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## **EMPIRE LOYALISM AND MINORITY NATIONALISM IN GREAT BRITAIN AND IMPERIAL RUSSIA, 1707 TO 1914: INSTITUTIONS, LAW, AND NATIONALITY IN SCOTLAND AND UKRAINE\***

*English freedom is not relevant here  
Peter the Great*

### **MINORITY ELITES AND NATIONAL IDENTITIES**

In 1812 a Russian army inflicted two decisive defeats on the Persian army. The resulting Treaty of Gulistan shifted tsarist borders 250 miles south and secured Russian control over Georgia and the Caspian Sea littoral. The commanding general, Piotr Kotliarevsky, received a second St. George Cross (the equivalent of the Victoria Cross) for this accomplishment—wounded in the battle, surgeons removed forty pieces of bone from his skull to save his life. The Persians were allied to Britain, who, fearing Russian and French designs on India, had sent a mission in 1810 headed by General John Malcolm, to the Shah. Charles Christie, a military advisor on the mission was killed in battle. Whereas Malcolm was an important agent of British policy in Central Asia and India, Christie was one of the first Europeans to travel and map the Afghano-Persian frontier. These achievements are normally logged into Russian and English history, but the men behind them were not native Russians nor Englishmen. Kotliarevsky was born into a lesser Ukrainian noble family in Kharkiv (Kharkov) province, while Malcolm and Christie were Scots. Like thousands of their countrymen, they served and made careers in the empires that ruled their native lands.<sup>1</sup> A Ukrainian was Peter I's principal panegyrist. Scots wrote Rule Britannia and created "John Bull."

In Scotland and Cossack-Ukraine, dissatisfaction over incorporation lingered for decades afterwards, and the paths of disaffected exiles also occasionally crossed. In 1734 the Scottish commander of the Russian army in Ukraine, James Keith, deliberately ignored an order to apprehend the son of the Ukrainian leader-in-exile, Hryhory Orlyk, who had secretly returned home to gauge the political climate. Keith and Orlyk were both Freemasons,

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and Keith, who became Governor of Cossack-Ukraine for a year in 1740, later explained to Orlyk that he had let him go out of sympathy for Ukrainian separatism.<sup>2</sup>

Few Scots or Ukrainians allied with the French when they had an opportunity to change borders and allegiances between 1792 and 1814, however. During those years six Scots were exiled overseas, and one was hanged for sedition. Three Scots hanged after the Radical War (1820) had no links with Jacobites or Republicans. Only one of the leading Ukrainian families is known to have been arrested for sedition in the 1790s, while one individual is known to have been exiled and imprisoned for supporting Napoleon in 1812.<sup>3</sup> Scotland's leading writers, Walter Scott and Robert Burns, both volunteered to fight Revolutionary France in the 1790s; and in Ukraine the father of modern Ukrainian literature, Ivan Kotliarevsky—who was not related to the general—formed, commanded, and led a cavalry regiment against Napoleon in 1812. Until 1914, unlike the Poles or Irish, the Ukrainians and Scots staged no nationally inspired armed uprisings or terrorism against Petersburg or London. There was no Scottish Republican Army nor an Ukrainian equivalent of the Polish *bojowki*. Whereas Walter Scott never protested against the Union with England but only pleaded, in *The Letters of Malachi Malagrowther*: "For God's sake, sir, let us remain as Nature made us, Englishmen Irishmen and Scotchmen, . . . We would not become better subjects, or more valuable members of the common empire, if we all resembled each other like so many smooth shillings"; Ukraine's Taras Shevchenko called on his countrymen in the *Testament* to "sprinkle your liberty with their [your oppressors] evil blood."

The majority of the elite were loyalist in both countries, and there was no Scottish nor Ukrainian state in the nineteenth century. But whereas the Scots were a modern nation by 1914, Ukrainians were only an ethnographic mass.<sup>4</sup> By 1900 six national boards in charge of social affairs and a coordinating Scottish Office in Edinburgh gave Scotland de facto autonomy. The country was industrialized, with 74 percent of its population living in towns of 1,000 people or more<sup>5</sup> and over 75 percent literate. Landed Scottish families intermarried with their English counterparts and were assimilated into an imperial elite, but the Anglicized Scottish patrician remained assertively Scottish. As stated in an 1887 letter to the Times, a Scot could have two patriotisms and "be sensible of no opposition between them."<sup>6</sup> In 1914 a Home Rule bill had reached second reading in Parliament, and wits

pointing to the Scottish nationality of so many ministers wondered why the English were not demanding Home Rule. By contrast, in 1897 the majority of the population in the six provinces that once were Cossack-Ukraine were illiterate; and only 18 percent of the population lived in towns of 2,000 people or more.<sup>7</sup> These provinces had no distinct national institutions, and although they produced a considerable proportion of Russia's coal, steel, and cereals, their economy was not diversified. Most Ukrainians still used earthenware utensils, wooden tools and axes, and lived under straw roofs. The incidence of typhus, dysentery, and diphtheria among them was twice the rate in Central Russia. Landed Ukrainian families intermarried with Russian families and were assimilated into an imperial elite, but few of these Russified nobles maintained a practical interest in their native lands. On the eve of World War I, federalist demands were restricted to a group of nationalist intellectuals.<sup>8</sup>

## THE ISSUES

How to preserve national particularities and an identity within larger organizations, and, conversely, how to integrate and control peripheries without provoking resistance are recurring dilemmas of European history. Tsarist Russian relations with Cossack-Ukraine and English relations with Scotland provide two valuable examples illustrating the importance of law and civil institutions in determining whether regional patriotism would evolve into a separatist "ethnic" nationalism or a "civic nationalism" compatible with an imperial loyalism.

The contrast between constitutional Britain and autocratic Russia is frequently noted and often attributed to differences in wealth. The Western European legal tradition to which Britain belongs, however, cannot be reduced to economics, since its origins go back to the twelfth and thirteenth centuries—almost 600 years before northwestern Europe became wealthier than the rest of the world. Those centuries did see European prosperity, but periods of economic expansion in Russia did not result in similar laws on representation, contractual reciprocity, right of possession without ownership, nor limits to power. A socioeconomic slant in recent comparative imperial and nationality studies has, similarly, led students to overlook Western legal norms and how their presence or absence affected the fates of dominated European minorities. Nationalist and power-centered postmodernist accounts of colonial rule also fail to consider the role of law and institutions in the formation of the nationality they are studying. Marxists as well who assume

that law was only a tool of domination used by property holders to oppress the propertyless ignore the fact that it could and did protect groups and individuals from the arbitrary use of power.<sup>9</sup>

This essay does not deny the importance of socioeconomic forces in imperial relationships and national histories. It seeks, rather, to put them into perspective by examining how laws and civil institutions or their absence, affected, first, relations between the central governments and local elites in eighteenth-century Britain and Russia and, second, the political evolution of Scotland and tsarist Ukraine in the following century.

## ENGLAND AND SCOTLAND

Scotland is divided into Highland and Lowland regions. Between 1755 and 1911, the total population rose from roughly 1.3 million to 4.8 million, while the percentage of Highlanders fell from 20 percent to 8 percent. Lowlanders spoke Scots English and, by the eighteenth century, English with a Scots accent. Highlanders spoke Gaelic into the nineteenth century. From 1609, Highland nobles were legally compelled to send their sons to English language schools, though few seem to have done so until the end of the century. Gaelic was used for preaching and religious teaching from the sixteenth century and as a language of instruction in schools from 1826, but by 1850 Gaelic speakers were a shrinking minority. Although loyalists condemned it in the mid-eighteenth century as the language of treason, Gaelic was never formally proscribed.<sup>10</sup>

When James VI Stuart (Stewart) left Edinburgh for London with his court after signing a dynastic union in 1603, he ensured that Scotland and not England would be the periphery of the United Kingdom.<sup>11</sup> Scotland was not incorporated into England by a unilateral act of Parliament like Wales and Ireland but was annexed by a negotiated compromise in the Treaty of Union (1707). That treaty abolished two hitherto separate kingdoms and created Great Britain in their stead. London did not attempt to control Scotland by colonizing it with politically privileged settlers, nor did it force the pace of integration. In return for their loyalty, the English allowed the Scots to run their local affairs in the English manner, independent of centrally appointed officials. Besides a single parliament with seats reserved for Scots, freedom of trade, and Scottish access to English colonies, the Treaty provided for a separate Scottish legal, administrative, and educational system, as well as an independent Presbyterian (Calvinist) Church of Scotland. These

institutions generated judges, lawyers, clerks, teachers, and ministers who effectively erected an invisible border with England and ensured that Scots remained Scots behind it. The two major Scottish officials after the Union were the Secretary for Scotland in London (to 1746) and the Lord Advocate (the chief law officer) in Edinburgh. Scotland may have become a "North Britain"-its official title in the Act of Union-but it never became a "Little England" or a shire.

Cameralist and Enlightenment theories advocating centralist intervention and administrative uniformity had little influence on mainland Britain's political system, while the Quebec Act (1774) signalled the abandonment of efforts to build a uniform system of imperial government based on English institutions. A comparatively harsh English criminal law was mitigated by frequent jury acquittals resulting from a scrupulous concern with procedure. The Trials for Treason Act (1696), for instance, stipulated that prisoners be tried within three years of the date of commission and required voluntary confession in open court for a conviction. Detention without trial was rare; and suspension of Habeas Corpus, frequent but short-lived. Repressive legislation like the Riot Act, the Black Act, or the Septennial Act specified circumstances and behaviour precisely and were approved by Parliament. Territorially, the Franchise Act (1536) formally abolished autonomous jurisdictions yet the powers of English local officials, conferred by Parliament and derived from Common Law, amounted to "self-government at the King's command." Once Cromwellian and Stuart attempts to centralize were defeated, the considerable authority that regional notables exercised through manorial courts, church assemblies, and patronage networks, would never again be threatened by central officials acting under royal decree. Ireland, exceptionally, was more a colony of England than a part of the British political realm. Parliament in 1719 specifically refused the terms of 1707 to Ireland, where English rule was based on a colony of privileged settlers and a centrally appointed viceroy. Since Catholics were barred from office throughout Britain until 1826, Ireland could not develop a local political elite nor forms of self-government.<sup>12</sup>

Until 1828, when English ministries were introduced into Scotland, the country was a political dependency of the British government. In return for their clients' votes in Parliament London ministers allowed the most powerful families to do as they pleased in Scotland through patronage and favorable legal decisions. From 1607 these families revolved around the Argylls (clan Campbell).<sup>13</sup> Lay ministers, the Church's ideals of democratic involvement,

and the fact that most magistrates were church elders, made the church and state distinction artificial in Scotland and meant that the local church councils, as well as the Church's General Assembly, played an important role in local administration alongside the courts. Administrative devolution was matched by English willingness to give Scots access to imperial trade, the peerage, and to careers in London and its newly expanded empire. Merchants, bankers, and lawyers in Glasgow and Edinburgh counted their profits; while other Scots successfully took advantage of opportunities, thanks to Scotland's superior educational system, initially provoking English hostility: "Into our places states and beds they creep. They've sense to get what we want sense to keep."<sup>14</sup> Few English sought fame and fortune in Glasgow or Edinburgh. Alongside career considerations and the profits of empire, the idea that Scots and English were ethnically Teutonic and Saxon also fostered belief in a shared common British identity. Significantly, educated Scots disassociated their country's past from the notion of liberty, which they measured in terms of self-rule through modern institution and laws rather than in terms of historic privileges. They regarded independent Scotland as a kingdom whose people were rescued from their "feudal" backwardness and lawlessness by the Union with England's progressive constitutional monarchy: "The North British periphery . . . tended to assert its right to be anglicized more often than the freedom to be spared the interventions of central government."<sup>15</sup>

The most serious threat that Scotland posed to Great Britain was mounted by the descendants of the deposed James VII Stuart and their supporters (Jacobites), who included English gentry, Lowland Scots, Catholics, Episcopalians (Presbyterians with bishops), and Campbell clan rivals motivated as much by family interests as considerations of Stuart legitimacy. Jacobites initially sought secession, but by 1745, they were prepared merely to revise the Union treaty. Backed by Bourbon France, Jacobites staged five failed uprisings from the Highlands. In 1746 a British force defeated the Jacobites' field army of 5,000 at the battle of Culloden and for months afterwards arbitrarily executed any commoner Highlanders it could find.<sup>16</sup> By 1789 the last Jacobites in Britain had reconciled themselves with the status quo. Neo-Jacobites at the end of the nineteenth century stood for Parliament, demanded liberty for Scotland and Stuart restoration, but posed no political threat to Britain. The last time anyone was arrested for being a Jacobite was in 1817.<sup>17</sup> Nineteenth-century Scots radicals tended to be anti-aristocratic democrats fighting for an egalitarian Britain alongside English radicals.

## RUSSIA AND COSSACK-UKRAINE

Cossack-Ukraine emerged as a new political entity in 1649 and is known also as "Little Russia" or the Hetmanate. The Cossacks were a social group that never constituted more than half of the population in the country, whose borders after 1667 were conterminous with present-day eastern Ukraine. Present-day southwestern Ukraine, the territory of the Zaporozhian Cossack Army, was nominally subject to the Hetmanate. But until 1775, when it was dispersed by order of Catherine II, the army was independent to the degree that it pursued its own foreign policy. The population of these two regions rose from roughly 2 million in 1719 to 14 million in 1897, or 60 percent of the total population of tsarist Ukraine.<sup>18</sup> The Zaporozhian Cossacks had a different economy, social and political structure than the Hetmanate but the same religion and language. The literary language, a Ukrainian variant of Slaveno-Rusyn, was progressively russified from the 1720s by tsarist legislation aimed at standardizing it with Russian Slaveno-Rusyn, which, by the end of century had become the literary language in Ukraine. The church did not use peasant vernacular Ukrainian to proselytize, yet the government proscribed that language from schools in 1804 and, in 1863 and 1876, prohibited publishing in it.<sup>19</sup>

The chief military and civilian authority on Cossack-Ukraine was a Hetman, while General Judges presided over the highest judicial body, the General Military Court. By the Treaty of Pereiaslav (1654), the Hetmanate became a protectorate of the Muscovite tsar, a ruler whose powers were tempered by custom rather than delineated by laws and whose prerogatives, unlike those of European monarchs, allowed him to tax arbitrarily, dispossess, arrest and execute any subject, high-born or low. Russian law, meanwhile, specified that cases of treason, malefaction, and insurrection, were to be dealt with administratively, that is, without due process. Catherine II's Provincial Reform (1775) established a centralized uniform administrative system for the entire empire; and in 1781, the Hetmanate was formally abolished. Yet, nine agreements "renewing" the Pereiaslav Treaty signed previously between successive tsars and hetman had already, in fact, restricted Ukrainian autonomy. In 1687, for example, the hetman was forbidden to countermand acts issued by Russian officials in the Hetmanate; while in 1754 Petersburg unilaterally abolished the political and customs border between Russia and Ukraine.<sup>20</sup> The Ukrainian Orthodox Church, subject to the Patriarch of Moscow from 1687 was organized hierarchically but was characterized by



extensive lay involvement until 1778. Although seventeenth-century Russian historical writings treated the city of Kiev as the first capital of Russia and the original seat of the ruling dynasty, the tsars, who considered themselves to be the only dynastically legitimate rulers of the Hetmanate, did not use the opportunity provided by the annexation of this "lost land" to relocate their capital to its purported original location. Thus, Ukraine, not Russia, became the periphery in the tsarist empire.

The tsars did not colonize Cossack lands and try to rule through politically privileged settlers but did force the pace of integration. Until 1663 Ukrainian affairs were dealt with by the Muscovite foreign relations chancery. Between 1663 and 1722 this function was taken over by a separate chancery in Moscow headed and staffed by Russians. The tsar was represented by Russian military governors (*voievoda*) and garrisons stationed in the major Ukrainian towns. In theory these officials, whose number varied according to political circumstance, concerned themselves only with military affairs. In practice, continuous wars intertwined many aspects of daily life with military affairs and provided opportunities for the voievodas to extend tsarist authority beyond the limits considered acceptable by cossack leaders. Voievodas also extended their influence by arbitrating internal disputes and exploiting the rivalries of the leading cossack families.

Reforming tsars invited Ukrainians north to help them administer their empire. The first to go were priests and monks whose education enabled them to quickly dominate church and intellectual life and provoke thereby the enmity of native Russian clerics.<sup>21</sup> By the end of the eighteenth century, this trickle became a flow as the tsars gave Ukrainian noblemen access to imperial careers, and all their noticeable success provoked complaints from their Russian counterparts about ubiquitous careerist "creeping Little Russians" (*Malorossiiska prolaza*). Economic forces reinforced the tie to Russia insofar as rising agricultural prices during the second half of the century presumably benefitted cossack landowners, as did Catherine II's introduction of serfdom in Ukrainian lands (1783) and her granting Russian noble status to all Cossack officers (1785).<sup>22</sup> Russian officers, administrators, and merchants, who had no political privileges to distinguish them from Ukrainians, averaged 10 percent ~ of the male population by the mid-nineteenth century. As in Scotland, the Enlightenment idea of progress and civilization led some educated eighteenth century Ukrainians to associate their native past and "cossack rights" with anarchy and lawlessness and the larger political unit to which they belonged with reason and order. These men, who also believed

that Ukrainians and Russians were ethnically related, sought central intervention in their internal affairs and thought the imperial centralization that followed the abolition of the Hetmanate and its institutions benefitted their country.<sup>23</sup>

Cossack-Ukraine posed a serious threat to the tsars for the last time in 1709, when Hetman Ivan Mazepa, with no more than 8,000 cossacks, tried to secede from Russia and form an alliance with Sweden's Charles XII. The attempt failed when Peter I defeated Charles at the battle of Poltava. After Mazepa's death, his followers maintained their separatist position in emigration and, like the Jacobites, solicited support from the Bourbons.<sup>24</sup> To ensure that no future Hetman would again risk separating the Hetmanate from Russia, Peter I unleashed a campaign of terror against the entire country.<sup>25</sup> Nineteenth-century Ukrainian nationalists claimed the legacy of the Cossack Hetmanate and from mid-century were arrested and harassed. Unlike their Mazepist precursors, they based their demands for autonomy and, later, independence on the right of nations to self-determination rather than on legalistic historical arguments. Ukrainian nationalists had no strong political organizations before 1914 nor any links with foreign powers. Those who wanted to repress Ukrainian national activists, however, warned ministers that Russia's continental rival, Austria-Hungary, would use these activists to foment internal instability. Ukrainian-born radicals in the nineteenth century tended to join Russian political parties whose aim was to transform the empire into a socialist egalitarian society.

## SCOTLAND AFTER CULLODEN

Strong anti-Scottish sentiment in 1745-46 included the suggestion that all Jacobite women of childbearing age be slaughtered, while the commander of British troops in Scotland, Lord Cumberland, sent London a draft proclamation, after the battle of Culloden, that required arbitrary confiscations and executions for suspected rebels. Policy did not reflect these extremes, however; and the government did little more before the battle than suspend the provision of habeas corpus and order local justices to arrest papists. The Scottish Lord Justice pointed out to the King and the Prime Minister that the government's opposition to the Stuarts had to be presented as the defense of the right to life, liberty, and property by due process of law as established after 1688. He accordingly reworded Cumberland's draft to specify that those under suspicion of treason would be punished to the full extent of the law. Cumberland for his part thought that legal constraints merely protected rebels

who would rise again if they were not extirpated. He therefore ignored instructions not to "give any just cause of complaint to a country so ill disposed to the king and so willing to find fault with everything that is done for His Majesty's service."<sup>26</sup> He allowed his troops to kill the wounded after the battle and punitive detachments in the months afterwards to massacre hundreds of commoners. There are no exact figures of the number killed off the battlefield, but a maximum of 1,000 dead would represent .4 percent of the Highland population.<sup>27</sup>

In 1746 Scotland was blockaded. Even though the 9,000 regular troops who occupied the Highlands had a commander who condoned punitive excesses, the government did not use this overwhelming concentration of force (a ratio of 1 soldier to 29 people) to exploit the Highlands economically nor to abrogate self-rule by posting English governors in Scotland. Of the 3,470 arrested as Jacobites and prosecuted, the government executed 120 (of which 40 were deserters caught in rebel ranks) and pardoned or released 1,363. Forty-one individuals were declared traitors by Parliament (Act of Attainder) and subject to execution on sight.<sup>28</sup> Political measures directed against the Highlands were formulated in six bills drawn up by English ministers of which the most contentious sought to abolish the Heritable Jurisdictions:

inviolable crown grants of judicial authority to landowners that made them kings on their estates. This was the last of three instances of major legislation that impinged on Scotland but was not initiated in Scotland. Loyalist Scots who opposed the measure on the grounds that it contravened the Union did not mount a sustained protest, so the bill was subsequently modified and passed without expressly repealing the Jurisdictions. All the officials and agencies in charge of its implementation were Scottish, however; and the expressed purpose of the bill was to promote commerce and manufacturing in the Highlands. It provided full rights for owners to exploit their land as they saw fit and directed the money from confiscated estates into development projects. Commoner Highlanders suffered, but most educated Scots supported these measures, which both raised incomes and corresponded to their attitudes on development and improvement.<sup>29</sup>

Few major landowners were tried and dispossessed for Jacobitism after Culloden. Those who were benefitted from amnesty granted in 1752, and in 1784 the government returned all confiscated estates to their families.<sup>30</sup> London abolished the Secretary for Scotland, yet even some Jacobites approved because they thought this office gave too much power to one man,

even if he were a Scot.<sup>31</sup> Twenty years after Culloden there were fewer regular troops in Scotland than in Ireland, and most of those who remained were Companies from the Invalid Regiment, veterans 46 to 79 years old. From a maximum of 3,000 (a ratio of 1 soldier per 433 people in the general population and 1 soldier to 87 people in the Highlands, where 7 percent of the army was stationed) in 1769, the number fell to 1,745 in 1774.<sup>32</sup> Moreover, Scots continued to be formed into Highland regiments in which the English or Lowlanders were drummers in the bands, who, contrary to prevailing practice, symbolically marched in the rear, behind the pipers, rather than in front.

England's rulers in 1745, who thought Charles Stuart would restore Catholic Church lands, repudiate the national debt, raise taxes, and surrender English commercial interests to Spain and France, probably feared losing Scotland less than losing their fortunes. The government, accordingly, took stern measures against Jacobites and their suspected supporters after 1746. But it did not treat Scotland as harshly as Ireland which, from 1699, was garrisoned continuously with 12,000 regular troops and where repression was legitimized by the continuous renewal of the Coercion Acts, which created a vicious cycle of oppression and resistance. Even after Napoleon's demise in 1814, when the Jacobites could no longer hope for support from a continental power, London left Scots to manage their own affairs as they had done previously.

Fear that aggrieved Jacobites and their kin would continue to encourage European rivals to invade may have influenced London's policies after Culloden. Cumberland, eager to get his army to Flanders as soon as possible, actually did propose an amnesty that Jacobite leaders refused because they thought French aid was forthcoming. But before 1715, despite the war with France, the government nevertheless passed four acts contrary to the Union treaty which played a key role in provoking the 1715 uprising. In Ireland, moreover, England's fear of continental intervention was as frequently invoked to justify repression as concessions. Another likely reason for English moderation after 1746 was internal-and it came from the wish to make reconciliation possible for as many as possible, since Jacobites enjoyed considerable lowland as well as middle-class support. During the campaign there were more than twice as many Scots in Jacobite ranks as in Cumberland's force and, while no more than 46 percent of Charles's army were Highlanders, 80 percent of his officers were Lowlanders. Legislative restraint may also be explained by the ministers' realization that, except for

exclusion from London patronage, there had been little reason for cash-strapped Highland lords to prefer a Jacobite pretender to George II.<sup>33</sup> Finally, powerful loyalists like the Scottish Lord Justice pointed out in the press and Parliament that not all Scots were Jacobites threatening "English Freedoms" and reminded the king and his ministers that law mattered in a constitutional monarchy.

As the initial Scottish opposition to the Union subsided, most of the educated and politically important adopted the view that pre-Union backwardness had oppressed the people and that association with England was the best way to rectify their lot benevolently. Scots influenced by Enlightenment ideals felt humiliated by allusions to their backwardness and came to associate liberty and prosperity with Union, government intervention, and Anglicization, rather than local rights or self-determination. From the 1720s Scots eagerly began to borrow from England what they thought was best to improve their country. This included the rule of law and the rights of the English country gentlemen who ran local government, were represented in Parliament, and were answerable only to the law and not powerful lords or monarchs. Some of the powerful did feel left out of the distribution of favours and offices after 1707, but even they were not excluded from these English rights and found it easier to become loyal subjects after Culloden than did rebel colonial Americans, who thought themselves unjustly excluded by the government from the English rights enjoyed by the king's subjects in Britain.<sup>34</sup>

By the mid-eighteenth century, the political class on both sides of the border accepted the fact that Scottish association with England would be based on devolved administration as defined by the Union Treaty. Individuals continued to differ on the question of whether all or parts of the Act of Union were Fundamental Law unalterable by ordinary legislation and who, if anyone, could change that law. On this point loyalist Scots, prepared in principle to Anglicize institutionally and culturally, resolutely maintained that only they, not Parliament, had the right to amend or annul the 1707 Treaty. The issue first emerged in 1713, when a motion to abolish the Union was rejected on the grounds that Parliament did not have the necessary authority.<sup>35</sup>

Regardless of the revisions made to the Union Treaty before and after Culloden, the eighteenth-century Scottish gentry, clergy, teachers, and lawyers—not English members of Parliament—working within the native Scottish institutions guaranteed by the British constitutional monarchy, remained in control of the pace of assimilation, unification, and economic

development in their own country. In the next century, consequently, the church, the law, the municipal boroughs, and the educational system—all of which predated industrialization—were able to provide the basis of modern Scottish nationality. Anglicization and imperial glory for the Scottish elite, thereby, remained compatible with the political and economic interests of then native land; and every articulate Scot in imperial or British service on at least one occasion would "firmly and generally approvingly describe himself as a Scot."<sup>36</sup>

## UKRAINE AFTER POLTAVA

During the first years of the eighteenth century, tsarist policies had so alienated senior cossack officers that by 1708 there was no longer a pro-Russian faction among them. Consequently, sheer desperation could have motivated Peter to rely heavily on terror as a means of keeping Ukrainians loyal, once he heard that Mazepa had joined the invading Swedes. Thus, a Russian army attacked the Hetman's capital, Baturyn, razed it to the ground, and massacred its estimated 6,000 inhabitants in the autumn of 1708. Within a month of Mazepa's defection Peter learned that five of the eight cossack regiments remained loyal and knew that, according to rumour, Mazepa, after seeing the disastrous condition of the Swedish army, had advised his supporters to accept an amnesty. Nevertheless, Peter persisted on his chosen course. In the spring of 1709, a Russian army destroyed the Zaporozhian Cossack stronghold on the Dnieper river as its punishment for joining Mazepa, executed 300 prisoners, and then massacred 1,000 people in a nearby settlement. Peter ordered all Zaporozhian Cossacks to be executed on sight. He decreed that anyone suspected of associating with Mazepa and the Swedes in any manner was to have their property confiscated and that informers were to be rewarded with the goods of their victims. The accused were taken to tsarist headquarters in the eastern Ukraine, where they were tried by a field court that passed sentence on the basis of evidence obtained from denunciations or given under torture. Since there was no legal definition of political crime, presiding officials or Peter himself decided what was treason. This tribunal summarily executed an estimated 900 prisoners.<sup>37</sup> Thus, before the battle of Poltava, Peter created a climate of terror in the Hetmanate by killing or executing at least 8,200 people (1.8 percent of the Hetmanate population) and by promoting denunciations and witchhunts. Repression continued afterwards. In 1711, in an attempt to deny a recruiting base to

exiled pro-Mazepa cossacks, Russian troops forcibly resettled approximately 100,000 people east of the Dnieper river, which was almost one-half of the population in an area of some 35,000 square kilometers along the Hetmanate's western border.<sup>38</sup> No institutions existed to prevent Peter from doing as he wished, and no one in the elite bothered about legal principles. There was no public backlash against Peter's actions comparable to those that occurred in England against massacres in Scotland in 1715 and 1746. Russia, it might be added, was not a country like Britain, where soldiers and officials were liable to private prosecution for using excessive force.<sup>39</sup> Documents refer only to a personal assurance from Prince Golitsyn, who was in charge of Peter's foreign affairs, to the new Hetman, Ivan Skoropadsky, that no one would be convicted on the basis of false denunciations.

After the Great Northern War ended, Peter severely curtailed Hetmanate autonomy and burdened its populace with 20 permanently billeted dragoon and garrison regiments. In 1725, almost twenty years after Poltava, the region still maintained approximately 25,000 troops (1 soldier per 80 people), or 13 percent of the army.<sup>40</sup> Peter was the first tsar to distribute Ukrainian land and offices to non-Ukrainians, who thereafter were subject only to him, not the Hetman. He put two of his dragoon regiments in Ukraine under the direct command of a Russian general delegated to provide personal supervision of the Hetman and all his appointments. In 1722 he placed Ukraine under the jurisdiction of the Senate and refused to allow the election of a new Hetman. The next year he summarily arrested a delegation of fifteen senior officers who had petitioned him to restore their country's autonomy and introduced Imperial Russian legal procedures into all Hetmanate courts. From 1728 three of the six judges in the Supreme Court were required to be Russians. Formally charged with overseeing the proper implementation of local law, these judges had the authority to apply Russian law in cases in which they thought that Ukrainian legal provisions were either inapplicable or dated. The tsar's centralist mercantilist economic policies included predatory measures specifically directed against Hetmanate trade and manufacturing.<sup>41</sup> After Peter died, the government rescinded some of his decrees and permitted the election of a new Hetman. It did not issue an amnesty, return lands to any Mazepist family, nor channel any confiscated wealth into economic development. From 1727, Ukrainians no longer participated in the preparation of the legal act that defined their autonomy, and by the end of the century non-Ukrainians controlled most of the remaining urban commerce and manufacturing.

In eighteenth-century Russia, nobles had privileges of, but no inviolable rights to, representation, life, liberty, and property. Tsarist power was not limited by estate assemblies, and dealings with the Hetmanate were not restricted by treaty stipulations. Insofar as Russian envoys to Khmelnytsky in 1654 claimed that they had not sworn to abide by the Pereiaslav Treaty in the name of the tsar, tsarist officials could interpret Ukraine's status as one of unilateral submission. Since its allegiance was deemed unconditional, the Hetmanate had no rights, only granted privileges which the sovereign could revoke or change at will.<sup>42</sup>

Catherine II justified her policies of centralization in these terms as well as by reference to Enlightenment theories of government. Once she learned that London's refusal to extend English rights and liberties to its American subjects provoked them to rebel, moreover, she may have concluded that pre-1776 English-American relations provided practical proof of the wisdom of judiciously extending metropolitan privileges and practices to peripheral elites on generous terms in order to maintain stability and promote uniformity.<sup>43</sup> Catherine thus abolished the Hetmanate and its court (1784) on the grounds that the region had been subject to Russian rule long before 1654, that the Pereiaslav Treaty was not a contract, and that Ukraine's claims to a separate judicial and administrative system disrupted good order. At the same time, by granting cossack officers the right to apply for cheap loans from the imperial Noble Bank in 1783 and extending to them the 1785 Charter of the Nobility, Catherine made it very easy for the Ukrainian elite to reconcile itself to the abolition of their separate institutions. Significant as well was the fact that the cossack elite did not oppose the abolition of the office of Hetman in 1764 because they interpreted as tyrannical the last incumbent's attempt to make his office hereditary.

By 1795 Catherine had also dissolved the Hetmanate's army and transferred the remaining Ukrainian military unit, the Black Sea Cossack Army, to the Kuban region. Unlike the English, who allowed Scottish regiments to adopt a stylized Highland dress, the Russians ordered the ex-Zaporozhians to shave their distinctive scalp locks and dress in the Cherkassian, rather than the "Little Russian" style.<sup>44</sup> Similarly, the Azov Cossack Army (1828-65), made up of Zaporozhian cossacks and their descendants, as well as the standing regiments in the Ukrainian provinces after 1800, did not wear nationally distinctive uniforms. Also unlike British kings, who by 1712 trusted the Scots enough to garrison Scots Guards in London as part of the Household Brigade, the tsars seem to have had doubts about Ukrainians. A squadron of



Black Sea Cossacks attached to the Imperial Guard to serve as a personal escort to the sovereign in 1811 was disbanded in 1855.

Eager to show Europe that her country was not barbarous, Catherine, in her most important legislative document, the Nakaz of 1767, remarked that she was not a despotic autocrat because she would not arbitrarily modify her proposed Fundamental Law that was to be equally applied to all nobles.<sup>45</sup> But she did not include territorial autonomy within her notion of Fundamental Law, nor was she influenced by Montesquieu's opinion that privileged groups with unequal rights constitute a necessary check on royal despotism. Thus, even in her theoretical ruminations, she left open the possibility that local privileges could be categorized as injunctions or regulations, rather than as laws, thereby retaining the prerogative of "legally" changing or annulling privileges at will.<sup>46</sup>

Among the leading thinkers from whom Catherine picked and chose her ideas was William Blackstone—one volume of whose *Commentaries on the Laws of England* was translated into Russian by Ukrainian-born Semen Desnytsky, a graduate of Glasgow University and the first professor of Law at Moscow University. In his introduction, Blackstone deals with the "countries subject to the Laws of England," and his description of Wales perhaps influenced Catherine's policy to the Hetmanate: "By other subsequent statutes their provincial immunities were still further abridged, but the finishing stroke to their independence was given by the statute 27 Henry VIII c. 26 which at the same time gave the utmost advancement to their civil prosperity by admitting them to a thorough communication of the laws with the subjects of England."

Blackstone specified that the Scottish Church remained independent in Britain, but someone ignorant of the power of the Lord Advocate and the devolved nature of British administration could have construed from his account that Scotland was much more dependent on London after 1707 than it was in reality.<sup>47</sup> Thus, Catherine might have flattered herself that her borderland policies were not much different from those that the British constitutional monarchy, so idealized by some at the time, supposedly enacted in its Celtic borderlands.

Since the tsarist prerogative was unlimited by laws or institutions, what actually determined the Hetmanate's status was the power of Russia's rivals. As long as Sweden, Poland, and Turkey posed a threat to Russia and the cossacks represented an important military force, Ukraine could realistically threaten to ally with one of Russia's rivals and secede unless its autonomy was respected. To forestall this possibility, the tsars were obliged to respect

Ukrainian particularities. Thus, Peter did not formally change Ukraine's political status until after the Treaty of Nystadt (1721), which secured Russian supremacy over Sweden and Poland. Catherine abolished the Hetmanate and then destroyed the Zaporozhian Sich only after a successful war against Turkey (1774) had pushed its borders back to the southern shores of the Black Sea.

Cossack leaders up to and including Mazepa did not share the tsars' interpretation of the Pereiaslav Treaty and regarded their relations with Russia as contractual. The cossacks were prepared to render allegiance only for so long as the tsar was prepared to defend their country and respect its rights, and they saw themselves as being legally entitled to seek a new sovereign if the tsar infringed upon their privileges and autonomy, regardless of the theories about the dynastic legitimacy of tsarist rule over Little Russia. In 1659 Hetman Vyhovsky had already responded to the tsar's attempt to increase arbitrarily the number of military governors in the Hetmanate by using such an argument, to justify his attempt to secede from Muscovy.<sup>48</sup> This understanding of liberty in terms of privileges vis-à-vis the monarch can be found later in the writings of Montesquieu and Diderot, who argued that particularist privileges represented necessary checks on the royal will and that attempts to alter or abolish them amounted to tyranny.

### **LOYALISM AND PATRIOTISM BEFORE 1832**

After 1709 the Ukrainian elite made no other serious attempts to separate, yet their political autonomy was progressively eroded. Whereas the Scots after Culloden could still interpret the Union Treaty as they saw fit, Ukrainian-cossack leaders after Poltava had to profess publicly that they accepted the Pereiaslav Treaty as one of unilateral submission. The arrest for treason in the 1760s of some of those who did not submit presumably intimidated others and reminded them of Peter's wrath.<sup>49</sup>

Ukrainians and Scots had rights and privileges as members of supranational imperial elites and saw nothing "unpatriotic" in seeking assimilation into this elite. But Peter's use of force and Catherine's later abolition of Hetmanate institutions made post-1709 loyalist politics in tsarist Little Russia different from the post-1746 loyalist politics in North Britain. On one hand, "unconditional loyalists" in both countries regarded particularities as anachronistic obstacles to the government's regulation of society or as anarchic relics of a barbaric past incompatible with progress, monarchical sovereignty, and imperial unity. Such men opposed devolution in principle

and, beyond sponsoring clients for office occasionally, did little to promote the regional interests of their homeland in the imperial capital.

On the other hand, "conditional loyalists" in both countries asserted group or territorial interests. Scots, for their part, complained that the English did not share the Scottish view of the Union as a partnership of two "British nations," were reluctant to recognize Scots as political equals, and as a result tried to exclude Scots from reforms by enacting them only in England. Scots vigorously protested they were loyal and should be included whenever they perceived such an exclusion. Scots also rallied to oppose government proposals that they considered to be in violation of the Union if these measures happened to be proposed by ministers in London rather than by Scots in Scotland. In both cases Scots worked through the institutions guaranteed by the Union, which thus kept them and a notion of Scotland alive and relevant.<sup>50</sup> Eighteenth-century Ukrainian cossack officers similarly resented a Russian assumption of superiority over them and claimed that such attitudes should not sway a truly just tsar who would not arbitrarily overrule native institutions and traditions because Little Russia joined the empire voluntarily and its people were ethnically related to Russians. Such men kept alive the contractual interpretation of the Treaty of Pereiaslav by alluding to it in unpublished manuscript histories of their country. They also tried to resist the extension of central control over the Hetmanate within the parameters of the tsarist cam-eralist state and the theory of unilateral submission of the Treaty. Ukrainian "conditional loyalists" after 1721, however, were weaker politically than their Scottish counterparts after 1746. First, Ukrainians had to base their activity on the official view that the Hetmanate's particularities and liberties were privileges recognized by grace, not rights based on law. Second, they had no access to presses nor a single central representative assembly in which they could make their case publicly; and their native civil institutions were all abolished by 1785. Third, memories of 1709 obliged spokesmen to be extremely circumspect when presenting their case. Their politics were restricted, consequently, to swaying opinion in Petersburg by exploiting client-kinship networks. Conditional loyalists could only argue that, because the autonomy and i privileges of loyal cossacks were compatible with tsarist sovereignty in they past, these should be maintained, not arbitrarily replaced by novel institutions and practices derived from foreign models.<sup>51</sup> After Peter I's death, conditional loyalists requested each new monarch to restore graciously earlier privileges and autonomy. These were either recognized or not, in whole or in part, depending on circumstances and the balance of forces at court. In 1832 a committee decided against granting what was to be

the last such request "for the good of the empire, whose unity and might is preserved under the protection of the autocracy, division into independent parts, or more correctly into a federal union of provinces with their own rights, cannot be allowed."<sup>52</sup> The last vestige of Ukraine's legal autonomy disappeared in 1843, when the Lithuanian Statute was abolished.

## LOYALISM AND NATIONALISM AFTER 1832

The British Reform Act (1832) extended the vote to businessmen and professionals without challenging the landed gentry in the countryside. This act extended political influence to the two social groups that dominated and ran everyday affairs in the cities and obliged the new political parties to be sensitive to Scottish opinion. The expansion of government begun in the 1840s led to the formation of ad hoc extensions in Scotland of English agencies and ministries and to concerns about efficient administration which culminated in a Scottish Office (1885) and calls for Home Rule. By the end of the century, although Scotland's boards and departments were part of a central administration, they exercised Scottish control over Scottish affairs and were the agencies of a new middle class that had taken over self-government from the aristocrats. Semi-autonomy provided favourable conditions for Scottish capitalism and economic improvement; and, since loyalism continued to bring tangible benefits, those who mattered in Scotland had little interest in the separatist political nationalism so attractive to their continental counterparts.<sup>53</sup> Literate Anglicized Scots living in a political system that brought material prosperity to Scotland while preserving its law, church, administration, and educational system could become a modern nation peacefully. London did not repress cultural nationalists who did not oppose Union before World War I, while, after the 1830s, the legal distinction between seditious libel and seditious conspiracy meant that few radicals of any sort could be subject to arrest. Ministers were unconcerned about the erection of monuments to Wallace (1270-1305), a symbol of anti-English resistance, and never legislated against Gaelic or Scots English, even when Jacobitism was a threat. In any case, by the nineteenth century, few Gaelic speakers, and the fact that Scottish romantics imagined their Highland heroes as English speakers, meant that language could not have the same symbolic importance to Scottish as to other nationalisms.

In 1822, as part of a ministerial strategy to counter the influence of radical ideas that two years earlier had provoked the Radical War, George

IV visited Scotland dressed in a kilt, feather bonnet, and tartan. He thereby gave official legitimacy to items of clothing hitherto identified with rebellious Highlanders and treasonous Jacobites. Politically safe, socially acceptable, and fashionable, this clothing soon became a symbol of Scotland.<sup>54</sup> This event, alongside Walter Scott's popular romantic novels about the Highlands, transformed Jacobitism from a movement that was threatening London with a call for liberty in a revised Union under native kings into an acceptable element of loyalist Scottish identity and advertising matter for the recently created tourist business. Gaelic-speaking Highlanders, meanwhile, called "bare-arsed bandits" sixty years earlier and systematically evicted from their farms during the first half of the nineteenth century to make room for sheep, now became celebrated tragic heroes. The power of this coopted Britannic-Scots nationalism was shown in 1857, when the first modern nationalist group, the National Association for the Vindication of Scottish Rights, dissolved itself four years after its formation.<sup>55</sup>

In 1914 the nobility was still the most important social group in Russia, and the few professionals and entrepreneurs had only begun to win political influence. The centralized Ministry of the Interior did not delegate authority to its regional branches and retained rights of control and veto over local bodies that were allowed to exist after 1861. Political parties remained illegal until 1905. Under Nicholas I, the empire's laws were codified and began to be published in 1830. The judiciary was partially separated from the executive in 1864, but Russia remained a country in which no distinction was made between a decree or regulation and a law. All administrators were deemed personally responsible to the tsar, and according to paragraph 47 of the Code, laws "emanated from the power of the sovereign." In contrast to western European governments which employed selective and limited repression internally only against radicals who committed acts of violence, tsarist ministers enacted the 1881 Security Law against domestic radicals. Applied throughout the empire, this law allowed governors to exile arbitrarily anyone even suspected of an undefined "political unreliability" for up to five years.<sup>56</sup> The Fundamental Law of 1905 allowed "special laws" only for Finland and did not prevent the tsar from ruling by executive fiat.

The history of the Ukrainian nobility has yet to be written. Among the subjects needing research are questions such as how many nobles in Ukraine were involved with the national movement either as patrons or participants and how many tried to modernize their estates rather than work in administration. Which of those in service sponsored countrymen into

positions and tried covertly or overtly to influence the implementation of policy in their home provinces? Were there client networks and informal factions that advanced or protected regional interests? Ukrainians held at least half of the local offices in their native provinces up to 1914, and although these were under the authority of central ministries at all levels, local "Ukrainian interests" could influence policies during implementation. Finally, what impact did regional associations have on development and what was their relationship to the traditional elite and the national movement?<sup>57</sup>

On the basis of what is known, it is likely that by the mid-nineteenth century few noble conditional loyalists remained. Memories of Peter's terror had faded, and the grandchildren of the last cossack officers seemed to be pleased with their privileges. In 1817, a travelling Russian observed: "The Rozumovskys, the Zavadovskys, the Bezborodkos and many others were powerful [Ukrainian-born] magnates influential at court. But judging from the present conditions of Little Russia one cannot see that anyone of them cared about the advantages of his country and improved her lot. It seems that a happy man forgets everything except himself and that for fortune's sake any country becomes a fatherland."<sup>58</sup> With approximately 40 percent of the entire imperial nobility in government service and no more than 20 percent registered as full-time landowners by 1900, the overall position of the nobles was worse in Russia than in Britain,<sup>59</sup> and the probable indifference of the Russified Ukrainian nobility to its native country stood in stark contrast to the involvement of the Anglicized Scottish nobility in Scotland.

Samuel Johnson's remark about great, learned, ambitious, and vain Scots voluntarily learning English is applicable to their Ukrainian counterparts, who were learning Russian at the other end of Europe. In time more and more educated Scots and Ukrainians came to regard their native languages as corrupted forms of literary Russian or English, even though most of both entities remained bilingual, and Scotticisms or Ukrainianisms persisted in their writing. But in nineteenth-century Ukraine, unlike Scotland, modern national identity became incompatible with loyalism. Tsarist officials hostile towards manifestations of Cossack-Ukrainian institutional particularism tolerated and promoted until midcentury, nonetheless, a regional "Little Russian" cultural nationalism because of its anti-Polish value, just as they approved of Finnish nationalism because of its anti-Swedish value. Had Petersburg continued to support cultural nationalists who romanticized Cossacks and were trying to create literary versions of the vernacular and remained indifferent to how they interpreted history and ethnography, the

result may have been a loyalist Ukrainian nationalism acceptable to the traditional elite. Ethno-linguistic, instead of institutional, criteria of national identity, it should be added, had by then become particularly important to the new generation of Ukrainian intellectuals. Belonging to a people that no longer had distinct laws and civil institutions, these activists had little alternative but to build their definition of national identity on the vernacular and culture of the common folk, since these elements still distinguished Ukrainians from the rest of the tsar's subjects.

Tsars had visited Little Russia before the 1830s. When in 1827 Nicholas I appointed his son *Ataman* (Commander) of the Don and Ural cossacks, he dressed appropriately for the installation ceremony in Novochoerkassk. Yet when Nicholas travelled to Kiev, Poltava and Kharkiv in 1832, he did not use that opportunity to win Ukrainian hearts by visiting them dressed as a Herman. Circumstances were propitious for such a token gesture that would have signalled the compatibility of a romanticized version of Ukrainian cossack identity with imperial loyalty. Secret police reports claimed that, except for the Poles, people were vying with each other in loyalty and that the number of political freethinkers fell daily.<sup>60</sup> Provincial vice-regencies still existed, and Ukrainian nobles still adorned their salons and dining rooms with portraits of the pro-tsarist Hetmans. The remaining cossacks had just received a number of favourable decisions concerning their status; Ukrainian subject matter, particularly the work of Nikolai Gogol, was popular among the Russian reading public; and in the wake of the Polish Revolt, educated Ukrainians and Russians shared a strong anti-Polish sentiment.<sup>61</sup> By the 1860s this conjuncture had passed. Apprehensive over the violence perpetrated by revolutionary Polish nationalists and radical socialists, ministers began to listen more frequently to those who claimed that non-Russian nationalists were the potential allies of groups who sought to destroy the empire. They increasingly ignored those who argued that the loyalty of minorities would be better won by accommodating differences.

In 1847, the chief of police, fearing that the interest in folklore and regional history could foster separatist sentiment, ordered the arrest of the leading members of the first modern Ukrainian nationalist organization, the Cyril and Methodius Brotherhood, whose members were mostly government employees.<sup>62</sup> Although by 1868 portraits of pro-tsarist Hetmans had disappeared from the Ukrainian nobles' reception halls, that year the tsar consented to the construction of a statue to Hetman Khmelnytsky (1596-1657) in Kiev. He gave his consent despite the fact that six years earlier he had decided to forbid the

same sculptor from including Shevchenko in his monument commemorating the millenium of Russia. A year later, in 1863, the government banned the use of the Ukrainian vernacular yet allowed the Finnish Diet to meet for the first time in fifty-five years.<sup>63</sup> Prepared on the one hand to incorporate Khmelnytsky into the imperial pantheon as a "unifier of Russia," the government refused to allow moderate loyal cultural nationalists to create a literary version of the Ukrainian vernacular on the other. As a result, in official eyes this language became associated with disloyalty and anything defined as Ukrainian culture became politically suspect. Inevitably, the police began to keep a close watch on, and arrest, romantically minded students who dressed as cossacks or wore embroidered linen peasant shirts.<sup>64</sup> By choosing to control peripheral territories by cultural as well as political centralization, officials obviously made the emergence of loyalist non-Russian nationalisms difficult, if not impossible. Nor was this an attitude that encouraged local native nobilities to seek exemptions or favours for their provinces.

The repression of cultural nationalists, however, also fostered the emergence of a modern Ukrainian literature that became more than just a medium for the depoliticized nostalgia of the sort found in Gogol's Ukrainian novels. In the second half of the century Ukrainian became the medium for the nationalism of Shevchenko, an author whose works fused a romantic interpretation of the Ukrainian cossack past with the idea of modern political liberty—a link between history and current politics not found in Burns or Scott. Official harassment also ensured that Mazepism did not turn into a harmless sentimental nostalgia but became, instead, a political precedent for radical nationalists. By 1905, seeing that loyalism brought no concessions, a new generation stopped seeking ministerial favour or tsarist grace and, instead, began to demand political and cultural autonomy as a constitutional right.

## CONCLUSION

The fates of Scotland and Ukraine in the eighteenth and nineteenth centuries illustrate the importance of laws and civil institutions in shaping the national identity of stateless minorities. By the end of the eighteenth century, such factors as favour, coercion, and economic circumstances had combined to link Scottish and Ukrainian elite interests to those of the empires to which they belonged. War against common Muslim enemies (Turkey and Persia) also probably contributed as much to forging an imperial Russian loyalty



among Ukrainians as war against Catholic powers helped create the British identity for Scots. In an age when imperial and regional loyalties were still compatible, Walter Scott no doubt echoed the feelings of many countrymen when he wrote that while his heart was Jacobite, his reason was Hanoverian and loyalist. Similarly, Nikolai Gogol wondered whether his soul was Ukrainian or Russian.<sup>65</sup> By the beginning of the twentieth century, however, the legal, institutional, and political differences between Great Britain and tsarist Russia had led to profound differences between Scotland and Ukraine. Whereas Scottish subordination to England and its commitment to empire did not imply subservience nor the destruction of Scottish identity, the Ukrainian subordination to empire almost did erase Ukrainian identity. One major difference lay in the degree of coercion each government could use against its population. In Great Britain, a minority made law and often overrode customs and traditions that the majority regarded as just. Vagabonds could be summarily punished by magistrates despite the Magna Carta. Yet the fact that vengeful retribution against declared rebels had to follow the law precisely, even under Henry VIII, when England was poorer than its main continental rivals, cannot be ignored.<sup>66</sup> Since the crown had to make cases against specific persons and had to prove treason in open court, it could not employ terror against its subjects, let alone hope to maintain Scottish loyalty through fear. It was of no little importance to Scotland's fate after 1707 that it was part of a country in which law mattered and that according to that law and opinion it was not a colony. Unlike Jamaica or North America, Scotland was not subject to England by right of conquest; its political status was not subject to the will of the king or circumstances in London; and it was never ruled by military governors or viceroys. Government culpability for the excesses committed by troops in 1746 is doubtful; and, although it mattered little to victims, historians should note that the killing in Scotland pales in light of the butchery of 1708-11 in Cossack-Ukraine and the massacres of 1857 in India.<sup>67</sup>

In Russia, law gave no protection even to the noble minority as a group, and the tsars were not subject to law, which actually obliged loyal subjects to denounce suspected traitors. Peter's measures against the Cossack elite accordingly claimed many more victims than did Britain's punitive measures after Culloden, created an atmosphere of terror, and were decisive in forcing a discontented elite to accept unfavourable terms of submission. In the nineteenth century, repression and then the officials' indiscriminate use of far-reaching emergency legislation alienated educated Ukrainians. The

government, instead of winning the loyalty of cultural nationalists, forced them to choose between empire and nation, gave them reason for opposition, and provoked the boldest to become political radicals.

A second major difference between Britain and Russia lay in their respective political structures, which determined the fate of institutional autonomy in the peripheral territories. Scottish law, the church, city councils, schools and client networks—the institutional base of national identity—remained in place after 1707 because Britain had a non-interventionist constitutional monarchy that did not force integration. English "liberties" stipulated in the Union permitted distinctive Scottish institutions to function free of supervision by central officials. Conditional loyalists could protest when they saw Parliament enacting laws intended to apply only in England and legally oppose parliamentary attempts to legislate in Scotland. Scottish institutions, consequently, were never identified with oppositionist or extremist politics, and thanks to them, Scottish national identity did not have to depend on radicals, language, nor folk culture. Because the Union allowed a loyalist elite to preserve Scottish institutions and to use them to promote Scottish interests, from the perspective of the twentieth century, loyalism was compatible with modern Scottish national identity which emerged despite Anglicization, railways, migration, commerce, political dependency, and the destruction of the clan system. Cultural nationalists, never censored, harassed or repressed, did damn the English, and lament the fate of the nation. Their distorted theatrical view of Scots as Highlanders which came to symbolize Scots in the popular mind, is mocked today as kitsch by political nationalists. Nevertheless, once British monarchs began to parade in Highland dress, they demonstrated that no element of Scottish culture carried a stigma of disloyalty any longer, despite a history of rebellion against English domination.

The tsars recognized no immutable rights within their realm and tolerated Ukraine's legal and institutional particularities merely as privileges dependent on their will and expediency. The Ukrainian elite enjoyed no legally defined rights that were contractually binding. They also had no central representative assembly in which to make appeals, and after 1709 they had to cope with a collective memory of terror as well as the indifference or hostility of an unconditional loyalist majority whose numbers grew even as the Hetmanate's institutions disappeared. Conditional loyalists who resisted administrative centralization became a minority that by the mid-eighteenth century could do little more politically than to try to convince the sovereign not to listen to those who opposed devolution and

to protect or restore an autonomy in which fewer of their countrymen were interested with each passing generation. Insofar as such efforts maintained native institutions, they provided a civic basis for the Ukrainian national identity. Insofar as these efforts failed, they made a radical ethnic nationalism more likely in Ukraine. The courage of those who challenged the government in the nineteenth century undoubtedly helped create a community able to resist. But in the absence of distinctive institutions, such as those Scotland possessed, calls for liberty and opposition to oppression alone could not create the balanced interaction between society and government that characterizes modern integrated democratic national states. The absentee Little Russian loyalist careerists in Petersburg and their poorer estate-bound cousins, finally, seemed to have concerned themselves with personal or imperial interests after the 1840s. They brought no benefits to their homeland, unlike the absentee Anglicized Scottish careerists in London and their local agents, who, could make personal profit out of being part of the Union while preserving Scottish institutions and promoting economic modernization.

Although by the 1860s the climate of opinion in Petersburg had become antipathetic to the lobbying of Ukrainian cultural nationalists, they continued nonetheless and thereby provided the government with an option of sponsoring a loyalist Ukrainian nationalism at least until the turn of the century. Instead, no tsar legitimized the external symbols of Ukrainian identity by parading in them. Proscription lent the Ukrainian language and culture a stigma of disloyalty that they had previously lacked; and by the second half of the century, they were confined to private life. Arbitrary repression by ministers who regarded loyalism and Ukrainian national identity as incompatible, meanwhile, created fertile ground for radical political nationalists and undermined the credibility of moderate cultural activists, who, in the absence of distinctive laws and civil institutions, had little choice but to build modern Ukrainian nationality on cossack romanticism and peasant culture. During and after the 1905 revolution even Russian liberals considered Ukrainian demands for territorial autonomy in the name of national self-determination to be extreme. No tsarist minister responded to Ukrainian demands with a statement that could be compared to Churchill's 1911 remark on Scottish Home rule: "There is nothing which conflicts with the integration of the United Kingdom in the setting up of a Scottish parliament for the discharge of Scottish business."<sup>68</sup>

1. P. Hopkirk, *The Great Game. On Secret Service in High Asia* (London, 1990), 64-66. Scots in British service have been well studied, see for example A. Dewar-Gitts, *Scottish Empire* (London, 1937). Little has been written on Ukrainians in tsarist service: K. V. Kharlampovich, *Malorossiiskoe vlianiie na velikorusskuiu tserkovnuiu zhizn* (Kazan, 1914) covers the eighteenth-century clergy; D. Saunders, *The Ukrainian Impact on Russian Culture 1750-1850* (Edmonton, 1985), 41-143, mentions a number of important early nineteenth-century figures.

2. E. Borschak, *Hryhor Orlyk France's Cossack General* (Toronto, 1956), 72. Ukrainians praised Keith for his benevolence during his tenure of office.

3. M. Ie. Slabchenko, *Materiialy do ekonomichno-sotsialnoi istorii Ukrainy XIX stolittia* (Kharkiv, 1925), 74-102; E. Borschak, *Napoleon i Ukraina* (Lviv, 1937) discusses plans for Ukraine, not their influence; O. Ohloblyn, *Liudy staroi Ukrainy* (Munich, 1959), notes that the Terror and peasant emancipation limited the appeal of French ideas among Ukrainian nobles. In 1812, however, Napoleon had no intention of liberating serfs in the Russian empire. See W. Meikle, *Scotland and the French Revolution* (Glasgow, 1912); J. D. Brim, "The 'Scottish Jacobins,' Scottish Nationalism and the British Union," in R. A. Masqn, *Scotland and England 1286-1815* (Edinburgh, 1987), 247-61.

4. T. Nairn, "Old Nationalism and New Nationalism," G. Brown, ed., *The Red Paper on Scotland* (Edinburgh, 1972), 22-57; T. C. Smout, "Problems of Nationalism Identity and Improvement in Later Eighteenth-Century Scotland," T. M. Devine, ed., *Improvement and Enlightenment* (Edinburgh, 1989), 1-20; J. M. Mackenzie, "Essay and Reflection: On Scotland and the Empire," *The International History Review*, no. 4 (November 1993), 714-39; G. Morton, "A Tale of Two States: Scotland in the Eighteenth and Nineteenth Centuries," J. G. Beramendi et al., *Nationalism in Europe Past and Present* (Santiago, 1993), II:223-46; L. Paterson, *The Autonomy of Modern Scotland* (Edinburgh, 1994); I. L. Rudnytsky, *Essays in Modern Ukrainian History* (Edmonton, 1987), 11-36, 91-141, 375-416.

5. M. Flinn, *Scottish Population History from the 17th century to the 1930s* (Cambridge, 1977), 313.

6. Cited in L. Colley, *Britons* (New Haven, 1992), 413.

7. T. Feodor, *Patterns of Urban Growth in the Russian Empire during the Nineteenth Century*, (Chicago, 1975), appendix I.

8. Recent histories include: R. Mitchison, *A History of Scotland* (2nd ed., London, 1982); M. Lynch, *Scotland, A New History* (London, 1991); O.

Subtelny, Ukraine: A History (Toronto, 1988); P. R. Magocsi, *A History of Ukraine* (Toronto, 1996).

9. In the eighteenth century and presumably earlier, per-capita income differentials within Europe, as well as between Europe and the rest of the world, were minimal. A huge gap between the richest and poorest countries begins to appear only in the nineteenth century. P. Bairoch, *Economics and World History* (New York, 1993), 102-8. H.J. Berman, *Law and Revolution. The Formation of the Western Legal Tradition* (Cambridge, MA, 1983), 292-4, 455-6. Only very recently have some Marxists stopped regarding all states as equally repressive and law and constitutions as "instruments of class rule." H. J. Berman, *Law and Revolution, The Formation of the Western Legal Tradition* (Cambridge, MA, 1983), 292-4, 455-6. Marxists regarded all states to be equally oppressive and law and constitutions as "instruments of class rule." E. P. Thompson, *Writing by Candlelight* (London, 1980) and *Poverty of Theory* (London, 1978). Theories linking nationalism with industrialization cannot explain nationalism in countries where it preceded industrialization. M. Mann, "The Emergence of Modern European Nationalism"; J. A. Hall, J. C. Jarvie, eds., *Transition to Modernity* (Cambridge, UK, 1992), 139-63. On the shortcomings of "internal colonialism," a model that explains nationalism in terms of economic dependency, see D. McCrone, *Understanding Scotland, The Sociology of a Stateless Nation* (London, 1992), 55-69.

10. V. E. Durkacz, *The Decline of the Celtic Languages: A Study of Linguistic and Cultural Conflict in Scotland* (Edinburgh, 1983); J. Prebble, *The Highland Clearances* (London, 1963).

11. English chroniclers and historians up to the eighteenth century claimed that Roman Britannia included all of Britain, thus implying that when the Romans left imperial authority devolved to English kings. Scots chronicles and histories noted that Scotland had never been ruled by any southern authority. C. Kidd, *Subverting Scotland's Past, Scottish Whig Historians and the Creation of an Anglo-British Identity 1689-c. 1830* (Cambridge, UK, 1993). On the arguments of the "Pro-English faction before the Union of Crowns, see R. A. Mason, ed., *Scotland and England 1286-1815* (Edinburgh, 1987) 60-92.

12. Medieval continental rulers normally gave manorial and territorial autonomy in return for noble support. This left later monarchs with the problem of eliminating it. In England, nobles got power in a central parliament in return for enforcing the King's law on their manors and in the shires. M. Raefl, *The Well-Ordered Police State: Social and Institutional Change Through Law in the Germanies and Russia 1600-1800* (New Haven, 1983); R.

Frame, *The Political Development of the British Isles 1100-1400* (Oxford, 1990); B. P. Levack, *The Formation of the British State* (Oxford, 1987); J. Brewer, *The Sinews of Power* (London, 1989); J. Bulpitt, *Territory and Power in the United Kingdom* (Manchester, 1983). B. I. Ingraham, *Political Crime in Europe. A Comparative Study of France, Germany and England* (Berkeley, 1979), 56.

13. J. S. Gibson, *The Thistle and the Crown. A History of the Scottish Office* (Edinburgh, 1985). A. Murdoch, *'The People Above' Politics and Administration in Mid-Eighteenth Century Scotland* (Edinburgh, 1980). J. S. Shaw, *The Management of Scottish Society* (Edinburgh, 1983). Whether or not Scotland was a dominated underdeveloped client of England is a major issue in modern historiography. See D. Szechi, "The Hanoverians and Scotland," in M. Greengrass, ed., *Conquest and Coalescence* (London, 1991), 116-33; McCrone, *Understanding Scotland*, 34-88; N. MacCormack, ed., *The Scottish Debate* (Oxford, 1970).

14. Cited in Colley, *Britons*, 120. M. W. McCahill, "Peerage Creations and the Changing Character of the British Nobility, 1750-1850," *English Historical Review*, 96 (April 1981), 263. Compared to their English opposites, Scottish families had more sons and smaller fortunes. J. Hayes, "Scottish Officers in the British Army," *Scottish Historical Review*, 37 (April 1958), 29.

15. C. Kidd, "Enlightened Identity and the Rhetoric of Intention," in D. Allan, ed., *Virtue Learning and the Scottish Enlightenment* (Edinburgh, 1993), 148-60; *Idem*, "Teutonic Ethnology and Scottish Nationalist Inhibition 1780-1880," *Scottish Historical Review* (April 1995), 45-68.

16. F. McLynn, *The Jacobites* (London, 1985). Highland chiefs resented their exclusion from the Argyll-government patronage network more than they did the Union.

17. M. G. Pittock, *The Invention of Scotland. The Stuart Myth and the Scottish Identity 1638 to the Present* (London, 1991), 99-133.

18. V. M. Kabuzan, *Narodonaselenie Rossii* (Moscow, 1963), 162-4.

19. B. Struminsky, "The Language Question in the Ukrainian Lands Before the Nineteenth Century," R. Picchio and H. Goldblatt, eds., *Aspects of the Slavic Language Question* (New Haven, 1984), II: 9-47.

20. On monarchical authority, see M. Szeftell, "La monarchie absolue dans l'Etat muscovite et l'Empire russe (fin XV siècle-1905)," *Russian Institutions and Culture up to Peter the Great* (Variorum Reprints) (London, 1975), 727-57; N. Henshall, *The Myth of Absolutism* (London, 1992). On Ukrainian-Russian treaties, see A. Iakovliv, *Ukrainsko-Moskovski dohovory v XVII-XVIII vikakh* (Warsaw, 1934).

21. In 1754, Empress Elizabeth decreed that native Russians should also be among the candidates for church office. I. Ohienko, *Istoriia Ukrainskoi kul'tury*, 3rd ed. (Winnipeg, 1970), 93.

22. V. O. Holobutsky, *Ekonomichna istoriia Ukrainskoi RSR* (Kiev, 1970), 137-46; B. N. Mironov, "Eksport Russkogo khleba vtoroi polovine XVIII-nachale XIX," *Istoricheskie Zapiski*, no. 93 (1974), 173-88. Official postwar Soviet historiography did not treat relations between post-annexation Russia and non-Russians in terms of economic colonialism. Not all historians agree that Russian dominance retarded economic growth. Some argue that Ukrainian independence would not have guaranteed better laws, more foreign capital, skilled workers, local entrepreneurs, cheap fuel, or cheap labour. K. Kononenko, *Ukraine and Russia: A History of the Economic Relations Between Ukraine and Russia (1654-1917)* (Milwaukee, 1958); M. Spechler, "The Regional Concentration of Industry in Imperial Russia 1854-1917," *Journal of European Economic History* (Fall 1980), 401-29; *idem*, "Development of the Ukrainian Economy 1854-1917: The Imperial View," I. S. Koropec'kyj, ed., *Ukrainian Economic History* (Cambridge, MA, 1991), 261-76; I. S. Koropec'kyj, *Development in the Shadow: Studies in Ukrainian Economics* (Edmonton, 1990), 43-111.

23. S. Velychenko, *National History as Cultural Process. A Survey of the Interpretations of Ukraine's Past in Polish, Ukrainian and Russian Historical Writing from Earliest Times to 1914* (Edmonton, 1992), 148-60.

24. O. Subtelny, *The Mazeppists. Ukrainian Separatism in the Eighteenth Century* (Boulder CO, 1981), covers elite politics. There is no study of how much popular support Mazepa and Mazepism had that is comparable to J. K. Monod, *Jacobitism and the English People, 1688-1788* (Cambridge, UK, 1989).

25. The relationship between politics and kinship within the Hetmanate elite is little studied. O. Ohloblyn, *Herman Ivan Mazepa ta ioho doba* (New York, 1960), 288-319 lists which officers supported Mazepa in 1709.

26. Cited in: W. A. Speck, *The Butcher. The Duke of Cumberland and the Suppression of the '45* (Oxford, 1981), 127; J. Black, *Culloden and the '45* (Phoenix Mill, UK, 1990), 193-4.

27. Historians have not determined the total number of deaths. The most important source from which an approximate figure could be derived is H. Paton, ed., *The Lyon in Mourning*, 3 vols (Edinburgh, 1895). Six months after the battle spies in the western Highlands reported that 610 men were dead but did not specify whether they died at the hands of punitive

detachments. C. S. Terry, ed., *The Albemarle Papers* (Aberdeen, 1902), 1:337. After the 1857 Indian Mutiny, British troops, acting with extraordinary powers and arguably ignoring a clemency order, summarily executed thousands of suspected rebels. C. Hibbert, *The Great Mutiny. India 1857* (London 1980), 166-7, 201-12.

28. J. Prebble. *Culloden* (London, 1961), 244-6. Speck, *The Butcher*, 173-7.

29. R. Mitchison, "Patriotism and National Identity in Eighteenth-Century Scotland," in T. W. Moody, ed., *Nationality and the Pursuit of National Independence* (Belfast, 1978), 73-87.

30. These were subject only to repayment of sums paid by the government to clear their debts. V. Wills, ed., *Reports on the Annexed Estates 1755-1769* (Edinburgh, 1973), XIV; A. J. Youngson, *After the Forty-Five* (Edinburgh, 1973), 26-27. The failure of these projects, the depopulation and transformation of the Highlands into pastures (the Clearances) after 1820, cannot be blamed on "English colonialism." Behind agrarian modernization lay falling agricultural prices, Scottish landlords influenced by the Scotsman Adam Smith, and laws passed by Scottish parliaments before Union. E. Hobsbawm, "Scottish Reformers and Capitalist Agriculture," in E. Hobsbawm et al, *Peasants in History, Essays in Honour of Daniel Thorner* (Oxford, 1980), 7-19; T. M. Devine, *Clanship to Crofters' War* (Manchester, 1994), 38-41.

31. J. M. Simpson, "Who Steered the Gravy Train 1707-1766?," in N. T. Philipson, R. Mitchison, ed., *Scotland in the Age of Improvement* (Edinburgh, 1970), 49.

32. H. C. B. Rogers, *The British Army of the Eighteenth Century* (London, 1977), 28-29; T. Hayter, *The Army and the Crowd in Mid-Georgian England* (London, 1978), 22-23. This assumes there were 10 sixty-man companies per regiment. Regiments at Culloden averaged 420 men.

33. D. Szechi, *The Jacobites Britain and Europe 1688-1788* (Manchester, 1994); F. McLynn, *Crime and Punishment in Eighteenth-Century England* (London, 1989), 159-65; M. Pittock, *The Myth of the Jacobite Clans* (Edinburgh, 1995), 58-65, 79, 84; B. Lenman, *The Jacobite Clans of the Great Glen 1650-1784* (London, 1984), 108-14, 174, 178.

34. C. Kidd, "North Britishness and the Nature of Eighteenth-Century British Patriotisms," *The Historical Journal*, no. 2 (1996), 365, 378-9; *idem*, *Subverting Scotland's Past*. 193-246.

35. Insofar as one article of the Treaty specified that Parliament could alter Scottish law, acts in conflict with the spirit of the Treaty can be construed as legal. From this perspective, changes in Scotland's status may be



interpreted as legal renegotiations of the terms of Union and not as infringements of the Union that amount to a loss of Scottish control over Scottish affairs. Legal alteration of the Act of Union did not diminish Scotland's distinctiveness. T. B. Smith, "The Union of 1707 as Fundamental Law," *idem. Studies Critical and Comparative* (Edinburgh, 1962), 12-18; C. R. Munro, "The Union of 1707 and the British Constitution," in P. S. Hodge, ed., *Scotland and the Union* (Edinburgh, 1994), 98-104.

36. Smout, "Problems of Nationalism, Identity and Improvement," 5.

37. Russian reports on Ukraine before the Swedish invasion noted a covert struggle between pro-Polish and pro-Turkish factions. Though both sides secretly denounced the Hetman, Peter thought Mazepa was loyal until his defection. But from as early as 1692, despite the shifts between these two groupings, the hetman sought to become an independent prince of those Ukrainian lands inhabited by cossacks. The tsar became aware of this only in 1709. O. Ohloblyn, *Studii z istorii Ukrainy* (New York, 1995), 146-60. On tsarist repression, see *idem*, *Hetman Ivan Mazepa*, 322-3; Subtelny, *The Mazepists*, 37, 50. O. Hrushevsky, "Hlukhiv i Lebedyn," *Naukovi Zapysky Naukovoho tovarystva im. Tarasa Shevchenka* XCII (1909), 51-65. The figure 900 is given in an anonymous history of Cossack-Ukraine written at the beginning of the nineteenth century (O. Ohloblyn, ed., *Istoriia Rusiv* [New York, 1956] 286). The papers of the Field Court Martial have yet to be studied to determine the exact number of executions.

38. M. Krykun, "Zhin naseleennia z Pravoberezhnoi Ukrainy v Livoberezhnu 1711-1712," *Ukraina moderna*, (1996), 84-85. These evictions were done in the winter, and the empty towns and villages were razed.

39. In Britain after 1628, seditious words were no longer tried as treason, and after 1650 hearsay evidence was inadmissible in court. By the 1720s torture was no longer part of the criminal procedure. C. Emsley, "Repression, Terror, and the Rule of Law in England during the Decade of the French Revolution," *English Historical Review* (October 1985), 801-25; I. Gilmour, *Riot, Risings and Revolution* (London, 1993), 139-43; Mond, *Jacobitism*, 234. In Russia a separate judiciary was formed in 1713, but anything deemed a political offence was dealt with by one of two separate chancelleries subject only to the tsar. J. Cracraft, "Opposition to Peter the Great," in E. Mendelsohn and M. S. Shatz, eds., *Imperial Russia 1707-1917* (DeKalb, IL, 1988), 24-26. Torture was formally abolished in 1801.

40. L. G. Beskrovnyi, *Russkaia armia i flot v XVIII veke* (Moscow, 1958), 44-47, 327; J. L. Keep, *Soldiers of the Tsar* (London, 1985) 138. This assumes that

there were 1,200 men per dragoon regiment, 1,300 per garrison regiment, and 1,500 per militia regiment. Roughly 20 percent of these troops were in Kiev, where they comprised as much as 30 percent of the population. See A. Perkovsky, "Pro chyselnist naseleennia m. Kieva na pochatku XVIII St.," *Ukrainskyi arkhoeohrafichnyi shchorichnyk*, 1 (1992), 144-52. The Hetmanate also maintained a cossack army of 50,000 and 6,000 men in land militia regiments.

41. In 1722 the Senate secretly instructed the resident Russian general to instigate Ukrainians to demand the introduction of Russian law. S. M. Soloviev, *Istoriia Rossii s drevneishikh vremen* (Moscow, 1963), bk. IX: 524. N. P. Vasylenko, *Materiialy do istorii Ukrainskoho prava* (Kiev, 1929), I: xi-xiii, xix; V. M. Horobets, *Vid soiuzu do inkorporatsii* (Kiev, 1995), 53. B. Krawchenko, "Petrine Mercantilist Economic Policies toward the Ukraine," Koropec'kyj, ed., *Ukrainian Economic History*, 186-209.

42. Legal ambiguities were fully exploited. For instance, in cases not covered by existing statutes, Ukrainian law permitted applying any other "Christian law"-and, of course, the Russians were Christian. Similarly, Peter interpreted the act of 1654 as providing cossacks with a legal right of appeal to Russian military governors and thereby justified his establishment of a supervisory body over the hetman in 1721 ("The Little Russian College," in Vasylenko, *Materiialy do istorii Ukrainskoho* vii, xiii. B. Nolde, "Essays in Russian State Law," *The Annals of the Ukrainian Academy of Arts and Sciences in the US*, no. 3 (Winter-Spring 1955), 873-903; Yakovliv, *Ukrainsko-Moskovski dohovory*, 138-60. On treason and homage, see O. Subtelny, "Mazepa, Peter I and the Question of Treason," *Harvard Ukrainian Studies*, 2 (1978), 158-83. F. Maitland and F. Pollock, *The History of English Law* (Cambridge, UK, 1968), I: 296-307, II: 462-511). O.P. Backus, "Treason as a Concept and Defections from Moscow to Lithuania in the Sixteenth Century," *Forschungen zur Osteuropaischen Geschichte*, 15 (1970), 138-41; G. Alef, *The Origins of the Muscovite Autocracy* (Berlin, 1986), 73-76.

43. Velychenko, *National History*, 111-2; Z. Kohut, *Russian Centralism and Ukrainian Autonomy: Imperial Absorption of the Hetmanate 1760s-1830s* (Cambridge, MA, 1988), 95-98, 329-42. In 1765 and 1768, Russian officials reported from London that Americans considered new taxes invalid because they were passed by a government that denied them their right as British subjects to representation in Parliament. N. N. Bashkina et al., *The United States and Russia. The Beginnings of Relations 1765-1815* (Washington, 1980), 11, 15-17.

44. Kohut, *Russian Centralism*, 94, 221; V. A. Golobutskyi, *Chemomorskoe*

kazachestvo (Kiev, 1956) 168, 328. Little Russian cossack regiments were formed and disbanded on an ad hoc basis in 1812-16 and 1830-31.

45. I. DeMadariaga, *Russia in the Age of Catherine the Great* (London, 1981), 154; M. Raeff, "Uniformity, Diversity, and the Imperial Administration under Catherine II," in H. Lemberg *et al.*, *Osteuropa in Geschichte und Gegenwart* (Vienna, 1977), 97-113; Konut, *Russian Centralism*, 126.

46. I. DeMadariaga, "Autocracy and Sovereignty," *Canadian American Slavic Studies*, no. 3-4 (1982), 380-7.

47. W. Blackstone, *Commentaries on the Laws of England* (reprint ed., Chicago, 1979), 1:94-98. M. Raeff, "The Empress and the Vinerian Professor Catherine II's Projects of Government Reforms and Blackstone's commentaries," *Oxford Slavic Papers* (NS), 7 (1974), 18-41. Raeff notes that she ignored what Blackstone said about the limits of royal power. He does not mention whether she commented on Britain's Celtic fringe. In a report submitted to Peter in 1714 which recommended that he abolish Ukrainian autonomy, F. S. Saltykov invoked Britain as a model and mistakenly claimed that the English pursued the same policies in Scotland as in Wales and Ireland (Velychenko, *National History*, 111).

48. L. Baranovich, *Pisma* (Chernigov, 1865), 53, 59; N. F. Sumstov, *Lazar Baranovich* (Kharkov, 1865), 86-99.

49. Kohut, *Russian Centralism*, 130-5.

50. N. T. Phillipson, "Scottish Public Opinion," in Phillipson, Mitchison, ed., *Scotland in the Age of Improvement*, 125-47; Smout, "Problems of Nationalism," 5.

51. Z. Kohut, "A Gentry Democracy within an Autocracy. The Politics of Hryhorii Poletyka (1723-1784)," *Harvard Ukrainian Studies*, 3-4 (1979-80), 507-19. The influence of Enlightenment thought in Ukraine is unstudied. Patronage politics in St. Petersburg is discussed in B. Meehan-Waters, *Autocracy and Aristocracy. The Russian Service Elite of 1730* (New Brunswick, NJ, 1982), 67-69, 157-60.

52. Cited in N. Storozhenko, "K istorii Malorossiiskikh kozakov v kontse XVIII i nachale XIX veka," *Kievskaya starina*, no. 10 (1897), 128. The request was made by Ukraine's Russian Governor-General, Prince Rephin.

53. T. Dickenson, *Scottish Capitalism* (London, 1980); L. Paterson, "An End of Ane Auld Sang: Sovereignty and the Re-negotiation of the Union," *Scottish Government Yearbook* (1992), 105-7.

54. The "highlandization" of Scotland is intriguing and ironic, since it occurred at a time when commercialization was destroying the northern

Scottish clan order and was sponsored by men who preferred to be modern landlords rather than traditional clan chiefs. J. Prebble, *The King's Jaunt* (London, 1988). On the social and intellectual background to the transformation, see R. Clyde, *From Rebel to Hero. The Image of the Highlander 1745-1830* (Edinburg, 1995), 116-49.

55. The Association demanded better local government under a renewed Scottish office, not political separation. In the face of the Crimean War and Indian Mutiny, it decided it was more patriotic to dissolve itself than to press claims. Pittock, *The Invention of Scotland*, 99-115; G. Morton, "Scottish Rights and 'Centralisation' in the Mid-Nineteenth Century," *Nations and Nationalism*, no. 2 (1996), 270-3.

56. Ingraham, *Political Crime in Europe*, 168, 210; J. W. Daly, "On the Significance of Emergency Legislation in Late Imperial Russia," *Slavic Review*, no. 4 (winter 1995), 614-28. Between 1881 and 1905, over 46,000 persons were banished from the Petersburg and Moscow provinces alone. In Ireland, between 1867 and 1903, roughly 200 were arrested for political crimes.

57. These issues are mentioned only in passing in O. Ohloblyn, *A History of Ukrainian Industry* (Kiev, 1925; reprinted, Munich 1971); Slabchenko, *Materialy*; A. J. Rieber *Merchants and Entrepreneurs in Imperial Russia* (Chapel Hill, NC, 1982). Throughout the nineteenth century, at least 50 percent of the government officials in Ukraine were Ukrainian. See S. Velychenko, "Identities, Loyalties and Service in Imperial Russia: Who Administered the Borderlands?" *Russian Review*, no. 2 (1995), 188-208.

58. Cited in G. Luckyi, *Between Gogol and Sevchenko* (Munich, 1971) 99.

59. Liberal eighteenth-century Ukrainian as well as Russian nobles opposed the immediate abolition of serfdom and differed from their conservative counterparts primarily by their wish to ameliorate the peasant's lot through enlightened tutelage. By 1905, forty-four years after peasant emancipation, the percentage of private land held by nobles in eastern and southern Ukraine had fallen from 80 to 45, while the percentage of noble landowners had fallen from over 90 to 25. V. I. Kozlovsky, "Krytyka V. N. Karamzina panschyny ta ioho proekty anrarnykh reform v Rosii i Ukraini," *Istoriia narodnoho hospodarstva ta ekonomichnoi dumky Ukrainiskoi RSR*, 7 (1972), 101-10; V. P. Teplytsky, *Reforma 1861 roku i ahrarni vidnosyny na Ukraini* (Kiev, 1959), 112, 159, 163. S. Becker, *Nobility and Privilege in Late Imperial Russia* (DeKalb, 1985) 114.

60. N. K. Shilder, *Imperator Nikolai pervyi* (St. Petersburg, 1903), 2: 657;

N. Riasanovsky, *A Parting of Ways. Government and the Educated Public in Russia 1801-1855* (Oxford, 1976), 249.

61. In 1832, for the first time since the seventeenth century, the tsarina appeared at court wearing a Muscovite costume, and Nicholas introduced a standard green dress uniform for the nobility. Against this, one must consider that Official Nationality had not yet been adopted as policy nor had its proponent, Sergei Uvarov, been appointed a minister. Leading Ukrainians were still well connected at court. Gogol in particular, having just become the rage with his *Evenings on a Farm Near Dikanka*, was close to the royal tutor, V. A. Zhukovskiy, as well as to a maid of honour, Alexandra Smimov, of whom Nicholas was immensely fond. Thanks to her intervention he allowed the publication and performance of *"The Inspector General"*; Luckyj, *Between Gogol and Sevchenko*, 25-88; H. Troyat, *Gogol* (London, 1974), 58-86, 135; Kohut, *Russian Centralism*, 282-4. The Foreign Ministry probably did have a report about George II's trip to Scotland, since one of his closest confidants was Princess Lieven, the wife of the Russian ambassador to London.

62. The Brotherhood advocated a political federation of Slavic nations, not Ukrainian separatism. D. Saunders, "Russia's Ukrainian Policy 1847-1905: A Demographic Approach," *European History Quarterly*, no. 2 (April 1995), 181-208, identifies fear as a reason that inclined the ministers towards repressing rather than tolerating difference. Fear stemming from weak administrative control is also mentioned by A. J. Richer, "The Reforming Tradition in Russian History," in A. J. Rieber and A. Z. Rubinstein, eds., *Perestroika at the Crossroads* (New York, 1991), 4-17.

63. Anonymous, "Iz proshedshei zhizni malorusskago dvorianstva," *Kievskaja starina*, no. 10 (1888), 153. D. Saunders, "Russia and Ukraine under Alexander II: The Valuev Edict of 1863," *The International History Review*, 1 (February 1995), 23-51; O. Levytskyi, "Istoriia budovy pamiatnyka B. Khmelnytskomu v Kievi," *Literaturno-naukovyi visnyk*, no. 6 (1913), 467-83.

64. S. Yekelchuk, "The Body and National Myth Motifs from the Ukrainian National Revival in the Nineteenth Century," *Australian Slavonic and East European Studies*, no. 2 (1993), 31-59.

65. P. H. Scott, "The Politics of Sir Walter Scott," in J. H. Alexander and D. Hewitt, eds., *Scott and His Influence* (Aberdeen, 1983), 208-14; E. Vhim, *Scot and Scotland* (London, 1936), 144-8; Luckyj, *Between Gogol and Shevchenko*, 123.

66. Ivan IV (the terrible) summarily killed at least 4,000 people as "traitors." The victims included all the members of a given family who

could be caught. The courts of Henry VIII executed 308 individuals for treason. G. R. Eton, *Policy and Police. The Enforcement of the Reformation in the Age of Thomas Cromwell* (Cambridge, 1972), 292, 385-99; R. Hellie, "What Happened? How Did He Get Away With It?" Ivan Groznyi's Paranoia and the Problem of Institutional Restraints," *Russian History* (Winter 1987) 214.

67. P. J. Marshall, "A Nation Defined by Empire," in A. Grant and K. J. Stringer, eds., *The Making of British History* (London, 1995), 215; S. S. Webb, *The Governors-General. The English Army and the Definition of Empire 1569-1681* (Chapel Hill, 1979). Once out of office, ex-governors were liable to civil suits for official actions unless they had managed to obtain a royal pardon.

68. Cited in Pittock, *The Invention of Scotland*, 132; O. W. Gerus, "The Ukrainian Question in the Russian Duma 1906-1917," *Studia Ucrainica*, 2 (1984), 157-76. Criminal statistics suggest that either the radicalization of Ukrainians on the issue of nationality was slow or that the government did not consider political nationalism as great a danger as radical socialism. Next to the death penalty, the harshest punishment was penal exile to Siberia. Ukrainians comprised only 2.3 percent of those sentenced to this fate between 1906 and 1909—the first years for which police statistics were broken down by nationality. B. Gruszczynska and E. Kaczynska, "Poles in the Russian Penal System and Siberia as a Penal Colony (1815-1914)," *Historical Social Research*, 4(1990), 120.

## РЕЗЮМЕ

**Стефан Величенко / Імперський лоялізм та націоналізм меншостей в Великій Британії та імперській Росії, від 1707 по 1914 рр.: Заклади, Законодавство, та національності у Шотландії та Україні /**

У статті розглядається політична еволюція Шотландії та України в ХІХ ст. у світлі взаємин, які склалися між урядами та місцевими елітами, відповідно, у Великій Британії та Російській імперії. Автор доходить висновку, що на початку ХХ ст. шотландці, позбавлені національної держави подібно до українців, на відміну від останніх перетворилися на сучасну націю. Автор вважає, що у Великій Британії лоялізм не суперечив культурному націоналізму англійців, які керували Шотландією, чого не було у стосунках Росії з підлеглою їй Україною. У статті розглядається роль політичних інститутів в процесі вибору еволюції донціонального патріотизму чи то до розвиненого

сепаратистськи-етнічного, чи то до лоялістськи-громадянського.

Обидва уряди, Англії та Росії, вдавалися до збройної сили, щоб забезпечувати лояльність своїх підданих у Шотландії та Україні. Проте свободи та права підданих, які базувалися на законних підставах, змушували англійських королів та їхніх намісників рахуватися з собою, чого не можна було сказати про привілеї, надані з милості. Щоразу, коли англійський уряд вдавався до зброї, щоб придушити черговий заколот, він був змушений рахуватися з громадською думкою й доводити правомірність своїх дій на відкритих судових процесах. Унаслідок цього умови Союзу, укладеного між Англією та Шотландією в 1707 р., що гарантували Шотландії її закони, церковну, адміністративну та освітню системи, не могли бути розірвані в односторонньому порядку. Вони залишилися недоторканими навіть після 1745 р., коли якобіти здійснили останню спробу відновити шотландську незалежність. Завдяки та навколо своїх суспільних інститутів шотландці розвинули модерну національну ідентичність, незважаючи на впливи індустріалізації та мовної англізації. Натомість російські царі змогли знищити українські суспільні інститути, гарантовані Переяславською угодою 1654 р., керуючись лише власною волею. Петро I, не стримуваний ні законом, ні громадською думкою, розгорнув шалену кампанію терору в 1709 - 1712 рр., яка змусила козацьку еліту прийняти невігідні для неї умови покори. Позбавлені власного законодавства, адміністративної та освітньої системи, українці в XIX ст. опинилися перед загрозою свого національного буття через вплив індустріалізації та мовної русифікації, а їхня освічена еліта могла розвивати модерну національну ідентичність лише на основі рідної мови.

Російські царі використовували свої прерогативи більше для придушення, аніж визнання лінгвістичного українського культурного націоналізму на початку XIX ст., коли він не становив жодної загрози перетворитися на політичний малоросійський сепаратизм. На відміну від короля Георга IV, який відвідав Шотландію в 1822 р., одягнений як вождь клану, санкціонуючи право на існування шотландської культури, російський імператор Микола I не робив нічого подібного по відношенню до української культури, а відтак і не з'явився у гетьманському вбранні під час поїздки по Україні в 1832 р. До 1860-х років подібна політика з боку російського уряду ще була можливою і дозволила б йому сприяти створенню лояльного українського націоналізму, подібного до шотландського.