10</sup> British Prime Minister John Major was quoted in the press saying: ‘the Union is the most successful partnership in the world and the whole country will want to celebrate the tercentenary in 2007. Support for this research project [...] is the first step towards those celebrations.’<sup>11</sup> As the *Scots Law News* noted in 2008, Forsyth’s support for cultural initiatives like the *RPS* was based on the misplaced hope that:

Scottish national feeling would abate, his party would once more be returned to power in a pending general election, and any question of devolution or even

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<sup>8</sup> C. Harvie and P. Jones, *The Road to Home Rule: Images of Scotland’s Cause* (Edinburgh, 2000), pp. 165-9.

<sup>9</sup> Letter from Keith Brown to Michael Forsyth (7 June 1996), Uncatalogued archive of the Scottish Parliament Project, University of St Andrews Special Collections.

<sup>10</sup> K. M. Brown, ‘The Records of the Parliament of Scotland’, *History Scotland* 8:3 (May 2008), p. 15; A. J. Mann, ‘Introduction: A Brief History of an Ancient Institution - The Scottish Parliament’, *Scottish Parliamentary Review* 1:1 (2013), pp. 3-4.

<sup>11</sup> N. Thorpe, ‘Hi-tech keeper of Scotland’s records’, *The Scotsman* (6 July 1996), p. 1.

independence could be safely put back in the cupboard of political ideas whose time had been and gone.<sup>12</sup>

According to this analysis, funding for the *RPS* was intended by the Conservatives as a brick in their defence of the unitary British state. Yet it took eleven years to complete, receiving not only an initial half-million pounds from the Westminster Conservative Government but a similar amount between 2002 and 2004 from the Labour-Liberal coalition that held power in the new Scottish parliament.<sup>13</sup> In 2014 Alastair Mann, a leading member of the SPP, explained this second tranche of funding in the context of Labour's belief that 'devolution would be the weapon to defeat nationalism.'<sup>14</sup>

On one level the *RPS* was, like the *APS*, the results of decisions taken by a Westminster government committed to unitary union. It was also, again just like the *APS*, accompanied by a contemporaneous initiative to publish the records of the pre-Union English parliament. In 1997, a year after the SPP began, the Leverhulme Trust agreed to pay for the creation of a new digital edition of the *Parliament Rolls of Medieval England*.<sup>15</sup> In this instance, however, the two publications were mandated and funded separately and it was the Scottish one that got underway first. Indeed, the possibility of a cross-border approach to parliamentary history had already been dealt a grievous blow by the controversies surrounding the History of Parliament project. Conceived in 1928, this biographical dictionary of British parliamentary history was throughout its long development characterised by disagreement between its English and Scottish participants. Those south of the border saw the British parliament as primarily a continuation of

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<sup>12</sup> Anon., 'Records of the Parliaments of Scotland online', *Scots Law News* (24 May 2008), available at <http://www.sln.law.ed.ac.uk/2008/05/24/798-records-of-the-parliaments-of-scotland-online/>, accessed 24 July 2016.

<sup>13</sup> *SPP Annual Report 1999-2000* (1999), p. 2; *SPP Annual Report 2002-2003* (2004), p. 4.

<sup>14</sup> A. J. Mann, 'Back to the future: Scottish parliaments in context', *The History of Parliament* (16 September 2014), available at <https://thehistoryofparliament.wordpress.com/2014/09/16/back-to-the-future-scottish-parliaments-in-context/>, accessed 24 July 2016.

<sup>15</sup> D. Grummitt, 'The Parliament Rolls of Medieval England, 1275-1504 (PROME)', *Reviews in History* 642 (2008), available at <http://www.history.ac.uk/reviews/review/643>, accessed 18 October, 2017.

its English predecessor; from that perspective, the 1707 Act of Union marked little more than the suppression of a separate Scottish legislature and the diversion of Scottish representation to Westminster. This view struck at the heart of how the Scots involved in the project conceptualised the Union, as a constitutional partnership of equals. Arguments abounded over how Scotland's parliament should be represented, the implications of 1707, and the constitutional status of the post-Union British parliament. In 1952 the Scottish committee for the project formally cut ties with its English counterpart. When the Scottish volumes were finally published in 1993 they were entirely separate from those relating to the parliaments of England and Britain.<sup>16</sup> The kind of UK-wide initiative of which the *APS* had been a part was thus far less viable at the end of the twentieth century.

As a specifically Scottish affair, one of the main aims of the SPP was to rehabilitate the old parliament's unfairly tarnished reputation, showing that it had operated at the heart of Scotland's political culture and it had been able to mount effective challenges to the will of the monarch.<sup>17</sup> This was in part a response to an interpretation that had its roots in the nineteenth century milieu that had spawned the *APS*. For the English-born Professor of History at Aberdeen University Charles Sanford Terry, writing in 1905, 'to the end of its history, parliament remained a feudal and non-popular chamber, from which all but the crown's vassals and officials were excluded.' In 1924 the Historiographer-Royal for Scotland, Robert Rait, argued that Scotland's parliament singularly failed to 'give to the world that example of, and inspiration to, representative government which is perhaps the greatest English contribution to the development of civilisation.' Such views proved durable; as late as 1979, the Scottish constitutional historian Patrick Riley labelled parliament on the eve of Union 'no more than an instrument of magnate rivalry and the kingdom was well rid of it.'<sup>18</sup> Yet in the same year as Riley's study was published,

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<sup>16</sup> D. W. Hayton, 'Official Histories of parliament and the nature of the Union of 1707: a forgotten episode in Anglo-Scottish academic relations', *Scottish Historical Review* 93 (2014), pp. 80-108.

<sup>17</sup> K. M. Brown, A. J. Mann and R. J. Tanner, 'The Scottish Parliament: An Historical Introduction', in *RPS*, available at <http://www.RPS.ac.uk/static/historicalintro.html>, accessed 11 April 2016; Anon., 'A Short History of the Scottish Parliament', in *RPS*, available at <http://www.RPS.ac.uk/static/history.html>, accessed 12 April 2016.

<sup>18</sup> C. S. Terry, *The Scottish Parliament: its Constitution and Procedure, 1603-1707* (Glasgow, 1905), p. 161; R. Rait, *The Parliaments of Scotland* (Glasgow, 1924), p. 126, quoted in G. H. MacIntosh, *The Scottish Parliament Under Charles II, 1660-1685* (Edinburgh, 2007), p. xi;

the first referendum on the establishment of a new Scottish parliament recorded a narrow majority of voters in support. The establishment of this new representative assembly was stymied only by an amendment to the referendum legislation requiring that majority to constitute no less than 40% of the total electorate.<sup>19</sup> Whilst this result related to the creation of a new body rather than the reputation of the old, it is nonetheless indicative of a developing appetite amongst Scots to resurrect the parliamentary privileges that the country had taken as read before 1707. Indeed the origins of a revisionist view amongst scholars, which extolled the merits of the old parliament, albeit with some caution, was evident as long ago as the 1960s and 70s and reached maturity in the 1990s and 2000s.<sup>20</sup>

Clearly there was a historiographical context at play in the creation of the *RPS* database, as well as a political one. As stated in their introduction to the database, one of the key goals of the new edition was to make the point that ‘a parliament much derided for being inferior in procedural terms to the English House of Commons is now seen to be much more sophisticated than previously supposed.’<sup>21</sup> In the three-volume *History of the Scottish Parliament* (2004-2010), meanwhile, the SPP contest the longstanding assumption ‘that parliament was a largely impotent body throughout the Middle Ages and beyond.’<sup>22</sup> Moreover, a piece published in the *Scotsman*

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P.W.J. Riley, *King William and the Scottish Politicians* (Edinburgh, 1979), p. 162, quoted in Mann, ‘Ancient Institution’, p. 1.

<sup>19</sup> D. Denver, J. Mitchell, C. Pattie and H. Bochel, *Scotland Decides: the Devolution Issue and the 1997 Referendum* (Abingdon, 2000), pp. 123-43

<sup>20</sup> For example A. A. M. Duncan, ‘The early parliaments of Scotland’, *SHR* 45 (1966), pp. 35-57; D. Stevenson, *The Scottish Revolution 1637-4: The Triumph of the Covenanters* (London, 1973); J. Goodare, ‘The Estates in the Scottish Parliament, 1286-1707’ in C. Jones (ed.), *The Scots and Parliament: Parliamentary History* (Edinburgh, 1996), pp. 11-32; J. R. Young, *The Scottish Parliament 1639-1661: a Political and Constitutional Analysis* (Edinburgh, 1996). See also Mann. ‘Ancient institution’, p. 3.

<sup>21</sup> G. H. MacIntosh, A. J. Mann and R. J. Tanner, ‘Editorial introduction’, in G.H. MacIntosh, A.J. Mann, P.E. Ritchie and R.J. Tanner (eds.), *Records of the Parliaments of Scotland to 1707* (2007), available at <http://www.RPS.ac.uk/static/editorialintro.html>, accessed 27 July 2015.

<sup>22</sup> K. M. Brown and R. J. Tanner, ‘Introduction: parliament and Politics in Scotland 1235-1560’, in K. Brown, A. J. Mann, A. R. MacDonald and R. Tanner (eds.), *The History of the Scottish Parliament: Parliament and Politics in Scotland 1235-1560* (Edinburgh, 2004), p. 28.

*on Sunday* at the turn of the millennium opened with the following headline: ‘Forget Westminster as the Mother of all Parliaments – that title should go to Holyrood, say academics in light of a government-funded research project.’<sup>23</sup> After the *RPS*’s launch in 2008, meanwhile, the following quote from Keith Brown found its way into several press reports:

‘From its origins in the 13th Century to its termination in the 18th Century, Scotland’s parliament represented a political legitimacy that could not be ignored. Furthermore, far from being a rudimentary institution, parliament evolved rituals, procedures and a level of self-conscious awareness on a par with any other representative body of that age. Scotland has every reason to be proud of its lengthy parliamentary history and the record the institution left behind.’<sup>24</sup>

Brown’s SPP colleague Alasdair Mann made similar points, explaining that his team’s research ‘confirms the existence of a proud parliamentary culture and one that is as old as that of England’ and demonstrated that ‘the old parliament, with its great tradition, is both a shining light and a salutary warning. Like all legislatures, in all political systems, it was imperfect but it counted.’<sup>25</sup> Meanwhile Gillian MacIntosh, another SPP member, argued in a 2008 magazine article that ‘traditionally the assembly had been both robust and developed, playing a significant role in government and often keeping the crown in check.’<sup>26</sup> Mann concluded another piece in the same publication by stating that ‘the old Scottish parliament was, therefore, the most significant institution of medieval and early modern Scotland.’ Indeed Mann’s own university justified the project in their 2014 submission to the Research Excellence Framework exercise (REF) by

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<sup>23</sup> D. Brown, ‘Holyrood wins democracy war’, *Scotsman on Sunday* (23 January 2000), p. 7.

<sup>24</sup> M. Wade, ‘“Modern” problems are just so 17th century’, *The Times* (13 May 2008), p. 29; M. Dowie, ‘Sounds familiar as past unmasked’, *Aberdeen Press and Journal* (13 May 2008), p. 9; Anon., ‘Scottish parliamentary history revealed’, *The Courier and Advertiser* (13 May 2008), p. 4; S. Johnson, ‘Scottish parliament archive goes online’, *Daily Telegraph Scotland* (13 May 2008), p. 9; Anon., ‘Old parliament archives go online’, *BBC News* (13 May 2008), available at [http://news.bbc.co.uk/1/hi/scotland/edinburgh\\_and\\_east/7396302.stm](http://news.bbc.co.uk/1/hi/scotland/edinburgh_and_east/7396302.stm), accessed 24 July 2016.

<sup>25</sup> Mann, ‘“Back to the future”’; Mann, ‘Ancient Institution’, p. 27.

<sup>26</sup> G. MacIntosh, ‘A Kingdom without a King: crown and parliament, 1603-51’, *History Scotland* .8:3 (May 2008), p. 45.



stating that the *RPS* had ‘challenged the traditional perception of the Scottish Parliament as an unsophisticated, Crown-led institution.’<sup>27</sup>

### **Presenting the sources**

It is clear that the need to re-evaluate accepted historiographical wisdom was one of the main imperatives behind the *RPS*. Even more important, however, was the sense that the *APS* was no longer fit for purpose. Thomson and Innes made far-reaching changes to their texts which, as is explained in the new edition, ‘lead the reader to trust the printed version of the acts when he or she should proceed with caution.’<sup>28</sup> By the 1990s historians were complaining about this issue regularly. The distinguished Anglo-Saxon historian Patrick Wormald, for instance, referred to his presentation at the 2001 *Scottish Medievalists Conference* as ‘another of those papers, all too familiar to aficionados of the subject, which declares that it is high time *someone* did *something* about *APS* i.’<sup>29</sup> In a letter to Brown in 1996, meanwhile, Norman McDougal, formerly an academic colleague of Brown’s at St Andrews, described the opening volume as ‘something of a dog’s breakfast.’<sup>30</sup> The 1998 SPP annual report summed the situation up neatly:

The consensus among scholars of this period is that the major problems lie with the way in which the material was presented in *APS*. If different versions of the original official record, both in printed and manuscript form, were used by the nineteenth century editors, it was not made clear how this was done and what its precise implications were.<sup>31</sup>

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<sup>27</sup> A. J. Mann, ‘From the sublime to the ridiculous and back again: The Scottish Parliament 1660 to 1707’, *History Scotland* 8:3 (May, 2008), p. 52; University of Stirling, ‘Free access public history, policy formation and education: the Records of the parliaments of Scotland to 1707 and their analysis’, *REF 2014 Impact Case Studies* (2014), available at <http://results.ref.ac.uk/Submissions/Impact/1932>, accessed 24 July 2016

<sup>28</sup> MacIntosh, Mann and Tanner, ‘Editorial introduction’, *RPS*.

<sup>29</sup> P. Wormald, ‘Anglo-Saxon law and Scots law’, *SHR* 88 (2009), p. 195.

<sup>30</sup> Letter from Norman McDougal to Keith Brown (24 June 1996), SPP archive.

<sup>31</sup> *SPP Annual Report 1997-1998* (1998), p. 3.

Much of the editorial introduction to the *RPS* is consequently couched as a catalogue of the *APS*'s deficiencies with explanations of how they have been remedied in the new version.<sup>32</sup> As Brown put it in a magazine article from 2008, 'increasingly we realised the shortcomings of *APS*, in which sources were placed out of order, material was included that was not parliamentary in origin, other material was left out and text was invented.'<sup>33</sup> SPP members took an understandably dim view of this, complaining that '*APS* often appears to represent an authoritative text drawn from a straightforward source, when in fact that is far from the case.' Elsewhere they comment that 'the suspect nature of Thomas Thomson's editorial practices has long been known, but the extent to which his editorial interventions crossed a line into invention has not previously been appreciated.' They attribute this to 'a particularly Victorian obsession with order and tidiness.'<sup>34</sup>

However there is more here than meets the eye. In a sense both the *APS* and the *RPS* are archives, in that they are sets of records chosen, assembled and curated for public use. This is a useful analogy because, as Terry Cook notes, archivists tend to see themselves as an 'invisible bridge' or 'honest broker' between the creators and the users of records. Yet in reality they are often active agents in the creation of historical memory. Archivists select and reject material for inclusion, they decide how and in what order documents are presented, and in many instances they provide mediating interpretation intended to make the items in their care more meaningful and accessible to potential audiences. In so doing they shape the versions of the past that those audiences encounter, especially when dealing with bodies of material consisting of numerous fragmentary sources which require assembly for modern consumption.<sup>35</sup> That definition is

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<sup>32</sup> MacIntosh, Mann and Tanner, 'Editorial Introduction', *RPS*.; Anon., 'Chronological Tables of Statutes, 1424 to 1707', in *RPS*, available at [http://www.RPS.ac.uk/static/statutes\\_index.html](http://www.RPS.ac.uk/static/statutes_index.html), accessed 13 September 2016; Anon., 'Notes on the Sources for the Parliaments of Scotland, 1424-1466: Thomson's *APS* vol. ii, and Robertson's *Parliamentary Records of Scotland*', in *RPS*, available at <http://www.RPS.ac.uk/static/notesonsources.html>, accessed 13 September 2016.

<sup>33</sup> Brown, 'Records of the Parliament of Scotland', p. 17.

<sup>34</sup> MacIntosh, Mann and Tanner, 'Editorial Introduction', *RPS*.; Anon., 'Chronological Tables', *RPS*.; Anon., 'Notes on the Sources', *RPS*.

<sup>35</sup> T. Cook, 'Remembering the future: appraisal of records and the role of archives in constructing social memory', in F. X. Blouin & W. G. Rosenberg (eds.), *Archives, Documentation and Institutions of Social Memory: Essays from the Sawyer Seminar* (Michigan, 2007), pp. 169-70; see also J. M. Schwartz and T. Cook, 'Archives, records, and power: the making of modern memory', *Archival Science* 2 (2002), pp. 1-19.

certainly applicable to record editions like the *APS* and the *RPS*. In both cases the editors took decisions about what to include, and how to arrange, present and annotate the material. Today most editors seek fidelity to their sources and offer a transparent explanation of their editorial processes. In the nineteenth century, however, record scholars tended to take a much more interventionist approach.

As such, Thomson and Innes were certainly guilty of the charges levelled at them by the SPP. Crucially, however, these were the results of deliberate and informed choices rather than poor standards of scholarship. In my monograph on Cosmo Innes I have suggested that he and Thomson were consciously attempting to confer order on an inherently disorderly group of sources. This was achieved by marshalling a bewildering diversity of records of varying types, ages and reliability into a format that emphasised typological, structural and even visual uniformity. This conferred a veneer of consistency upon the parliamentary record which belied the fragmented nature of the manuscripts and obscured unseemly gaps in the material. The absence of editorial annotation throughout enhanced this impression, implying that the text as a whole was an unproblematic and coherent record rather than the product of pain-staking assembly and expert mediation. Yet this was not an attempt at antiquarian subterfuge. Instead, the editorial philosophy that Thomson and Innes employed was a response to what they saw as the inherent defects of the records available. The silent alterations they made to their sources were founded on their expertise as legal antiquaries and intended to make the printed text more authentic, not less so.<sup>36</sup> The result was a sanitised version of Scotland's messy and confused parliamentary record during a period in which many influential Scots favoured legislative and juridical Anglicisation.<sup>37</sup> Despite the growing romantic appetite for the past on the continent after 1815, driven by the emergence of political nationalist movements which emphasised the importance of ancient origins and unique historical experiences to the creation of distinct national characters, in Scotland medieval and early modern sources were still often seen as unwanted reminders of a backward age.<sup>38</sup> Most Scots in this period embraced the Union with glad-eyed fervour because of the liberty and prosperity they believed it had brought to their country.<sup>39</sup> The

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<sup>36</sup> Marsden, *Cosmo Innes*, pp. 68-73.

<sup>37</sup> Marsden, *Cosmo Innes*, pp. 59-65

<sup>38</sup> Ash, *Strange Death*, p. 41.

<sup>39</sup> C. Kidd, 'The *Strange Death of Scottish History* Revisited; Constructions of the Past in Scotland c. 1790-1914', *SHR* 76 (1997), pp. 87-90.

*APS* was certainly not a riposte to such views, but it arguably constituted an attempt to modify them. The edition served as a reminder that Scotland had a pre-1707 legislative and institutional history which, thanks to the ongoing distinctiveness of Scottish law, continued to shape the context in which contemporary Scots operated. By making parliamentary material palatable to nineteenth-century tastes, Thomson and Innes laid the groundwork for a potential rehabilitation of the legal and juridical traditions that those sources represented.<sup>40</sup>

As might be expected, the presentation of material in the *RPS* is very different. The criteria by which sources were selected for inclusion are much clearer than in the case of the *APS*. The scholarly apparatus used to aid navigation of the edition is also far more transparent, with pop-up windows providing details of provenance for every record. Nevertheless, like its predecessor the *RPS* presents a vast and disparate assortment of source material in a standard layout and typeface. From a purely visual perspective, the first record from 1235 looks superficially similar to the last from 1707. That sense of consistency is magnified by the organisational and classificatory systems adopted for the database. Material is arranged chronologically by monarch's reign and by parliament, just as it was in the *APS*. Sources are then categorised as an official record or register, as an extract from parliamentary minutes, as an excerpt from the proceedings of committee, or as an 'additional source' (a catch-all for anything that does not neatly fit the other three headings). Beyond that, a comprehensive typology is used to label individual sources. The editors of the *RPS* explain it thus:

Despite the difficulties arising from the changing nature of the manuscripts over the centuries covered, a classification system, both informative and flexible, has been devised and implemented by the editors. Common classification headings, such as procedure, sederunt, legislation, judicial proceeding, petitions, warrants, committee membership, letters, charters and voting record, are used in conjunction with more specific classification sub-headings such as ratifications, forfeitures, protestations, disputed elections, overtures, and indications of regular procedure, such as minutes being read, draft acts considered or the session continued.<sup>41</sup>

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<sup>40</sup> Marsden, *Cosmo Innes*, pp. 88-89.

<sup>41</sup> MacIntosh, Mann and Tanner, 'Editorial Introduction', *RPS*.

An internal SPP document on editorial conventions sheds further light on this, listing no less than nineteen types of document, some of which have as many as twenty-two sub-categories.<sup>42</sup> Of course these measures were necessary to reflect the variety of sources included and, through that, the range of activities which fell within parliament's remit. Without them, the *RPS* would be nigh-on unusable to any but the most expert enquirer. Yet not every document neatly falls into one or other of these categories; in some cases the classification of material comes down to the judgement of the editors. In this way the typology employed in the *RPS* unavoidably confers an impression of order on a documentary record which spans 500 years and has here been assembled through skilful mediation from a huge and messy corpus of sources. As with the *APS*, one likely consequence of this is that the systematic rendering of parliamentary records becomes for the reader implicitly associated with the institution itself. That said, the *RPS* is far more faithful to the original sources than its predecessor. For the seventeenth century, for instance, items are given in the order they appear in the records rather than in date order as they are in the *APS*.<sup>43</sup> Nor have texts been silently collated, amended or manipulated in the *RPS* as they were in the earlier edition. In this and in many other ways, the *RPS* is a very different beast from its ancestor. Its editors have maintained an admirable level of transparency and fidelity to the original material throughout, and have not silently sanitised their sources in the way that Thomson and Innes did. Nonetheless, the rendering of those records in a format accessible to general users as well as experts inevitably results in a cleaner and clearer representation of the parliamentary record than that found in the manuscripts themselves.

That goal of lay engagement comes through very clearly on the website itself and the publicity surrounding it. In 2008 *The Scottish Daily Express* described the *RPS* as 'superb stuff, not only for academics and researchers, but also for the likes of you and me.'<sup>44</sup> On the database's 'ideas for further research' page, and in the media attention that surrounded its launch, much was made of the similarities between the issues facing the old parliament and the new. This approach suggested that, just like their present-day successors, the parliamentarians of yester-year faced issues such as credit crunches, crime and justice, health and medicine, environmentalism, gender

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<sup>42</sup> *Main Editorial Conventions* (2002). SPP archive.

<sup>43</sup> See, for example, the list of dates in the *RPS* for the 1661 and 1696 sessions.

<sup>44</sup> K. Gill, 'Proof that Scots don't like being told what to do', *Scottish Daily Express* (13 May 2008), pp. 6-7.

equality, fuel shortages, MSP expenses scandals and excessive drinking.<sup>45</sup> Moreover the St Andrews impact statement submitted for the 2014 Research Excellence Framework exercise explains that ‘one of the guiding principles behind *RPS* was the production of a record which has value and recognition beyond the academic sphere.’ It then notes that the site had by late 2013 been accessed almost 2 million times and points out that ‘this reflects widespread engagement with the resource from a broad spectrum of users outside the traditional university sector.’<sup>46</sup> There is a clear desire here to make the *RPS* matter beyond the confines of academia. For instance in 1999 the SPP was involved in the creation of an exhibition on parliamentary history in the Museum of Scotland<sup>47</sup> Between 1998 and 2001 team members gave press interviews and contributed to radio programmes on the old Scottish Parliament.<sup>48</sup> In 2008, in honour of the database’s launch, an issue of the magazine *History Scotland* was devoted to parliamentary matters. It contained seven articles covering the institution’s history. The first of these, by SPP member Roland Tanner, focused on the *RPS* as an example of how online connections can be made between editors and users.<sup>49</sup>

Yet Julian Goodare has questioned whether the scholarly sign-posting provided in the *RPS* is enough to prevent such general readers from misinterpreting the distinctions between parliamentary acts on the one hand, and additional material such as minutes and diaries on the

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<sup>45</sup> Anon., ‘About the parliamentary record’, *RPS*, available at <http://www.RPS.ac.uk/static/furtherresearch.html>, accessed 12 May 2016; Mann, ‘Back to the future’; J. Watson, ‘Fuel shortages, credit crunch and binge drinking: Scotland in 1408’, *Scotland on Sunday* (11 May 2008), pp. 1 and 3; Wade, ‘Modern’ problems’, p. 29; Dowie, ‘Sounds familiar’, p. 9; S. Johnson, ‘Scottish parliament archive’, p. 9; Anon., ‘Scottish parliamentary history revealed’, p. 4.

<sup>46</sup> University of St Andrews, ‘Records of the Parliaments of Scotland to 1707’, *REF 2014 Impact Case Studies* (2014), available at <http://results.ref.ac.uk/Submissions/Impact/2032>, accessed 24 August 2016.

<sup>47</sup> H. Cheape, *The Scottish Parliament and NMS initiatives* (14 September 1998), SPP archive.

<sup>48</sup> *SPP Annual Report 1998-1999* (1999), pp. 6-7; *SPP Annual Report 1999-2000* (2000), pp. 6-7; *SPP Annual Report 2000-2001* (2001), p. 3.

<sup>49</sup> R. Tanner, ‘Historical research and the second online revolution’, *History Scotland* 8:3 (May 2008), pp. 11-13.

other.<sup>50</sup> In fairness, the *RPS* is a collection of parliamentary records and does not restrict itself to legislative acts as the *APS* did. The inclusion of minutes, diaries, speeches and so on which contain invaluable material for historians, despite not being part of any official register, is therefore entirely justified. The question in point, however, is whether lay users are likely to have the specialist knowledge needed to meaningfully distinguish between the various types of material on offer. That is an important issue because the SPP are very clear that ‘accessibility and transparency are watchwords for *RPS*.’<sup>51</sup> This reflects a commendable drive to ensure that anyone and everyone who wants to can get something out of the new online edition. It is primarily for the general user that a parallel English translation has been included, available for every single item whether in Latin, French, Gaelic or Scots. Furthermore, all abbreviations and scribal contractions from the original sources have been expanded, giving those with a non-expert knowledge a better chance of making sense of the entries in their original languages.<sup>52</sup> Explanatory notes regarding historical terms, place names and biographical information are also included, and an extensive glossary of Scots words is provided. As a result, any literate person who can use a computer is able to search, browse and hopefully understand. This is a far cry from the *APS*, which required of its readers a detailed grasp of the contours of Scottish history, a knowledge of Latin, Scots and scribal practice, and also the social and economic status to be able to access a copy in the first place.

### **Parliaments old and new**

That said, the laudable commitment of the *RPS* to accessibility is also one of the things that politicises it. The SPP evidently wanted to create a version of Scotland’s parliamentary record that would be of interest to wide swathes of society. However, such efforts to connect a population with the lives of their ancestors through the records of a national institution are also likely to bolster a sense of that nation’s distinct historical experience. That is not to say that the *RPS* website was either intended or received as an articulation of political nationalism. Rather it is an inadvertent expression of historical identity that has cultural potential for secessionists,

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<sup>50</sup> J. Goodare, ‘The Records of the Parliaments of Scotland to 1707’, *Reviews in History* 1942 (2016), available at <http://www.history.ac.uk/reviews/review/1942>, accessed 27 June 2016.

<sup>51</sup> Anon., ‘Home’, in *RPS*, available at <http://www.RPS.ac.uk/>, accessed 1 July 2016.

<sup>52</sup> MacIntosh, Mann and Tanner, ‘Editorial Introduction’, *RPS*; Anon., ‘Help with using the Records of the Parliaments of Scotland resource’, in *RPS*, available at <http://www.RPS.ac.uk/static/help.html>, accessed 12 February 2016

devolutionists and unitary unionists alike. In a country where sovereignty is such a live issue, the need to demonstrate impact beyond the Academy will inevitably involve research of this kind in those debates, regardless of the wishes of those conducting it. In the words of Richard Finlay, Professor of Scottish History at the University of Strathclyde, ‘the impact of devolution in Scotland has made Scottish history seem more relevant to its people.’<sup>53</sup> Michael Brown, another of Keith Brown’s St Andrews colleagues, makes a similar point, stating that ‘it is hard to separate the value and importance of this website for scholarship from the context of its own creation.’ He then suggests that the very existence of the database ‘relates to the parallel formation and rapid development of the new Scottish parliament from 1997’ and goes on to say that ‘without the debate over devolution, and then its reality, this project may well not have come to fruition.’<sup>54</sup> There certainly seems to be some mileage in that interpretation. In 1996 Keith Brown responded coyly to Tory claims that the *RPS* would act as an acclamation of Union, musing to the press that ‘I would have to take a neutral view on whether we are celebrating the Union or commemorating it in another sense.’<sup>55</sup> Soon afterwards the independent Scottish historian Andrew Pearson wrote to Brown congratulating him on getting ‘serious money for advancing serious Scottishness’, even though the Tories were ‘doing it for all the wrong reasons.’<sup>56</sup>

The devolution context clearly played an important role, not just in getting the *RPS* made but in shaping how it was publicised and received. In 2008 Brown announced that ‘Scotland would not only have a new parliament, it would have a new parliamentary history.’ Mann saw things in similar terms, explaining after the *RPS* was finished that ‘deepening interest in the old institution [...] depended initially on the fate of the new assembly.’<sup>57</sup> Indeed, from the outset the SPP saw the Scottish Parliament as a potential source of funding and a vehicle for engaging public interest. Following the 1997 referendum, Brown wrote to Donald Dewar, then Secretary of State for Scotland and a champion of devolution. He explained that ‘now that Scotland is to have a new parliament the project takes on a new dimension. In effect we will be able to provide

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<sup>53</sup> R. J. Finlay, ‘New Britain, new Scotland, new history? The impact of Devolution on the development of Scottish historiography’ *Journal of Contemporary History* 46 (2001), p. 383.

<sup>54</sup> Brown, ‘Records of the Parliaments of Scotland’, *EHR*, pp. 1204-5.

<sup>55</sup> Thorpe, ‘Hi-tech keeper of Scotland’s records’, p. 1.

<sup>56</sup> Letter from Andrew Pearson to Keith Brown (8 July 1996), SPP Archive.

<sup>57</sup> Brown, ‘Records of the Parliament of Scotland’, *History Scotland* 8, no. 3, p. 15; Mann, ‘Ancient institution’, p. 4.



that body with an accessible and fully up-to-date version of its own ancestor.’<sup>58</sup> As the project developed, the team worked hard to enhance that connection through seminars, exhibitions, updates and visits all either aimed at or involving MSPs.<sup>59</sup> These efforts to court the new parliament were successful. In early 2001 the First Minister Henry McLeish wrote to Brown granting his request for another £250,000 of funding based on the project’s ‘importance to both the history of Scotland and its new parliament.’<sup>60</sup> At the end of 2003, meanwhile, the Presiding Officer George Reid wrote enthusiastically to MacIntosh about the project, stating that ‘the important first step is to get across the message that the old Scots Parliament was a considerably more active and independent body than I was taught at school and university.’ In a 2008 letter to Brown, meanwhile, Reid wrote ‘I just hope that some of my former parliamentary colleagues learn that our old parliament was, for its time, radical and innovative – that they see continuity between the old and the new, and stop regarding 1999 as Year Zero.’<sup>61</sup> This sense of connection between the two institutions is also in evidence on the *RPS* website itself. The database’s ‘Short history of the Scottish parliament’ climaxes with a section entitled ‘the new parliament.’ Similarly, the description of parliamentary locations through the ages closes with a discussion of the new chamber at Holyrood.<sup>62</sup>

Given that the SPP wanted to attract lay users, playing the ‘devolution card’ was an astute marketing ploy, especially since the perceived connection between old and new was made explicit in 1999 when the new parliament was opened with the words ‘the Scottish Parliament, adjourned on the 28<sup>th</sup> day of March 1707, is hereby reconvened.’<sup>63</sup> As Richard Finlay remarked in 2001, the inaccuracy of that statement was ‘lost on a population and politicians eager to use

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<sup>58</sup> Letter from Keith Brown to Donald Dewar (15 October 1997), SPP archive.

<sup>59</sup> Letter from Hugh Cheape to Alan MacDonald (15 September 1998), SPP Archive; *SPP Annual Report 1998/1999* (1999), p. 6; *SPP Annual Report 1998/1999* (1999), p. 6; *SPP Annual Report 1999/2000* (2000), p. 7

<sup>60</sup> Letter from Henry McLeish to Keith Brown (12 February 2001), SPP archive

<sup>61</sup> Letter from George Reid to Gilliam MacIntosh (14 December 2003), SPP Archive; Letter from George Reid to Keith Brown (25 April 2008), SPP archive

<sup>62</sup> Anon., ‘Short History of the Scottish Parliament’, *RPS*; Anon., ‘Housing the Estates: Parliamentary Locations and Buildings’, in *RPS*, available at <http://www.RPS.ac.uk/static/mAPStext.html>, accessed 23 March 2016.

<sup>63</sup> Quoted in Craig, ‘Recovering history’, p. 33 and in Harvie and Jones, *Road to Home-Rule*, p. 197.

the historical fact that Scotland had a parliament before 1707 to confer legitimacy and tradition on the new one'.<sup>64</sup> The SPP continued to play on that link, launching the *RPS* in 2008 with an event held at the Scottish Parliament Building, attended by MSPs from all parties, and culminating with a speech by the SNP Deputy First Minister Nicola Sturgeon. At the same time a cross-party motion congratulating the SPP on their achievement was passed by an overwhelming majority.<sup>65</sup> These links were maintained even after the *RPS* went live. In 2011, for instance, the SPP formulated a timeline of parliamentary history for the official Scottish parliament website. The landing page of this resource invites visitors to 'find out how the Scottish Parliament has evolved through the ages, from the assembly meetings of nobles and churchmen in 1235 to the modern Parliament that exists today.' The timeline itself runs from the thirteenth century to the present day – straight past the parliamentary Union of 1707. The nineteenth century is used to highlight UK-wide electoral reforms whilst the twentieth charts the rise of Scottish political nationalism. Entries include the election of the first SNP MP in 1945 and the establishment of the Scottish Constitutional Convention, with a mandate to campaign for devolution, in 1989. The timeline then continues with the opening of the new parliament in 1999, followed by the achievements of its first ten years of existence.<sup>66</sup> In this way it positions the new parliament as the inheritor of the traditions and legitimacy bequeathed by its predecessor, channelled between 1707 and 1999 by campaigns for democratic reform and then the rise of the nationalist movement.

If this timeline was part of the drive to reach those outside of the academy, the same is true of Mann's website of teaching resources on the history of Scotland's parliament, built around

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<sup>64</sup> Finlay, 'New Britain, New Scotland', p. 387.

<sup>65</sup> University of St Andrews, 'Records of the Parliaments of Scotland to 1707', *REF 2014 Impact Case Studies* (2014), available at <http://results.ref.ac.uk/Submissions/Impact/2032>, accessed 24 July 2016;; B. Kidd, 'Motion S3M-01932: The Records of the Parliaments of Scotland to 1707', *The Scottish Parliament* (16 May 2008, available at <http://www.scottish.parliament.uk/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S3M-01932>, accessed 24 July 2016

<sup>66</sup> Anon., 'The Scottish Parliament – past and present', *The Scottish Parliament* (2011), available at [http://www.scottish.parliament.uk/EducationandCommunityPartnershipsresources/SP\\_Timeline\\_English.pdf](http://www.scottish.parliament.uk/EducationandCommunityPartnershipsresources/SP_Timeline_English.pdf), accessed 24 August 2016, pp. 1, 16, and 17.

his work on the *RPS*.<sup>67</sup> Although the site espouses no political cause, it must, like the *RPS* itself, be viewed within the context of its creation. State education systems have long been recognised by scholars as potential tools for constructing a sense of the nation amongst the people living therein. Recent scholarship by Andrew Moyock, Margaret Arnott and Jenny Ozga suggests that the SNP government is already using the school history curriculum to promote a sense of national self-awareness in the country's future citizenry.<sup>68</sup> Given the need to make as much public impact as possible, it is no surprise to find that the *RPS*'s editorial board considered the targeting of parliamentary history resources at schools to be 'particularly important given the changes to the Higher History curriculum – with core Scottish content - in the near future.'<sup>69</sup> Equally revealing is the inclusion in the *RPS* of the fourteenth-century Declaration of Arbroath, easily Scotland's most iconic expression of historic national sentiment. This document, which makes an impassioned case for Scottish independence from England, purports to be the product of an assembly of magnates and clerics held at Arbroath Abbey. However new research suggests that it was actually a piece of propaganda engineered by Robert I. That point is flagged up clearly in the *RPS* along with a full explanation of why it was included it despite its dubious status. Nevertheless, the fact remains that it is a political puff piece rather than a parliamentary record and, despite its scholarly debunking, retains a powerful grip on popular consciousness as an expression of medieval proto-nationalism.<sup>70</sup> Although not intended as such, its presence, in contravention of the strict criteria for inclusion which the SPP set themselves, might be (wrongly) interpreted by the reader as an implied endorsement of Scotland's right to independence.

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<sup>67</sup> A. J. Mann, *The Scottish Parliament History Workshop at Stirling University* (2008), at <http://scotparlhhistory.stir.ac.uk/howitworked.html>, accessed 25 August 2016.

<sup>68</sup> A. Mycock, 'SNP, identity and citizenship: re-imagining state and nation', *National Identities* 14 (2012), pp. 56-7; M. Arnott and J. Ozga. 'Education and nationalism: the discourse of education policy in Scotland', *Discourse: Studies In The Cultural Politics Of Education* 31:3 (2010), pp. 335-350.

<sup>69</sup> *RPS* editorial board minutes (June 2009), 1, SPP archive

<sup>70</sup> Goodare, 'Scottish parliamentary records'; G. G. Simpson, 'The Declaration of Arbroath: what significance when?', in G. W. S. Barrow (ed.), *The Declaration of Arbroath: History, Significance, Setting* (Edinburgh, 2003), pp. 108-9 and 114; E. J. Cowan, *For Freedom Alone: the Declaration of Arbroath, 1320*, 2<sup>nd</sup> edition (Edinburgh, 2013, orig. 2002), pp. 5-6, 107-110.

The argument here is not that the *RPS*'s editors had a nationalist agenda – they did not. The issue is rather the requirement that academic research should engage beyond the Academy. To achieve that the SPP sought to create links with the new parliament. This was a wise move for a project that was dependent on the Scottish executive for funding; especially since, as Richard Finlay notes, Scottish history has since devolution ‘become politicised to a much greater extent than ever before.’<sup>71</sup> Yet in the lead-up to devolution, proponents of a new parliament made surprisingly little reference to the old one. Of course connections were drawn in some quarters, for example the ‘Rally to Call Scotland’s Parliament out of Adjournment’, held in 1993.<sup>72</sup> Nonetheless, a perusal of Lindsay Patterson’s book *A Diverse Assembly* (1999), which gathers a representative sample of contemporary opinions on devolution, suggests that prior to 1999 the old parliament was not widely regarded by devolutionists or full-blown nationalists as an asset in the campaign for a new assembly.<sup>73</sup> This was probably because the institution was still tainted with the connotations of failure which Brown and his team sought to confront. Indeed, some scholars have argued that the new parliament’s appeals to the past have been surprisingly muted.<sup>74</sup> Yet as Mann pointed out in 2009, the parliamentary rituals of the past two decades have drawn heavily on those of the seventeenth century, based in part on advice from the SPP.<sup>75</sup> The broader point here is that neither the editors nor users of the *RPS* operate in a political or cultural vacuum; the creation of a new parliament has unavoidable consequences for conceptualisations

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<sup>71</sup> Finlay, ‘New Britain, new Scotland’, p. 384.

<sup>72</sup> J. Hearn, *Claiming Scotland: National Identity and Liberal Culture* (Edinburgh, 2000), pp. 23-42.

<sup>73</sup> L. Paterson, *A Diverse Assembly: the Debate on a Scottish Parliament* (Edinburgh, 1999), see in particular pp. 223-308 covering the period 1992-1997.

<sup>74</sup> S. M. Leith and D. Soule. *Political Discourse and National Identity in Scotland* (Edinburgh, 2011), pp. 139-40; G. R. Dalgleish, ‘Of medals, maces and monarchy: symbols of authority (and otherwise) and the new Scottish parliament’, in C. McCracken-Flesher (ed.), *Culture, Nation and the New Scottish Parliament* (New Jersey, 2010), pp. 139-140.

<sup>75</sup> A. J. Mann, ‘Continuity and change: the culture of ritual and procession in the parliaments of Scotland’, *Parliaments, Estates and Representation* 29 (2009), pp. 143-58; Letter from Alan MacDonald to Henry McLeish (10 September 1998), SPP archive; Letter from Michael Keeley to Alan MacDonald, (20 October 1998), SPP Archive; Letter from George Reid to Gillian MacIntosh (14 December 2003), SPP Archive; document on aspects of parliamentary ritual in response to Reid’s request in letter to MacIntosh [n. d.], SPP Archive; see also Leith and Soule. *Political Discourse and National Identity*, p. 139.

of the old. That is absolutely not to say the SPP used historical sources for political or polemical ends, or that the database is anything other than a huge achievement and an invaluable resource for furthering understandings of Scotland's history amongst scholars and lay users alike. The point is rather that the milieu in which it's the RPSA's editors worked had a role, albeit a subtle one, in shaping what they produced. Despite the best intentions of its creators, the *RPS* is situated within a context in which understandings of Scotland's past are partly informed by aspirations for its political future. Regardless of the intentions of its creators, many of the website's 3 million users are likely to have a view on that.<sup>76</sup>

### **History and identity**

Nineteenth-century attitudes towards Scotland's pre-Union past were equally complex. In that era the burning question was about civil and institutional distinctiveness, rather than political autonomy. The *APS*'s implicit support for Scottish legal particularism, enshrined as it was in the 1707 Act but under increasing threat from members of Scotland's own intelligentsia, was part of that discussion. Support for Union was further bolstered by the belief that the Scots, although a mongrel people, had attained ethnic definition through an influx of Saxon blood during the Middle Ages. This allowed them to conceptualise themselves as a sister-people to the English.<sup>77</sup> Innes was very clear, in his introduction to the *APS* and in other writings, that Scotland's legal and constitutional traditions were the product of lowland civilisation. As such they derived from English institutions which had been imported to Scotland during the eleventh and twelfth centuries. Yet he and many of his contemporaries also contended that these legal institutions had subsequently been adapted to the needs of a distinct Scottish character. Such claims served as a rebuttal to the institutional anglicisation favoured by some of the leading Scottish jurists of the period. Yet at the same time this notion of shared ethnicity shored up the belief that the Scots and the English had once been a single people and therefore belonged together in a unitary state.<sup>78</sup>

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<sup>76</sup> The figure stands at just over 3 million as of September 2016, A. J. Mann, *Personal communication* (3 October 2016).

<sup>77</sup> Kidd, *Subverting Scotland's Past*, pp. 130-84, 247-80; C. Kidd, 'Teutonist ethnology and Scottish nationalist inhibition 1780-1880' *SHR* 74 (1995), pp. 45-68; M. H. Hammond, 'Ethnicity and the Writing of Medieval Scottish History', *SHR* 85 (2006), pp. 1-27.

<sup>78</sup> Marsden, *Cosmo Innes*, pp. 73-84.

Such racialised conceptualisations of national identity are understandably absent from the *RPS*. Since the Second World War, Western historians have tended to shy away from ethnicity as a causal explanation for historical phenomena.<sup>79</sup> Instead the *SPP* highlighted parliament's role as an institution that represented the constituent elements of the kingdom. For instance, a media briefing produced for the 2008 launch began by stating that 'the resource provides ample evidence of the extent to which ideas of representation are deeply embedded in Scotland's political culture.'<sup>80</sup> That claim is echoed in Brown's *History Scotland* essay, where he argues that 'parliament was seen as the ultimate arbiter of the legitimate will of the political nation.' In a quote given to the BBC he makes the same point, stating that 'Scotland's parliament represented a political legitimacy that could not be ignored.'<sup>81</sup> Mann, meanwhile, tells us that parliament was 'undemocratic and imperfect but it did represent', and explains that 'this was no democracy and yet it was a system attuned to the needs of pre-modern society.' Parliament, he asserts, brought the political community together and was 'a public demonstration of national legitimacy.'<sup>82</sup> Similar views were put forward by David Steel, former Presiding Officer of the new parliament. In a review of the first volume of Brown and Tanner's *The History of the Scottish Parliament* (2004) he referred to how 'the people' were able to change their monarch from time to time 'through the less than democratic but nonetheless representative parliament.'<sup>83</sup> Such arguments stressed the old parliament's facility to embody the will of the nation. Gone is the nineteenth-century idea of a Teutonic institution ideally suited to a primarily Saxon people. Instead, the *SPP* position parliament as a crucible of national life in civic rather than ethnic terms. Such an interpretation would not have been possible during the 1800s, when one of the main criticisms of parliament was that it had failed to act as a representative counterweight to the crown. It was perhaps partly for that reason that the *APS* consisted primarily of legislative material, thus

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<sup>79</sup> S. Berger, 'The power of national pasts; national histories in nineteenth and twentieth century Europe', in S. Berger (ed.), *Writing the Nation: A Global Perspective* (Basingstoke, 2007), pp. 30-62.

<sup>80</sup> Briefing document on *RPS* launch event (15 May 2008), *SPP Archive*.

<sup>81</sup> Brown, 'Records of the Parliament of Scotland', *History Scotland*, 18; Anon., 'Old parliament archives go online', BBC News.

<sup>82</sup> Mann, 'Ancient Institution', p. 23; Mann, 'Sublime to the ridiculous', p. 52; Mann, "'Back to the future'.

<sup>83</sup> D. Steel, 'Keith M. Brown and Roland J. Tanner (eds). *The History of the Scottish Parliament I: Parliament and Politics in Scotland, 1235-1560*', *Innes Review* 57 (2006), p. 230.

emphasising parliament's legacy as the author of national jurisprudence, rather than extolling its virtues as an embodiment of the nation's community. But when the *RPS* was being produced, the prospect and then the reality of a new parliament coincided with a revisionist take on the old; a reinterpretation which focused on the representative legitimacy of the institution itself and not just the laws it promulgated.<sup>84</sup> It is therefore no surprise to find that the new edition features much more material about the processes and personnel of parliament than its predecessor.

In this way the *RPS* and its associated publications presented parliament as a body that drew authority from and acted on behalf of the people of Scotland. Such claims resonate with modern progressive definitions of how nation-states derive legitimacy from the participation of their people rather than through notions of shared ancestry and cultural inheritance. Of course, there is no neat equivalence between the civic nationalism of our own day and the elite representation of the medieval and early modern periods. Nevertheless, such interpretations are very much in tune with how Scottish nationalist politicians, and also many unionists, now present their causes. Today Scottish identity has no language motor, no clear ethnic core, and, since mass secularisation in the third quarter of the twentieth century, no significant religious component. Shedding the overt trappings of ethno-centrism has consequently proved relatively painless.<sup>85</sup> Even full-blown political nationalists like the SNP have moved away from historical and ethnic justifications for independence towards an idea of nationhood couched in civic and inclusive terms.<sup>86</sup>

Yet history is hard to escape; in 1998 the SNP's Constitutional Affairs Committee proclaimed that the new parliament should revive the nomenclature, rituals and procedures of its predecessor. They also exhorted Scots to throw off biased English misconceptions about the old Scottish Parliament and 'discover their own, more open, European constitutional roots.' Their report then used revisionist scholarship on the old parliament as a basis for re-imagining it as a

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<sup>84</sup> Mann, 'Ancient institution', p. 3.

<sup>85</sup> Harvie and Jones, *Road to Home Rule*, pp. 3-4.

<sup>86</sup> S. M. Leith, 'Scottish national party representations of Scottishness and Scotland', *Politics* 28 (2008), pp. 83-92.; Mycock, 'SNP, identity and citizenship', pp. 53-69; D. Soule, S. M. Leith and M. Steven, 'Scottish devolution and national identity' *National Identities* 14 (2012), pp. 1-10; L. Davis, 'Back to the future: remembering the 1707 Act of Union in the 2014 referendum campaign', *Studies in Scottish Literature* 41 (2015), p. 246.

fore-runner of modern democracy.<sup>87</sup> David Soule, Murray Leith and Martin Steven argue that in countries like Scotland, where civic forms of national identity are powerful, the history that counts is not that which traces the historical experience of a particular people, but rather the version which emphasises public institutions and individual participation.<sup>88</sup> In Scotland, therefore, the past is still a potent cultural resource, even if its relevance is implied rather than stated outright. Recent SNP literature bears that out by referring to Scotland's 'journey' and 'path'; claiming that the need to 'shape our own future' and 'be in the driving seat of our own destiny' is a 'natural desire.'<sup>89</sup> Though explicit references to the past are absent, such phrases are replete with historical assumptions. Here the hoped-for independence of the future is implicitly contrasted with the subordination of the past. The nation's inevitable trajectory towards self-realisation has been for too long retarded by the dominance of England - independence is Scotland's 'natural' state. The most recent manifestos from pro-devolution unionist parties like Labour and the Liberal Democrats proceed from a comparable assumption; that Scotland is distinct from England, and that Scottish solutions are needed for Scottish problems.<sup>90</sup> Taken at face value such exhortations are about visions of the future. Beneath that, however, is a fundamentally historical outlook. Scotland is presented as a discrete nation with its own character, its own needs, and the ability to make its own choices. The pre-Union past is never mentioned, but the very act of defining Scotland as different from the rest of the UK implicitly invokes the history that has made it so.

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<sup>87</sup> SNP Constitutional Affairs Committee, *A future for our past; research on the Scots Parliament 1290-1707, and outline proposals for adopting some of its procedures and terminology to the new Scots Parliament* (1998), SPP Archive, p. 4; see also O. Wojtas, 'Scots fight for political traditions', *The Times* (26 December 1997), p. 4

<sup>88</sup> Soule, Leith and Steven, 'Scottish devolution', p. 5

<sup>89</sup> SNP, *Scottish Nationalist Party Manifesto 2011* (2011), p. 1; SNP, 'Our vision: constitution', *Scottish National Party website* (2016), available at <http://www.snp.org/constitution>, accessed 9 September 2016

<sup>90</sup> Scottish Labour, *Invest in Scotland's Future: Both Votes Labour* (2016), available at <http://www.scottishlabour.org.uk/manifesto/all>, accessed 9 October 2016; Scottish Liberal Democrats, *Be the best Again: Scottish Parliament 2016 Manifesto* (2016), available at <http://www.scotlibdems.org.uk/manifesto>, accessed 12 October 2016.



These assumptions are redolent of primordialist understandings of the nation, which suppose that it has existed for long ages but has only recently become self-aware.<sup>91</sup> As we have seen, however, such ethnic constructions of nationhood have fallen out of favour with the political classes. Instead, proponents of both devolution and independence now tend to envisage Scottish identity in civic terms, and define the nation territorially. Yet scholars like Andrew Mycock have questioned how complete this shift away from ethnic definitions of Scottishness has really been, particularly since territorial designations themselves are inevitably historical because Scotland's boundaries are the product of at least a thousand years of history.<sup>92</sup> We are thus left with a definitional paradox from which it is difficult to escape. One way of negotiating that contradiction is by highlighting the existence of a specifically Scottish set of civic institutions with which all of those living in Scotland can engage. From this perspective, Scottishness is conferred through engagement with national institutions and the shared values that they represent. It is this point which returns us to the *RPS*. The SPP annual report for 1998-99 articulates the project's goal to 'make a small contribution to the nation's self-confidence and self-knowledge.' The fact that Scotland's Labour-Liberal administration parted with almost half a million pounds to fund the project suggests that they shared this belief in the contemporary importance of the national past. The SPP interpreted the first of these two grants, in the year 2000, as a 'strong signal of the Scottish Parliament's interest in and support for Scotland's history and culture.'<sup>93</sup>

It would consequently be a mistake to assume that the *RPS* has simply been appropriated by the nationalist cause. It was funded by administrations at Westminster and then Holyrood which were both, in different ways, committed to Union. The parliamentary motion commending the new edition had cross-party support, and there were at least as many Labour MSPs present at its launch event as those from the SNP.<sup>94</sup> Moreover, the completion of the project was deliberately timed to coincide with the tercentenary of the 1707 Union – hardly an event to be celebrated by nationalists. In fact the standard nationalist view of the old parliament has until recently tended towards dismissal; it sold out the nation in 1707 and was therefore not worth

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<sup>91</sup> A. Ichijo and G. Uzelac, 'Primordialism', in A. Ichijo and G. Uzelac (eds.) *When is the Nation: Towards an understanding of Theories of Nationalism* (Abingdon, 2005), pp. 51-5.

<sup>92</sup> A. Mycock, 'SNP, identity and citizenship:', pp. 64-5.

<sup>93</sup> *SPP Annual Report 1998-1999* (1999), p. 3; *SPP Annual Report 1999-2000* (1999), p. 2.

<sup>94</sup> Guest list for *RPS* launch event (15 May 2008), SPP archive.

celebrating.<sup>95</sup> The *RPS*'s success in making the records of parliament accessible to millions, whilst at the same time rehabilitating the institution's reputation and arguing for its contemporary significance, rendered it valuable on all sides of the argument. Tellingly, an SPP presentation from 1998 explained the project's genesis in terms of both the tercentenary of the Union and the 're-establishment' of a parliament.<sup>96</sup> Fundamentally, however, the *RPS* is most politically powerful as an unwitting articulation of Scottish particularism, just as the *APS* had been almost two centuries earlier. If we accept that the argument for devolution positions Scotland as a distinct nation with needs that differ from those of the UK as a whole, then the potential mileage in making connections between the old parliament and its modern namesake becomes apparent. Clearly this was not the editors' intention. They sought to improve on an old and flawed edition of the records pertaining to an institution that had been of central importance to Scotland throughout the medieval and early modern periods. Yet the political resonances which surround that achievement are difficult to deny.

## Conclusion

Despite the contrasting political and cultural contexts in which the two works were produced, there are clear continuities between the *APS* in the nineteenth century and the *RPS* in the twenty-first. Both had their origins in the commitment of UK governments to the Union rather than independence. Yet both were attempts to rehabilitate the tarnished reputation of a defunct institution specific to Scotland. Both presented versions of the available material in a manner intended to render it palatable to contemporary audiences. Finally, both were shaped by debates about Scotland's place within the United Kingdom and can, in different ways, be read as tacit arguments for Scottish particularism. Beyond the *RPS*'s undeniably higher standards of scholarship, however, some further differences also emerge. Firstly, the *RPS* sheds the ethno-centric assumptions of its predecessor. Gone is the idea of the Scots and English as sister peoples, bound together by blood and temperament. In the *APS* this ethno-centrism was deployed in defence of parliamentary Union and a unitary British state. Ironically, its absence from the *RPS* clears the path for a more confident assertion of Scotland's institutional distinctiveness. Also

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<sup>95</sup> C. A. Whatley, *The Scots and the Union: Then and Now*, 2<sup>nd</sup> edition (Edinburgh, 2014, orig. 2006), p. ix; A. J. Mann, 'The Union of 1707: a history of opinion', in *History Teaching Review YearBook* (Glasgow, 2010), p. 15.

<sup>96</sup> Anon., *Scotland's parliament, Scotland's past* [PowerPoint presentation] (25 November 1998), SPP archive

absent, or at least much reduced, is the emphasis placed by Thomson and Innes on the value of parliament's legislative legacy. Instead the creators of the *RPS* focus on the old parliament as a representative institution and a legitimating instrument of the national will. Tellingly, the term 'nation' is used on numerous occasions in the *RPS* and its associated literature. These include claims that 'as much as any modern assembly, the old parliament was a microcosm of the nation', and that it was 'an institution that lay at the heart of the nation for nearly 500 years', and played a 'central role in the minds of the political nation.'<sup>97</sup> Admittedly most historians would accept the use of the term in these contexts as a problematic but acceptable shorthand. However two of the three quotes given above are from material aimed not at scholars but at the wider public. Such assertions thus serve not only to underscore the importance of parliament as an institution, but also contribute to popular imaginings of Scotland as an independent and self-aware nation in the medieval period.

As we have seen, in the nineteenth century men like Innes and Thomson shared a belief in the old parliament's importance as a focus for national identity. Nevertheless, even those Scots who defended the specificity of the Scotland's historical experience during the nineteenth century saw the 1707 incorporation of electoral representation into the Westminster parliament not as a body blow to Scottish aspirations, but as part of an even-handed agreement between equals.<sup>98</sup> That stands in marked contrast to both the various manifestations of modern Scottish nationalism which take full statehood as their goal, and to devolutionist unionism which embraces the establishment of new institutions better-suited to specifically Scottish needs. The *RPS* has been drawn into the political debates associated with these outlooks by the fact that self-determination, and resistance to it, remain live issues in present-day Scotland. It is a good example of how academics today must steer a course between scholarly objectivity on the one hand, and the need to bring in funding and demonstrate 'impact' on the other.

In the year 2000 Jonathan Hearn wrote of the Scottish parliament that 'present political projects are legitimised by being referenced to a past that is represented as leading up to them, often with a certain inexorable logic.'<sup>99</sup> Given how the old parliament is presented in the *RPS*,

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<sup>97</sup> Mann, 'Back to the future'; Anon., "'About the parliamentary record', *RPS*; Brown and Mann, 'Introduction', in *History of the Scottish Parliament 1567-1707*, p. 56.

<sup>98</sup> Morton, *Unionist-Nationalism*, pp. 135-54; Kidd, *Union and Unionisms*, pp. 264-75

<sup>99</sup> Hearn, *Claiming Scotland*, p. 137, see also pp. 155-72.

and the reciprocal efforts of the database and the new parliament to align with one another, that certainly seems to be the case. The conclusion to the ‘short history of the Scottish parliament’ on the *RPS* website sums this up nicely. There the editors write:

Almost three hundred years later, the Scottish Parliament has remained an important element in Scottish national identity, and in September 1997 a referendum of the Scottish electorate secured a large majority in favour of the establishment of a new devolved Scottish Parliament in Edinburgh.<sup>100</sup>

The wider point here is that Hearn’s statement may hold true for all nationalist movements, even those which seek to position themselves as future-facing and progressive by downplaying the historical components of their claims. Those historical elements cannot be altogether amputated – if they could, what need would the Tories, Scottish Labour or the SNP have had for the *RPS* in the first place? My contention is not that the *RPS*, or indeed the *APS*, were conceived as arguments in support of contemporary political causes. Instead I am suggesting that historical scholarship in whatever form and period cannot help but be shaped by, and assimilated into, its context. For the *APS* that meant the issue of Scottish legal distinctiveness. For the *RPS* it meant the debate over devolution and independence. What we have learned about the later period in particular is that, despite the politicians’ protestations that their own brands of national sentiment are forward-facing and self-consciously modern, notions of cultural and institutional inheritance clearly do form part of elite understandings of Scottish identity.<sup>101</sup> The Scottish government’s official response to the threat of Brexit, which argues that ‘Scotland’s membership of the European Union is the latest example of close cooperation in a long and interconnected history that spans back to the Roman Empire’ suggests that this is as true at the time of writing as it was when the *RPS* first came online in 2007.<sup>102</sup> History, it turns out, is important after all.

### Notes on contributor

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<sup>100</sup> Anon., ‘Short History of the Scottish Parliament’, *RPS*.

<sup>101</sup> Leith and Soule, *Political Discourse and National Identity*, pp. 143-54.

<sup>102</sup> Anon., ‘Scotland: a European nation’, *Scottish Government* (21 November 2016), available at <https://www.gov.scot/Publications/2016/11/4961>, accessed 21 August 2018.

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