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Hobbes and Locke: Puritans, Pilgrims, and the Conflicted American Mythos

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Citing history and heritage as the basis for rational argument is an enterprise fraught with difficulty, not the least of which is the problem of which historical threads and traditions to foreground and which to minimize or ignore. Two U.S. Supreme Court decisions in the summer of 2005 involving the nexus between religious expression, free speech, and the government's de facto establishment of an official religion of the United States hinge on this notion of history and heritage.¹ The first case, McReary County, Kentucky v. American Civil Liberties Union of Kentucky concerns the display of the Ten Commandments, along with other religious and historical documents, in a Kentucky courthouse. In a 5-4 decision, Justices declared the display unconstitutional. The second case, Van Orden v. Perry, concerns a similar but much larger display on the grounds of the Texas statehouse. Justices, also in a 5-4 decision, said this display was constitutional. In both cases, the Justices arguing in favor of keeping the religious displays aren't concerned with whether what the public believes is true – for instance with whether God exists – but rather with perception, i.e. the perception that America at its foundation is a country conceived in a religious spirit and owing its sense of morality and purpose to the Jewish and/or Christian faith of its citizens. These Justices invoke what they perceive to be the religious heritage of the United States to defend their positions, arguing in a sense that since this is the way it *has been* this is the way it *is and should be* – thus their reliance on a particular historical narrative.

Now, setting aside the issue of whether any such line of argument is fundamentally flawed as a matter of logic and accepting the notion that history can be an accurate guide both in terms of the law and simple rational inquiry, the paramount consideration becomes one of intellectual honesty in terms of the history that forms the basis of this argument. Reading the opinions in these two cases, one realizes that these Justices have in mind a very particular rendering of American history and heritage and one that is bound to dispute. Indeed, what history are we privileging? Is it the history of Native Americans, of women, of blacks, of indentured servants? Surely when U.S. Supreme Court Justices invoke the religious history and heritage of the United States – as when Justice Scalia, in his dissent in the Kentucky case,² quotes from School District of Abington v. Schempp: “The ‘fact that the Founding Fathers believed

devotedly that there was a God and that the unalienable rights of man were rooted in Him is clearly evidenced in their writings, from the Mayflower Compact to the Constitution itself” – they are not conjuring the slave owning patrician planters of the American South, the French fur trappers of Maine, or the mountain men of the West. In fact, they are specifically focusing on a perception of the American as an heir of the Pilgrim father.³ The Chief Justice, in his 3 ¼ page majority opinion in the Texas case,⁴ uses the word “heritage” five times, “history” and “tradition” each twice, and he also quotes the language of School Dist. of Abington Township v. Schempp, clearly pointing to the Pilgrims as Founding Fathers and their Mayflower Compact as early evidence of an intention to ensconce devotion to a divine will within the articles of government.⁵ This particular historical thread is then woven by these Justices through the fabric of American political and cultural consciousness, with particular reference to a carefully crafted litany of examples whereby a political figure or institution invokes a Supreme Being in public discourse.

But the Pilgrims cannot be placed in isolation and held separate from their Puritan neighbors when considering this issue of national heritage. The Mayflower Compact predates the Puritan colonization of Massachusetts Bay, and so America’s “heritage,” in the context conjured by the Justices, clearly incorporates Puritanism. More specifically, the aforementioned School Dist. of Abington Township v. Schempp refers to the Puritan Roger Williams (who argued for a separation between church and state) as an important influence on both Thomas Jefferson and James Madison. Also, the majority in the Kentucky case,⁶ along with Justices Stevens and Ginsburg in the Texas case, cites the Puritans and their complex relationship with the ideal of religious freedom as *historically significant* when considering this issue of national heritage. And, finally, most U.S. citizens assume that the Puritans and Pilgrims were for all practical purposes the same peoples, as indeed in many functional respects they were.

The prevailing perception of most Americans is that these early English colonizers typify certain qualities of the American character: freedom loving, pious, self-reliant, modest, self-sacrificing, and bold. “America’s heritage of questing for freedom and, once having obtained it, is, in direct and indirect ways, an important part of the inheritance from the Puritans” (Shucard 16). These qualities are seemingly evinced in the historical personages and utterances – George Washington, John Adams, “In God We Trust” on the dollar bill, “under God” in the Pledge of Allegiance – cited by those Justices supporting a “religious heritage” argument. And yet the story of the Puritans and Pilgrims, as told through their own accounts, is much more complex and not neatly historicized. Their attitudes and behaviors are not nearly as monolithic as is often believed; indeed, even the crucial distinctions and conflicts between these two groups are often forgotten. Moreover, even as the Puritans and Pilgrims are eclipsed by subsequent American history, the complex conjunction of God and capitalism, liberty and authoritarianism first

summoned in the New World by these English colonists persists in the points of view of the post-1789 political figures and documents cited by these Justices – even influencing the perspectives of contemporary Americans – and should be taken into account when invoking this history and heritage:

American culture may be said to have grown in a more or less coherent way toward a modern free enterprise economy, that that growth finds expression in the quasi-figural outlook we have come to associate with manifest destiny and the dream, and therefore that to describe that outlook (by implication at least) is to illuminate some of the controversial connections between Puritan, Yankee, and Revolutionary America. (Bercovitch *Typology* 136)

II.

Any perception of the Puritans and Pilgrims simply as humble yet industrious religious refugees quickly disintegrates when confronting the primary sources of that period. The Journal of the Puritan John Winthrop, the longtime Governor of the Massachusetts Bay Colony, is replete with power struggles between Winthrop, deputy governors, other magistrates and freemen over issues of authority, including the right of taxation and representation, the right to select officers in the militia, whether magistrates could hold positions for life, and especially the independence of churches and the election of elders. Winthrop strongly asserts that the governor's authority supersedes all other civil authority, and as governor he regularly interposed himself into church affairs.

Specifically, one could consider the 1631 case of Philip Ratlife, who according to Winthrop, "being convict ore tenus of most foul, scandalous invectives against our churches and government, was censured to be whipped, lose his ears, and be banished the plantation," (38) or Henry Linne who "was whipped and banished for writing letters into England full of slander against our government and orders of our churches" (40).

Further, Winthrop oversaw the removal from office, disarmament, or outright banishment of dozens of Puritans who held unacceptable church teachings, including the belief that the state had no authority to intervene in religious affairs. Subsequently, when illness or death befell those banished, Winthrop argued that such misfortune was a sign that his own authoritarian views were vindicated, to the extent that he ordered the exhumation of one stillborn child and circulated drawings of the child "monster" as proof of God's disfavor with the mother's views (Winthrop 142). So concerned was he and his fellow

magistrates with holding onto their authoritarian power that Winthrop declared the governor's "negative voice" – the veto – "as fundamental to our government, which if it were taken away would be a *mere* democracy" (Winthrop 232 emphasis added). Certainly, these are not the historic threads that these Justices wish to invoke. And yet, in making a "religious history and heritage" argument that reaches back to a period *pre-dating* the Puritans, one would be hard-pressed to explain how the history of the Puritans could be selectively ignored by one set of Justices and embraced by another, particularly as the Pilgrims' history largely ends with the arrival of the much more numerous and powerful Puritans.

In specific regards to the Mayflower Compact, which the "religious heritage" Justices cite in both the Texas and Kentucky cases, the Compact is much less than a clear statement of religious principal, freely made. Pilgrim and longtime Plymouth Gov. William Bradford, in Book II, Chapter XI of his history of Plymouth Plantation, writes that the Mayflower Compact was penned because the ship they were traveling in had missed its intended destination – northern Virginia. The Pilgrims had no patent to govern a colony in Massachusetts, and the investors who had traveled with them threatened to ignore the Pilgrims' authority. Consequently, Bradford quickly manufactured a Compact whereby all signatories would be bound to respect the colony's authority.

Moreover, its contents are both misleading and telling. While the Compact takes pains to allege allegiance to king and country, Bradford and his fellow Pilgrims are only playing politic. They clearly state elsewhere in the history that they sought escape from the onerous persecution of the king and the Church of England. As to any intention to further the "advancement of the Christian faith," they could only have meant that by settling at Plymouth there would be Christians in New England (which there already were) because nowhere in his History does Bradford speak of actively proselytizing Native Americans or seeking other religious converts. The Pilgrims largely kept to themselves. Taken then as a whole, the Compact is not a monolithic document nor does it indicate that the Pilgrims intended it to be construed as a grand statement of purpose.

III.

All of this is not to argue that any one set of Supreme Court Justices is correct in either the Kentucky or Texas cases, only that ascertaining a sense of national heritage from a morass of often contradictory statements and purposes is exceedingly difficult. But I think two narratives can be teased out of the history of the Puritans and Pilgrims, narratives whose contradictory natures have had profound

consequences and help to explain, besides a great many other aspects of the American character, why the U.S. Supreme Court is so divided on this issue.

Old World settlers had been arriving in America for 70 years when the English political philosopher John Locke published his outline of a new form of government – a form that would eventually be adopted in the New World by those who would rebel against the very excesses of political power that propelled Locke. He envisioned America as if it were Eden the morning after creation: a wild, uncultivated, and pristine place, free of private property and the entanglements of human law. He wrote in his Second Treatise of Government, “Thus in the beginning all the world was America” (139).

And yet, the America that Locke conjured to describe a state of nature that pre-dated the need for an “artificial” government was already lost. By 1690, a vast, prickly, and disjointed American psychology marked by the contradictions of materialism and guilt, intellectualism and apathy, free-spirited individualism and perpetual repression (of women, blacks, and Native Americans initially, and later of a growing working class) had already been well established in the New World.

God and Capital

Locke had given a secular voice to what Winthrop had already preached aboard the ship *Arbella* en route to Massachusetts Bay in 1630: “The Lord our God may bless us in the land where we go to *possess* it [...] for He is our life, and our *prosperity*” (11 emphasis added). Intent on building a prosperous community as proof of their covenanted relationship with God, the Puritans sought to transform America into a symbol for the world so that “the men shall say of succeeding plantations: the Lord make it like that of New England” (Winthrop 10). Joining Winthrop in his hope were the corporations and investors in England that had bankrolled the colonies at Plymouth and Massachusetts Bay and expected a return on their investment.

Locke was only articulating what the wealthy and aristocratic Winthrop already recognized. Locke had accepted the common view that God had “given the world to men in common” (sec. 25, 127), but he added that private property was acquired through an investment of individual labor, i.e. by means of “pasturage, tillage, or planting,” the “worthless materials” of nature would thereby be made bountiful and productive and not left to lie in “waste” (sec. 42, 136). While Native Americans had a title to the deer they killed and the berries they harvested, (since, according to Locke, by their own labor they acquired these things), they certainly had no title to the land they occupied, which they had left “wasted” (sec. 26, 128).

Citing the biblical books of Psalms, Timothy, and Genesis, Locke created a “legal” basis for appropriating the New World (sec. 25, 127; sec. 31, 130; sec. 38, 134), though neither the Pilgrims nor their investors required a basis in Enlightenment reasoning to stake their claims. Bradford describes the thinking of his fellow Pilgrims as they decided where to settle:

The place they had thoughts on was some of those vast and unpeopled countries of America, which are fruitful and fit for habitation, being devoid of all civil inhabitants, where there are only savage and brutish men which range up and down, little otherwise than the wild beasts of the same. (25)

The claims of Native Americans, who in their ignorance of Christ would “benefit” from the Puritans’ civilizing influence, were unimportant. In a letter to Bradford, his friend and fellow minister John Robinson remarks, “Oh, how happy a thing it had been, if you had converted some [Indians] before you had killed any. [...] Necessity of this, especially if killing so many [...] I see not” (qtd. in Bradford 375).

Those who would subdue America were the new owners, who would transform their property into money (which could be laid up without spoiling and so was not a mark of waste or gluttony), and so bring to fruition the divine plan through the satisfaction of their enlightened self-interest (Locke sec. 46-48, 138-139). Indeed, it was only a short period of time before the governor of Plymouth Colony realized that self-interest was more productive than communal interest: Amidst the grumbling of his young, healthy colonists who resented working in the fields on behalf of their older and weaker compatriots, it was decided that “they should set corn every man for his own particular, and in that regard trust to themselves,” the result of which was that those “which before would allege weakness and inability” began to get to work (Bradford 120).

So ended the “Common Course and Condition,” an early experiment in American communism. “Find out something that hath the use and value of money amongst his neighbours,” Locke says, and “you shall see the same man will begin presently to enlarge his possessions” (sec. 49, 139). God and capital were thus entwined at America’s inception, both as a fact of conservative Christian theology and of liberal political philosophy. But such bedfellows could not remain so for long as the Puritans ran out of space and influence, and the Industrial Revolution concentrated wealth and cities grew.

God and Individual Freedom

About equality, an earlier English political philosopher, Thomas Hobbes, had argued in Leviathan in 1651 that men are born equal, but that this equality sets men against each other as they “endeavour to destroy, or subdue one an other” (184), hence their need to enter into the protection of a covenant with a sovereign. The Puritans and the Pilgrims also advocated a certain equality, although primarily of their equally sinful nature, which could only be attenuated by obedience to God and those who were set by God to have authority over them: “If you will be satisfied to enjoy such civil and lawful liberties, *such as Christ allows you,*” Winthrop says, “then will you quietly and cheerfully submit unto that authority which is set over you in all the administrations of it for your good” (283 emphasis added).

The Puritans and the Pilgrims eschewed Hobbes’ absolute monarch – with his unlimited and eternal power to order men’s lives and quash free thought – for Hobbes believed the sovereign’s absolute power logically extended to men’s ability to judge good from evil; royal subjects had no private consciences, for if they had, then they might lodge a judgment against the sovereign: “Yet it is *not* so with him that lives in a Common-wealth; because the Law *is* the publique Conscience, by which he hath already undertaken to be guided” (Hobbes 336 emphasis added).

This was anathema to the Puritans and the Pilgrims, who having fled the repressive tactics of the Church of England, believed instead in a relatively personal relationship with God. They rejected Hobbes’ description of the sovereign as a “Mortall God” (227) wielding a “Temporall” kingdom (178), but all the more strongly embraced the eternal kingdom of their immortal god. They exchanged the awe and fear of the sovereign, with which Hobbes argued the sovereign enforced his power, for the awe and fear of God (whereby he also enforced his power).

Hobbes’ sovereign existed in a covenanted, perpetual relationship with his subjects, and he was bound to protect their peace and prosperity; such protection required absolute power, Hobbes argued, or else division and war would ensue: “The Monarch, or the Sovereign Assembly only hath immediate Authority from God, to teach and instruct the people” (291). But what the Puritans and Pilgrims had done was to slay only half of Hobbes’ political animal. They substituted their own absolutism for Hobbes’.

When Bradford is presented in 1624 with a list of objections to his rule at Plymouth Colony, the first objection is “diversity about religion,” to which Bradford replies, “We know no such matter, for here was never any controversy or opposition, either public or private (to our knowledge) since we came” (142). And yet those same objectors are referred to as “heathenish Christians” by Bradford’s friend John Robinson (Bradford 375). And Winthrop and other Puritan leaders drove out Roger Williams and Ann Hutchinson, who famously questioned established church teachings:

The governor and assistants met at Boston to consider about Mr. Williams, for that they were credibly informed [...] he did use to entertain company in his house, and to preach to them, even of such points as he had been censured for; and it was agreed to send him into England by a ship then ready to depart. The reason was, because he had drawn about twenty persons to his opinion, and they were intended to erect a plantation about the Naragansett Bay [Rhode Island], from whence the infection would easily spread into these churches. (Winthrop 87)

Hutchinson, who was also found guilty of upsetting church teaching, soon was forced into exile with Williams to Providence, where they founded a new, more tolerant settlement.

Cotton Mather's Wonders of the Invisible World, which defends the trials and executions of Salem "witches," and his Ecclesiastical History of New-England, which charts the Protestant Christian subjugation of America, are further testaments to the fear and awe with which Puritans viewed their world and their God.

Puritan and Pilgrim society, therefore, was essentially Hobbesian in its absolutist worldview, with two important caveats that would indelibly mark American society: a tendency toward self-reflection and autobiography, and the positive valuation of personal struggle. In their trials, Williams and Hutchison symbolize the natural products of these aspects of Puritan thought; while in their radical decision to break away from the established Puritan colonies, they symbolize one aspect of the contrarian impulse of the American character.

God and Democracy

Locke's liberal political philosophy laid down the basic tenants of capitalist democracy, which as has already been suggested, supported Puritan and Pilgrim thought in terms of the right to claim and "improve" the wilds of America. Locke "proved" that maximizing one's self-interest was a reasonable and even divinely-inspired aspiration. And, both Locke and the Puritans and Pilgrims believed in natural equality. The Puritans even practiced a nominal form of democracy within their communities.

But Ben Franklin, Thomas Jefferson, John Adams, and other inheritors of Locke eventually pushed democracy to the point where it finally could overcome the Puritans and Pilgrims' claim to absolute truth. Franklin writes in his speech to the Constitutional Convention of 1787, "Most Men indeed as well as most

Sects in Religion think themselves in Possession of all Truth, and that wherever others differ from them it is so far Error” (350). The Constitution that was subsequently adopted confirmed the right of the American individual to always question authority.

Indeed, by the time Puritans were prosecuting witches in 1692 and Locke was publishing The Second Treatise, Puritanism had already lost its monopolistic grip on spiritual and temporal authority. But the Puritan zeal for self-reflection and self-improvement – which when realized in terms of material rewards was proof of divine favor – had already become and would remain an undeniable part of New England character, regardless of New Englanders’ spiritual inclinations. “All of their fundamental principles – moral, political, economic – including their paradoxical affirmation of the future, the Puritans poured into the foundations of America” (Shucard 18). Thus, Harvard University was founded as a school to train Puritan preachers, but became a center of a larger intellectual firmament. Thus, evolving calls for women’s rights and abolition found their first voice in the American Northeast, although these voices would not reach a national audience for generations.

Jefferson drew heavily from Locke’s work to fashion the founding documents of a government voluntarily formed for the purpose of securing one’s rights, and in particular one’s property, against the intrusions of another. But Jefferson and his fellow Constitutional Framers were not Puritans; they were not even mainstream Christians. Franklin even satirizes the Puritan witch trials in his essay “A Witch Trial at Mount Holly.” The French commentator on America, Alexis de Tocqueville, argues that this strange confluence of religion and secular democracy resulted in odd contradictions.

As Puritan society became less able to shape New England life as a result of a variety of factors – increased immigration, urbanization, wealth concentration – the values that had originally shaped the Puritan community evolved into the typical American attitudes noted by Tocqueville approximately two hundred years after the Pilgrims landed at Plymouth: a fixation on acquiring wealth and property, and a concomitant intellectual laziness whereby the general idea promulgated by the church or one’s class was assumed true by merit of everyone’s generally equal claim to “truth.”

This new country was a land where, if one were to follow Poor Richard’s maxims, as well as the example of Franklin’s Autobiography, discipline and honest labor could garner almost any prize for the industrious man and his family. Thus, the Northeast became a center of capital and trade to the extent that these new American property owners, according to Tocqueville, were “swayed by no impulse but the pursuit of wealth” and stuck upon the acquisition of “purely practical objects” (548-549). Further, Tocqueville argues that Americans, with the time, the opportunity, and the right to think for themselves,

turned determinedly toward their personal betterment and away from questioning their faith, their government, or their world view.

Thus, while the new Americans eschewed class hierarchies (theoretically), they quickly grew a mythology of the self-made man as the model for the successful American, a model wholly achievable if one would just follow Franklin's models.

But the new Americans never strayed far from God. After all, "religion," Tocqueville writes, "gave birth to Anglo-American society," and it is "believed without discussion" (515). Everyone in Protestant America was equally depraved before God – "sinners in the hands of an angry god," according to Jonathan Edwards – and equally free to struggle for their own salvation without a pope or priest as intermediary. Consequently, the men of the democratic majority accepted no master, intellectual or otherwise, but their own selves. Paradoxically, however, Tocqueville writes, when democratic man looks around himself and finds no intellectual superior, then he assumes that whatever opinion is generally held must be true: "In the United States, the majority undertakes to supply a multitude of ready-made opinions for the use of individuals, who are thus relieved of the necessity of forming opinions of their own" (520). Except for the critical inquiry that takes place in regard to business affairs, Tocqueville argues that the American individual accepts the moral, philosophical, and religious attitudes of his neighbor (such as they are), while believing that he has conceived of those attitudes himself.

So Herman Melville, in 1851, remarks in a letter to his friend Nathaniel Hawthorne, "When you see or hear of my ruthless democracy on all sides, you may possibly feel a touch of a shrink, or something of that sort. It is but nature to be shy of a mortal who boldly declares that a thief in jail is as honorable a personage as Gen. George Washington. This is ludicrous" (Hawthorne Nathaniel). Such a dismal consideration for democracy is what perhaps leads Melville's *Bartleby*, the subject of the author's short story "Bartleby the Scrivener," to that character's withdrawal and stupor. Bartleby, who "would prefer not to," is stranded on the wrong side of the democratic majority.

The contradictory elements of the American character can be viewed through the lens of the Bill of Rights. This document cemented the most liberal statement of human aspirations ever written into law at that time, and yet the biblical story of Ham was popularly believed to legitimize the enslavement of blacks, and God's admonitions to Eve were believed to justify women's subjugation to men. Here was America, where people had organized a new government on the basis of Locke's assumption that men, born absolutely free and equal, and by right of the law of reason, "ought not harm another in his life, health, liberty, or possessions" (Locke 117). Yet not only were such rights never universally recognized,

they were never actually internalized by most Americans, except in their limited application to property (which included slaves and women). Of American slaves, Jefferson writes, “Comparing them by their faculties of memory, reason, and imagination, it appears to me, that in memory they are equal to the whites; in reason much inferior, as I think one could scarcely be found capable of tracing and comprehending the investigations of Euclid; and that in imagination they are dull, tasteless, and anomalous” (985). Much the same was said of women, according to Judith Sargent Murray in her 1790 essay, “On the Equality of the Sexes.” She counters that while Adam was deceived by a woman, “all the arts of the grand deceiver [the devil] [...] were requisite to mislead our general mother, while the father of mankind forfeited his own [...] merely in compliance with the blandishments of a female” (1163).

Tocqueville argues that these elements – industry and capitalism, religion, and the leveling effects of democracy – combined to discourage Americans from critical thinking and the arts. Facts were to be plain and understandable to the common man, forms eschewed for practical substance, and general ideas preferred over complex ones. “The religion professed by the first immigrants and bequeathed by them to their descendants, simple in its forms, austere and almost harsh in its principles, and hostile to external symbols and to ceremonial pomp, is naturally unfavorable to the fine arts and yields only reluctantly to the pleasures of literature” (Tocqueville 547).

Two Narratives: God and Capitalist Democracy

The continuing confluence and influence of these two narratives – religious faith that lends itself to Hobbesian, absolutist interpretations on the one hand; free-thinking, rationalist, humanistic democracy that draws from Lockean springs on the other hand – can easily be evinced by examining the startling contradictions that mark contemporary American society.

According to the 2002 Pew Global Attitudes Project, a global survey of 90,000 people in 50 countries, the United States stands alone among wealthy, industrialized countries in terms of the importance its citizens place upon religious belief, with nearly 60 percent of survey respondents saying religion plays a “very important role in their lives.” Second among comparable countries is Great Britain, which registered 33 percent. Canada registered 30 percent. According to the Pew report, the countries with percentages similar to or higher than the United States all had per capita incomes of approximately \$10,000 per year or less, compared to the per capita income in the U.S. of approximately \$35,000 per year. According to the survey, “Wealthier nations tend to place less importance on religion – with the

exception of the United States. This is seen most clearly in Asia, where publics in the two wealthiest nations surveyed – Japan and South Korea – are far less likely to cite religion as personally important than those in poorer nations of the region.”

America is entirely alone in the world, however, in terms of wealth. According to the World Bank, U.S. GDP of approximately \$11.6 million is almost three times its next closest competitor, Japan (1). It is perhaps a result of the fact that America is the world’s largest marketplace that these inconsistencies are fostered.

It is a striking feature of advanced capitalist societies that they are both libertarian and authoritarian, hedonistic and repressive, multiple and monolithic. And the reason for this is not hard to find. The logic of the marketplace is one of pleasure and plurality, of the ephemeral and discontinuous, of some great decentered network of desire of which individuals seem the mere fleeting effects. Yet to hold all this potential anarchy in place requires strong foundations and a firm political framework. (Eagleton 132)

That framework and foundation is constructed of these two narratives and it is evinced by Americans’ religiosity coupled with their nearly spiritual sense of patriotism.

The facts of great wealth and religious faith would be unremarkable if not for the contrasts that they engender. For example, among the 30 member countries of the Organisation for Economic Co-operation and Development, which includes Europe, North America, Japan, Korea, Turkey, Australia and New Zealand, only four countries have a higher infant mortality rate than the U.S. And in a report published by UNICEF, “The State of the World’s Children 2005: Childhood Under Threat,” the U.S. is near the bottom among OECD countries in terms of social expenditures per capita, and at the top in terms of child poverty (35).

Furthermore, according to the International Centre for Prison Studies at King’s College, London, the U.S. leads the world both in terms of number of prisoners and rate of incarceration – 2.09 million and 714/100,000 (Walmsley 1). And according to Amnesty International, between 1990 and 2003, the U.S. executed 19 child offenders, more than any other country.

This list is only perfunctory and is not meant to disparage America or its history, but it is to highlight just a few of the glaring inconsistencies that mark American society and to begin to ask how these inconsistencies came to be and why they persist. Perhaps the competing influences of faith and

capitalistic democracy first conjured in the New World by the experiences of the Puritans and Pilgrims have created a host of contradictory elements in the American psyche – a sense of charity and an insistence on personal responsibility; a surety that wealth is good and a distrust of the wealthy; a dogmatic belief in freedom and a tendency to not question authority; a sense of wanderlust and a nostalgic desire for the traditional home; a fascination with guns and violence and a strong strain of pacifism. Such contradictions may even be the result of America’s conscious embrace of the oppositional spirit:

One reason for the impact of the Puritans was their success in making a dissenting faith the cornerstone of community; and the continuities this suggests may be traced through the rhetoric of American Revolution and the Emersonian re-vision of individualism as the mandate both for permanent resistance and for American identity – a transcendental license to have your dissent and to make it too. (Bercovitch *Investigations* 984)

These two narratives color Americans’ perceptions of their culture, their world, and the law, even extending to the perceptions of Supreme Court Justices. Those who wish to argue that respect for the nation’s religious heritage requires Americans to acquiesce to an ideology first suggested by the Mayflower Compact are themselves the heirs of this 17th Century Hobbesian, absolutist perspective.

Perhaps the kind of deep rendering of America’s heritage that has just been outlined would yield a greater understanding of the impulses that drive contemporary American society, rather than simply trying to interpret the out-of-context statements of a few political figures. In any case, it should be clear that attempting to base a rational argument on a single perception of history should be a fraught undertaking.

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Notes

¹ In this context, the difference between “history” and “heritage” is blurred. Reading the opinions in these two cases, the Justices supporting a “religious heritage” argument seem to use these terms almost interchangeably, as in “nation’s history” and “nation’s heritage,” both in the positive sense of a shared past deserving of respect.

[2](#) Justice Scalia is joined in his dissent by Chief Justice Rehnquist and Justice Thomas. Justice Kennedy, who also dissented from the majority, did not join this part of Scalia's dissent.

[3](#) I use the term "father" deliberately. The Justices invoking the "religious heritage" argument invariably invoke men to defend their positions and clearly don't intend to highlight the plight of women, slaves, or Native Americans who were denied any say-so in political affairs.

[4](#) Joined by Justices Scalia, Kennedy, and Thomas.

[5](#) In the Kentucky case, the Mayflower Compact was actually a part of the Ten Commandments display in question, titled "The Foundations of American Law and Government Display."

[6](#) Justices Souter, Stevens, O'Connor, Ginsburg, and Breyer.

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