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The Negotiation of Power Relations in a Puritan Settlement

Aristide Sechandice

As a concept, the notion of power eludes easy definition. Yet, various definitions have been suggested by scholars, each emphasizing different aspects of the power relationship. The common element in these various definitions is the idea of one social actor enacting his will in the face of opposition. The classic formulation of this idea of power is given by Max Weber, for whom power is "the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance."¹ Presumably, this dynamic of "probability" operates very differently in different contexts and under different historical conditions. I intend to apply such a conception to a consideration of power relations in Puritan New England, which presents a particularly interesting case of a peculiarly American form of theocracy, and a peculiar set of power relations. In approaching the church-state continuum of early New England, however, I wish to steer clear of purely theological matters.² Instead, the focus of this paper will be directed toward answering the question: how did secular power gain the consent of the governed, in the context of a Puritan settlement?

A word must be said about the nature of the Puritan theocracy. As I have used the term here, theocracy does not necessarily suggest a government where civil and religious

1. Max Weber, The Theory of Social and Economic Organization (Glencoe, Illinois, 1947), p. 152.

2. Of course, it will be quite impossible to skirt the issue of religion entirely, insofar as the Puritan polity ultimately rested on scriptural foundations. But the invocation of religious doctrine for reasons other than addressing secular power relationships falls outside the purview of this study.

authority are combined in a single institutional structure. Such a definition would not fit the Puritan case, where a strict separation of church and state as institutions was emphatically insisted upon.³ But this strict separation of the institutions partially obscures the picture. In practice, church and state cooperated extensively.⁴ The great Puritan divine John Cotton, while clearly indicating the separateness of church and state, stressed the identity of ecclesiastical and civil aims in the Puritan experiment.⁵ In the introduction to his essay on *Keys to the Kingdom of Heaven*, he stated: "In commonwealths it is a dispersion of several portions of power and rights into several hands, jointly to concur and agree in acts and process of weight and moment, which causeth the healthful . . . constitution of them. . . ."⁶ But perhaps more importantly, no rigid separation of church and state existed in the minds of Puritans generally. For "their theology was profoundly political, and their religious thought was infused with such political concepts as power, participation, and autonomy."⁷ In view of this fact, I am using the term theocracy to denote a form of government animated by religious principles, which the Puritan regime most certainly was.

Theocracy was not without its problems, however. Indeed, the novelty of the Puritan experiment on the American shore gave rise, in the early years of settlement, to considerable controversy over the place of civil law in a religious community.⁸ Unfettered by the centralizing tendencies of religion back in the mother country, the children of the New Zion found an opportunity to create their paradise *de novo*. But the legacy of

3. Aaron B. Seidman, "Church and State Reconsidered," in David D. Hall, ed., *Puritanism in Seventeenth-Century Massachusetts* (New York, 1968), p. 79.

4. George L. Haskins, *Law and Authority in Early Massachusetts* (New York, 1960), pp. 60-61; Adam B. Seligman, "Protest and Institution-Building in Seventeenth-Century New England," *Comparative Social Research*, XIII (1991), p. 97.

5. John Cotton, *A Discourse about Civil Government in a New Plantation Whose Design is Religion* (Cambridge, Mass., 1663), pp. 8-9.

6. Larzer Ziff, ed., *John Cotton on the Churches of New England* (Cambridge, Mass., 1968), p. 73.

7. Joshua Miller, "Direct Democracy and the Puritan Theory of Membership," *Journal of Politics*, LIII (1991), p. 58.

8. Kai T. Erikson, *Wayward Puritans* (New York, 1966), p. 55.

working for reform within the structural constraints of the system, as they had done in England, was not easily discarded. This legacy concerned the fact that Puritanism had been nourished as a stance of opposition; the challenge in the free wilderness of the New World was to convert this mindset of resistance to authority into a new spirit of obedience.⁹

How, then, did those who assumed positions of authority in the infant commonwealth secure the blessings of those they ruled? The examination of this question requires an analysis of the formal constitution of power relations in the Puritan context. From the vantage point of today, it may seem that the lowly people of the Puritan settlement remained under the thumbs of their betters. Such could not be further from the truth. As Stephen Foster has put it, "Few societies in Western culture have ever depended more thoroughly or more self-consciously on the consent of their members than the allegedly repressive 'theocracies' of early New England."¹⁰ Some scholars have even seen the Puritans as proto-democrats.¹¹ Whether or not the ancestry of the Republic may be traced back to the Puritans, it is fairly clear that the portrayal of the Puritan freemen as a sheepish flock is pure caricature. The very constitution of the Puritan order made for a more fluid relation.

The essence of Puritan arrangements was embodied in the covenant that established the communities formed by the migrants. These covenants, voluntarily entered into, set the terms of the relationship between rulers and ruled. The voluntary aspect of the covenant well suited a society of relative equals.¹² But it also sewed into the very fabric of Puritan society the seeds of continuing conflict. The whole idea of the covenant went beyond

9. Erikson, Wayward Puritans, pp. 55-56.

10. Stephen Foster, Their Solitary Way: The Puritan Social Ethic in the First Century of Settlement in New England (New Haven, 1971), p. 156.

11. For a discussion of "Puritans as democrats" historiography, see Leo F. Solt, "Puritanism, Capitalism, Democracy, and the New Science," American Historical Review, LXXIII (1967), pp. 18-29. Although dated, this bibliographical essay summarizes the relevant scholarship to that date. The article is therefore just the tip of an iceberg, but a considerable tip it is.

12. Virginia DeJohn Anderson, New England's Generation: the Great Migration and the Formation of Society and Culture in the Seventeenth Century (Cambridge, England, 1991), p. 128.

conventional notions of a constituency passively adhering to directives from authority; by underscoring the consent of the ruled, it specified an active role for the freemen, who as church members also and by requirement, represented the intersection of the popular fonts of civil and religious authority.¹³ On the one hand, this active role, as it played itself out, might be seen as conducive to unity. After all, did not the freemen return to office, year after year, the same sorts of men? On the other hand, the turbulent beginnings of the Massachusetts Bay Colony seem to bespeak a very factious existence. How else could one explain the veritable civil war touched off by trivial occurrences? But each of these alternative perspectives is only partially correct. The Puritan experience must be viewed on two levels. Behind an enduring unity on the fundamental principles of social life, there lay a pervasive capacity for dissension.¹⁴ This dissension, though substantial, could nonetheless never be allowed to destroy the fundamental unity, as will be shown below. But this is more obvious to the modern historian than it must have been to those who fought the battles that nearly tore the fledgling community apart, and in the process helped to define it.

PURITAN POLITICS IN THEORY

Beneath the veneer of spiritual unity, the Puritan communities were rent by disputes over the proper nature and extent of authority. This was in large part a consequence of the covenantal relation. This relation united two conflicting threads within the same ideology: the derivation of secular leaders' authority from the freemen by way of election, and the derivation of authority from God, by way of His establishment of the offices themselves.¹⁵ Thus, the magistrates were God's vicars on earth, even though they might be popularly elected.¹⁶ This apparently contradictory pair of ideas was resolved by the theory that popular

13. Miller, "Direct Democracy and the Puritan Theory of Membership," p. 65.

14. T. H. Breen, The Character of the Good Ruler: A Study of Puritan Political Ideas in New England, 1630-1730 (New Haven, 1970), p. 36.

15. Foster, Their Solitary Way, pp. 84-85.

16. Breen, The Character of the Good Ruler, p. 36.

election, provided that those voting were demonstrably among the elect, simply confirmed God's choice of ruler.¹⁷ Such a theory also presumed that the religious and civil publics were coincident, an assumption made unwarranted by the growing presence of non-voting inhabitants who were not admitted to the churches. These individuals, while not members of congregations or enfranchised members of the community, still fell under the authority of the political leadership. The problems which this would pose for the theocracy will be described later in this study.

The magistrates and the freemen they governed naturally chose to emphasize different features of the covenantal relationship. The magistrates, drawing heavily on the theory of electoral confirmation of divine appointment, asserted that once chosen, they possessed the voice of God.¹⁸ In this, they had the support of the ministers, most notably John Cotton, who argued that "Civil administrations are An Humane Order appointed by God to men for Civil Fellowship of humane things."¹⁹ But others noted the free will of consent, postulating a voluntary contract between rulers and subjects.²⁰ By this thinking, the freemen themselves were parties to the agreement with their rulers, not God.²¹ This did not imply blasphemy, as it did not deny that the Lord worked through the freemen. Such a slight difference in emphasis had momentous implications for Puritan political theory. Indeed, an important divergence resulted from it. The freemen, viewing themselves as granting power in accordance with God's wishes, would be similarly enacting God's will in withdrawing their assent, again provided they were truly among the elect. This was in line with the growing contractarian sentiment in early modern England. The magistrates had a contrary view, however. Their election as magistrates had the stamp of divine approval,

17. *Ibid.*, p. 59.

18. Miller, "Direct Democracy and the Puritan Theory of Membership," p. 60.

19. Cotton, *A Discourse about Civil Government*. . . , p. 6. I have taken the liberty of transliterating the archaic "f" to "s." Elsewhere, I have reproduced archaic usages intact.

20. Breen, *The Character of the Good Ruler*, p. 47.

21. *Ibid.*, p. 69.

and therefore disobedience meant breaking the covenant.²² But it must be stressed that although magistrates and freemen differed on the question of emphasis, neither saw the authority of the magistrates as exclusively derived from either the human or divine aspects of the covenant. When Roger Williams, an outspoken clergyman, dared to hold up the social roots of authority, to the exclusion of the divine, he was branded a heretic and censured.²³ Such instances brought into relief and reinforced the fundamental unity, a spirit that magistrates and ministers alike did their best to foster.

In the alliance between clergy and captaincy, which normally characterized the Puritan political landscape, some commentators have seen the latter as the junior partner.²⁴ Others have relegated the clergy to the subsidiary role.²⁵ Both views are misconceptions which were made irrelevant by the intertwining of clerical and civil aims, as mentioned earlier. But more importantly, in claiming the dominance of one element, each eclipses the importance of the freemen in diminishing the potential for dominance, by introducing a *tertium quid*. Power was in fact a triadic complex between magistrates, churchmen, and freemen.²⁶ In addition to the power over the magistracy, which clergy and freemen claimed by virtue of divine ordination of the office and popular election, respectively, the authority of the office in a dynamic sense remained open to both Biblical and

22. Haskins, Law and Authority in Early Massachusetts, p. 44.

23. Breen, The Character of the Good Ruler, p. 43.

24. See Vernon L. Parrington, "Puritanism as an Antidemocratic Ideology," in Hall, Puritanism in Seventeenth-Century Massachusetts, pp. 49-54.

25. See for instance, Haskins, Law and Authority, pp. 61-62; and Seidman, "Church and State Reconsidered."

26. In this model, I have excluded the fourth grouping, the non-voting inhabitants. At first, these persons were effectively shut out of Puritan affairs. The most serious cleavages within Puritanism emanated from the ranks of the freemen themselves. But later on, as the growing demographic preponderance and economic power of these non-freemen began to make itself felt, it posed problems which the theocracy was not equipped to handle. It subsequently became less theocratic as a result. For present purposes, however, this fourth grouping will be ignored, with the caveat that it assumed increasing but never decisive importance as the period under investigation (1630-1650) progressed. More will be said on this topic in the concluding section of this paper.

popular interpretation. Half a century before the birth of Montesquieu, the Puritans had evolved a kind of separation of powers doctrine which was quite extraordinary for its time. Two covenants bound the commonwealth together, one between church members and the church, the other between freemen and the state.²⁷ This arrangement resembled an isosceles triangle, in which both of the elite estates, the clergy and the magistrates, could often successfully unite to thwart upstart or extreme initiatives from the freemen. But to assert that they always did so, that they acted in lockstep fashion, is to ignore much of the early history of the Bay Colony. In any case, this paper is properly concerned with only one leg of the triangle, that connecting the secular leadership and the freemen.

The tie that bound rulers and ruled in the Puritan commonwealth was ambivalent, to say the least. The relationship between them was part autocratic, and part democratic. Within the limits of scripture and English law, the magistrates' power was firmly acknowledged.²⁸ Moreover, the predominance of the magistrates flourished against a backdrop of true representative government, as reflected in the popular election of magistrates and deputies.²⁹ This curious mixture has been aptly summed up by Stephen Foster in the phrase "popular aristocracy."³⁰ Though the magistrates, once elected, might theoretically have irresponsibly wielded absolute power for a limited period of time (until the next year's election, that is), this never became standard operating procedure. Rather, the freemen exerted great influence over the affairs of state. Not only that, but the magistrates explicitly recognized the need to gain popular assent.³¹ The route taken to this end was generally persuasion, not coercion.³² The magistrates appealed for order, not to coercive force, but to the consciences of

27. Miller, "Direct Democracy and the Puritan Theory of Membership," p. 64.

28. Breen, The Character of the Good Ruler, p. 53.

29. Haskins, Law and Authority, p. 43.

30. Foster, Their Solitary Way, p. 75.

31. Breen, The Character of the Good Ruler, p. 48.

32. *Ibid.*, p. 67.

the believers.³³ From the very start, the magistrates courted the favor of the freemen, as when they invited them to attend the first meeting of the General Court, at which they pandered to them by soliciting their input.³⁴ This must not be taken as evidence that anyone believed that the magistrates were bound to take their cues from the popular will, or that their tenure depended on it in any way.³⁵ Yet, the consequences of ignoring the popular will were sharp and decisive.

This is exemplified by the "fall" of John Winthrop. This venerable man, whose reputation in secular circles was as John Cotton's in the realm of religion, was to hold the governorship by nearly perennial re-election until his death in 1649. On one occasion, Cotton delivered a sermon in which he affirmed a virtual property right to the office of magistrate, on behalf of his worthy colleague. The freemen responded in the next election, by dethroning Winthrop and replacing him with the deputy governor, Thomas Dudley.³⁶ As it happened, they returned Winthrop to the governorship the next year, but they had served notice that an arrogation of power would not be tolerated.

Popular militance was also shown in the Puritan application of the *ultra vires* principle. This principle counsels that the authority of the officeholder extends only so far as that of the office.³⁷ And in Puritan New England, that authority sprung from both religious and popular foundations. Thus, it can be seen that the secular powers-that-be in the Puritan colony had to tread with soft steps through the public sphere.

In the formative first two decades of Puritan settlement, the accommodating stance of the magistracy was as much a function of Winthrop's personality as it was of systemic factors. Winthrop's genial and benevolent disposition as a ruler is well-known and is part of the lore of Puritanism. In truth, Winthrop was a political realist who sought community solidarity by persuasion and negotiation. His pragmatism was furthered by his

33. Anderson, New England's Generation, p. 128.

34. Haskins, Law and Authority, p. 27.

35. Foster, Their Solitary Way, p. 90.

36. *Ibid.*, p. 79.

37. For articulation of this principle, see John Winthrop, The History of New England from 1630 to 1649, James Savage, ed. (New York, 1972), I: 249-250.

success in dealing with the various crises he met with on an *ad hoc* basis.³⁸ In this respect, the relationship between ruler and ruled was not so much legal as charismatic.³⁹ Notwithstanding Winthrop's considerable political charm, however, coercion represented a last resort which he and other magistrates firmly employed when necessary.

Up to this point, the consensual aspect of the Puritan order has been accented; little has been said of conflict, upon which, taking Weber's definition at face value, this inquiry turns. At the most elementary level, resistance of the ruled to their rulers could be expressed in the voting procedure. The annual elections provided a means of defusing political discontent, without resort to violence. To be sure, the likelihood of electoral rebuke was remote, as a perusal of the outcomes of the elections in those years will attest. Elections were primarily seen as an emergency safeguard for the peaceful removal of malfasants. Still, this remote possibility contributed to responsive government, in that the magistrates saw that they could not afford aloofness. The voters were, in the careful words of T. H. Breen, "a silent, but omnipresent, force in civil affairs."⁴⁰

The habitual unwillingness of the freemen to turn out their rulers more frequently than they did renders somewhat problematic the notion of electoral means as a viable focus of resistance in the Puritan system. The dilemma for historians to solve is why a supposedly widely enfranchised electorate, one which did not hesitate to vociferously set forth its opinions, belied their loud wrangling with their betters by voting them back into office.⁴¹ In an article which has much merit, Joy B. Gilsdorf and Robert R. Gilsdorf suggest that the answer lies in the notion of deference. In treating colonial America as a whole (for in this respect the Puritans acted remarkably like citizens of the proprietary colonies to the south), the Gilsdorfs rightly maintain

38. Haskins, pp. 46-47.

39. Seligman, "Protest and Institution-Building in Seventeenth-Century New England," p. 81.

40. Breen, The Character of the Good Ruler, pp. 53 and 58.

41. Joy B. Gilsdorf and Robert R. Gilsdorf, "Elites and Electorates: Some Plain Truths for Historians of Colonial America," in John M. Murrin and Thad W. Tate, eds., Saints and Revolutionaries: Essays on Early American History (New York, 1984), p. 207.

that deference, like influence and coercion, is itself a form of power.⁴² According to conventional usages of the concept, the relationship connecting rulers and ruled among the Puritans could scarcely be regarded as one of deference, in view of the episodic insolence of the populace or some portion of it. But the Gilsdorfs introduce some important and sorely needed qualifications which enable one to see the Puritan experience in a new light. First, deference, like power, is a relational concept. It presumes choice; otherwise it is naked coercion. Without real choice, election may be seen as the acknowledgement of the *de facto* rule of a ruling class by the electorate.⁴³ Moreover, the dominant group may in effect set the options of the dominated group, since it controls the context in which the options of the dominated group are exercised.⁴⁴ Therefore, the arsenal of authority which the Puritan magistrates had at their disposal, including clerical support, legal sanctions, and social ostracism, ensured that resistance of their will at the polls, when it was expressed, meant something.

The possibility of electoral rebuke, such as it was, did not represent the limits of popular resistance to the magistrates. More vigorous attacks on the magistracy were essayed as well. These attacks were not simply whimsical, but prefigured by Puritan ideology. The fear of God's retribution for selecting (and for failing to act to revoke the authority of) an unsatisfactory ruler had been deeply ingrained by the time of troubles back in the Old World, and stimulated a newfound resolve for political vigilance in the New World.⁴⁵ What was at stake was salvation itself! For their part, the magistrates had their own ideas about salvation, which did not include knuckling under to a boisterous and thus ungodly constituency. They consequently met these threats to their hegemony with great vigor. The nature of its ideology made Puritanism a totalizing system.⁴⁶ And the peculiar nature of the mission in the Bay made suppression of dissent

42. Gilsdorf and Gilsdorf, "Elites and Electorates," p. 212.

43. *Ibid.*, p. 211.

44. *Ibid.*, pp. 217-218.

45. Breen, *The Character of the Good Ruler*, p. 50.

46. Haskins, *Law and Authority*, pp. 63 and 79.

absolutely vital to the maintenance of the system.⁴⁷ The New Zion would have to stand or fall as a system.

PURITAN POLITICS IN PRACTICE

The more vigorous challenges to the Puritan system involved exercises of what might today be termed popular sovereignty. But in 1639, an incident occurred which had the effect of bringing the germ of popular sovereignty among the Puritan freemen into full view. It had been proposed that the numbers of deputies sent by each town to the General Court be limited to two. The rationale behind this proposal lay in the proliferation of new townships, thus increasing the number of deputies.⁴⁸ This was a matter of some consequence to the balance of power in the colony, for until 1644, when bicameralism was adopted, the magistrates and deputies sat together. This meant that the executive (the magistrates) and the representatives of the people (the deputies) were fused together in one political body. The true test of popular sovereignty came after the deputies acceded to the proposal by the magistrates, and voted for the limitation of two deputies per town. At this, a petition was circulated to reverse the decision. The reaction of Winthrop was severe:

When the people have chosen men to be their rulers, and to make their laws, and bound themselves by oath to submit thereto, now to combine together (a lesser part of them) in a publick petition to have any order repealed, which is not repugnant to the law of God, savours of resisting an ordinance of God; for the people, having deputed others, have no power to make or alter laws, but are to be subject; and if any such order seem unlawful or inconvenient, they [had] better prefer some reasons, &c. to the court, with manifestation of their desire to move them to a review, than peremptorily to petition to have it

47. *Ibid.*, p. 51.

48. Winthrop, The History of New England from 1630 to 1649, I: 300.

repealed, which amounts to a plain reproof of those whom God hath set over them, and putting dishonour upon them, against the tenour of the fifth commandment.⁴⁹

Several things may be noted about this passage. First, it is notable how comfortably Winthrop slides from what amounts to a formulation of a delegation doctrine (whereby powers once delegated may not be withdrawn except under extraordinary circumstances) and a fallback appeal to the fifth commandment of the Bible, the magistrates being the analogous "father" of the community. Also, the parenthetical phrase "the lesser part of them" indicates that some idea of numerical strength, which could formally have no place in Puritan ideology and thus no bearing on policy, had nevertheless invaded the thinking of not only the freemen, but also their rulers. Further, no attempt was made by the magistrates (as we hear them through the pen of Winthrop, at least) to justify their actions in terms comparable to any of the varieties of representation distinguished by political scientists today — demographic, attitudinal, and substantive. The demographic argument was pre-empted by the vote for a limitation on deputies. Attitudinal representation, which requires that the leaders' values approximate those of the people at large, was disavowed by Winthrop's resort to the prerogatives of delegation, his invocation of God as having set the magistracy over the freemen, and more generally throughout his writings by the portrayal of the magistrates as a breed apart from the freemen. Finally, substantive representation, defined by the pursuit of policy consonant with the expressed will of the freemen, was contravened by popular disapproval, as expressed in the petition for repeal of the order. Such considerations were not important to Winthrop, but this passage makes clear their importance to the freemen. They were announcing in no uncertain terms that the Platonic sort of magistracy envisioned by Winthrop would not be allowed to stand. The process of elaborating the power relationship which followed on such events, in which both rulers and ruled manipulated common Puritan symbols to their own advantage, shows the extent to which power was not a closed subject once a magistracy had been installed, but was rather the subject of constant negotiation.

49. Winthrop, The History of New England from 1630 to 1649, I: 301.

The most acrimonious of the conflicts concerned whether the government of the magistrates was arbitrary or not. The protestations of the deputies that the magistracy was arbitrary produced a reaction in the form of a treatise written by Winthrop in 1644. This treatise defended the magistracy by explicating the nature of arbitrary government, and by demonstrating that that of the magistrates was not one.⁵⁰ Semioticians would tell us that what is important here are not the minute points of contention to be found in the treatise, but the fact that it was written at all. It suggests that the terms of secular leadership were in dispute, and furthermore that the secular leaders were aware of and accounted for this. The potentially destabilizing effects of this contest over power in the New Zion were not lost on Winthrop, as he lamented "a faction here as hath been usual in the council of England and other states, who walk by politic principles only."⁵¹

The Puritan settlement, then, was not a conflict-free universe. Such can be gathered from Winthrop's indignant pose whenever the freemen dared to challenge the fiat of the magistrates by other than electoral means. His position in this regard was disingenuous, given what has been said of the likelihood of electoral rebuke. The Puritan experience turned out to be an admixture of times of noteworthy cooperation between the elites and the freemen, and times of equally noteworthy conflict. The cooperation of the three actors in the triadic complex promised to reaffirm the social fabric at the same time that their clashes threatened to destroy it.

An example of how the interaction between freemen, clergy, and magistrates within this triadic complex convulsed the social order is provided by an episode in 1641. A motion by a Deputy Hathorn to censure two of the oldest magistrates for their having "grown poor" during their tenure met a reproof by John Cotton, the most creditable of the clergy, who likened it to a "dishonouring of parents."⁵² The matter as such was then dropped. But it did spawn a set of constitutional changes which went into effect that same year, most notably a basic codification of law. Unsatisfied with this gesture, which removed magisterial discretion only for capital crimes, the same Mr. Hathorn moved on

50. Winthrop, The History of New England from 1630 to 1649, II: 209.

51. *Ibid.*, II: 209-210.

52. *Ibid.*, II: 55.

to challenge the "arbitrariness" of the magistracy, on the grounds of a lack of a comprehensive positive law respecting punishments. The magistrates responded by upholding the integrity of Biblical prescriptions, while at the same time asserting their own authority in the event of the Bible's silence.⁵³

Their reasons for resisting the adoption of a positive law were three: first, they felt discretion to be an essential part of their job description; second, setting down the laws of the commonwealth in writing would highlight their divergence from English legal norms, which was not advisable before the English Civil War brought in its wake more isolationism; and third, they regarded discretion as a natural right of office.⁵⁴ Winthrop's success in dealing with problems on an *ad hoc* basis in fact reaffirmed his unbending commitment to magisterial discretion.⁵⁵ Both sides appealed to the theocratic ideal to make their cases. The magistrates declared that a restriction of magisterial power would imply a human limitation of the divine.⁵⁶ They rested their defense of discretion on the process of analogical deduction from the Bible. The freemen, though, wondered about the legitimacy of such a procedure, when taken too far,⁵⁷ and there was quite simply nothing to prevent the magistrates from taking it too far. The freemen thus wanted an indication of how ambiguous passages would be interpreted, before the fact.⁵⁸ This matter, too, soon blew over, only to resurface again at a later date. It was a test of the personality and leadership of men like Winthrop that such intractable oppositions did not tear asunder the Puritan experiment.

It is remarkable that seemingly trivial happenings could spark a questioning of the whole sociopolitical order. In one episode, a lost sow was claimed by a Captain Keayne, after a sustained effort to determine the identity of the owner. Only after Keayne had butchered the sow did the owner appear. The

53. *Ibid.*, II: 56.

54. Haskins, Law and Authority, p. 36.

55. *Ibid.*, p. 47.

56. Breen, The Character of the Good Ruler, p. 60.

57. Erikson, Wayward Puritans, pp. 58-59.

58. *Ibid.*, p. 59.

court was divided between two magistrates and fifteen deputies in favor of the plaintiff (for a total of seventeen members), and seven magistrates and eight deputies (fifteen members) for the defendant, Keayne. The decision of the body as a whole was rendered by a majority of the magistrates (who represented the minority of those voting) to acquit Keayne on the basis of his possession of the sow, and the dubious claim to title on the part of the plaintiff.⁵⁹ This revived the controversy over the so-called "negative voice," or the veto power, of the magistrates. Cotton had saved the day for the magistrates in an earlier installment of this debate, in 1634,⁶⁰ but as often happened in the Puritan polity, old debates which had been imperfectly resolved and thrust underground emerged with new life upon new occasions for raising them. The issue at hand was nothing less than whether ultimate power was constituted in the hands of the magistrates alone, or shared by magistrates and the direct representatives of the freemen.⁶¹ The question of majorities could not *officially* arise in an ideology which assumed agreement on basic truths.⁶² Still, it did arise in fact, if not in theory. Even if the deputies did not frame their arguments in terms of the cornerstone of representative democracies, that is to say, majorities, it patently infused their thinking.

The dubious title of the sow's owner would have been sufficient under normal circumstances to secure an overwhelming majority for acquittal. However, the affair was complicated by Keayne's unpopularity as someone who reputedly did not observe the just price in his trade dealings. This popular mood influenced the greater part of the deputies who were against him. But cooler heads, that is, those of the magistrates, prevailed, thus provoking the attack on the negative voice of the magistracy. Many were to "speak unreverently of the court," and to demand that the magistrates be put out!⁶³ At this, Winthrop candidly admitted that the magistrates contrived to present a united front, in the form of

59. Winthrop, The History of New England from 1630 to 1649, II: 70-71.

60. Seidman, "Church and State Reconsidered," p. 79.

61. Foster, Their Solitary Way, p. 79.

62. *Ibid.*, p. 165.

63. Winthrop, The History of New England from 1630 to 1649, II: 71.

a public declaration of solidarity. The need for this was subsequently obviated by the plaintiff's dismissal of the suit,⁶⁴ but the issue persisted long after the formal disposition of the case. For over a year later, Winthrop reported that "the sow business [was] not being yet digested in the country." After a renewal of open warfare over the "sow business" and the negative voice of the magistrates, the dilemma was only imperfectly solved by the magistrates' temporizing on the resolution of the problem until the commencement of the next general session. They hoped to gain time, "so that the people's heat being abated," to formulate a well-considered answer to the attack on the negative voice.⁶⁵ The answer, once given, linked a denial of the negative voice to a declension into the evils of democracy. For without the negative voice, a deputy's vote would be equal to a magistrate's.⁶⁶ This astute reply ended the controversy in short order, as the freemen were revolted by the idea of a general democracy, even though they might selectively bite of its tempting fruits in invoking their rights under the social compact.

One possible interpretation of this is that it is an index of the fundamental instability of a superficially stable order. But I would like to suggest another way of looking at the events, one which sees the eristic sow business as an index of the fundamental stability of a superficially unstable order. For whenever the deputies went too far, they were called to account by the freemen. Such was shown when a proposal for magisterial impeachment came up. In this, the deputies had to reach outside the bounds of Puritan political theory in a desperate attempt to finally curtail magisterial power.⁶⁷ But this was too much for the freemen themselves. The Puritan standard of "clearly wicked intent" which was required for removal of a magistrate from office was upheld.⁶⁸ Under this standard, malfeasance was limited to intent, and did not take in incompetence.⁶⁹ Nor did the Puritans even

64. *Ibid.*, II: 71-72.

65. *Ibid.*, II: 115.

66. Foster, *Their Solitary Way*, p. 83.

67. *Ibid.*, p. 87.

68. *Ibid.*, p. 89.

69. *Idem.*

have any categories for expressing official incompetence. Incompetence would contravene both the divine and human aspects of the calling. If God saw fit to call a magistrate, then he would provide him with right thinking.⁷⁰ And if the freemen had erred in choosing a magistrate, they must, in Winthrop's words "bear it."⁷¹ The negative voice was perceived by the freemen as threatening, precisely because "it put power in the hands of men whose use of power . . . their ideology forbade them to question. They entered every political struggle under the handicap of implicitly accepting the idea of a ruling class."⁷²

The open warfare in the Massachusetts Bay Colony was not replicated to a comparable degree in New Haven, particularly before 1646.⁷³ The New Haven colony records show few references to magistrates and deputies at all, whereas those in the Massachusetts records are legion. Instead, the great bulk of the entries for New Haven are of a much more routine judicial and administrative nature, and none reveal the kind of contest over the magistracy which was waged in Massachusetts. There was no "sow business" in New Haven, unless of course one includes the trial and subsequent execution of George Spencer for "unnatureall and abominable filthynes with a sow."⁷⁴ The sow question, as we have seen, was not so easily dispatched in Massachusetts. A tentative explanation which is in keeping with the model outlined above, is that the regime of New Haven was the strictest of the Puritan colonies, and the one in which spiritual and secular authority were least dissimilated.⁷⁵ Therefore, it would appear that the magnitude of what may be called the "political problem" in a theocracy varies directly with the social distance between the prime political and religious actors. Where these are united in one

70. Haskins, Law and Authority, p. 47.

71. Winthrop, quoted in Foster, Their Solitary Way, p. 89.

72. Foster, Their Solitary Way, p. 83.

73. Lilian Handlin, "Dissent in a Small Community," New England Quarterly, LVIII (number 2, 1985), p. 193.

74. Records of the Colony and Plantation of New Haven from 1638 to 1649, ed. by Charles Hoadly (Hartford, 1857), pp. 62-63 and 72-73.

75. Stephen Foster, The Long Argument: English Puritanism and the Shaping of New England Culture, 1570-1700 (Chapel Hill, N. C., 1991), pp. 156-157.

person, as in traditional Islam, power does not need to win the consent of the governed; it is implied in the theocratic order. Where they are not, as among the Puritans, the multipolar nature of power opens fissures through which the voice of the people may seep.

This recalls the description of the Puritan order as a "peculiarly American form of theocracy," at the outset of this paper. This study is needed as an elaboration of theory based on theocratic forms elsewhere, which generally do not experience the governmental schizophrenia of the Puritan case. This is because in Moslem countries, for example, the *imam* is the supreme spiritual *and* temporal leader. No separation of church and state is conceivable. But here, in colonial New England, before church and state were dissimilated by the Republic, we have a case of a more negotiable relationship.

EPILOGUE: THE MODEL IN MOTION

In devising the model which this paper offers, the events detailed have been treated only in a static dimension. The episodes briefly recounted have been presented as discrete, when in fact they were cumulative. These events conspired between 1630 and 1650 to redefine the Puritan regime. Accordingly, it remains to set the model in motion, to look at the end of this formative period for clues which will help us to further understand the model. Demographic change in particular brought into relief what Joshua Miller calls "the tension between active popular participation in decision-making and the preservation of authority."⁷⁶ A decline in conversions and an increase in the proportion of the population lying outside the church covenants struck at the coincidence of the religious and civil publics.⁷⁷ This in itself portended disunity because of the nature of the Puritan ideology, which provided for the simultaneous popular and divine calling of magistrates. The identity of ecclesiastical and civil aims which had reigned since the colony's founding could be expected to undergo change in the presence of an imposing community of

76. Miller, "Direct Democracy and the Puritan Theory of Membership," p. 60.

77. Seligman, "Protest and Institution-Building in Seventeenth-Century New England," p. 97.

the unregenerate. For although they would not be saved, they still must be led.

The broadening of the franchise at a time when the power of the magistrates, as the champions of the old order, was becoming more firmly entrenched, could have spelled a sudden end to the Puritan ideal. Given the extent to which the tempestuous first two decades of settlement were survived only due to the capable stewardship of extraordinary personalities such as Winthrop, his death in 1649 could conceivably have brought disaster. But curiously enough, the opposite happened. By 1648, the agitation accompanying the many crises over the magistracy had culminated in a codification of the laws of the commonwealth. The publication of *The Book of General Lawes and Libertyes* abandoned the practice of each man deciding for himself whether rulers were faithful to scripture, thereby distancing the freemen from the sacred sources of authority and meaning. The act of codification also sliced cleanly through the ideal of authority emanating from a tightly-knit community of shared grace.⁷⁸ This was inevitable as the society spread out from its close huddling around the immediate Bay area to the hinterlands.

The institutionalization of the Bay Colony's political structures was a direct legacy of the dramatic first two decades. Though a glaring departure from the early political history of the colony, it set the stage for a century of comparative placidity. This is because in spite of thoroughgoing structural change, there coexisted a similarly thoroughgoing symbolic continuity.⁷⁹ However much the upstart masses might deviate now and again from the rules of the game, they never questioned the boundaries of the playing field. In playing the game, they gradually and subtly changed its rules. But however much the rules of the game may be changed, football is still football.

Moderns may have difficulty understanding the Puritans' subordination by consent. They have a tendency, scholars included, to look upon every instance of lawbreaking as a negation of that possibility.⁸⁰ But this lawbreaking may be viewed with equal lucidity as an exercise in "owning" a polity which the

78. *Ibid.*, p. 90.

79. *Ibid.*, p. 100.

80. Foster, *Their Solitary Way*, p. 157.

freemen have leased to others. In order to understand the Puritan enterprise, which as a prominent part of our American beginnings, forms an apparently incongruous ingredient in our later democracy, we must remove our modern glasses and see power relations through the eyes of the Puritans themselves.