**RESTORING THE NATION? HAMILTON AND THE POLITICS OF NATIONAL COVENANT**

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In April 1638, in a letter to his cousin William Spang in the Netherlands, Robert Baillie, then an Ayrshire parish minister, lamented “Our country is at the poyn of breaking louse: our lawes this twelve month hes been silent”. Robert Baillie was describing events in Scotland over the previous year, especially the growing opposition to the King and the riots over the Service Book. Unable to hold back the tide of dissatisfaction, the King’s Council became powerless to enact any orders for restraint. From September 1637 open opposition to the King’s authority was visible with meetings taking place in defiance of royal orders. Baillie, like many of his contemporaries in Fife and the West, feared Scotland was on the brink of civil war. It is clear that the ability to enforce the law had become an issue. As Walter Makey comments, there was “a remarkable display of disciplined violence and it showed...that the Supplicants could rule Edinburgh.” In February 1638 nobles, lairds and various people of Edinburgh subscribed to a National Covenant in defence of religion and the laws and liberties of the kingdom. The National Covenant is regarded by some historians as a radical document, a social contract between the Scottish people and God in order to

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legally justify a revolt against the British monarchy. Others see the National Covenant as a conservative document, one which was aimed at preserving Scotland’s traditional laws, liberties and religion against innovation and unwarranted interference. For many historians, such as Allan Macinnes and John Morrill, the National Covenant is often seen as a symbol of assertive national awareness against an out of touch absentee British monarchy. There was such widespread support for the National Covenant throughout Scotland that it has been labelled a “document of the Scottish nation”. Surveying the vast historiography on the National Covenant and the Covenanting movement it is clear that it was driven by a desire to restore Scottish sovereignty and reverse the corruptions of an absentee British monarchy in accordance with Scottish law and Scottish reformed religious practice.

However, it is important to remember that the National Covenant was not the only document which Scottish people were asked to subscribe in order to return the nation to its rightful laws and practices. There was another significant document, the King’s Covenant, issued by James Hamilton, Marquis of Hamilton, in September 1638 which also referred to established Scottish law. The King’s Covenant, essentially the Negative Confession of 1581 and the anti-catholic band of 1589, is often written off because of the success of the Covenanting movement. In addition, due to a lack of subscription to the King’s Covenant and doubts over its validity being voiced by the King’s own supporters, this has undermined the argument that the “King’s Covenant” should be taken seriously. Compared to its more fully established rival, the King’s Covenant said considerably less about the religious controversies at the time. However, it could be argued that the purpose of the King’s Covenant has been misunderstood. The King’s Covenant was a document which was aimed at restoring the nation to its rightful laws and practices, a legitimate oath and an act of subscription for the Scottish people. The King’s Covenant was not just an attempt
to create a Royalist party, nor an anxious and rash attempt to disarm the Covenanting revolution. It was a serious attempt to re-establish law and order. In addition, the authors of the Kings Covenant wanted to cause confusion amongst the legal brains driving the National Covenant. These attempts seemed to be successful at first as demonstrated by the reaction of leading members of the Covenanting movement upon hearing the news of the King’s Covenant in September 1638. Archibald Johnston of Wariston, a lawyer and author of the National Covenant, was extremely worried and regarded the King’s Covenant as an instrument which could divide and destroy the Covenanting movement. Furthermore, it also offered an alternative subscription for the Scottish people and challenged the National Covenant’s interpretation of the Negative Confession and the anti-Catholic band.

Through its own alternative legal and historical interpretation of the Negative Confession and anti-Catholic band, the King’s Covenant aimed to preserve the ancient kingdom of Scotland and its Church, as governed by the laws of James VI and Charles I by preserving the King’s prerogative and preventing Scotland’s descent into anarchy and ruin. Similarly, authors of the National Covenant believed they were restoring and preserving the Kirk, the laws, and ultimately the sovereignty of the Scottish nation from a misguided King intent on innovating established law and practice. It is clear that both the National Covenant and the King’s Covenant did not only dispute the legal and historical interpretations of the past, but were two assessments on how the Scottish nation had fallen into the troubles, but offered two different solutions for restoring order and peace within the country. Interestingly, both authors believed that they were preserving tradition, law and order and peace within the country against radical and destructive forces. David Mullan has fully discussed the different interpretations and debates over the history, progress, and position of the Crown and the Church from the Scottish Reformation to
1638, arguing “the historical debate proved to be the substance of not just a religious shouting match, but an important ideological element in a revolution.”

However, legal debates over the enforcement of law and order during 1638 have not been fully explored, especially in relation to the “King’s Covenant”. These debates are important if we are to take the Royalist perspective during the “Scottish Troubles” seriously, debates which have been obscured by the success of the Covenanting movement. This article will bring concerns over law and order into sharper focus and in doing so will offer a new perspective on the events of 1638. It will highlight the debates over the legality of the National Covenant and the actions of its supporters within the context of law and order.

A National Covenant or a Nobles’ Covenant?

On 28 February 1638 the National Covenant was signed by noblemen and gentlemen in Greyfriars Kirk in Edinburgh. Wariston declared this to be the “glorious marriage day of the Kingdome with God.” This was a renewal of the nation’s covenant with God, according to former acts of Parliament and the Confession of Faith as the original reformers had intended. Under Charles I the nation had breached its original covenants and as a result had fallen into ruin.

Indeed, it can perhaps be argued that recent historiography has been dominated by the success of the Covenanters and that the creation of the National Covenant in 1638 has been seen as a defining moment in Scotland’s history. David Stevenson’s comprehensive account of the Scottish Revolution focuses on the triumph of the Scottish Covenanters in 1638, with the various legal dilemmas on both sides taking a backseat to the political genius of the Covenanters. This focus on the success of the Covenanters has largely continued throughout the historiography in recent decades with emphasis being placed on the wider “British” context and the Covenant’s impact on events throughout the Stuart Kingdoms. Just as recently as 2009, Macinnes has
discussed “the Scottish moment” charting the rise of the Covenanters in Scotland and the significance of their intervention in the Wars of the Three Kingdoms in England and Ireland. The term “National Covenant” has become common currency and its other name “the Nobles’ Covenant” has largely been forgotten, with one or two exceptions.\(^\text{12}\) John Adamson has argued that the civil war in England should be seen as a baronial conflict, one in which the nobility rebelled against the monarch. In his significant work “The Baronal Context of the English Civil War,” Adamson briefly acknowledges Scottish influence on these events “With public interest heightened by the revolt of Scottish nobility in 1639 – a revolt unequivocally baronial in organisation, if religious in professed intent.”\(^\text{13}\) The name “Nobles’ Covenant” is then justified. Indeed, many historians have concluded that the Scottish Revolution was led by virtuous but alienated nobility with popular support; their grievances understandable after Charles I’s revocation and erosion of the nobles’ power at the heart of Scottish society.\(^\text{14}\) However, did many contemporaries view the Covenant and its revolution as a baronial revolt with “national” support or as something far more sinister and destructive? For all sides of the dispute, the National Covenant could have become an uprising of the vulgar and this was something both sides wanted to keep in check. This is especially evident from the signing of the Nobles’ Covenant in February 1638 to the Covenanters domination of the Glasgow General Assembly in November 1638. Law and order was just as important as disputes over the reformation of religion.

David Mitchell, a minister of Edinburgh who had experienced at first hand the displeasure of the populace during the Service Book riots, stated that the Nobles’ Covenant:

… is the oath of the King’s house 1580, with strange additions, a mutual combination of for resistance of all
novations in religion, doctrine and discipline, and rites of worship which have been brought in since that time; so as if the least of the subscribers be touched and there be some of them not ten years of age, and some not worth two pence, that all shall concur for their defence, and for expulsion of all Papists and adversaries (that is all who will not subscribe) out of the church and kingdom, according to the laws, whereof a hundred are sighted in the charta. This goes on apace.”

For Mitchell it is clear that there was something “strange” and odd about the National Covenant that was clearly not in line with “normal” or established practice. It was not only signed by the nobles or those of the middling sort, but by children and the Edinburgh underclass. The Covenant then proceeded to cite over 100 laws to back up its statements. Therefore, the National Covenant was not only “strange” because it added odd clauses to established laws, but it also encouraged the uneducated and poor of Edinburgh to sign up. To Mitchell this looked suspiciously like social upheaval as much as a religious reformation and therefore dangerous to the established order. It is clear that the Scottish Council had the same fears because, days prior to the subscription of the Covenant, the council had issued a proclamation declaring the Service Book to be consistent with established religious practice within Scotland and that the King had acted out of “princely care” for his subjects ensuring that the liturgy was inoffensive. The Council admitted to the King that they had experienced problems in preventing “illegal” meetings which were gathering in absence of a royal decree which undermined the King’s authority. Therefore, social order had the potential to disintegrate. The Council declared that the disorders in Scotland were not the result of genuine grievances by the King’s subjects, but were primarily due to “pretended” grievances based upon unfounded fears surrounding the Catholicity of the Service Book. According to
the Council, the people were running headlong into their own ruin through the subscription of “factious and seditious bonds”, organised by a small faction which aimed at seducing people to civil disobedience. It is clear that the Scottish Council at this point were unsurprisingly unconvinced of the legality of the actions of the covenanted nobility and that the Covenants’ call for religious reformation potentially had very dangerous consequences for the social order. This is reflected in a set of private instructions between Charles I and the Marquis of Hamilton prior to Hamilton’s arrival in Scotland. In the event of any future protestations from the Covenants, they were to be declared traitors. Petitions against the Five Articles of Perth and the High Commission were not to be accepted. Church government, as established by King James VI, had to be protected from attacks by a vocal minority. A General Assembly was to be allowed, but all ministers deposed by “the seditious multitude” were to be reinstated, thus preserving the established faith in Scotland. These were not just the instructions of an out of touch monarch, but a request that the seditious multitude should not be permitted to overturn the established order.16

It is clear that the Covenants had their own concerns about the actions of the multitude and how it may reflect upon them. The Covenants were very anxious to refute allegations that they were trying to subvert the social order and circumvent the law by attracting widespread support. They wanted to distance themselves from the “popular” support or vulgar multitudes to which the Council referred. The Covenants stated their meetings had “never fallen into disorder,” always “electing the best and humblest motions, restraining those that wer rude.”17 It was a meeting of nobles, not a rabble. It is in this context they assured the King that they were not attacking his prerogative, or the law, by meeting. In a declaration entitled “The lawfulness of the Subscriptione of the Confession of Faith,” in essence a justification of the National Covenant, the National Covenant
was warranted by law and custom as laid down by the godly, King James VI and many subjects who took the Confession of Faith in 1581. They were not disturbers of the peace but merely wished to uphold the true religion as established by law. The Council replied by stating that subscribers were breaking the law by ignoring the 1585 Act of Parliament against banding. This was a significant attack on the legality of the Covenant and one which the Covenanter could not fully retort for their reply was a repetition of their earlier defence, simply that they were not a private league of seditious troublemakers bent on turning the populace against the monarch. They further declared that they publicly undertook the National Covenant encompassing the whole kingdom, whilst distancing themselves from the vulgar notions surrounding their “popular” support. It was a Covenant of the godly not of the multitude.18

The Fear of the Multitude

Hamilton arrived at Berwick on 7 June 1638. He wrote to the King stating that reports heard at Court were unfortunately true:

“harts of al most everi on this kingdoum alienatend from their soveran; and they combined , in a more rebellious maner than I can express, to resist and tampel under futt (if it wher in their pouere) royall authoritie, as is evident by the strange and unparralyled coarsis they have taken for most of your counselares friends have left them and refysis euen in the matter of forme to pay that dutie ought, nor as me shew of our domesticks”

As far as Hamilton was concerned, when he reached the border the King’s subjects had taken an odd or unnatural course in resisting the King. In addition, friends of the Councillors had started disassociating themselves with their former friends. The King’s government was becoming
isolated. Social bonds and friendships were being tested. Hamilton further reported to the King that due to false accusations that Hamilton would arrest and kill Covenanters, “combyners” had taken the keys belonging to the ports of Edinburgh from the magistrates and established guards in order to monitor comings and goings. This revolt bordered on social overturning, through the “common” control of Edinburgh’s ports on the basis of lies and subterfuge. Hamilton clearly felt intimidated by these developments and admitted that he had been brought to Berwick by the care and diligence of the Earl of Traquair. Continuing in his correspondence to the King, Hamilton stated that the whole country had been intimidated into signing the Covenant and that he felt it was only a matter of time before the Covenanters infiltrated the Council with a request that Councillors also sign the Covenant. He realised that he did not have the means to use force and his options were limited. Hamilton tried talking with the ringleaders to disperse armed multitudes in Edinburgh. John Scally argues that Hamilton was trying to find a compromise between the King and the Covenanters because he knew that the King’s goals were unrealistic. However, after reviewing Hamilton’s early correspondence with the King in Scotland, it is clear that Hamilton was being driven by fear of the multitude, rather than any acknowledgement that there could be a compromise between the King and his covenanted subjects. Hamilton’s priority was the restoration of the King’s prerogative and social order in Edinburgh by ending the multitudes’ interest in the Covenanters which he described as “madness.” Hamilton had already come to these conclusions when he was told that the Covenanters would not obey the King’s Proclamation. It was out of fear for further disorder and loss of authority that Hamilton advised the King against publishing anything commanding the surrender of Covenant to the authorities.  

At this early stage Charles I not only recognised the danger in the multitude but also the potential qualms over the
validity of the National Covenant and he requested that lawyers be found to prove its illegality. However, the majority of the Council, judges and the King’s own advocate, Sir Thomas Hope, declared the Covenant was warranted by law. Thus, in hindsight, many historians have stated that the legality of the Covenant was thereby established and the success of the Covenanters assured. John Scally has even commented that James, Marquis of Hamilton, tried to convince the King of the legality of the Covenant. Any subsequent attempt to deny or challenge this Covenant was futile and by June, the King had lost the initiative over the Covenanters.²⁰ However, this statement does not explain why Wariston felt so nervous at the prospect of the King’s Covenant a few months later, nor why Hamilton attempted to promote the King’s Covenant at all. Historians have perhaps been too quick to give the Covenant its assured validity. Despite the lawyers and the Councillors declaring the Covenant’s legality, Hamilton was clearly perplexed and believed the National Covenant was “a tenent so dangerous to monachie as I can not yet sea hou they can stand weill to gidder.”²¹ In other words, he could not accept the Covenant’s legality and saw it as a threat to the established order. Hamilton was still convinced that the Covenanters had forced people to subscribe against their will and that non-covenanted bishops were deposed by force. The Covenanters had subverted the social order and the law by these actions by seducing the multitude and encouraging them to rebel against the King. For Hamilton, his first job was to “keip the multitude ( so greatt alreadie) from increessing”²² By the end of the month he was advising the King on the use of force, commenting on the “madnes, uickedness, and the danger they ar if they shall still adhere to the Covenant” and began to think of “uayes to suppress the madness of these people”. He would not allow the King to believe that the “multitud knowes uhatt they dou, for they are led on blindleies.”²³ On 29 June the King ordered Hamilton to “get the mutinous multitude
dispersed... for I am confident that my Declaration ... published before your coming away ... will give some to stop their madnesses."

On 4 July Hamilton published the King’s declaration concerning the actions of “the multitude.” This can be read as a sincere, if misguided, perception of events which linked the Covenanters with social disorder. Indeed, in his proclamation, the King declares he is not ignorant of the disorders in Scotland, nor is he ignorant about the supposed pretext over such disorders; fears over the innovation of religion. Perhaps Charles was rebutting the Covenanters’ claims that he had ignored their grievances. In fact, the King ignoring their grievances was one of the main legal pillars by which the Covenanters justified their actions. This was reinforced by the King, reminding his subjects of two previous royal declarations issued on 11 December 1637 and the 19 February 1638. Social disorders had increased since their issue and therefore it can only be concluded that a minority was bent on creating social disorder. Therefore this was not a legitimate protest against religious innovations, people were running headlong into their own ruin. Despite this, the King was positive and believed he could reclaim his subjects, despite their faults. He would not let his people perish. He openly rebutted Covenanters’ claims that his innovations were popish and declared he wished to maintain the true Protestant religion. In a possible quip towards the Covenanters pressing the Covenant on the people, he declared that he would not force the Service Book on the people, but merely promote the Service Book in a fair and legal way.

The King further declared that the majority of his subjects would not regard Covenanters’ behaviour as proper conduct since the Covenanters encouraged social subversion by encouraging people to disregard the King’s declarations. He was confident that once his subjects realised that it was a fear of innovation, rather than innovation itself, that was driving these disorders, people would no longer be seduced or
misled by the dangerous suggestions made by a minority of subjects. As was his duty as God’s representative on earth he would try and save his subjects from ruin, royal authority would not be shaken off and replaced by a private cabal of subjects. Thus, the King was determined to reclaim his people and re-establish the social order. This became a long term goal for the Marquis of Hamilton and is essential to our understanding of the origins of the King’s Covenant.

The Covenanters were very disappointed with the proclamation and later persuaded the majority of Councillors to repent their signing of the document. Even before it made it to the statute book, Hamilton was forced to tear up the Act. Re-establishing order and reclaiming the King’s subjects was not an easy task. It is interesting to note how Covenanters responded to the accusations of disorder and disobedience in their protestation against the proclamation. The Covenanters declared themselves to be loyal subjects from the outset and declared all meetings to have been carried out in an orderly, “Christian and quyet carriage”, stating that the King had been a victim of misinformation by his Councillors. Supplications and the Covenant were lawful remedies to protect the reformed religion and the King had no consideration for their supplications and this had encouraged disorder. Furthermore, the King could not reclaim his subjects if they had never left his side. However the “revolutionary” part of the Protestation lies in the last two pages whereby it argues that the Covenant stems social disorder and upholds the law and that it is the King’s declarations that are illegal and can be proved as such in courts of law:

We protest that this Proclamation or act of counsell, or any other act or proclamation or declaration, or ratification thereof, By subscription or act of letter, or any other manner of way whatsoever, or any precondemnation of our cause or carriage before the
same be lawfully heard and tried in the supreme judicialities of this church and kingdom, the only proper judges to nationall causes and proceedings.28

This was a direct and galling challenge to the King’s authority and Wariston had certainly picked his moment. The Court of Session had just resumed sitting on 2 July29 and Hamilton needed to respond quickly and effectively with something that would legally challenge the Covenanters’ position and nullify the Covenanters’ authority in order to preserve law and order under the Crown. Hamilton claimed the Protestation to be “strange madness” and hoped to reclaim many of the King’s subjects by the proclamation.30 However, certain academics, known as the Aberdeen Doctors, were rising squarely to the challenge.

The Aberdeen Debates: The Legal Onslaught

The disputes between leading Covenanters and five distinguished Aberdeen academics are often seen as a curious little episode. Often portrayed as the only true defenders of the monarchy, despite the widespread support for the Covenant in Scotland, it is therefore easy to forget, as G. D. Henderson states, that “the Aberdeen opposition ... had been so seriously regarded by the Covenanters that a strong deputation was sent north.” The Covenanters arrived on 20 July.31 There was a genuine reason for concern amongst the Covenanting leadership. It was nothing to do with a stubborn minority who would not conform, but because of a minority which had struck at the heart of the legal, religious, and constitutional justifications of the Covenant potentially leaving it in tatters. These arguments were contained in the pamphlet A Peaceable Warning to the Subjects in Scotland written by John Forbes of Corse, one of the Aberdeen academics. This work attempted to remove the legal, constitutional and religious justification of the Covenant and by way of contrast to the violent actions of the multitudes of Edinburgh and the
pressure to sign the Covenant, Forbes offered “A Peaceable Warning” to prevent the “breake of the bond of peace and Christian brotherhood.”

Forbes clearly stated that the National Covenant had been established on non-existent legal foundations. The Covenanters could not use the Negative Confession against the King since the Confession was instituted by the King to root out Papacy and protect the reformed faith. Forbes argued that no humanly written document, even for religious purposes, can be constituted as perpetual and divine – this was a direct attack on the Covenanters’ claim that the National Covenant was a divinely ordained pact between God and his people, thus striking at the heart of Covenanters’ religious authority and legal justifications for circumventing the monarch by appealing to God directly. Importantly, he stated that the specific version of the Confession to which the Covenanters referred had no legal authority, using the Short Confession to purposefully engage the support of the “simple people.” The Short Confession was no longer legally in force and could not be used. Crucially, noticing that the Covenanters had used the shorter confession to gain support from the simple people, the Covenant was again associated with the vulgar.

The debates which took place between the Aberdeen academics and the Covenanters were summarised and published in the pamphlet *General Demands, Concerning the Late Covenant* in 1638. Again, this work written by the Doctors, which was interspersed with the answers of the Covenanters, strikes at the heart of the Covenant and significantly discusses issues surrounding disorder and the “mutitude”. The Doctors questioned the Covenanters’ interpretation of the Negative Confession and accused a minority of Covenanters of forcing their opinions upon the King’s subjects, including “Lackies, ignorant people, and children” even fellow ministers. Therefore, the individual’s interpretation of the Negative Confession is not their own and they did not freely agree to
sign the Covenant. Therefore, the National Oath does not represent the wishes of the nation at all. No one should be molested nor threatened to subscribe to the Covenant. Covenants like these, which are created without the consent of the monarch, are illegal as declared by the Linlithgow Parliament of 1585. Indeed, why do people have to subscribe to the Covenant in order to guarantee their safety if ever under attack? This was deemed to be a tactic to coerce everyone to sign the Covenant and rebel against the monarch. This Covenant did not maintain Charles I's authority as it was proposed. The National Oath was in fact a large contradiction “Howe a man can maynetayne the King’s Authoritie and with all maynetayne the meanest of His subjects, in resisting His Authoritie?”

As Walter Balcanqual correctly stated, the Covenanters' responses were “poorly and pitifully” made and the Covenanters looked “sufficiently ridiculous.” The Covenanters could only repeat what they had previously stated about pledging to uphold the King’s office and person and that the King was God’s regent on earth to maintain religion and justice. The Covenanters could not be specific as to which Acts of Parliament legally permitted the National Covenant, but only that Acts of Manrent were prohibited during the time of Mary Queen of Scots, declaring that there was no act which prohibited “Covenants, in the generall or such Covenants in speciall as are made with GOD” which create a common peace and benefit for all. On the subject of their support from lower levels of society, such as the lackies, the Covenanters leapt to their defence, calling them rational people. In a change of tack, the Covenanters were taking sides with the vulgar but this was in order to defend and justify their own authority in these matters, declaring that the common people had made their subscriptions out of rational choice and free will and not by force and that the Covenanters’ authority was still legitimate and acceptable. Only by referring to Article 21 of the Confession of Faith did
the Covenanters argue that the Kirk had been given the authority to dictate worship. It is clear that the Covenanters were struggling to reply to the arguments by the academics and that they were on the defensive.

Within the context of this discussion the twelfth demand is of particular interest since it concerns the issue of law and order. The academics commented upon the violent behaviour of the Covenant subscribers and significantly that these incidents were carried out against their brethren without justice or legal proceedings taking place against the perpetrators. Therefore these actions were vengeance, not justice and as a result had no place in society. They directly asked the Covenanters if “whether or no they doe allowe these disorders? ... If they allowe them, what reasone they have so to doe?” It is clear that what was evolving was a proviso that protection under the law was only guaranteed if ministers and the people subscribed to the Covenant. These actions have subverted the law in Scotland and legalised disorder. In reply, surprisingly and in contrast to previous statements, the Covenanters justified the violence of the multitude on the basis that if driven by religious passion, such as this was, it was a product of extreme circumstances and therefore justifiable. The Aberdeen Doctors replied by stating that it was not for the faithful within the Church, nor the people’s prerogative, to rebel against authority and that such violence does not “beseeem those whom CHRIST inviteh to come with him,” essentially nullifying the Covenanter argument that violence is excusable if committed in the name of God. Interestingly, on these issues and many others, the Covenanters never fully answered the questions put to them. Therefore, by their silence, the Covenanters justify and condone mob rule and social disorder. It is clear that the Covenanters were treading a thin line where defending religion and the problem of social disorder was concerned. On this occasion the Covenanters were not so quick to distance themselves from the vulgar. The Nobles Covenant
therefore became a “nationall oath” taken by all sections of society by which violence was justified in the name of religion.  

A Covenant to Restore Law and Order  
During the Aberdeen debates Hamilton was at the Court in London. It has been claimed by Macinnes that the Doctors’ defence “did inspire Hamilton to formulate a tangible alternative to the National Covenant.” Perhaps we should be more cautious in making a direct link between the Aberdeen debates and what was to be known as the King’s Covenant. We cannot be sure how much Hamilton really knew of the Aberdeen debates and how can we be sure that Hamilton was aware of the arguments discussed? Within Hamilton’s own surviving correspondence between July and August there is only one mention of the debates and is informed that the defence is a “work in progress.” This is an important consideration to take into account when discussing the origins of the King’s Covenant, especially in relation to the issue of law and order.

If we examine Hamilton’s correspondence more closely it can be seen that the reasoning behind the King’s Covenant lies in the fear of social unrest, disobedience against the king and the breakdown of law and order. The reasons given do not differ from the prevailing views discussed in June by the King and Hamilton whereby they were still expressing their fears about the multitude. It was nothing to do with the interpretation of the Negative Confession or issues over religious worship. This explains why Hamilton ended up contradicting the Doctors’ arguments over the Negative Confession and why the King’s Covenant does not centre on immediate religious grievances, unlike its nemesis the National Covenant. The ultimate aim of the King’s Covenant was to restore law and order in Scotland.

Hamilton’s correspondence with the King between July and September clearly shows a continuing concern over
the “multitude,” law and order and Covenancing influence in Scotland. According to Burnet, Hamilton told the King “that nothing prevailed on the vulgar in Scotland so much as the cursed insinuations were given of his majesty’s staggering of the Protestant religion.” It was on this basis that the King was encouraged to renew the Confession of Faith which was the basis of the King’s Covenant. This was devised at exactly the same time as the Aberdeen debates. These debates were not the inspiration but happened to be in tandem with the formulation of the King’s Covenant. Indeed, when Hamilton arrived back in Scotland by 11 August he was more convinced than ever in the restoration of proper law and order because the Covenanters had become more uncompromising and continued to train men in arms.41

This concern over law and order is evident within the King’s Covenant. It aimed to satisfy the King’s subjects that no innovations were intended and was primarily aimed at “the vulgar who had been poisoned with such fears” of religious innovation. The King continued to state that the Service Book would not be pressed and the Articles of Perth would be dispensed. Therefore, the King, unlike the Covenanters, did not propose to press or manipulate the multitude but allowed them to follow their own consciences. This removal of coercion over the Service Book, which was intended to break one of the Covenanters’ central claims justifying religious rebellion, effectively rendered violence as being totally unjustifiable. Legal proceedings were put in place against those who continued to cause trouble. Hence the King’s Covenant aimed to restore law and order to the kingdom.42 This is even more apparent when we look at the religious content of this King’s Covenant. It was essentially a reprinting of the old Confession of Faith which subjects had been asked to subscribe to in 1589. It did not directly challenge the National Covenant’s interpretation on religion but was merely a general anti-Catholic band. However, significantly, it did endorse the use of Negative Confession
Kirsteen Marie MacKenzie *IRSS* 36 (2011) 85

which, at a stroke, “legalised” the National Covenant. It is important to note that Hamilton had disregarded the Aberdeen Doctors’ arguments on the Negative Confession as being outdated and dead on the statute book. This is perhaps the most obvious sign that the King’s Covenant was not “inspired” by the Doctors. The King’s Covenant was a wasted opportunity to strike at the legal foundations of the National Covenant. Perhaps the legalisation of the Covenanting cause by the King’s Covenant is more important than the number of subscriptions gained by the King’s Covenant.43

In their protestations and responses to the “King’s Covenant” on 24 September, the Covenanters declared that they were continuing to conduct themselves peacefully and lawfully. They were still the King’s loyal subjects who aimed for nothing but the “good of the Kingdome” and that they observed that the King had declared only to allay the fear of innovation rather than remove the objects of innovation themselves. The Covenanters avoided justifying their own authority and were more interested in gaining a “free” General Assembly. When the Confession is discussed there were no excuses, nor justifications, for religious violence as seen in the previous statement. Instead, they stated very briefly that the law was on their side and that the National Covenant was more relevant to the current times than the Confession. Perhaps, however, there is a tinge of doubt over their own legitimacy when they declared their fear for the National Covenant, an eternal oath, that it would be sucked into oblivion if this new subscription were a success. Perhaps the Covenanters were not totally secure within themselves.44

Regardless, they continued to point out weaknesses in the King’s Covenant. The Confession did not expressly make the National Covenant illegal, nor offered a substantial challenge. Should those who subscribed to the National Covenant take this oath they would perjure themselves against the laws of God and nature. Finally, striking at the heart of Hamilton’s argument that the Covenanters did not
possess the authority for their actions, they declared that the King’s Covenant, by the inclusion of the Confession, justified their actions. However, it is important to note that they did not directly answer the accusation that they were disturbers of the peace and were encouraging social disorder, but merely that they insisted that if people were asked to swear two oaths confusion would generate more unrest.  

Conclusion: The General Assembly of November 1638 – Law and Order Overthrown

Although seen as a “Nobles’ Covenant,” the National Covenant was always overshadowed by issues surrounding the participation of the vulgar, or the common people, in the process. It was a situation in which social disorder was never far away, both for the Royalists and for the Covenanter. This issue and the wider concerns over law and order help us to understand more clearly the origins of the King’s Covenant and confirms that the King’s Covenant was not inspired by the Aberdeen Doctors but by the continuation of concerns over law and order. From the Covenanting perspective it is interesting to see how, at first, in order to legitimise their cause, they stepped away from the violence committed by their supporters and how, in the end, after being put in a legal corner by the Doctors, violence was justified on religious grounds. It is clear that the strength of the legal attack by the Doctors left the Covenanting leadership reeling and fearful of the King’s Covenant. Perhaps this allows us to see that the success of the Covenanting movement was due in part to Hamilton’s mistake over the Confession and the King’s Covenant was essentially a wasted opportunity to strike at the movement when it was on the defensive. Along with Sir Thomas Hope’s earlier statements, and the Covenanters success in dominating the General Assembly a few months later, the Covenanters were on an assured legal footing.

As ordered by the King, the Assembly opened in Glasgow on 21 November 1638. For supporters of the
Covenant, especially amongst radicals like Samuel Rutherford, the Glasgow Assembly was an opportunity for ecclesiastical reform which, in the end, did abolish Episcopacy. It concluded by condemning the Service Book, the Book of Cannons, and the Five Articles of Perth. As John Coffey has commented, this was “a remarkable triumph.”46 Hamilton had allowed himself to be overruled at the Assembly and was still concerned about law, order and obedience of the multitude within the nation.47 Hamilton was dismayed by the “free” General Assembly:

Sir, My soule uas neuer sader than to sie such as sight, not oune gone a mongst the wholl Companie, maine suords, but maine more daguers (most of them having guns and pistoles in their lodgings); the number of pretended members ar about 260, cache one of this hath tou, sume 3 or 4 assessores, who pretends not to have a voyce, but onlie ar cum to argue and assist the Commissioners, but the true rasoune is to mak upe a great and confused multiud...for sume Commissioner ther ar,who can neather urytt nor read, for the most part being totallie uoyd of learning, but resolued to follou the opinion of thes feu ministers who pretend to be learned48

The multitude was trampling over royal authority, led on by a seditious minority devoid of any reason.49 In his opening speech to the Assembly, Hamilton hoped that members would push ahead with business and settle the nation in peace. Hamilton stated that his majesty was grieved that his subjects had been poisoned by a minority, leaving his intentions misunderstood by the populace. These misunderstandings had been clarified by the Confession of Faith and there was no need for discord. In the end, Hamilton was defeated and could see that vulgarity and violence had won over law and order.
Restoring the Nation?

Notes


2 Walter Makey, The Church of the Covenant 1637-1651: Revolution and Social Change in Scotland (Edinburgh: John Donald, 1979), 22.


8 Charles, by the grace of God, King of Scotland, England, France, and Ireland (Edinburgh) 1638, 1-30.


11 Paul, Diary of Archibald Johnston of Wariston, 318-322.
18 Leslie, A Relation of the proceedings, 90-92.
20 Scally “Counsel in Crisis,” 22-24; Burnet, Memoirs, 70-72.
Restoring the Nation?

22 Gardiner, Hamilton Papers, 11.
23 Ibid., 19.
24 Burnet, Memoirs, 78.
25 Charles I Charles by the grace of God, King of Scotland, England France and Ireland 1638, 1.
27 Stevenson, The Scottish Revolution, 97-98; Donald, An Uncounselling King, 86-87.
29 HMC Hamilton Manuscripts, 96.
30 Gardiner, Hamilton Papers, 21.
32 John Forbes of Corse, A Peaceable Warning to the subjects in Scotland (Aberdeen, 1638), 20, 6.
33 Forbes, A Peaceable Warning, 12-19.
34 John Forbes of Corse, et al, Generall Demands Concerning the Late Covenant (Aberdeen, 1638), 3-32.
36 Forbes, et al, Generall Demands, 9, 4-5, 26-29.
37 Ibid., 3-35.
38 Ibid., 36-38; NAS GD406/1/532 Andrew Lawmtho[Laumont], Markinch, minister of Markinch, to the Marquis of Hamilton, asking for an advance of 1,000 merks as his stipend is being withheld and as a non covenanter he ‘darr not go to seik remedie by law’ dated 24 September 1638.
41 Burnet, *Memorials*, 82-83; Gardiner, *Hamilton Papers*, 22; HMC Hamilton, 96; Also see NAS GD406/1/725 [Copy] Charles I, Hampton Court, to the Professors and ministers of Aberdeen, thanking them for their efforts against the Covenanters, and desiring them to take orders from his commissioner, the Marquis of Hamilton dated 2 October 1638; NAS GD406/1/664 The Professors of Aberdeen to the marquis of Hamilton, thanking him for his kindness and hoping for his continuing help, dated 26 September 1638. Doctors were ordered to confer with Hamilton after the King’s Covenant was created, it is from this point onwards that direct correspondence goes between the Doctors and Hamilton. Before this information on the Doctors activities mainly came from the Marquis of Huntly, save one letter which states that they are working on a reply to the Covenanters, a work in progress rather than the finished article. Therefore it is still uncertain how much the Marquis truly understood about the debates taking place in Aberdeen. See NAS GD406/1/416 John Forbes of Corse to the marquis of Huntly, describing his controversy with the Laird of Lyes [Leys] dated 4 May 1638; GD406/1/433 John Forbes of Corse, Aberdeen, to the marquis of Huntly informing him that he has had printed 500 copies ‘of the printed warning copurged from all offensive words’ in the hope that this will placate those incensed by the previous version, dated 7 August 1638; GD 406/1/639 John Forbes of Corse, Old Aberdeen to the Marquis of Huntly informing him that his opponents ‘intend to pursue me criminally’ dated 20 July 1638; GD406/1/667 The professors at Aberdeen to the marquis of Hamilton, informing him that they are at work on their reply to the Covenanters latest publication, dated 18 August 1638.
47 Makey, *The Church of the Covenant*, 42.