

## *Viewpoint*

# The Evolution of the Declaration of Arbroath 1320–2020: Seven Hundred Years of Struggling for the People’s Power

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There is no doubt that the Declaration of Arbroath is one of the most important Scottish documents. Historians are unanimous about its overall relevance. But there are intriguing differences in how it should be interpreted, what it has actually meant in the cultural periods since its creation, and how relevant it still is today.<sup>2</sup> This article will point out key characteristics of the Declaration, essential stages in the development of its evaluation, its relevance in different times and especially today. In particular, reasons will be given for its perennial significance by seeing it in the long process of the evolution of democracy, i.e. of the people’s power. Government by the people, ‘the rule of the comminaltie’, has been more often despised, avoided, and officially prevented with enormous vigour and military force in our history rather than supported as it appears to be today. Because of the current seemingly high esteem in which democracy is held, this is now the first and foremost of the Declaration’s essential values: its claim that the people decide who shall be king, i.e. the decisive authority in the country, and that the people also have the power to change their opinion, to dethrone their leader and put somebody else in charge.

For a valid understanding of the Declaration, it is of utmost importance to be aware of both the extremely long, slow process of the development of democracy and the changes in the evaluation and interpretation of the Declaration due to different contexts, influences and environments throughout this long-drawn time. One of the first texts quoted in the *Oxford English Dictionary* in connection with ‘democracy’ is Thomas Elyot’s *The Boke named The Governour* of 1531–32. For

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<sup>2</sup> Cf. (ed.) G. Barrow, *The Declaration of Arbroath: History, Significance, Setting* (Edinburgh, 2003); E. J. Cowan, ‘For Freedom Alone’: *The Declaration of Arbroath, 1320* (East Linton, 2003); A. A. M. Duncan, *The Nation of the Scots and the Declaration of Arbroath (1320)* (London, 1970); J. Fergusson, *The Declaration of Arbroath 1320* (Edinburgh, 1970); (ed.) K. P. Müller, *Scotland and Arbroath 1320–2020. 700 Years of Fighting for Freedom, Sovereignty, and Independence* (Frankfurt, 2020).

Elyot, democracy, or as he called it ‘the rule of the comminaltie’, is a ‘monster with many heads’. He speaks of ‘the rage of a commonalty, which of all rules is most to be feared’. He thus expresses the opinion that had been and remained to be dominant for centuries, was exemplarily propounded in the Enlightenment by David Hume (see n. 9 below), and still finds similar expressions in today’s nationalist, autocratic, despotic, totalitarian and populist societies.<sup>3</sup>

Even Elyot’s reference to God is still used today (in adapted versions, such as in Poland, Russia, Turkey, with a different god there, of course), when he concludes:

undoubtedly the best and most sure governance is by one king or prince, which ruleth only for the weal of his people to him subject; and that manner of governance is best approved, and hath longest continued, and is most ancient. For who can deny but that all thing in heaven and earth is governed by one God, by one perpetual order, by one providence?

This persistent view was predominant in 1320 too, and has become contested only very slowly by the rising appeal of democracy. This new democratic challenge to traditional ways of thinking and organising society has given the Declaration of Arbroath a novel, modern dimension and thus fresh value for us today. This value will now be further elucidated.<sup>4</sup>

The Declaration is the most explicit claim of the people’s power in Europe, perhaps the entire world, in the Middle Ages. It is the result of a very specific constellation in Scotland in 1320, and the expression ‘evolution’ used here is meant to make everybody aware of the fact that the Declaration required certain political, social, governmental, religious, philosophical, and ideological conditions for its creation, and that its relevance and evaluation equally depend on such conditions in later periods. Evolution means that living organisms necessarily and constantly adapt to their environment, a process determined

<sup>3</sup> Cf. M. Gessen, *Surviving Autocracy* (London, 2020); Gessen, *The Future is History: How Totalitarianism Reclaimed Russia* (London, 2018); J. Keane, *The New Despotism* (Cambridge, MA, 2020). Elyot’s book has a special value when seen in the context of conduct books, telling readers what they need to know and what skills they must have for success in society. Such books for the middle classes flourished in the eighteenth century, and Samuel Smiles’s *Self-Help* (London, 1859) was written for the working class. But conduct or courtesy books began much earlier, developing from books for princes, the nobility and gentry to books for the general public (cf. A. Bryson, *From Courtesy to Civility: Changing codes of conduct in early modern England* (Oxford, 1999)). Scotland produced two important books for princes in Elyot’s century: G. Buchanan, *De iure regni apud Scotos* (Edinburgh, 1579), written for young James VI, and James’s text for his oldest son David, *Bastlikon Doron* (Edinburgh, 1599). R. Kelso, *The Doctrine of the English Gentleman in the 16th Century* (Gloucester, MA, 1964) speaks of about 1,500 such books and thus reveals how contested these social roles were at that time.

<sup>4</sup> The *Oxford English Dictionary* (hereafter *OED*) refers to T. Elyot, *The Boke named The Governour*, I (London, 1531–32), book I, ii. The edition used here is T. Elyot, *The Book named The Governour*, (ed.) S. E. Lehmburg (London, 1962), with quotes on pp. 6f.

by natural selection and adaptive variation, mutations which include a rather small amount of conscious human choice. Not all organisms survive, nor do they necessarily improve, though survival is, of course, essential.<sup>5</sup>

The year 2020 was meant to be a time of celebrating the survival of the Declaration, its 700th anniversary, but Covid-19 has forced these celebrations to be postponed to 2021. This gives us some more time to think about why the 1320 Declaration really is still important for us today and not just a document of the past, of relevance only to historians. It is a living organism whenever people think about it and put it to some use.

That the Declaration is indeed part of a perennial evolutionary process, which has evolved and experienced mutations due to different environments, instantly becomes evident when one learns that it ‘became known as “The Declaration of Arbroath” only in the mid-twentieth century’. It was in fact ‘obviously dubbed a declaration with the American example in mind’. Rather than having had any effect on the American Declaration of Independence of 1776, the designation of the Arbroath text and how it has been regarded has been influenced by later developments in Scotland and abroad.<sup>6</sup>

What has become the renowned Declaration of Arbroath was at the beginning simply a letter to Pope John XXII in Avignon, dated 6 April 1320, in which forty explicitly named Scottish earls, barons, stewards, ‘and the other barons and freeholders and the whole community of the realm of Scotland’ ask John to tell Edward II that the English ‘leave us Scots in peace’. It emphasised that Scotland had always been independent and pointed out its long history as a peaceful and free nation governed only by Scottish kings, until Edward I ‘came in guise of a friend and ally to harass them as an enemy’. His son Edward II continued these unjustified interferences and claims of overlordship of Scotland.<sup>7</sup>

<sup>5</sup> The *OED* is again a good starting point, in part ‘III. The process of development’, it offers illuminating definitions of ‘evolution’ and points out its origin in biology in 1762, to Lamarck, Lyell, Darwin, neo-Darwinism, etc. This article uses a concept of ‘evolution’ enlarged by system theory, the cognitive sciences, history, social and cultural studies. The essential question is: who or what is in charge of these evolutionary processes? Who or what determines our interpretation of and the use we make of the Declaration? Who or what determines the evolution of democracy? ‘According to the laws of neodarwinism, the environment, and only the environment, can select mutations, and the environment can never induce or direct mutation.’ The *OED* quoting K. Kelly, *Out of Control: The Rise of Neo-Biological Civilization* (Reading, MA, 1994), 375, <https://kk.org/outofcontrol/contents.php>. N. Elias, *The Civilizing Process, I: The History of Manners and II: Power and Civility* (New York, 1978) gives answers to such questions which have also helped my description of the evolution of the Declaration (using the 33rd German edition, Frankfurt, 2017).

<sup>6</sup> Quotes from Cowan, ‘*For Freedom Alone*’, 3, 139, who continues: ‘it could be claimed that it was the Scottish Declaration of Right [of 1689] which truly represented the inspiration for the American Declaration of Independence and that the Scottish document was not uninfluenced by the Declaration of Arbroath of 1320’.

<sup>7</sup> Quotes from the Declaration here and elsewhere are taken from the most easily accessible version *The Declaration of Arbroath, 6 April 1320, transcription and translation*, National Records

Exchanges of letters of this kind were fairly common: at the beginning of the first Scottish War of Independence (1296–1328), the Scottish parliament had already written to Pope Boniface VIII asking him for protection against the English by asserting his own overlordship of Scotland. Boniface had responded with his bull *Scimus, filii* (We know, my sons) in 1299, ordering Edward I to stop attacking Scotland and to begin negotiations. This led to the Barons' Letter of 1301 by seven English earls and ninety-six English barons defending the rights of Edward I as overlord of Scotland. Both Edward I and II sent their own letters, and the difficulties continued without any definite solution. Pope John XXII excommunicated Robert I for continuing the war of independence against England and regaining Berwick in 1318. The Declaration of Arbroath thus needs to be seen in these three important international and national contexts: 1) the Catholic church and its pope; 2) the tensions and wars between Scotland and England; 3) the struggle for kingship between the Bruce and Balliol families.<sup>8</sup>

The religious, political, and ideological importance of the Catholic church in the Middle Ages is uncontested, with the Avignon Papacy from 1309 to 1376 revealing huge religious and political conflicts with enormous international

of Scotland, SP13/7, <https://www.nrscotland.gov.uk/files//research/declaration-of-arbroath/declaration-of-arbroath-transcription-and-translation.pdf>. Another very good source is 'Records of the Parliament of Scotland to 1707' (<http://rps.ac.uk>), where one finds the Declaration in English with the names of fifty-one signatories ([https://www.rps.ac.uk/search.php?action=print&id=324&filename=roberti\\_trans&type=trans](https://www.rps.ac.uk/search.php?action=print&id=324&filename=roberti_trans&type=trans)), but not their titles or functions. Cowan speaks of 'thirty-eight (or forty-four if additional names written on some of the seal tags are included)' signatories (*'For Freedom Alone'*, 3). Excellent information on the seals of the Declaration and the sealers' shifting relations with Robert I is available at <https://webarchive.nrscotland.gov.uk/20170106033708/http://www.nas.gov.uk/about/doaSeals.asp>. The best scholarly source for the Declaration now is (ed.) D. Broun, A. Taylor, G. Noël, G. Ferraro and P. Caton, with J. Tucker and J. R. Davies, *The Dynamic Edition of the Declaration of Arbroath*, online at *The Community of the Realm in Scotland, 1249–1424: History, Law and Charters in a Recreated Kingdom* (<https://cotr.ac.uk/guidelines/dynamic-declaration-arbroath/>) with excellent information on the six different versions circulating in medieval Scotland, the twenty-six subsequent versions, each with alterations, in Latin and English, explanations on the twenty-six translations, etc. That site also has the text source used in this article, National Records of Scotland SP13/7, as its starting point and thus does not influence the statements made here. The National Records' site (<https://www.nrscotland.gov.uk/Declaration/>) provides a 'Declaration of Arbroath 700th Anniversary Booklet' as a free download.

<sup>8</sup> Excellent information on these contexts is provided by G. Barrow, *Robert the Bruce and the Community of the Realm of Scotland* (Edinburgh, 1988); M. Brown, *The Wars of Scotland 1214–1371* (Edinburgh, 2004); M. Penman, *Robert the Bruce, King of the Scots* (New Haven, 2014); S. Phillips, *Edward II* (New Haven, 2011); M. Prestwich, *The Three Edwards: War and State in England, 1272–1377*, 2nd edn (London, 2003); S. Raban, *England under Edward I and Edward II, 1259–1327* (Oxford, 2000); K. Stevenson, *Power and Propaganda: Scotland 1306–1488* (Edinburgh, 2014). For the Barons' Letter, which was never sent, cf. <http://discovery.nationalarchives.gov.uk/details/record?catid=5017&catln=3>.

tensions, focusing on the key question of who was in charge in secular matters: the church or the king? The Declaration's appeal to the pope is no answer to this important question (unresolved until the seventeenth century) but part of the traditional, appropriate strategy of its writers. In this way, the Declaration is instantly linked with the relevant institutions and centres in Europe. It had that important international dimension at its origin, which it has retained up to the present and is part of its essential value today. All three contexts directly reveal what the Declaration is ultimately about: power.

The Scots proclaim their power over their own land and their complete independence from England. Within Scotland, however, the question of who is in power was contested throughout the reign of Robert I (1306–29). The problem began with the death of Alexander III in 1286 and continued until 1357, when Robert's son David was released by the English on payment of ransom; one could even say until the accession of David's nephew Robert Stewart to the throne in 1371. Factional divisions leading to lethal strife have been an essential characteristic of Scottish history. David Hume hated it, and Scotland today is still split over the question of who shall be in power: the Scottish people and its government, or Westminster?<sup>9</sup>

Does the Declaration help to find answers to such questions in our own time? Can one reasonably expect historical documents to provide such answers? Yes, one can, especially when one wants to avoid repeating behaviour that has revealed itself as destructive to human life, justice, and the people's power. The Declaration gains its perennial value and moves far beyond any historical relevance only if it gives us this kind of information. An excellent example of the limits of solely historical readings is highlighted in Dauvit Broun's discerning interpretation of the Declaration as an assertion of the Bruce claim to kingship and a warning, 'a specific political message' to the other Scottish barons 'that the Bruce party intended to remain in power whatever might happen to their king and his infant heir'. Seen in this way, the Declaration is 'an anticipation of the plight of the Bruce party if Robert I was no longer king'. Initiated at a full council at Newbattle in March 1320, the Declaration is addressed to the pope but specifically intended for the Scottish people who had a voice in determining who should be king. Robert's position was so highly contested that shortly after

<sup>9</sup> The history of factionalism in Scotland is indeed disastrous. It is evident in the Declaration, throughout the Middle Ages, all subsequent centuries, and blatantly present today. Hume's description of the results of factions is correct: they indeed 'beget the fiercest animosities among men of the same nation, who ought to give mutual assistance and protection to each other'. But his solution has become highly contested, 'absolute governments'. D. Hume, 'Of Parties in General', in *Essays Moral, Political and Literary*, ed. Eugene F. Miller (Indianapolis, 1985), 64–70. M. Hanvelt and M. G. Spencer, 'David Hume's "A Character of Sir Robert Walpole": Humean Factional Fears, the "Rage against the Scots" and Future Historians', *Scottish Historical Review*, 98 (2019), 361–89, <https://www.eupublishing.com/doi/full/10.3366/shr.2019.0425>, describe significant developments in Hume's thoughts on factionalism.

this letter had been sent to the pope, plans of an attack on his life were revealed, the so-called Soules conspiracy. It failed, but so did Robert's and his advisers' intentions with the letter. Such an intriguing interpretation of the Declaration with an explicitly medieval perspective can, however, neither prove that this was in fact the only or even main purpose of the letter, nor can it quite convince people today of the letter's relevance for them.<sup>10</sup>

Nevertheless Broun shows conclusively that the Declaration was in fact important in the following centuries: it was repeatedly mentioned in chronicles and histories, and 'especially highly regarded in the late-medieval Scotland'. That it was on a wider scale then rediscovered in the seventeenth and eighteenth centuries, beginning with 'its publication by Sir George Mackenzie of Rosehaugh in his *Observations upon the Laws and Customs of Nations as to Precedency* in 1680',<sup>11</sup> makes much sense in the contexts I am emphasising and in the new social, political, religious, and ideological conditions of those times. While the people in 1320 meant the signatories of the Declaration and those with enough power to influence the decision on who should be king, the common people in the later centuries still had no voice in such matters, but they had become significantly more independent of at least one of the main decisive institutions of the Middle Ages: the church. The Reformation had given people the freedom to speak to God directly without any intermediary and in their native tongue, and in this way they gained an enormous amount of both freedom and responsibility.<sup>12</sup>

But the Reformation evidently did not instantly result in greater freedom. It is rather an excellent example of how long it always takes to change old power structures as well as people's thinking and behaviour. History has shown that Scotland can be particularly slow in bringing about and accepting change. The result of the Reformation in Scotland is a typical example. It can best be summarised by the Westminster Confession:

adopted in the 1640s and still [-] the official standard of faith in the Church of Scotland. ... The Westminster Confession of Faith provided a systematic, logical, and comprehensive expression of Calvinist doctrine, including the governance of

<sup>10</sup> Quotes and the interpretation are from D. Broun, 'The Declaration of Arbroath and Contractual Kingship: Reading the Deposition Clause in the Middle Ages', in (ed.) Müller, *Scotland and Arbroath 1320–2020*, 91–109. Cf. also F. Watson, 'The Demonisation of King John', in (ed.) E. J. Cowan and R. J. Finlay, *Scottish History: The Power of the Past* (Edinburgh, 2002), 29–45, for statements already pointing towards Broun's interpretation. For the Soules conspiracy, see M. Penman, "'A fell coniuracioun agayn Robert the douchty king": the Soules conspiracy of 1318–1320', *Innes Review*, 50 (1999), 25–57, <https://dspace.stir.ac.uk/handle/1893/2106#.XvNNt-dCSUk>.

<sup>11</sup> Quotes from Broun, 'The Declaration of Arbroath and Contractual Kingship', 93.

<sup>12</sup> Cf. I. B. Cowan, *The Scottish Reformation* (London, 1982); M. Graham, *The Uses of Reform: 'Godly Discipline' and Popular Behavior in Scotland and Beyond* (Leiden, 1996); R. A. Mason, *Kingship and Commonweal: Political Thought in Renaissance and Reformation Scotland* (East Linton, 1998).

all things by God's eternal decrees, the total depravity of humanity, salvation by grace alone, God's predestination of a portion of humanity for salvation, and God's predestination of the rest for eternal damnation.

There is no freedom here, no responsibility, no power; as human beings have no choice at all, 'they were unable to escape the shackles imposed on them by the ruling elite'.<sup>13</sup>

Indeed, the church did not want to lose any power, it rather increased its system of supervision and tried to establish a brutal regime of absolute control over people. It is not surprising that the Declaration is not mentioned in this context. But something happened in connection with the Scottish Reformed Church that the Declaration also makes us already aware of, namely the importance of myths. Two myths were created that have had a long-standing influence on people: 'the belief of the unusual godliness of reformed Scotland', beginning at the end of the seventeenth century and 'flower[ing] with renewed vigour after the union of the parliaments in 1707', and the 'idea of Presbyterian democracy'. These are excellent examples of a living organism, the church, adapting to changing environments in its effort to survive. Or, as Jenny Wormald puts it, 'once democracy was in vogue, as the highest form of government, why should the Kirk not annex it?' Myths and what is in vogue must always be critically checked with what people really experience and possible alternatives. A wonderful alternative to the world connected with the Westminster Confession was presented at the same time by John Milton and the Levellers. They gave people an enormous amount of freedom and responsibility, also based on the Bible, the foundation of the Presbyterian regime.<sup>14</sup>

The king did not want to give up power either, nor did he want to be deprived of a strong ally. James VI's statement, 'no bishops, no king', expresses his and his son's position and their eagerness to preserve the traditional power structure.<sup>15</sup> This structure, however, began to be significantly changed by the three key events of the seventeenth century: the trial and execution of Charles I, the English Revolution, which abolished the monarchy and created the Commonwealth

<sup>13</sup> The first quotation is from S. J. Brown, 'Religion and Society to c.1900', in (ed.) T. M. Devine and J. Wormald, *The Oxford Handbook of Modern Scottish History* (Oxford, 2012), 83. He continues by pointing out Scotland: 'While never adopted by the English Parliament, the Westminster Confession and Directory were adopted by the General Assembly of the Scottish Church in 1647 and by the Scottish Parliament in 1649.' The second quote is from J. Wormald, 'Reformed and Godly Scotland?', in (ed.) Devine and Wormald, *Modern Scottish History*, 205.

<sup>14</sup> Quotations from Wormald, 'Reformed and Godly Scotland?', 207, 217f. For Milton's and the Levellers' ideas of human freedom and responsibility, cf. Müller, 'Concepts of Freedom, Sovereignty, and Independence in the English Revolution: John Milton and the Levellers', in (ed.) Müller, *Scotland and Arbroath 1320–2020*, 131–63. Stevenson, *Power and Propaganda*, 16–51, describes the myths connected with Robert I, leading to the Stewart dynastic myth.

<sup>15</sup> D. H. Willson, *King James VI & I* (London, 1963), 207.



(1649–53, then the Protectorate), and the Glorious Revolution of 1688. These events were the result of a long process beginning with the Reformation and continuing in the following centuries. Even though the monarchy was restored in 1660, the king's position as well as the form and influence of the church remained controversial. There were constant struggles, until the 1690 Settlement permanently removed bishops from the Church of Scotland and made it 'the only lawful church in the country'.<sup>16</sup>

The Declaration of Right, as dubbed by Cowan, who sees it as 'not uninfluenced by the Declaration of Arbroath', is another result of the Glorious Revolution. It is actually usually called the 'Claim of Right Act 1689' and has a remarkable influence in the continuing struggle to increase the people's power. Its official title, 'The declaration of the estates containing the Claim of Right, and the offer of the crown to the king and queen of England', already expresses that the Scots accept the English king William III and his wife Mary II as king and queen of Scotland. There are some differences from the English Bill of Rights 1689. Both begin with accusations against James, but only the Scottish text calls James VII 'a professed papist' and adds (similar to the Bill) an impressive list of his misdemeanours. The English Bill concludes that he had acted 'utterly directly contrary to the knowne Lawes and Statutes and Freedome of this Realme', that 'the late King James II had abdicated the Government, and that the Throne was vacant'.

The Scottish Claim's conclusion is that James VII had

invaded the fundamental constitution of the kingdom and altered it from a legal limited monarchy to an arbitrary despotic power; and has exercised the same to the subversion of the Protestant religion, and the violation of the laws and liberties of the kingdom, inverting all the ends of government, whereby he has forfeited the right to the crown and the throne is become vacant.

Even though one may be reminded of the letter of Arbroath here, it is quite remarkable that the acting person still is the king in both the Scottish and English texts, not the people or parliament. The Claim does not say what the Declaration of Arbroath had clearly stated, namely that

if he [the king] should give up what he has begun, seeking to make us or our kingdom subject to the King of England or the English, we should exert ourselves and drive him out as our enemy and a subverter of his own right and ours, and make some other man who was well able to defend us our king.

<sup>16</sup> C. G. Brown, 'Religion', in (ed.) A. Cooke, I. Donnachie, A. MacSween, C. A. Whatley, *Modern Scottish History 1707 to the Present, I: The Transformation of Scotland, 1707–1850*, 2nd edn (East Linton, 2001), 63f. Cf. R. C. Patterson, *A Land Afflicted: Scotland & the Covenanter Wars, 1638–90* (Edinburgh, 1998); G. D. Henderson, *Religious Life in Seventeenth-Century Scotland* (Cambridge, 2011); C. Jackson, *Restoration Scotland, 1660–1690: Royalist Politics, Religion and Ideas* (Woodbridge, 2003).



Why does the Scottish Claim of Right Act 1689 not speak out in a similar way and say that James VII has been driven out as an enemy of the people, ‘a professed papist’, subverting ‘his own right and ours’, and why is Arbroath not mentioned? Several reasons are possible, and the fact that this was after all a kind of joint venture with England, demanding unison, the instalment of a mutual king, and no references to discordance, is certainly one explanation. That Arbroath was not relevant or even known enough, in spite of its republication in 1680, might be another. The main reason, however, for not expressing the people’s power in the 1689 Claim as strongly as it had been in 1320 probably was that the people in these new circumstances still had rather clearly defined and limited powers and rights.

The text then speaks of the ‘undoubted right and liberties’ of the estates, i.e. of the Scottish parliament (the people that count), and grants William and Mary kingship on the condition that they will ‘preserve them [i.e. the estates] from the violation of their rights which they have here asserted, and from all other attempts upon their religion, laws and liberties’. The Claim’s long-term relevance thus consists in bolstering ‘the position of parliament within the Scottish constitution at the expense of the royal prerogative’.<sup>17</sup> This is the beginning of the constitutional monarchy, confirmed in the 1707 Act of Union and still valid. This is also just one more stepping stone in the long and slow evolution of the people’s power, and the Claim has come to be mentioned repeatedly in connection with the Declaration, especially in recent years.

Though the Claim of Right is an important element in the process of the evolution of the people’s power from the Declaration to our own time, significantly there was not yet an explicit mention of the people’s rights. The ‘freedom of speech and debate [was] secured to the members’ of parliament. Only the English Bill demands ‘That Election of Members of Parlyament ought to be free.’ The people’s rights the Claim deals with were the rights of the estates. This was still a society divided into estates with their specific rights and privileges. It was a world centuries away from the people in today’s democracies.<sup>18</sup>

How far away the common people were from any power is instantly clear when one looks at the franchise in the eighteenth century: ‘Voters in the counties numbered about 2,500, and in the burghs about 1,500, in a population which passed one million.’ The conclusion remained valid throughout the century: ‘It was a narrow, oligarchical system and it became open to corruption as time

<sup>17</sup> The quotes are from the Bill of Rights (<http://www.legislation.gov.uk/aep/WillandMarSess2/1/2/introduction>) and from the original text of the Claim of Right, its Declaration, available together with the king’s letter to parliament, the Proclamation, Legislation, and adjournment at the Records of the Parliaments of Scotland to 1707 (<https://www.rps.ac.uk/trans/1689/3/108>). The final quote is from T. Harris, *Revolution: The Great Crisis of the British Monarchy 1685–1720* (London, 2006), 401f.

<sup>18</sup> N. Elias, *Über den Prozess der Zivilisation. Soziogenetische und psychogenetische Untersuchungen*, II: *Wandlungen der Gesellschaft. Entwurf zu einer Theorie der Zivilisation* (Frankfurt, 2017), 250–87, offers further useful information.

went on.<sup>19</sup> Old power structures have a tendency to persist, made evident again in the endless processes connected with the various Reform Bills of the nineteenth century, extending the suffrage, or the fact that women were permitted to vote only after the end of the First World War.<sup>20</sup>

The Declaration was ‘evidently little-known beyond a few hundred individuals during the Scottish industrialisation’ and throughout the entire nineteenth century, when the people’s power did not increase much either. Struggles to enhance that power and opposition to governments unwilling to grant concessions grew tremendously, though. Success was brought about by a) the growth of the working class in both numbers and political influence (e.g. the 1803 and 1833 Factory Acts, and the Trade Union Act 1871), and b) the growing involvement of the new, rich middle classes in politics, finance and the economy. The French Revolution obviously had an enormous influence as well on people’s new behaviour and thinking, and William Godwin’s *Enquiry Concerning Political Justice* (1793) exemplarily expressed what has remained an essential issue from the Declaration to our own time: how to define and establish political justice.<sup>21</sup>

The eighteenth and nineteenth centuries are of great importance in the evolution of the Declaration of Arbroath as they witnessed the development of the modern state: the nation as it is understood today came into existence. This is clearly visible in the creation of the UK, its new flag and a national anthem. Germany, Italy, Greece and others became nation states only in the nineteenth century. These countries had existed in former times, evidently, but at that point, nations and people identified themselves with reference to their king, or more locally to the regional laird, the lord of the manor, or the clan to which they belonged. Linda Colley’s *Britons: Forging the Nation 1707–1837* provides an excellent description and analysis of this long process. She points out that ‘Great Britain in 1707 was ... a patchwork in which uncertain areas of Welshness, Scottishness and Englishness were cut across by strong regional attachments, and scored over again by loyalties to village, town, family and landscape.’ Family

<sup>19</sup> M. Fry, ‘Politics’, in (ed.) Cooke *et al.*, *Modern Scottish History*, 48. He speaks of a ‘core of Country Whigs’ in Scotland, ‘known for their opportunism as the Squadrone Volante (Italian: the flying squadron), and it was by their votes that the Treaty of Union had been passed in the teeth of hostile public opinion’.

<sup>20</sup> For a long-term view on women, cf. (ed.) A. Vickery, *Women, Privilege, and Power. British Politics 1750 to the Present* (Stanford, 2002). For a closer look at those endless delays, R. Saunders, *Democracy and the Vote in British Politics, 1848–1867: The Making of the Second Reform Act* (Aldershot, 2011).

<sup>21</sup> Quote from C. A. Whatley, ‘Industrialising Scotland and the Nation: Nationalism, Liberty and Independence’, in (ed.) Müller, *Scotland and Arbroath 1320–2020*, 267–88. Cf. also G. Pentland, *Spirit of the Union: Popular Politics in Scotland, 1815–1820* (London, 2011); Whatley, *Scottish Society 1707–1830: Beyond Jacobitism, Towards Industrialisation* (Manchester, 2000); D. Wahrman, *Imagining the Middle Class: The Political Representation of Class in Britain, c.1780–1840* (Cambridge, 1995); B. Harris, *The Scottish People and the French Revolution* (London, 2008).

was not yet the nuclear family we think of today, it still retained much of what its definition had been throughout the Middle Ages, namely the household of the laird or lord of the manor, ultimately of the king or clan. This was what gave people employment, security, a sense of community. It gave them their identity, which was always defined in this way by their position in that family. Individual identity, as we understand it today, did not exist in those times. It is another product of the modern age, as is the nation state. Both again evolved over a long period of time, from the early modern age, the Reformation, the Enlightenment and have not stopped evolving.<sup>22</sup>

Max Weber's definition and characterisation of the new state as 'a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory' is helpful in this context, as he also defines three ways in which governments have claimed and received legitimacy: a) through charisma, e.g. in religion or families; b) through tradition, as in feudal, patriarchal, or patrimonial systems; and c) through law, as in the modern state and its bureaucracy with claims of both legality and rationality.

The state is considered the sole source of the 'right' to use violence. Hence, 'politics' for us means striving to share power or striving to influence the distribution of power, either among states or among groups within a state.<sup>23</sup>

There are two important links with the Declaration here, the concern with power, and how the exercise of power can be justified, how a government becomes legitimate. The Declaration offers an intriguing answer.

The Declaration is indeed quite clear about the qualities a king should have, in order to be a justified authority deserving the people's support:

Him [the king, Robert I], too, divine providence, the succession to his right according to our laws and customs which we shall maintain to the death, and the due consent and assent of us all have made our prince and king. To him, as to the

<sup>22</sup> L. Colley, *Britons: Forging the Nation 1707–1837* (London, 1996), 17. Cf. also T. M. Devine, *The Scottish Nation 1700–2000* (London, 2000), 233, 235 on the creation of 'a new Scottish identity' from the end of the eighteenth to the beginning of the nineteenth century, with George IV's visit to Edinburgh in 1822 as the 'apotheosis of this transformation'. M. G. H. Pittock, *A New History of Scotland* (Phoenix Mill, 2003), 302, says 'a modern national identity, as Richard Finlay has observed, is very largely one created by British government policy'. E. J. Evans, *The Forging of the Modern State: Early Industrial Britain, 1783–1870*, 3rd edn (London, 2001); G. Newman, *The Rise of English Nationalism: A Cultural History 1740–1830* (New York, 1987); B. T. Nelson, *The Making of the Modern State: A Theoretical Evolution* (London, 2006); (ed.) R. Samuel, *Patriotism: The Making and Unmaking of British National Identity*, 3 vols (London, 1989).

<sup>23</sup> M. Weber, *Economy and Society: An Outline of Interpretive Sociology* (New York, 1986), 956ff. Weber deals with the key questions already relevant in the Declaration and even more important in modern democracies: why and under what circumstances will the people submit? On which intrinsic internal legal justification and on what external means does that justification rely?

man by whom salvation has been wrought unto our people, we are bound both by his right and by his merits that our freedom may be still maintained, and by him, come what may, we mean to stand.

A king of Scotland thus needed to be justified by: 1) God ('divine providence'), 2) Scottish 'laws and customs', and 3) 'the due consent and assent of us all'. He must also 4) 'merit' this consent by 5) bringing 'salvation' to the people and 6) maintaining their 'freedom'. These are the key characteristics and values of this letter that have stayed with us as basic qualities of a government that deserves the people's approval (even where a different god dominates the people's belief).

In this context of how state authority, a government, can be justified, it is important to understand not only that a new form of state with new functions and institutions came into existence in the eighteenth and nineteenth centuries but also why it became so relevant in people's lives. One of the three significant contexts of the Declaration is of enormous relevance here again: religion. In the eighteenth and nineteenth centuries, religion became less and less important, while secularisation increased significantly. Many people lost their faith in particular because of the new insights provided by geology, botany and anthropology, and the findings of John Herschel, Charles Darwin and others which destroyed the traditional view of the world as God's creation some four thousand years before.<sup>24</sup> Some people developed a belief in this new science, but for many more the nation took over the role of religion. The nation provided them with an instant sense of identity, and the new nation state offered them safety and often also a job. The nation obtained new functionalities as well as a strong new emotional quality that it had not had before. Nationalism has retained this powerful emotional pull.

Indeed, the nation became the new religion, providing people with a simple, straightforward identity and a feeling of belonging that offered a sense of security far beyond any legal and practical dimensions. The fact that parliament decided who was to be king in 1689 and again in 1714 expressed clearly that whoever was king or queen 'was "of the nation's own choice" and would rule in accordance with the laws of the land'. The 'people's allegiance was conditional on his [or her] abiding by the constitution'. Henry St John, Viscount Bolingbroke, already stated in his *Idea of a Patriot King* (1738) what is underlined here again: 'The spring from which this legal reverence ... arises is *national*, not *personal*.'<sup>25</sup> The 'national *anthem*, a term that the British invented', again 'confirms just how closely patriotic identity in Great Britain was yoked to religion'.<sup>26</sup> The nation

<sup>24</sup> Bishop James Ussher's view, expressed in 1650, that the world had been created in 4004 BC was still the official Anglican doctrine in the Victorian Age. Cf. (ed.) L. & M. Pierce, *Annals of the World: James Ussher's Classic Survey of World History* (Green Forest, AR, 2003).

<sup>25</sup> Quotes from Colley, *Britons*, 51, 49. Bolingbroke's text is available at <https://socialsciences.mcmaster.ca/econ/ugcm/3ll3/bolingbroke/king.html>.

<sup>26</sup> Colley, *Britons*, 47, with reference to P. A. Scholes, *God Save the Queen! The History and Romance of the World's First National Anthem* (New York, 1954), 209. First publicly sung in a London

thus became something everybody could quickly and easily believe in. In the new nation states, the nation became ‘an ideal of the highest value’ and of an eternal quality.<sup>27</sup>

The attraction of the nation as a unifying force has not diminished. That we now experience a renewed wave of nationalism in most parts of the world, including the USA and England, indicates its continuing appeal. But huge differences are evident: the US and English variety is a form of atavism trying to patch up enormous economic, social and political problems and inequalities. The slogans ‘Make America Great Again’ as well as ‘Take back control’ inadvertently reveal various kinds of decline that conservative governments want to repair, or simply cover up, or blame others for, such as the European Union. Scotland’s nationalism, usually derided in the English right-wing media, is of a very different kind. It intends to create a fairer, more humane society and wants to become free of a government it has not voted for.<sup>28</sup>

This is where the Declaration of Arbroath comes in again. In the contexts of the new nation state and its enormous relevance of giving people a strong emotional, rational and practical identity, a new understanding of the Declaration began that has become more and more important and defines our contemporary interpretation of the 1320 letter as expressing the ‘definitive statement of a new Scottish identity’. There is nothing definitive in history, like all life it always evolves and thus changes, but this is how the Declaration is usually interpreted today, namely as an expression of national identity that correlates with the experiences of individuals. It makes much sense and it is important to see this as the result of a creative, constructionist process of enormous complexity involving all of the cognitive, emotional, rational, and practical abilities and experiences of human beings.<sup>29</sup>

theatre in 1745, the song came to be called the national anthem only in the early 1800s, but neither England nor Scotland have an official national anthem and use different songs on different occasions, Scotland preferably ‘Flower of Scotland’ or ‘Scotland the Brave’. Cf. the more recent discussion in Newsroom, ‘5 national anthem alternatives to Flower of Scotland’, *Scotsman*, 9 March 2017, <https://www.scotsman.com/sport/football/5-national-anthem-alternatives-flower-scotland-1454413>.

<sup>27</sup> My translation of N. Elias, *Über den Prozess der Zivilisation. Soziogenetische und psychogenetische Untersuchungen*, I: *Wandlungen des Verhaltens in den weltlichen Oberschichten des Abendlandes* (Frankfurt, 2017), 36.

<sup>28</sup> Cf. A. Allan, MSP for Na h-Eileanan an Iar, ‘“Coveting Nothing but Our Own”: Arbroath and the Modern Independence Movement’, in (ed.) Müller, *Scotland and Arbroath 1320–2020*, 349–64; R. J. Finlay, ‘The Declaration of Arbroath and Scottish Nationalist Constitutional Thought in the Twentieth Century’, in (ed.) Müller, *Scotland and Arbroath 1320–2020*, 307–24; J. Duffy, ‘Shona Robison: Here’s how I’ll steer indy Scotland to fairness’, *The National*, 17 November 2019, <https://www.thenational.scot/news/18041418.shona-robison-snps-social-justice-commission-independence/>.

<sup>29</sup> Cf. A. P. Cohen, *Self Consciousness. An Alternative Anthropology of Identity* (London, 1994); F. J. Varela, E. Thompson and E. Rosch, *The Embodied Mind. Cognitive Science and Human*

The twentieth century saw the creation of the Scottish National Party in 1934 and the development of various kinds of nationalism in Scotland.<sup>30</sup> The kind currently favoured by the majority of the public and the governments they have elected since 2011 comes out nicely in the references to the Declaration of Arbroath in the Scottish parliament, repeated here, as they reveal the Declaration's relevance today. Thus the Declaration is instantly reconnected with its essential original issue: power. It is often seen in connection with the 1689 Claim of Right and was thus used when the Claim of Right 1989 was declared by the Scottish Constitutional Convention, acknowledging 'the sovereign right of the Scottish people to determine the form of government best suited to their needs'. It never had any legal value but contributed to the re-establishment of the Scottish Parliament in 1999.<sup>31</sup> Both Claims and the Declaration also formed the foundation of the 2014 referendum on Scottish independence. On 26 January 2012, the Scottish Parliament discussed the 1689 Claim of Right and Nicola Sturgeon said:

It reaffirms the ancient principle that, in Scotland, the people are sovereign. Monarchs and Parliaments are the servants of the people. That fine principle has its origins in the declaration of Arbroath. ... There has never been a more important moment to recommit ourselves to the guiding principle of the claim of right: the Scottish people are sovereign.

The motion was passed.<sup>32</sup>

*Experience* (Cambridge, MA, 1999); C. Frith, *Making Up the Mind. How the Brain Creates Our Mental World* (Oxford, 2007).

<sup>30</sup> Cf. Allan (2020), 355ff, and E. A. Cameron, 'Scotland's Hidden Powers? Politics and Union in an Uncertain Age', in (ed.) Müller, *Scotland and Arbroath 1320–2020*, 325–46. They point out the enormous differences between the early twentieth century and today in nationalism, politics, social attitudes and people's thinking. Cameron offers an apposite description of the situation today: 'The past, present and future of Scotland are in a more contested state than they have been, perhaps at any point since the Union of 1707' (p. 326).

<sup>31</sup> Cf. 'Claim of Right 1989 explained' at [https://everything.explained.today/Claim\\_of\\_Right\\_1989/](https://everything.explained.today/Claim_of_Right_1989/); 'Claim of Right passes to parliament', *BBC News*, 29 June 1999, [http://news.bbc.co.uk/2/hi/special\\_report/1999/06/99/scottish\\_parliament\\_opening/380989.stm](http://news.bbc.co.uk/2/hi/special_report/1999/06/99/scottish_parliament_opening/380989.stm).

<sup>32</sup> The entire discussion about this motion by Nicola Sturgeon on the Claim of Right is available at <https://www.theyworkforyou.com/sp/?id=2012-01-26.38.0>, the official record at <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=7560&mode=pdf>. A. McHarg, 'The Declaration of Arbroath and Scots Law', in (ed.) Müller, *Scotland and Arbroath 1320–2020*, 443–65, provides an excellent historical overview of all legal aspects.