

Two Concepts of Covenant

Abstract

Two distinct models of political covenant emerged in newly formed political communities in seventeenth-century New England. Both models were based on covenants in the Hebrew Bible. John Winthrop and John Cotton, in the Massachusetts Bay Colony, favored what could be called a Sinaic covenant. Some of the dissenting Puritans, like Roger Williams on Rhode Island, favored what could be called a Noahide covenant. An understanding of the biblical roots of these covenants increases our understanding of the 17th century New England polities, and it may also shed light on religiously-based political theory in the world today.

In this paper, I will argue that the covenant incorporated in the American Declaration of Independence followed the Noahide rather than the Sinaic model and that, as such, the covenant incorporated in the Declaration led to a far more individualistic, egalitarian, factionalized, and commercial political community than that envisioned by the Sinaic covenant.

Introduction

In seventeenth-century New England political communities were being newly created by explicit contract.¹ Men like John Winthrop and John Cotton, in what Perry Miller called the non-dissenting Puritan orthodoxy² favored what can be called a Sinaic covenant. Some of the dissenting Puritans, like Roger Williams, based their political covenant on what could be

called a Noahide covenant. Both covenantal models were held to be God-given. Within months of settlement of the Massachusetts Bay Colony, these two models of political covenant were in conflict. Winthrop's Sinaic model was more republican than liberal in that it emphasized the common good over individual rights, while William's Noahide model was more liberal in that it focused on individual liberty. I will argue that the covenant incorporated in the Declaration of Independence followed the Noahide rather than the Sinaic model and that, as such, the covenant incorporated in the Declaration led to a far more individualistic, egalitarian, factionalized, and commercial political community than that envisioned by the Puritan orthodoxy.

Williams's influence on the Declaration of Independence was both direct and indirect. Local communities that had adopted Williams's notions of political covenant survived and thrived into the eighteenth century in New England. In England, Williams's teachings were incorporated later in the seventeenth century into John Locke's "Letters Concerning Toleration" and the *Two Treatises of Government* although Locke did not go so far as to explicitly advocate the disestablishment of religion. It is this body of Lockean teachings that provided much of the formal philosophical underpinnings of the Founders' thinking in the late eighteenth century. In part because Locke spoke in the language of the early secular Enlightenment as well as in the language of biblical exegesis, he appealed to both the religious and the more secular members of the Founding Generation.

Both the Sinaic and Noahide political covenantal models had grown out of the Protestant covenantal church tradition, which was deeply influenced by John Calvin. Although there may have been covenanting churches in Europe somewhat prior to the

Reformation, the covenanting church movement grew out of the Protestant insistence on individual religious assent.³ Neither Calvin nor Luther, however, sanctioned Christian religious diversity within a *civil* polity; and both believed that the greatest dangers to purity of doctrine were schism, heresy, and disputes internal to the church.⁴ For them, Protestant reform in continental Europe was to be accomplished principally by principality; and so, however revolutionary their theology, both Luther and Calvin remained relatively conservative *politically* as would John Winthrop and John Cotton in the next century.

Winthrop's Sinaic model sought to eliminate factionalism and was forthrightly theocratic. In contrast, separatist Puritans like Roger Williams, no less rigidly Calvinist in their thinking, focused on aspects of Calvinist religious thinking that seemed to encourage a more radical religious individualism and that radical religious individualism led them to a stronger support of individual liberty in the polity. The Noahide model allowed for religious diversity and political factionalism to exist provided only that all factions in the polity were committed to a relatively narrow set of God-given moral constraints or rules. Those rules were variously described as the Noahide commandments, the second table, or natural law. In America, in part because of the difficulty of maintaining both religious and political unity, Winthrop's Sinaic covenant was quickly superseded by the more tolerant, more individualistic, and more liberal notion of covenantal polity.

Winthrop's Sinaic Covenant

Williams's invocation of the Noahide covenant was, at least in part, a series of responses to Winthrop's and later Cotton's invocation of the covenant of Sinai. We should

begin, therefore, with Winthrop's political covenant. In John Winthrop's "Model of Christian Charity," his so-called "City upon a Hill" lay sermon, we have a clear description of a Sinai covenant. Winthrop's language in this sermon was modeled on earlier European church covenants and it was a fairly representative example of covenantal thinking at the time.⁵ As evidenced by the writings of both Winthrop and Cotton, their covenant was designed not merely to establish a political community but to establish a community committed to a particular religious, ethical, and cultural way of life. Winthrop believed that such a community had been created at Sinai with the giving of the Torah, and Winthrop and Cotton sought to model their new community on biblical Israel and the covenant at Sinai. John Cotton, in his "Moses his Judicials," outlined a political community based, in detail, on the Mosaic polity described in Exodus and Deuteronomy.⁶ In the last chapters of Deuteronomy, as the people were preparing to cross over the Jordan, Moses repeated the ritual of assent for the new generation of Israelites to the covenant at Sinai, and Winthrop ends his own sermon by quoting, with slight emendations, one of those passage from Deuteronomy 30.

Beloved there is now set before us life, and good, death and evil in that we are commanded this day to love the Lord our God and to love one another to walk in his ways and to keep his commandments and his ordinance, and his laws, and the articles of our covenant with him that we may live and be multiplied, and that the Lord our God may bless us in the land whether we go to possess it. . .⁷

What are the articles of this sacred covenant? According to Jonathan Sacks,⁸ the biblical covenant at Sinai included six elements: (1) it was a spoken agreement between God and the people; (2) it was relatively egalitarian at least with respect to assent; (3) it created a people and a community committed to a particular moral and religious vision; (4) the moral and religious nature of the community was clearly defined, although the political structure of the government was left open; (5) the created community had a historical mission; and (6) it was understood that if the community failed to achieve that mission, the consequences would be dire. We can find each of these elements of the Sinaic covenant in the body of Winthrop's "Model of Christian Charity."

(1) At Sinai, God spoke and each individual assented, and Winthrop claims God spoke by his actions, to the Massachusetts Bay colonists,

Thus stands the cause between God and us, we are entered into covenant with him for this work . . . we have hereupon besought him of favour and blessing: now if the Lord shall please to hear us, and bring us in peace to the place we desire, then hath he ratified this covenant and sealed our commission, [and] will expect a strict performance of the articles contained in it.⁹

(2) According to Sacks, at the moment of the covenant, Moses stood at the foot of the mountain with the people and not above them. All the people were present, men, women, and children. God said to them "ye shall be unto me a kingdom of priests, and an holy nation."¹⁰

Winthrop's vision, too, was egalitarian with respect to assent. Each man and woman was required to come forward in the presence of the whole community to become a member of the covenant, and the community retained the right to reject individuals as members. "[F]or the work we have in hand, it is by a mutual consent through a special overruling providence, and a more than an ordinary approbation of the churches of Christ to seek out a place of cohabitation and consortship under a due form of government both civil and ecclesiastical."¹¹

(3) At Sinai, a single unified community was created by the act of assent to God's spoken words.¹² Both Winthrop and the Hebrew Bible claim that the covenant is a sacramental act and describe that sacramental act as a marriage. Winthrop's "Model" also reflected the language of Christian communion. "First all true Christians are of one body in Christ. . . . The ligaments of this body which knit together are love."¹³ ("Model," par 20)

According to Sacks, prior to Sinai, the Israelites had been a people bound together by blood, but at Sinai a political and moral community was created by means of a covenant with God. Winthrop established a political community *entirely* by covenant. His citizens had not been bound together by blood or geography. They had come together and were crossing into the promised land for the purpose of establishing their godly community. Not only did the people, as a community, covenant themselves to God and God to the people; but the people, as individuals, covenanted themselves to each other. "For the persons, we are a Company professing our selves fellow members of Christ, In which respect only though we were absent from each other many miles, and had our employments as far distant, yet we ought to account our selves knit together by this bond of love."¹⁴

(4) As at Sinai, the precise structure of the Massachusetts Bay Colony government, the constitution so to speak, was not specified in the covenant itself. For Winthrop, “[T]he Lord hath given us leave to draw our own Articles we have professed to enterprise these actions upon these and these ends, we have hereupon besought him of favour and blessing.”¹⁵ Ultimately, however, God was to be sovereign of this community and both Winthrop and Cotton each claim that the Bible itself provides models for virtually all human organizations.¹⁶

(5) According to Sacks, the purpose of the covenant at Sinai was not simply to create a political and religious community but, in part by creating an instantiation of a godly community on earth, to fulfill a historical mission. Similarly, Winthrop’s community had a religious, political, and historical mission on its “Errand into the Wilderness.” “The end is to improve our lives to do more service to the Lord the comfort and increase of the body of Christ whereof we are members that our selves and posterity may be the better preserved from the common corruptions of this evil world to serve the Lord and work out our salvation under the power and purity of his holy ordinances.”¹⁷

Winthrop’s “City upon a Hill” was meant to be an earthly instantiation of the godly city. Like the Temple, it was to be a dwelling place for God on earth. “The Lord will be our God and delight to dwell among us, as his own people and will command a blessing upon us in all our ways...we shall find that the God of Israel is among us.”¹⁸ When he claimed that the just Christian community must be a theocracy, John Cotton meant that God himself was the sovereign of that community, “As for monarchy, and aristocracy, they are both of them

clearly approved, and directed in scripture, yet so as referreth the sovereignty to himself, and setteth up Theocracy in both, as the best form of government in the commonwealth, as well as in the church. . . .”¹⁹

(6) Once Israel had covenanted with God, the burden on the people was heavy. If the people failed, then the covenant had failed, and, in a sense, God himself had failed. And thus, in those last chapters of Deuteronomy, God had set before the people both a blessing and a curse. Similarly, Winthrop predicted dire consequences should the people fail in their “Errand into the Wilderness”:

We must consider that we shall be as a city upon a hill, the eyes of all people are upon us; so that if we shall deal falsely with our god in this work we have undertaken and so cause him to withdraw his present help from us, we shall be made a story and a by-word through the world, we shall open the mouths of enemies to speak evil of the ways of God and all professors for God’s sake; we shall shame the faces of many of God’s worthy servants, and cause their prayers to be turned into curses upon us till we be consumed out of the good land whither we are going.²⁰ (“Model,” par 46)

Clearly the moral and religious burden imposed on the people by Winthrop’s Sinaiic covenant was heavy. Both the Jews and the Puritans were to hold themselves to a higher moral standard than other men, simply by virtue of being specially chosen by God. Given Puritan Calvinist notions of original sin, those standards may have been even more difficult to maintain.

Williams's Noahide Covenant

Exiled from Massachusetts, Roger Williams, Anne Hutchinson, William Coddington, and Samuel Gorton spoke for many Puritan dissenters who rejected Winthrop's Sinai covenant in large part because it did not allow for individual liberty of conscience. Although Williams became a leading spokesman for many of the dissenters in the 1640s, he was neither the first nor the last to argue in favor of a more individualistic interpretation of Scripture.²¹ The chain of such thinkers is uninterrupted through Locke and beyond. Williams argued by means of biblical exegesis, and the secular implications of his doctrine are often overlooked, but those implications are profound. During the course of colonial history, Williams's appeals to the sanctity of individual liberty wrought changes far beyond the separation of church and state.

In *The Bloody Tenent of Persecution* (1644) and its sequel *The Bloody Tenent yet more Bloody* (1652),²² Williams argued that although God had spoken to the Israelites at Sinai, God had not actually *spoken* to John Winthrop in order to create a political community. Williams believed that there had been only one *nation* in covenant with God, "Doubtless that Canaan Land was not a pattern for all lands: It was a none-such, unparalleled and unmatched."²³ And he believed that the Sinai national covenant ended with the coming of Christ.²⁴ On this point, Williams agreed with most Christian political theorists of the 16th and 17th centuries, including Calvin, Hobbes, and Locke.²⁵ As Pufendorf put it in his discussion of God's covenants with mankind, "This [Sinai] covenant was to continue till the time of the Savior's coming into the world, by whose presence the force of it died of itself: Because in the exhibition of him, and in his visible presence among men, did consist the completion of

this covenant on the part of God.”²⁶

According to Williams and others, that ancient *national* community created at Sinai was unique and could not be repeated, in part because it was meant to foreshadow the true godly city of saints created by Christ himself. Christ had spoken in order to dissolve the obligation to the law established at Sinai and to establish a very different kind of city, the City of God, to use Augustine’s phrase. For Williams, the City of God is not a political community. Its citizens are few and far between. They are dispersed among the peoples of the earth. They are the saved or the saints. They are not bound together by blood, language, or geography but by faith and God’s Grace, without which salvation is not possible. There is no earthly government possible in the City of God.

According to Williams, membership in Christ’s City of God was to be founded on faith alone, not reason, not law, and certainly not coercion. The individual must be free from all constraints in order to search for salvation. All Christians should strive to become members of the City of God, but no one except God can *know* who is actually among the elect. To participate in life eternal, one must be among the elect.

There can be only one City of God, but for Williams there can be many good earthly cities. For Williams, to be a good man (*bonus vir*) in the civil or earthly sense one need not even be a Christian, let alone among the elect. Pagans may be good men, and pagans may be good magistrates of good cities, provided that those cities adhered to a body of normative rules variously referred to as the Noahide commandments, the second table, or natural law. Williams believed that the second table is universal and not Christian. In fact, Williams preferred to restrict the use of the term “law” to such civil law. He wrote, “I think this term

law ought to be restrained to the second table.”²⁷ Williams seldom uses the term “law” with respect to that body of biblical teachings that others refer to as revealed law, godly law, or the laws of Grace. For Williams, Grace is not a matter of law. And so, instead of using the covenant at Sinai as a model for civil government, Roger Williams chose to model his *political* community primarily on the Noahide covenant, or what he preferred to call the second table.

Although both the Jewish and the Christian traditions have referred to the Noahide covenant and the second table since antiquity, there has been no agreement within either tradition on precisely what was to be included in the Noahide commandments or the second table. Seventeenth-century references to the Noahide covenant are plentiful, and Hugo Grotius and later Samuel von Pufendorf, who developed Enlightenment natural law theory on the Continent, linked natural law to the Noahide covenant. In England, references to Noah and God’s covenant with Noah had been common particularly amongst those who, like Richard Hooker, Robert Filmer, and James I, defended the divine right of kings. Perhaps because the defenders of divine right doctrine, invoked Noah, the English thinkers who argued for government by consent generally preferred to use the terms “second table” or “natural law,” rather than “Noahide commandments.” By and large, however, the terms, insofar as they could be reduced to a body of rules or norms, were roughly interchangeable among seventeenth-century political thinkers.

The terms of the Noahide covenant are not enumerated in Genesis beyond a general prohibition against violence and corruption and specific prohibitions against eating the flesh of living animals and the murder of men, “Whoso sheddeth man’s blood, by man shall his

blood be shed: for in the image of God made he man”²⁸ In his *The Divine Feudal Law*, Pufendorf wrote:

The promulgation of this covenant. The notice of this covenant was given by God to Man immediately after the Fall. . . . That covenant also we must understand belongs in its nature to all men, there being no appearance in it of the exception of any. Nor does it seem congruous to the justice of God, while he proposed to heal the pollution which was common to all men, to offer a new covenant only to a few of them, and to leave the rest, without any particular fault of theirs, destitute of any remedy of their misery. . . . tho’ it had been published first to *Adam*, and then to Noah, and so to all mankind without exception or difference, being published and offered to the common parents of all.²⁹

Hooker identified the Noahide covenant with natural law,³⁰ and in *Rights of War and Peace*, Grotius relied on the Noahide covenant to justify capital punishment and rightful wars.³¹ The Noahide laws were thought of as that body of rules that govern all viable societies, without which social life is impossible, and in the opinion of most scholars Noahide law required the establishment of a judicial at least for the prosecution of murderers. “Whoso sheddeth man’s blood, by man shall his blood be shed: for in the image of God made he man”³²

Since before the birth of Christ, the rabbinic tradition had also identified the Noahide commandments with Aristotle’s natural law. Aristotle and the medieval Aristoteleans

believed that one could determine natural law by means of rational analysis and empirical observation. They believed all human society operates under these laws and in that sense they are *natural* laws. Grotius goes even farther in suggesting that the Greeks and Romans may have actually followed the biblical Noahide tradition in this respect.³³

Although given by God, natural law could be known by reason alone, and these are the laws that should govern man's conduct in civil matters. For Locke, while these natural laws are not innate, every adult human being can and could and should attain knowledge of them. In *The Essay Concerning Human Understanding* Locke writes:

I would not here be mistaken, as if, because I deny an innate law, I thought there were none but positive laws. There is a great deal of difference between an innate law, and a law of nature; between something imprinted on our minds in their very original, and something that we being ignorant of may attain to the knowledge of, by the use and due application of our natural faculties. And I think they equally forsake the truth, who, running into the contrary extremes, either affirm an innate law, or deny that there is a law knowable by the light of nature, i. e. without the help of positive revelation.³⁴

Natural law was, to use Locke's phrase, "the measure God has set to the actions of men,"³⁵ and Williams understood those laws in that same way. At a rough minimum, Roger Williams identified the second table as those six or seven of the ten commandments that seem to apply to mankind in general.³⁶ These included injunctions against theft, murder,

bearing false witness, and thus those natural laws also included the requirement for a judicial system to maintain the rule of law. Williams wrote, “The want of a king, magistrate, or governor, or civil officer of justice, provokes the wrath of God, and endangereth the people.”³⁷

For both Williams and Locke it was necessary that these natural laws be enforced by the civil authority even in barbarian or pagan cities. Williams wrote, “[I]f the sword and balances of justice (in a sort of measure) be not drawn and held forth, against scandalous offenders against civil state, that civil state must dissolve by little and little from civility to barbarism, which is a wilderness of life and manners. . .”³⁸

Although, Williams repeatedly affirmed the need for the strict enforcement of civil law, he greatly reduced the legitimate scope of those civil laws. According to Williams, “The laws of the civil magistrates” government extends no further then over the body or goods, and to that which is external.”³⁹ The Noahide commandments were seen by Williams and others as the norms that prevent the violent and fraudulent damage to the persons or legally recognized property of other human beings, and, as such, they were believed to be the accepted body of natural moral law common to all God's creatures, Christian and non-Christian alike.

During the period of Greek and Roman imperial rule over Israel, the association of the Noahide commandments with natural law allowed for a reconciliation of Aristotelean ethics with biblical teaching, and it served as a mechanism by which Jews and later Christians could live peacefully under Roman rule. The Roman imperium was a fact of life. Although the Jews had revolted, their revolutions failed. Therefore, it was necessary to devise some way in

which to live legitimately Jewish or Christian lives under the jurisdiction of a pagan civil regime. The Noahide covenant and Aristotle's natural law later provided some way in which one could appeal to and acknowledge the moral legitimacy of pagan political power just as the Noahide commandment provided a mechanism for tolerating religious minorities within Jewish, Christian, and Muslim communities.⁴⁰

Whatever the historical origin of the natural law tradition, however, Jews and Christians refused to simply identify the Noahide laws with Aristotle's natural law because they also believed that the Noahide laws were covenantal and *divine* in origin. God was the law giver, and so breaking the natural law for a Jew or a Christian is not simply irrational or unwise, it is a violation of a covenant between man and God.⁴¹ Violation of such laws were an affront to God as well as to the civil government. Both Williams and Winthrop accepted this traditional Christian interpretation of natural law.

In other ways, however, Williams's and later Locke's interpretation of natural law was not traditional. Williams took natural law as he inherited it from the Christian Aristotelean tradition, but he added a far more radical and controversial notion of human equality – what Jerome Huyler calls equal creation in the image of God,⁴² and Jeremy Waldron calls basic equality.⁴³ Williams and others amongst the dissenters elevated individualism and human equality into a fundamental covenantal political and moral principle. In effect, Williams had claimed that the *sacred* covenant was between Christ and each and every individual as an individual. Christ *spoke* to every individual on the face of the earth. There were to be no intermediaries, no prophets, no priests, no governors to come between Christ and the individual.⁴⁴ By speaking, Christ created a community, but the City

of God was a moral and religious community made up of individuals. This community could not come together in the civil sense or exercise earthly authority without betraying the fundamental covenant with Christ. The sacred marriage was between Christ and the individual Christian and not between Christ and any community or even church. According to Williams, when the Roman Church became an institution, Christianity became Christendom, she became the Whore of Rome and thus the servant of the Anti-Christ.⁴⁵ The covenant with Christ established a mission – the mission was individual redemption. The consequence of turning aside from the covenant was dire – the loss of life eternal. Every Christian had an earthly mission, an errand into the wilderness, but Williams believed that it was as individuals and not as communities that Christians would become lights unto the nations. Thus, Williams’s individualism and egalitarianism follows from his interpretation of the sacred covenant between Christ and the individual. His political theory and his radical individualism and egalitarianism was a consequence of his understanding of the primary sacred covenant. Williams turned to the Noahide covenant because in de-emphasizing what has come to be called the republican tradition, it allowed for the unimpeded flowering of the covenant between the individual and Christ.

In this respect, Williams was very influential amongst radical dissenting Christians in England. Williams had returned to England in 1643 in the midst of the English Civil War in order to acquire a royal charter for Rhode Island. In England, he became one of the clergymen associated with Cromwell’s New Model Army and formed a working friendship with John Milton and other political writers for the New Model Army. While in England, in 1644, he published *The Bloody Tenent* in response to John Cotton’s “Model of Church and

Civil Power.” Although the first copies of *The Bloody Tenent* were ordered burned by Parliament, subsequent printings were remarkably successful. Williams returned to England a second time on Rhode Island business (1651 - 1654), when he published the second *Tenent*. He was part and parcel of the Commonwealthian thinkers who, as Richard Ashcraft and more recently Martha Nussbaum⁴⁶ and others have shown, provided a great deal of the foundation for John Locke’s mature thinking on government and religious toleration.

In 1660 when Charles II returned to the throne, Roger Williams was fifty-six years old and a well established figure. John Locke was twenty-eight years old. Charles’s Declaration of Breda promised that he would, via an act of Parliament, allow religious diversity in England—a “liberty to tender consciences.” No man was to be in future “disquieted or called into question” for differences in religion as long as those differences did not threaten the peace of the kingdom. In England, Charles could not in fact deliver on the promise of toleration, in large part because the Parliament would not allow it; but on Rhode Island, safely out of the effective reach of the British Parliament, Roger Williams was still citing Charles and the Declaration of Breda as a guarantor of religious freedom as late as 1670.⁴⁷

In England, with the passing of the religiously repressive Clarendon Code in the 1660s, the dissenting Christians were once again alienated from the government. They, together with some of the earlier commonwealth men like Locke’s patron the Earl of Shaftesbury, formed the radical wing of the Whig party. The mature John Locke became a leading spokesman for the dissenting Christians. In defense of that position he wrote and eventually anonymously published his “Letter Concerning Toleration.”⁴⁸ “The Letters on Toleration” were perhaps the most influential of Locke’s writings in America. In many key

respects, Locke's "Letter Concerning Toleration" and the succeeding "Letters" or correspondence with the Anglican cleric Jonas Proust, recapitulated the Williams-Cotton debate, and Locke's "Letters Concerning Toleration" incorporated the fundamental assumptions on which the *Second Treatise* was built.

Liberal Restrictions the scope of Civil Government

According to both Williams and Locke, given of the primacy of Christ's covenant with the individual, the sphere of operation for the civil government must be limited. There is nothing in Aristotle or the medieval Aristoteleans which limits civil government and indeed, for Aristotle, as for subsequent commentators, the management of religion was a legitimate state function. Pufendorf himself lists the maintenance of the state religion as among the first responsibilities of government. Roger Williams argued, however, that civil government should be limited to civil matters as he defined civil matters even in Christian nations so as not to intrude on the covenant between Christ and the individual. The civil government, had legitimate jurisdiction only over the second table and even there, according to Locke, the jurisdiction only held if there were damages against the persons or property of others:

But it does not follow, that because it is a sin it ought therefore to be punished by the magistrate. For it does not belong unto the magistrate to make use of his sword in punishing every thing, indifferently, that he takes to be a sin against God.

Covetousness, uncharitableness, idleness, and many other things are sins, by the consent of all men, which yet no man ever said were to be punished by the magistrate. The reason is, because they are not prejudicial to other men's rights, nor do they break the public peace of societies. Nay, even the sins of lying and perjury are no where punishable by laws; unless in certain cases, in which the real turpitude of the thing and the offence against God, are not considered, but only the injury done unto men's neighbours, and to the commonwealth.⁴⁹

Thus, unlike Cotton, Williams and Locke seemed more concerned with what the government may not do rather than with what the government may do. Their restrictions on civil government protected far more than religious freedom; they protected a wide range of other individual liberties.

Although Williams's restrictions on civil authority were motivated primarily by his desire for religious freedom, his opponents in the orthodoxy predicted that by sanctifying individual conscience, religious tolerance would strengthen individualism and therefore weaken community. They felt that Williams's individualism would lead to an excess of democracy, to license, to commercialism, and to greed. They feared not only what has come to be called the Puritan Declension, but they feared a more general intellectual and moral decline in New England society.

The Puritan orthodoxy also believed that even natural law could not possibly be enforced *without* Christian religious conformity. John Cotton's fellow clergyman Nathaniel Ward, writing under the pseudonym of the Simple Cobbler of Aggawan claimed, "That state

that will give liberty of conscience in matter of religion, must give liberty of conscience and conversation in their moral laws, or else the fiddle will be out of tune and some strings crack.”⁵⁰ The Puritan orthodoxy believed that the government of the church and of the state should remain distinct, but that magistrates should be guided by the clergy. In his letter to Lord Seal and Say, John Cotton claimed that, “God’s institutions (such as the government of church and of commonwealth be) may be lose and compact, and co-ordinate one to another, and yet not confounded.”⁵¹ They must, however, work together in harmony. If there was a wall between Cotton’s church and Cotton’s state, it was an exceedingly porous wall. For the proponents of the Sinaic covenant, it was the business of the state to do what good it could. And so, it was the business of the civil government to protect the community from heresy, blasphemy, and schism. In doing so, the godly Christian state, the Sinaic state, could not be limited to Noahide law. Winthrop’s City on the Hill was to be governed by both natural law and religious law as was the original nation state created at Sinai. Winthrop wrote, “There is likewise a double law by which we are regulated in our conversation one towards another: in both the former respects, the law of nature and the law of grace, or the moral law or the law of the gospel.”⁵² Cotton claimed that we must be guided in structuring *all* our social and political relationships by biblical examples: “It is very suitable to God’s all-sufficient wisdom, and to the fullness and perfection of Holy Scriptures, not only to prescribe perfect rules for the right ordering of a private man’s soul to everlasting blessedness with himself, but also for the right ordering of a man’s family, yea, of the commonwealth too, so far as both of them are subordinate to spiritual ends.”⁵³

In his critique of Cotton and Winthrop, Williams insisted that civil sword against

men's bodies and property should only be used in defense of a Noahide judicial system.

Williams cautioned, "But let plain English be spoken and it will be found that the Protestant clergy (as they will be called) ride the backs and necks of civil magistrates, as fully and as heavily (though not so pompously) as ever the great whore sat the backs of princes."⁵⁴

There did not seem to be any room in Winthrop's City on the Hill for the sort of diversity Roger Williams championed. For Winthrop and Cotton at least in theory there was a single incontrovertible vision of the good that is to govern every aspect of human existence. Although there could be some choice of mechanisms compatible with that vision, there could be no contradictions within that vision. If there were, it would for them be tantamount to a contradiction in Christ. It is the duty of both magistrates and the ministers of the Gospel to study that vision and then to implement it. Thus, the Puritan orthodoxy was committed to what Isaiah Berlin called the monistic presupposition. Given that presupposition, it is only rational that government power be used for any purpose, secular or spiritual, which contributes to the good of the community. In particular, as Christians, Cotton and Winthrop believed the Bible obligated them to enforce religious and social unity. The community should be in communion. To use Plato's metaphor, everyone should be singing the same chant.⁵⁵

The Puritan orthodoxy did not claim that they or their governors had achieved the perfect knowledge or self-control of Plato's philosopher king. They were neither that zealous nor that certain of themselves. Both Cotton and Winthrop understood that given the inherent sinfulness of man, there would be abuse of power by both temporal and spiritual leaders. In a sermon published posthumously, Cotton wrote, "If there be power given to speak great

things, then look for great blasphemes, look for a licentious abuse of it.”⁵⁶ He believed, however, that given this propensity to abuse power, it is even more important that men seek divine guidance in establishing the proper use of power. Divine guidance would reduce the abuse of power. Cotton continued, “It is therefor fit for every man to be studious of the bounds which the Lord has set: and for the People, in whom fundamentally all power lyes, to give as much power as God in his word gives men.”⁵⁷ Cotton goes on to say that divine guidance will set the walls in place to prevent abuse of power. “So it is with Magistrates, stint them where God hath not stinted them, and if they were walls of brass, they would beat them down, and it is meet they should: but give them the liberty God allows, and if it be but a wall of sand it will keep them.”⁵⁸

Roger Williams, in contrast, contended that God *had* stinted the magistrates far more radically than Winthrop or Cotton believed. On Williams’s interpretation of the biblical texts, it is *necessary* to sever the spheres of jurisdiction between secular and church governance. And so, according to Williams, it was Christ himself who had built a wall between church and state. And, furthermore, he accused Winthrop and Cotton of clear-cut hypocrisy. Williams claimed that before when Winthrop and Cotton had not been in a position of political power, when they were “under the hatches,” they themselves had argued for toleration. It is only when they were “in the sterns” that they argued against religious toleration. Similarly, in the first “Letter Concerning Toleration,” Locke warned of the deep corruption in ancient Rome when Christians gained political control. “Then immediately all compacts are to be broken, all civil rights to be violated, that idolatry may be extirpated Then at last it appears what zeal for the church, joined with the desire of dominion, is capable

to produce: and how easily the pretence of religion, and of the care of souls, serves for a cloak to covetousness, rapine, and ambition.”⁵⁹ (“Letter,” par 61)

John Cotton countered Williams by claiming that there was no contradiction or hypocrisy in his own position. He claimed to reject the Roman Church because it was not a *true* Christian church. Once one had the true Christian church in control of government, religious tolerance was no longer necessary. Williams and Locke countered that every church, Christian and otherwise, believed that it was *the* true church. They argued that only God could *know* which were the true churches.

Biblical Exegesis

Winthrop and Williams both based their political arguments on their interpretations of biblical texts although those interpretations relied on theories of biblical exegesis that are no longer in fashion. Winthrop’s and Williams’s biblical interpretations were not simply illustrative, they were at the core of their lives and of their political theory. Perhaps in part because Locke also spoke in the language of the Enlightenment, his biblically-based arguments have often been interpreted as rhetorical or even duplicitous although more recently scholars like Tully, Huyler, and Waldron have argued that Locke’s biblical references are at the foundation of his political argument in that one cannot understand either Locke’s political philosophy or the history of the strongly religious commitment to that philosophy in America without understanding its biblical foundations. And so, in order to explore some of the deeper political differences between the Sinaic and the Noahide covenants it is necessary to examine Winthrop and Cotton’s biblical arguments in support of

the former and Williams's and Locke's biblical arguments in support of the latter. Of central importance to their covenantal theories were their interpretations of the parable of the wheat and the tares in Matthew, Paul's letter to the Romans chapter 13, and the biblical notions of covenant *as* marriage.

(i) The Parable of the Wheat and the Tares

In Matthew, the Kingdom of Heaven is likened to a field in which a man has sown good seed. When he slept, however, the "enemy" sowed tares, weeds that resemble wheat. The servants ask the householder whether they should weed out the tares, to which the householder replies, "Nay; lest while ye gather up the tares, ye root up also the wheat with them. Let both grow together until the harvest: and in the time of the harvest I will say to the reapers, Gather ye together first the tares, and bind them in bundles and burn them: but gather the wheat into my barn."⁶⁰

Both Williams and Cotton agreed that the tares, the souls that are to be damned, are distributed amongst the souls that will be saved, and that the servants of God are being told not to cut down and gather up the tares in order to purify the field. Cotton, and most other biblical commentators at the time agreed with Cotton that by the "servants of God" the parable is referring to the clergy and not mankind in general. They argued that the church itself should not take up the earthly sword to uproot the tares; nevertheless, it was acceptable for the church to council the civil government to cut down the tares. On that reading, it was the civil government's business to protect the peace of the field. The primary concern for these thinkers was not the toleration of non-Christians. Over time mechanisms had evolved in the Sinaic model to allow some members of other religions although not as full citizens in

the commonwealth. Winthrop and Cotton's primary concern was to exclude *dissenting* Christians.⁶¹

The Puritan orthodoxy was following in a long and distinguished tradition. The notion of a political entity with no established religious identity was, in Perry Miller's words, an idea "which men like Cotton could grandly explain was altogether crack-brained and not to be taken seriously," although, as we will see, crack-brained or not, the New England leadership was soon forced to take that idea seriously.⁶²

Roger Williams and John Locke interpreted the parable very differently. They believed that Christ has forbidden *all men*, not simply the church, to silence or uproot the tares. "Christ Jesus never appointed the civil sword an antidote or remedy in such a case," Williams wrote.⁶³ In the "Third Letter Concerning Toleration," Locke agreed, "That parable of our Saviour's plainly tells us, if force were once permitted, even in favour of the true religion, what mischief it was like to do in the misapplication of it, by forward, busy, mistaken men; and therefore he wholly forbid it; and yet, I hope, this does not take away civil government out of the world."⁶⁴

Both Williams and Locke distinguish between the civil or earthly sword and the spiritual sword. The civil sword is to be used against the bodies and property of men, and it should be used only against violators of civil law. Williams wrote that Christ had introduced a purely spiritual sword, by which the tares, the "blasphemers in Israel and blasphemers against Israel (the Church of God) are spiritually to be put to death by the two edged sword coming from of the mouth of Christ (Revelation 1:16)."⁶⁵ And Locke wrote that the death the tares should fear is not the death of the body but the death of the soul – the cutting off of

an individual soul from Christ and life eternal.⁶⁶

Thus, although Williams and Locke were convinced that the spiritual sword was real, they claimed that it was not man's to wield. Only God can know who the tares are and who, in time, will be saved. Therefore, the full extent of the punishment man can rightly mete out to religious dissenters is excommunication and ostracism from particular religious groups, as they believed virtually every group in society has the right to reject people as members for violation of its rules and beliefs. Furthermore, Locke cautioned the churches, "in all such cases care is to be taken that the sentence of excommunication, and the execution thereof, carry with it no rough usage, of word or action, whereby the ejected person may any ways be damnified in body or estate."⁶⁷

(ii) Romans 13

In his Letter to the Romans, chapter 13, Paul seemed to argue that the authority of the civil government should be unlimited. "Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation."⁶⁸

Since antiquity this passage was generally interpreted in a relatively straightforward way. Paul was thought to have been assuring the Romans that the Christians would not challenge the civil authorities and if they did challenge the civil authorities, they would gladly accept the civil punishment.

Calvin agreed,⁶⁹ but Williams, Grotius, and later Locke broke with tradition again by interpreting Romans 13 very differently. They focused, seemingly out of context, on

subsequent phrases like “For he is the minister of God to thee for good.”⁷⁰ On their readings, Christians owed obedience to Caesar not in all things but only on those things within the legitimate scope of civil government and only when government is acting for the good in a way consistent with God-given natural law. And so Williams claimed, Romans 13 “handles the duties of the saints in the careful observation of the second table in their civil conversation, or walking towards men, and speaks not at all of any point or matter of the first table concerning the Kingdom of the Lord Jesus.”⁷¹ Locke made the same argument in his extensive commentaries on Romans 13, which were published posthumously. According to Dworetz, both this Lockean “liberal Paul” as well as Locke’s “Letters Concerning Toleration” were quoted regularly in New England sermons for 100 years before the American Revolution, and eventually, the Lockean liberal notions of Romans 13 would be used as part of the justification for that revolution.⁷²

(iii) Covenant as Marriage

Both Winthrop and Williams represented the various covenants between God and man in terms of marriage. For Williams, the covenant by which political communities are formed was quite literally a civil union and not a sanctified or sacred marriage. For Williams the only sacred marriage to which God is a party is the spiritual covenant between Christ and the *individual* soul.

If we examine those covenants as marriages, other fundamental differences in Winthrop’s and Williams’s notions of political authority and individual liberty come into sharper focus.

Although John Winthrop certainly felt individually bound to Christ by a loving relationship, he Winthrop also described his Sinaic covenant as a marriage between God as the husband and the church/people as the bride. “First, in regard of the more near bond of marriage between Him and us, wherein He hath taken us to be His, after a most strict and peculiar manner, which will make Him the more jealous of our love and obedience.”⁷³

Winthrop’s interpretation of the marriage between God and the community is not Puritan in origin. This marriage is invoked in the Hebrew Bible, the rabbinic literature, and in Christian theology. Jewish and Christian interpretations of Solomon’s “Song of Songs” are based on the marriage between God and the community. According to these interpretations, the Sinaic covenant is a sacred marriage, and God, as husband, is justifiably jealous when the people turn aside and serve other gods. For Winthrop, turning aside and serving other gods was a form of adultery. “So He tells the people of Israel, you only have I known of all the families of the earth, therefore will I punish you for your transgressions.”⁷⁴

For both Winthrop and Williams, the marriage covenant is not a *mere* contract. It is also a profoundly personal and spiritual relationship based on love, honor, and, in the case of the wife, obedience. It is not reducible to a series of terms and conditions. For Williams the *sacred* marriage was between the individual soul and God. To force a breakdown of *that* marriage was, he claimed, a rape of the soul. Williams was far more likely to use the language of rape and violence than with the language of adultery. “I answer, the forcing of a woman, that is, the violent acting of uncleanness upon her body against her will, we count a rape: By proportion that is a spiritual or soul-rape, which is a forcing of the conscience of any person, to acts of worship which the Scripture entitles by the name of the marriage bed.”⁷⁵

According to Williams, it was not the disunity of religious diversity that caused wars but the suppression of religious diversity – the forcing or rape of the soul or the conscience of man. For Williams, the marriage of the individual to God was a path to salvation and to earthly peace and prosperity. In contrast, the rape of the soul was the path to war and destruction. Such violations of the sacred marriage bed caused “The cry of the whole earth, made drunk with the blood of its inhabitants, slaughtering each other in their blinded zeal, for Conscience, for Religion, . . . plundered, ravished, slaughtered, murdered, famished.”⁷⁶ And Williams contrasted this descent into religious war with the peace and prosperity of communities that practiced toleration and so did not violate the sacred marriage between Christ and the individual.⁷⁷

For Williams, however, the association of men and women into a polity and the delegation of authority by that covenantal polity is not a marriage. As a purely civil contract, it is largely reducible to a series of terms and conditions. Although any civil union must be consistent with God-given moral law. The contract which a polity is formed may be changed by the parties and the parties to that contract are the covenanting members of the political community. God is the ultimate law-giver but he is not a party to the political contract. As God said to Noah, the enforcement of the Noahide laws is in the hands of men.⁷⁸

For Williams, those that enforce the laws, the governors, are employed by the polity and constrained in their powers by their employment contracts. And so the colonial governments, and later the state and federal governments were constrained by written constitutions which limited the powers of those governments. Violations of those

constitutions constituted a breach of contract. If it is materially breached, the government, could be dissolved. For Williams, the contracts by which governments are formed and operate are not about establishing loving relationships; they are about establishing and enforcing the rules of the game among essentially equal players. Pre-revolutionary colonial constitutions were awash with lists of what the government had no right to do.⁷⁹

In contrast, John Winthrop, as a proponent of a Sinaic polity, argued for the sanctity of authority in general and political authority in particular. He did so in part by appealing to the Sinaic marriage. The community is to be subservient to Christ in the way that a wife is to be subservient to her husband. In his Speech to the General Court, July 3, 1645, he argued that the people should also be subservient to their governors as a wife is subservient to her husband.⁸⁰

The woman's own choice makes such a man her husband; yet being so chosen, he is her lord, and she is to be subject to him, ye in a way of liberty, not of bondage; and a true wife accounts her subjection her honor and freedom, and would not think her condition safe and free, but in her subjection to her husband's authority. Such is the liberty of the church under the authority of Christ, her king and husband; his yoke is so easy and sweet to her as a bride's ornaments, and if through frowardness or wantonness, etc. she shake it off, at any time she is at no rest in her spirit until she take it up again.⁸¹

Thus, Winthrop and Cotton were authoritarian in ways in which Williams was not. Winthrop's "Model of Christian Charity" begins with an assertion of human hierarchy. For

Winthrop, disobedience to authority, both divine and human, was a form of adultery. The wife *needs* the yoke, and for Winthrop, individualism and individual liberty undermine the husbandly authority of God and government, “If you stand for your natural corrupt liberties, and will do what is good in your own eyes, you will not endure the least weight of authority, but will murmur and oppose, and be always striving to shake off that yoke; but if you will be satisfied to enjoy such civil and lawful liberties, such as Christ allows you, then will you quietly and cheerfully submit unto that authority which is set over you, in all the administrations of it, for your good.”⁸²

For Winthrop and Cotton, there was a single pyramid encompassing all authority both spiritual and temporal, and all authority was ultimately governed by the marriage to Christ. Even the non-Christian “other” could be slotted into that authoritarian structure.⁸³ Where Winthrop and Cotton saw one pyramid, one source of authority, one good, and one covenant, Williams and Locke saw many kinds of goods and many different kinds of authority, and like Aristotle, Williams and Locke believed that there were different kinds of social or earthly goods.⁸⁴

Williams claimed you can be a good man, and a good magistrate, and *not* be a good Christian. Similarly, Williams, like Aristotle and Locke,⁸⁵ argued that there are different sorts of societies or companies within a nation. Williams cited the College of Physicians and the East India company as examples:

[W]hich companies may hold their courts, keep their records, hold disputations; and in matters concerning their society, may dissent, divide, break into schisms and

factions, sue and impede each other at the law, yea wholly break up and dissolve into pieces and nothing, and the peace of the city not be in the least measure impaired or disturbed; because the essence of being of the city, and so the well-being and peace thereof is essentially distinct from those particular societies; the city-courts, the city-laws, city-punishments distinct from theirs. The city was before them, and stands absolute and entire, when such a corporation or society is taken down.⁸⁶

Similarly, Locke identified the church as only one form of voluntary society, and he devoted a great deal of effort in the four “Letters Concerning Toleration” and both of the *Treatises* distinguishing between political power, parental power, and spiritual power. These powers, for Locke, did not differ merely in degree or in position in a hierarchy. They differed fundamentally in kind. They operated according to different logics in different social organizations. There were many kinds of companies and social organizations within the city, but they all required the civil government to provide a safe environment.

Thus, although Williams’s Noahide political theory may have been designed primarily to give absolute freedom of religion to the individual, his emphasis on individuals and diverse groups within the community led to a conception of government that was more limited and constrained and therefore was less regulatory, more democratic, and far more liberal than Winthrop’s Sinaic theory.

Individualism

Thus, Winthrop and Cotton, on the one hand, and Williams and Locke, on the other, differed on the nature of liberty and on the nature of the liberty Christ had given to

individuals. Winthrop, and Sinaic thinkers in general, distinguished between two kinds of liberty – natural liberty and civil liberty. The first he conceived of as bestial license that must lead to chaos and calamity; the other is good and true liberty. In his 1645 speech to the General Court, Winthrop claimed, “This [civil] liberty is the proper end and object of authority; and cannot subsist without it; and it is a liberty to that only which is good, just, and honest.”⁸⁷ Winthrop and Cotton attributed the evils of natural liberty to the inherent sinfulness of man, but this twofold distinction between license and civil liberty is far older than Christianity. Since antiquity, individualism and individual liberty, what Isaiah Berlin calls negative liberty, have often been associated with commerce, with license, and with greed.⁸⁸ In making this distinction, Winthrop also echoed Plato, Cicero, Augustine, and other more modern thinkers for whom individual liberty is equated with individual license. Individualism, for these thinkers, is always the contrary of more republican notions of civic virtue.

Winthrop’s view was also similar, in some respects, to the views of other, more secular Calvinists like Hobbes and Rousseau, who saw true liberty only in relation to the greater self – the community. To some extent, Winthrop sought to unify all members of his community in the body of Christ, Hobbes in the body of the Leviathan, that mortal God, and Rousseau in the General Will. Rousseau began the *Social Contract* by asserting man is born free but everywhere he is in chains. For Rousseau, the object of the social contract was not to eliminate the chains but to render them democratic and legitimate. The object of Winthrop’s Sinaic covenant was to render those chains legitimate by anchoring them in Christ.

Hobbes and Rousseau, each in his own way, seemed to believe that they had found a

formula to escape the evils of individual freedom. In this respect, at least, Cotton and Winthrop seemed to be somewhat less sanguine. They were aware that men were sinners and power would be abused.⁸⁹ As we have seen, Winthrop and Cotton tried to fence that political power in with the laws of God, but they, like Hobbes, recognized that a great deal of power, often in the hands of somewhat corrupt individuals, would be needed to control the sinful abuses of individual liberty.

Roger Williams and John Locke simply did not accept the twofold distinction in liberty that is fundamental to Winthrop's thinking. Williams and later Locke introduced a third kind of liberty – or, if you will, a different definition of natural liberty. Williams claimed that Christ had made us free of all laws and all statutes except those in the second table, which protect merely the bodies and properties of people. The individual is to be free except when constrained by Noahide natural law or positive law consistent with natural law.

As a Calvinist, Williams believed that men are sinful by nature, but, for the most part, Williams believed that sin should not be the concern of the civil government. The Noahide laws constrain only the actions, not the thoughts, of men, and they constrain those actions only insofar as they damage other people. Williams believed that under the terms of the Noahide covenant, God required all men to conform to natural law – at least in their actions toward other men. He also believed that most men – Christian and otherwise – did tend to conform to those laws. We need civil government only because some men do not abide by the laws of nature and positive laws consistent with the laws of nature. In that case men need to provide a mechanism for enforcing such laws because under the Noahide government it was left to men to establish a judicial system to enforce such laws.

Beyond those restrictions, individuals are to be free. For Williams and Locke such individualism was seen as a sacred good in itself. Although individual liberty may have provided fertile ground for the growth of commerce and capitalism in the colonies, Williams, Hutchinson, and later Locke were certainly not advocating what Macpherson called possessive individualism. Nor was their individualism inconsistent with virtue as they understood virtue. Williams and Locke's individuals were to be deeply responsible to their church, to their family, to their community, and to their God. There was a liberal notion of individual virtue. They believed that it was not the business of government to enforce such responsibility, except in the case of violations of law restricted to purely civil matters. Thus, it is *as* a Christian that Williams was denying the legitimacy of theocracy, just as it was *as* a Christian that he was asserting individual liberty and equality.

Above all, for Williams and Locke, individual liberty is not license: “But though this be a state of liberty, yet it is not a state of licence. . . The state of nature has a law of nature to govern it. which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions.”⁹⁰

This is the definition of natural liberty that we see in the Declaration. Williams and Locke wrote in the seventeenth century. The Declaration of Independence was written approximately 130 years after the *The Bloody Tenent*. Over time, the notion of individual equality that was at the core of William's Christianity and his Noahide notion of the civil contract had itself become elevated into a sacred moral principle.

1650-1776

In retrospect, the emergence of the Noahide covenant as the dominant form in America seems to have been historically inevitable. By 1650, Williams's emphasis on individual liberty and limited government power gave the Noahide model significant political advantages over the Sinaic model. From the beginning, Winthrop and Cotton, as non-separating Puritans, had tried to steer a middle course between Calvinist authoritarians and Calvinist dissenters like Williams.⁹¹ But their covenantal polity was intrinsically unstable.⁹² Many of the colonists had come to the New England precisely because they were religiously at odds with the established church. Given the intensity of the New England Puritans' religious commitment in those first generations, and given that the polity required strict religious unity, schism was always a threat and diversity was a fact of life. Despite his language in the "Model of Christian Charity," Winthrop himself was a pragmatist and worked to accommodate differences within his community, but his community's toleration of difference was too limited to accommodate Christians as diverse as those on Rhode Island, and, over time, fewer and fewer people were willing to accept church and community membership on Sinaic terms.

Given the centrifugal pressures of the Calvinist vision, the Puritan towns on the mainland tended to splinter almost as quickly as those on Rhode Island. Decades before the Revolution, New England and much of America had followed the individualistic and more egalitarian Rhode Island model. Americans were willing to render unto Caesar what was Caesar's, but they had greatly reduced the scope of what was legitimately Caesar's. The legitimate rights of government for Williams, for Locke, and for many in colonial America

were to be limited to the legitimate ends of government. Those ends were concerned primarily, although not exclusively, with the security of individual life, liberty, and estate, and protection against both domestic and foreign acts of violence – against “rapine and fraud of their fellow citizens, or by the hostile violence of foreigners.”⁹³

In 1776, when “with a firm reliance on the protection of Divine Providence,” those men in Philadelphia mutually pledged to each other their lives, their fortunes, and their sacred honor, they created a nation that was committed to the principle that “all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.” They claimed to hold these truths to be self-evident. And although those who assented to the covenant may have foresworn it even as they spoke it, once spoken, they could not invalidate it. That principle took on a life of its own. From the beginning, even those most critical of America, including abolitionists, feminists, and socialists, have often phrased their criticism in the language of the Declaration. They have claimed that they, and not their political opponents or the Founders, were the *true* keepers of the sacred American covenant. In doing so, each group has, in its own way, assented to the covenant, if not to the American power structure of its day. As a Noahide covenant, the Declaration was a covenant designed to accommodate dissent.

To the extent that the principle in the Declaration has become a light unto the nations, we owe that light more to Roger Williams’s reading of the Noahide covenant than to John Winthrop’s and John Cotton’s reading of the covenant at Sinai.⁹⁴

Endnotes

1. From the beginning, individuals in many New England towns took oaths of allegiance to the civil community or signed civil covenants such as the Mayflower Compact (1620) or the Salem civil covenant (1629). Since these were actual documents “sworn and signed by each member, the covenant unified members differently than did the fictional social contract described in liberal political theory.” J. Miller, “Direct Democracy and the Puritan Theory of Membership,” *The Journal of Politics*, 53, no. 1 (1991) pp. 57-74, p. 65. For a list of such documents see D. Lutz, “From Covenant to Constitution in American Political Thought,” *The Journal of Federalism*, 10, no. 4 (1980) pp.101-33, pp. 129-31.
2. The Puritan non-dissenting orthodoxy is a term introduced by Perry Miller. P. Miller, *Orthodoxy in Massachusetts, 1630-1650* (Gloucester, MA, 1961). Although Miller’s distinction has been challenged, it is the group of men Miller associated with the Puritan orthodoxy who most clearly supported the Sinaic covenantal model.
3. C. Burrage, *The Church Covenant Idea: Its Origin and Its Development* (Philadelphia, 1904).
4. H. Höpfl, *The Christian Polity of John Calvin* (New York, 1982), p. xi.
5. According to Francis J. Bremer in his biography of Winthrop, none of Winthrop’s wording would have seemed exceptional or even extraordinary to his audience. The sermon went almost entirely unremarked on by his contemporaries

and in Winthrop's surviving journals. F. J. Bremen, *John Winthrop: America's Forgotten Founding Father* (New York, 2003), pp. 174-9.

6. See Shira Wolosky, "Biblical Republicanism: John Cotton's "Moses His Judicials" and American Hebraism," *Hebraic Political Studies*, 4, no.2, (2009) pp. 124-127.

7. J. Winthrop, "Model of Christian Charity," par 47. Accessed from <http://religiousfreedom.lib.virginia.edu/sacred/charity.html>. I have chosen to standardize spelling and to use capital letters more sparingly than in the original seventeenth-century documents.

8. J. Sacks, Thoughts on Parsha Ki Tavo, <http://www.chief Rabbi.org/thoughts/kitavo5766.pdf>, (September 9, 2006).

9. Winthrop, "Model," par 45.

10. Exodus 19:6.

11. Winthrop, "Model," par 39.

12. See also M. Walzer, *Exodus and Revolution* (New York, 1985), pp.76-7.

13. Winthrop, "Model," par 20.

14. Winthrop, "Model," par 38.

15. Winthrop, "Model," par 45.

16. J. Cotton, "A letter to Lord Say and Seal" (1636), in *The Puritans: A Sourcebook of their Writings*, ed. P Miller and T. H. Johnson (New York, 1963), vol. 1, pp. 209-12.

17. Winthrop, "Model," par 40.

18. Winthrop, "Model," par 46.

19. Cotton, "Letter to Lord Say and Seal," p. 210.
20. Winthrop, "Model," par 46
21. There had been Marian exiles making this argument as early as 1550. M. Walzer, *The Revolution of the Saints; a Study in the Origins of Radical Politics*, (Cambridge, MA, 1965).
22. R. Williams, *Bloudy Tenent of Persecution*, ed. S. L. Caldwell, repr. in *The Complete Writings of Roger Williams*, vol. 3 (Paris, AR, 2005), and *The Bloody Tenent yet more Bloody*, ed. S. L. Caldwell, repr. in *The Complete Writings of Roger Williams*, vol. 4 (Paris, AR, 2005).
23. Williams, *Bloudy Tenent*, p. 323.
24. P. Miller, *Roger Williams: His Contribution to the American Tradition*, (Indianapolis, 1953), p. 53.
25. As examples, Calvin, Hobbes, Locke and Pufendorf agree that God has not spoken since Sinai and therefore the community created by the covenant of Sinai cannot be repeated. See J. Calvin, *The Institutes of the Christian Religion*, trans. H. Beveridge (Edinburgh, 1846), Book IV, chapter xx., section 16. See also J. Locke, "Letter Concerning Toleration," in *The Works of John Locke in Nine Volumes* (London, 12th edn, 1824), vol. 5, par 65-66. And Thomas Hobbes, *Leviathan*, ed. E. Curley (Indianapolis, 1994), Part III, chap. 35. See also J. Waldron, *God, Locke, and Equality: Christian Foundations of John Locke's Political Thought* (Cambridge, 2002), p. 188.
26. S. von Pufendorf, *The Divine Feudal Law: Or, Covenants with Mankind, Represented*, trans. T. Dorrington, ed. S. Zurbruchen (1695; repr. Indianapolis,

2002), §30.

27. Williams, *More Bloody*, p. 155.

28. Genesis 9:6. Unless specified otherwise, all biblical quotations are taken from the King James translation.

29. Pufendorf, *Law*, par 28.

30. Richard Hooker, *The Works of that Learned and Judicious Divine Mr.*

Richard Hooker with an Account of His Life and Death by Isaac Walton, ed. J.

Keble, 7th edition revised by R.W. Church and F. Paget (Oxford, 1888), vol. 1,

Chapter IV, par 966.

31. Here may be applied the old tradition found among the Jews, that there were many laws, which were not all mentioned by Moses, given by God to the sons of NoahAnd particularly respecting murder it is said, the land cannot be cleansed unless the blood of the murderer be shed. Numb. 25: 31-33. Besides, it were absurd to suppose that the Jewish people were indulged with the privilege of maintaining the public safety, and that of individuals by capital punishments, and asserting their rights by war, and that other kings and nations were not allowed the same powers. Nor do we find that those kings or nations were forewarned by the prophets, that the use of capital punishments, and that all wars, were condemned by God in the same manner as they were admonished of all other sins. (H. Grotius, *The Rights of War and Peace, Including the Law of Nature and of Nations*, trans. A.C. Campbell (New York, 1901), chapter II: Inquiry Into the Lawfulness of War, par 131.

32. Genesis 9:6. Unless specified otherwise, all biblical quotations are taken from the King James translation.

33. Grotius, *Rights of War and Peace*, par 131.

34. J. Locke, *Essay Concerning Human Understanding*, in *The Works of John Locke in Nine Volumes* (London, 12th edn, 1824), vol. 1, chapter III.

35. J. Locke, *Two Treatises of Government: Second Treatise; Of Civil Government*, in *The Works of John Locke*, vol. 4, par 8. See also *Second Treatise*, par 57.

36. Williams, *Bloody Tenent*, p. 152. Some interpreters of the Noahide covenant included the injunction against polytheism or “idolatry,” but both Williams and Locke made it clear that “heathens,” like Native Americans, were acceptable in civil society provided only that they maintained natural law.

37. Williams, *More Bloody*, p. 377.

38. Williams, *More Bloody*, p. 222.

39. Williams, *Bloody Tenent*, p. 36.

40. In practice, polities with an established religion may be quite tolerant of religious groups thought to be “other.” In Exodus the Israelites are told that there will be one law for rich and poor and for Israelite and the stranger within the gates. Jews are admonished to always remember that they too were once strangers in the land of Egypt. The non-Jew, Jethro, can be a praised and tolerated advisor to Moses, whereas the earth opens up and swallows the Jew, Korach, who has challenged Moses’s teachings. Seen through the lens of the Sinaiic covenant, the gentile was not seen as a religious threat except in so far as he or she might lead

the people astray. Such toleration, in a more modern religious state, often follows what Michael Walzer has called the Turkish model. See M. Walzer, *On Toleration* (New Haven, 1997). The government officially recognizes minority religious groups as structured communities. The minority communities are often allowed to be relatively self-governing with respect to religious matters – and religious matters may be defined quite broadly. These were not major considerations in the Massachusetts Bay Colony. Except for the Native Americans, there were no non-Christian or even non-Protestant minorities in Massachusetts Bay. The schism and heresy that Winthrop’s Sinaic government feared was within the body of Protestants.

41. *The Jewish Political Tradition*, ed. M. Walzer et al. (New Haven, 2000), vol. 2, p. 446.

42. J. Huyler, *Locke in America: The Moral Philosophy of the Founding Era* (Lawrence, KS, 1995).

43. J. Waldron, *God, Locke, and Equality*.

44. Roger Williams’s notion of churches was also individualized. Toward the end of their lives, both Roger Williams and John Milton began to describe themselves as belonging to a church of one.

45. See also Locke, “Letter ,” par 61, and Williams, *More Bloudy* , p. 411.

46. Martha C. Nussbaum, *Liberty of Conscience: In Defense of America’s Tradition of Religious Equality* (New York, 2008). According to Nussbaum, not only is Locke likely to have known Williams’s work, but he spent a considerable amount of time working at Oates in Essex where Williams had been employed as

a chaplain. (67) Nussbaum points out that although much of Lockean doctrine is essentially similar to Williams's doctrine, Williams is "far more careful than Locke later is to avoid reliance on any doctrine that is distinctively sectarian. . . . Compared to Locke and in some respects Kant, Williams has an extra measure of psychological insight." (58)

47. Letter to John Whipple, Jr., 8, July, 1669, in *The Correspondence of Roger Williams, Volume II 1654 - 1682*, ed. G. W. LaFantasie (Hanover, RI, 1988), p. 616.

48. It is difficult to date the writing of John Locke's "Letter on Toleration," "Two Treatises," and "Essay Concerning Human Understanding," since they were all published by Locke only after the Glorious Revolution of 1688.

49. Locke, "Letter," par 63.

50. N. Ward, "The Simple Cobbler of Aggawam" in *The Puritans: A Sourcebook of their Writings*, ed. P. Miller and T. H. Johnson (New York, 1963), vol. 1. pp. 226-30, p. 230.

51. Cotton, "Letter to Lord Say and Seal," p. 209

52. Winthrop, "Model," par 6.

53. Cotton, "Letter to Lord Say and Seal," p. 209.

54. Williams, *More Bloody*, p. 430.

55. Plato, *Republic*, 432a.

56. Cotton, "An Exposition upon the Thirteenth Chapter of the Revelation," in *The Puritans: A Sourcebook of their Writings*, ed. P. Miller, and T. H. Johnson, (New York, 1963), vol. 1, pp. 212-14, p. 213.

57. Cotton, "An Exposition," p. 213.
58. Cotton, "An Exposition," p. 213.
59. Locke, "Letter", par 61.
60. Matthew 13:27-30.
61. Nathaniel Ward, writing as the Simple Cobbler of Aggawam, sought to assure the outside world that dissenters would not be tolerated in Massachusetts: "That all Familists, Antinomians, Anabaptists, and other Enthusiasts, shall have free liberty to keep away from us, and such as will come to be gone as fast as they can, the sooner the better. Secondly, I dare aver, that God doth no where in his word tolerate Christian states, to give toleration to such adversaries of his truth, if they have the power in their hands to suppress them." ("Simple Cobbler," p. 227.)
62. Miller, *Roger Williams*, p. 77.
63. Williams, *Bloody Tenent*, p. 185.
64. Locke, "Letter III," par 784.
65. Williams, *More Bloody*, p. 154.
66. Locke, "Letter," par 71.
67. Locke, "Letter," par 35.
68. Romans 13:1-2.
69. Calvin wrote, "And it seems indeed to me, that the Apostle intended by this word to take away the frivolous curiosity of men, who are wont often to inquire by what right they who rule have obtained their authority; but it ought to be enough for us, that they *do rule*; for they have not ascended by their own power into this

high station, but have been placed there by the Lord's hand. And by mentioning *every soul*, he removes every exception, lest any one should claim an immunity from the common duty of obedience." (J. Calvin, *Commentaries on the Epistles of Paul to the Romans*, trans. J. Owen (Edinburgh, 1849) Chapter XIII.)

70. Romans 13:4.

71. Williams, *Bloudy Tenent*, p. 151.

72. S. M. Dworetz, *The Unvarnished Doctrine, Locke, Liberalism, and the American Revolution* (Durham, 1990), pp. 168-71.

73. Winthrop, "Model," par 43.

74. Winthrop, "Model," par 43.

75. Williams, *More Bloody*, p.325.

76. Williams, *Bloudy Tenent*, p. 60.

77. . . . [T]he persecuted fled to Amsterdam, a poor fishing town, yet harborous and favourable to the fleeing, though dissenting consciences: This confluence of the persecuted, by God's most gracious coming with them, drew boats, drew trade, drew shipping, and that so mightily in so short a time, that shipping, trading, wealth, greatness, honor (almost to astonishment in the eyes of all Europe, and the world) have appeared to fall as out of Heaven in a crown or garland upon the head of that poor fisher town (Williams, *More Bloody*, p. 9.)

78. Genesis 9:6.

79. B. Daniels, *Dissent and Conformity, on Narragansett Bay: The Colonial Rhode Island Town* (Scranton, PA, 1984), p. 13; D. Lutz, "From Covenant to Constitution," p. 123.

80. In a journal entry dated May 22, 1639, Winthrop wrote: "For when the people have chosen men to be their rulers, and to make their laws, and bound themselves by oath to submit hereto, now to combine together (a lesser part of them) in a public petition to have any order repealed, which is not repugnant to the law of God, savors of resisting and ordinance of God; for the people have deputed others, have no power to make or alter laws. . ." (J. Winthrop, "Journal Entry 1639," in *The Puritans: A Sourcebook of their Writings*, ed. P. Miller and T. H. Johnson, (New York, 1963), vol.1, pp. 202-5, p. 203.) Like Filmer, Winthrop also claimed a fundamental similarity between political and paternal authority. To reject the authority of one's political and religious leaders was a violation of the commandment to honor one's father and mother, "which amounts to a plain reproof of those whom God hath set over them, and putting dishonor upon them, against the tenor of the fifth commandment." (Winthrop, "Journal," p. 203.)

81. J. Winthrop, "Speech to the General Court, 1645" in *The Puritans: A Sourcebook of their Writings*, ed. P. Miller and T. H. Johnson, (New York, 1963), vol.1, pp. 205-7, p. 207.

82. Winthrop, "Speech," p. 207.

83. In Turkey, for example, Christians and Jews were allowed to operate their own schools, neighbourhoods, and courts, ultimately under the authority of the sovereign Muslim government which was under the authority of God. On such a model of toleration, groups are allowed to exert far more control over their members than would be acceptable to Williams. Even a Christian government

might choose to close its eyes to practices, among the non-Christian group, such as child sacrifice, polygamy, and the killing of dissenters. Following the same sort of reasoning, the British government in early nineteenth-century India refused to interfere with the practice of *sati* once the East India Company had determined to its own satisfaction that *sati* was a Hindu religious practice. See J. De Roover and S.N. Balagangadhara, "Liberty, Tyranny and the Will of God: The Principle of Toleration in Early Modern Europe and Colonial India," *History of Political Thought*, XXX (2009), pp. 111-34. Toleration need not constitute real membership in the Sinaic community however. For most of the nineteenth century only Anglicans could attend Oxford or Cambridge, vote, or hold political office in England. Williams, in contrast, required that members of religious minorities be allowed to vote and hold political office. Nor would Williams's or Locke's civil government close its eyes to violations of what they took to be natural law or the second table. Such violations would include child sacrifice and the killing of dissenters. Williams would not allow a religious group of any description such powers over its individual adherents. For Williams and Locke, the Noahide commandments are strongly normative. Neither Williams nor Locke were cultural relativists or morally neutral on such matters.

84. When the most high God created all things of nothing, he saw and acknowledged divers sorts of goodness, which must still be acknowledged in their distinct kinds: a good ayre, a good ground, a good tree, a good sheep etc. . . . I also add a good city, a good company or corporation, a good husband, father, master.

Hence also we say, a good physician, a good lawyer, a good sea-man, a good merchant, a good pilot for such and such a shore or harbour, that is morally, civilly good in their several civil respects and employments. (*Bloudy Tenent*, pp, 245-6)

85. In critiquing Locke's "Letters Concerning Toleration," the Anglican cleric Jonas Proast argued that surely once a government exists it should devote itself to doing good in whatever way it has the power. For Proast, doing all possible good is the purpose of any human organization. Locke responded,

By which account there will be no difference between church and state; a commonwealth and an army; or between a family, and the East India Company; all of which have hitherto been thought distinct sorts of societies, instituted for different ends. If your hypothesis holds good, one of the ends of the family must be to preach the Gospel, and administer the sacraments; and one business of an army to teach languages, and propagate religion; because these are benefits some way or other attainable by those societies. ("Letter II," par 7-8)

86. Williams, *Bloudy Tenent*, p. 73.

87. Winthrop, "Speech," pp. 206-7.

88. Jonathan Sacks, for example, distinguishes between two senses of liberty—*herut* and *hofesh*. He argues that *hofesh* means negative freedom in Isaiah Berlin's sense. Freedom in that sense can, according to Sacks, never be an adequate basis for a free society. See J. Sacks, *Radical Then, Radical Now*

(London, 2001), p. 115. Plato's political theory in the *Republic* is based on this distinction.

89. In his sermon on the limitation of government, Cotton claimed: "No man would think what desperate deceit and wickedness there is in the hearts of men. . . This is one of the stains of nature it affects boundless liberty, and to run to the utmost extent: What ever power he hath received, he hath a corrupt nature that will improve it in one thing or other; if he have liberty, he will think why may he not use it" (Cotton, "Letter," p. 212.)

90. Locke, *Second Treatise*, par 6.

91. Miller, *Roger Williams*, p. 77.

92. The threats to the Puritan orthodoxy were not simply internal. By 1641 there was civil war in England. Oliver Cromwell and the Independents in parliament realized that "if they were to survive against the Presbyterian majority, they would have to construct a working alliance with the now numerous and vigorous sects. Every one of these gloried in the name of Separatists." (P. Miller, *Roger Williams*, p. 88.) Roger Williams in Rhode Island was only one of such thinkers.

93. Locke, "Letter," par 72.