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Light Vanquishing Darkness

SCOTUS and the Codification of Sin

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On March 26, 2013, the Supreme Court of the United States (SCOTUS) heard oral arguments in *Hollingsworth v. Perry*, the federal constitutional challenge to California's Proposition 8 (2009), which states, "only marriage between a man and a woman is valid or recognized in California."[1] In addition, on the following day the Court heard oral arguments in *United States v. Windsor*, a challenge to the constitutionality of the federal Defense of Marriage Act (DOMA, 1996), which states:

> In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word "marriage" means only a legal union between one man and one woman as husband and wife, and the word "spouse" refers only to a person of the opposite sex who is a husband or a wife. 1 U.S.C. 7.[2]

Representing the Obama administration's support for same-gender marriages, Solicitor General, Donald Verrilli, stated in the administration's amicus brief: "First, preserving a tradition of limiting marriage to heterosexuals is not itself a sufficiently important interest to justify Proposition 8. . . . Second, protecting children from being taught about same-sex marriage is not a permissible interest insofar as it rests on a moral judgment about gay and lesbian people or their intimate relationships."[3]

Who would have ever thought that America would degenerate to this septic state? That heterosexuality ordained and created by God, versus homosexuality condemned by God, would be argued as equal and taught to little children as such. Or that marriage, likewise ordained and created by God, would be treated as nothing more than "a tradition." We have come to this point as a nation because morality has been castigated in a labyrinth of previous Supreme Court rulings, (it is only necessary to briefly enter this maze). These rulings reveal the Court's denunciation of morality as inadequate if not hostile to equitable adjudication. A statement similar to the ones advanced by Mr. Verrilli was posited by Justice Kennedy in *Lawrence v. Texas* (2003), which vindicated and codified male same-gender sexual acts into law.[4] Kennedy, in stating the Court's decision, referenced *Bowers v. Hardwick* (Georgia's sodomy law, 1986) and stated:

> It must be acknowledged, of course, that the Court in Bowers was making the broader point that for centuries there have been powerful voices to condemn homosexual conduct as immoral. The condemnation has been shaped by religious beliefs, conceptions of right

> and acceptable behavior, and respect for the traditional family. For many persons these are not trivial concerns but profound and deep convictions accepted as ethical and moral principles to which they aspire and which thus determine the course of their lives. These considerations do not answer the question before us, however. The issue is whether the majority may use the power of the State to enforce these views on the whole society through operation of the criminal law. "Our obligation is to define the liberty of all, not to mandate our own moral code." Planned Parenthood of Southeastern Pa. v. Casey, 505 U.S. 833 , 850 (1992).

Sentences in *Casey* leading up to Kennedy's extraction read: "Men and women of good conscience can disagree, and we suppose some always shall disagree, about the profound moral and spiritual implications of terminating a pregnancy, even in its earliest stage. Some of us as individuals find abortion offensive to our most basic principles of morality, but that cannot control our decision." Justice Kennedy also referenced the Court's decision in *Roe v. Wade* (codifying into law the right to kill unborn children, 1973).[5] Justice Blackmun, delivering the Opinion of the Court in *Roe*, conveyed the sentiment: "One's religious training, one's attitudes toward life and family and their values, and the moral standards one establishes and seeks to observe, are all likely to influence and to color one's thinking and conclusions about abortion. . . . Our task, of course, is to resolve the issue by constitutional measurement, free of emotion and of predilection."

In each of these cases there is a common thread; morality is addressed in such a way that leaves the impression it is strictly subjective; that these "moral standards" are the product of human design and are nothing more than one's "own moral code." Over against these individual, biased beliefs, the Court declares its absolute impartiality to insure "these views" are not "enforced on the whole society through operation of the criminal law." Do not be misled. The Court is saying "principles of morality" will be "enforced on the whole society through operation of the criminal law," it is just a matter of whose "principles of morality."

To claim the issues addressed by the court are somehow morally neutral is disingenuous. All law contains a moral component and the source of that morality is gravely important. While it is not the purview of magistrates to establish laws' moral components, it is also not their prerogative to ignore the innate moral factor that undergirds law; liberty weighs in the balance. Samuel Adams (1722-1803), explained the foundation of law, embraced by the Founders and Framers: "'Just and true liberty, equal and impartial liberty' in matters spiritual and temporal, is a thing that all Men are clearly entitled to by the eternal and immutable laws Of God and nature, as well as by the law of Nations & all well-grounded municipal laws, which must have their foundation in the former."[6] "Just and true liberty, equal and impartial liberty" is impossible unless "all well-grounded municipal laws [positive laws]" have their "foundation" in "the eternal and immutable laws Of God and nature."

The federal government's untenable belief that "morality" is the product only of one's "most basic principles" means all morality has no higher authority than man himself and, therefore, it is without judicial importance or justification. The basis of all law then is likewise without moral justification and rests solely on the arbitrary whims of those in power. As seen from Adams' statement, this is a complete contradiction of the sage thinking of the men who established our

government on the belief in "the Laws of Nature and of Nature's God." That only a nation under God is a nation that is truly free; and as a nation under God it is subject to His moral law. The same moral law "deeply held" by those opposed to judicial codification of particular behaviors that are antithetical to God's moral dictates and demand His judgment.

To reject "the Laws of Nature and of Nature's God" is to squelch one's conscience, denounce the Bible, and view it as a quaint writing with no contemporary significance. In so doing it places God out-of-bounds to any influence on man's reasoning. Any thought processes leading to conclusions by government officials must be limited to atheistic hypotheses and presuppositions. This is the only logical conclusion to their negative assessment of moral considerations in the legal scheme. There is an opinion the Court introduced into the decision in *Roe* that reveals this mindset. It is the position advanced by Oliver Wendell Holmes, Jr. (1841-1935):

> [The Constitution] is made for people of fundamentally differing views, and the accident of our finding certain opinions natural and familiar or novel and even shocking ought not to conclude our judgment upon the question whether statutes embodying them conflict with the Constitution of the United States.[7]

The vast expanse of possible judicial conclusions advanced by Justice Holmes and embraced by the Court is astoundingly "shocking." To understand the extent of the potential abuse in Holmes' license of power of the Court, and especially in relation to the decision in *Roe*, an assessment of his view of the right-to-life is apropos. This is particularly relevant since the Court has removed any moral consideration in determining their decisions.

Seven years before he retired from the Supreme Court, Holmes wrote a letter to Chinese jurist and author, John C. H. Wu, in which he stated: "I shall think socialism begins to be entitled to serious treatment when and not before it takes life in hand and prevents the continuance of the unfit."[8] Later, in a letter to Felix Frankfurter, Holmes confessed what he meant by this statement: "Restricting propagation by the undesirables and putting to death infants that didn't pass the examination, etc. etc. I don't know enough to say that I want it but I think it the condition of intelligent socialism."[9] His "I don't know enough to say that I want it" was insufficient to extricate him from such a heinous devaluing of human life. Holmes was not opposed to having children killed. It was only a matter of information; information sufficient to support the deviant ideals of "intelligent socialism." He would not be more proud of the "intelligent socialism" that condones and applauds partial birth abortions, and the killing of over 50,000,000 defenseless children. This is the standard for adjudication without any moral restraint.

The Court's claim "to resolve" issues "by constitutional measurement, free of emotion and of predilection," is a farce. Intrinsic to the very foundation of the Constitution of the United States is the belief that "all Men are created with certain unalienable rights," but these "rights" can never be in conflict with "the Laws of Nature and of Nature's God." No amendments to the Constitution can alter this fact, including the Ninth and Fourteenth Amendments. The only way the Court can circumvent the Constitution, while at the same time claiming to support it is to remove any moral discussions from their deliberations and conclusions. This again is the brain trust of Mr. Holmes. He taught that the Constitution and law were "not coextensive with any system of morals," and

"in some cases may extend beyond them, for reasons drawn from the habits of a particular people at a particular time."[10]

This is where we find ourselves today, "habits of particular people" against what the Court considers "personal views," which is to say, subjective morality. No "moral system," including God's, is permissible in today's legal thought. In fact, God's moral truth condensed in the Ten Commandments is found today to be especially egregious when considering moral/social issues. We are left then to determining the validity of moral/social issues by "the habits of a particular people at a particular time." The Court believes their actions are benign, not realizing how detrimental they are to our nation's survival, and as such, they are poor students of history. Though not necessarily being intentional, the Supreme Court in its ideology of jurisprudence, nonetheless, pits the government against God and the nation against Christianity.

Any discussion on moral issues must begin with God. The reason: only God as the Creator of all that is, is qualified to delineate good and evil, which is the starting point for understanding morality. Atheists reject this arrangement, but in so doing they have no moral authority for their position on social issues. For atheists, discussions of a moral nature are based on arbitrary conclusions. For Christians, moral discussions are based on the nature of God Himself. Herein is the conflict that confronts America, the supremacy of the ideology of "fallen," finite man, or the preeminence of the will of the eternal God.

The Founders and Framers did not hide their dependence upon God and His moral prerogative. They held to the incontestable belief that God and morality are inseparable and morality essential to equitable law. Religion and morality were the cornerstones of their construction of our legal system, most notable their concept of liberty, the reason "Governments are instituted among Men," and the very Constitution SCOTUS is sworn to uphold.

The Obama administration's support for same-gender marriages is more than problematic. To conclude that "preserving a tradition of limiting marriage to heterosexuals," as established by God at creation, is somehow unjust to those who insist on rebelling against His specifically designed order for male and female, is to repudiate the Fifth Commandment of the Decalogue and to libel God. Then, to declare that "protecting children from being taught about same-sex marriage is not a permissible interest insofar as it rests on a moral judgment about gay and lesbian people or their intimate relationships," compounds the offense. To insist that children be indoctrinated in that which God calls an abomination, is a repudiation of Jesus' warning to those who would offend children; "whoso shall offend one of these little ones." (Matthew 18:6) By offend is meant: "to put a stumbling-block in one's way, i.e. to do that by which another is led to sin."[11] The warning: "woe to that man by whom the offence cometh!" (Matthew 18:7)

If SCOTUS decides to continue the charade of imposing their ill conceived, atheistic opinions on America, the ideal of marriage and family will be completely destroyed. The breach of the dam of virtue will be complete and the flood waters of reprobation will cover the land. The government's desire to continue to "normalize" a particular sin, which is against "the Laws of Nature and of Nature's God," will open "Pandora's Box." The idea that people who practice a particular sin deserve the legal status of a "protected class" will have no end. If one sexual sin deserves a

particular legal status under the Fourteenth Amendment, why do not other sexual sins deserve the same status? For instance, why not all forms of incest and incestuous marriages, as long as they are the practices of consenting adults? Or group marriages containing multiple partners? The vaporous concept of "sexual orientation" if legally applicable to one sexual sin can surely be used to "normalize" other sexual sins. If not, the Court's decision for one against another is nothing more than a biased opinion.

Immoral decisions made by SCOTUS, even though they deny their moral nature, carry grave consequences. No nation can shake its preverbal fist in the face of God by codifying sin into law and dare Him to respond without putting the well-being of that nation in jeopardy. Abraham Lincoln understood and revealed this truth when he declared emphatically concerning God's judgment:

> And insomuch as we know that by His divine law nations, like individuals, are subjected to punishments and chastisements in this world, may we not justly fear that the awful calamity of civil war which now desolates the land may be but a punishment inflicted upon us for our presumptuous sins, to the needful end of our national reformation as a whole people? We have been the recipients of the choicest bounties of Heaven. We have been preserved, these many years, in peace and prosperity. We have grown in numbers, wealth, and power as no other nation has ever grown; but we have forgotten God.[12]

When magistrates disregard God's mandate, arrest His authority, and use their office as a means of redefining good and evil, they become oppressors not liberators of the people. They direct the nation into the path of destruction. When Isaiah prophesied concerning the fall of Jerusalem and Judah, because of their sins, he declared: "they which lead thee cause thee to err, and destroy the way of thy paths." (Isaiah 12b) This is why, "When the righteous are in authority, the people rejoice: but when the wicked beareth rule, the people mourn." (Proverbs 29:2) Believe Lincoln; America cannot afford to forget God; the devastating consequences are greater than one can imagine!

Without an enlightened public, the absurdities that are being advanced by the purveyors of ideological nonsense, especially through the government controlled education complex, will prevail. This is unacceptable. The truth, the whole truth and nothing but the truth is the remedy. ***IRREFUTABLE****: Why Christianity Is the Irrevocable Foundation of American Liberty*, fills this void.

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Notes

1. California Constitution, Article 1, Declaration of Rights, Sec. 7.5 [2009]
2. *Public Law* 104–199, 104th Congress, H.R, 3396, Sept. 21, 1996, "Defense of Marriage Act."

3. *Hollingsworth v. Perry*, Brief for the United States as Amicus Curiae Supporting Respondents.
4. *Lawrence v. Texas* 539 U.S. 558 (2003)
5. *Roe v. Wade* 410 U.S. 113 (1973)
6. Harry Alonzo Cushing, col. and ed., *The Writings of Samuel Adams*, (New York: G. P. Putnam's Sons, 1908), 2.352. 7. *Lochner v. New York*, 198 U.S. 45 (1905)
8. Max Lerner, sel. and ed., *The Mind and Faith of Justice Holmes: His Speeches, Essays, Letters, and Judicial Opinions* (New York: Little, Brown & Company, 1943), 428.
9. Robert M. Mennel and Christine L. Compston, eds. *Holmes & Frankfurter: Their Correspondence*, 1912-1934, (Hanover, NH: University Press of New England, 1996), 125.
10. O. W. Holmes, "The Path of the Law," *Harvard Law Review*, 10, no. 8 (March 25, 1897): 469.
11. Joseph Henry Thayer, trans., rev., *A Greek-English Lexicon of the New Testament* (New York: Harper & Brothers, 1889), 577.
12. John G. Nicolay and John Hay, *Abraham Lincoln, Complete Works* (New York: The Century Co., 1907), 2.319.