

Book Review

Steven D. Smith, *The Disintegrating Conscience and the Decline of Modernity*. (Notre Dame, IN: University of Notre Dame Press, 2023. Pp. 275.)

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The Disintegrating Conscience and the Decline of Modernity operates telescopically. Steven Smith begins with a panoramic assessment of the state of Western civilization inspired by the decline narratives of the late historian Jacques Barzun. Smith likewise wishes to examine a Western culture now “decrepit,” but he proposes to do so with an economy alien to Barzun. He offers the idea of conscience as a “defining feature of modern Western civilization” (5). To capture its dynamic history he tightens his focus further and presents three case studies. Individual chapters then consider the ideas and careers of the English Catholic saint and martyr, Thomas More; the American founder, James Madison; and the Supreme Court Justice, William Brennan.

This set is not as random as it may initially seem. More speaks for the hierarchical, corporatist order of Christendom, Madison for the Enlightenment ideals and Protestant piety that shaped the American founding, and Brennan for the liberalized constitutional principles of the modern American regime. Selection, of course, is partial, and thus necessarily interpretive. The brevity and essayistic nature of Smith’s book means that it will be most cogent to those disposed to its arguments and willing to fill in some gaps. To be sure, each of Smith’s individual chapters offers valuable insight. And while its compression renders it vulnerable to “yes but” objections, the book succeeds as a suggestive counter-cultural manifesto.

Smith’s chapter on More refutes the common claim that his own martyrdom on behalf of inviolable conscience was hypocritical in light of his persecution of heretics. Smith convincingly demonstrates that conscience in this period (as is implicit in the etymology of the word) signified knowing “with” others as much as knowing “within” oneself. The conscientious believer thus rightly hewed to the accumulated knowledge of Christendom and was molded by the sheer weight of that tradition. More, Smith observes, could navigate a Christian schism with this doctrine, but would have had a harder time dealing with the relativism of a more pluralistic age. Smith challenges the consistency of More’s position by arguing that his refusal to explain his dissent from Henry VIII to his family members was intended to preserve their own ability to conscientiously obey the King. He refused to instruct them in truth lest he encourage their own martyrdom. To Smith, this

implies that obedience to conscience was valid even if sincerely erroneous. This would in turn appear to introduce an early crack in the notion that rightful conscience instructs in truth. It is an interesting analysis, but it is more likely that Thomas More's inconsistency was produced by the very hierarchical, communal thinking that Smith is otherwise concerned to detail in this chapter. It was more vital that More, as Lord Chancellor, obey conscience over the King than that his powerless, female relations do so. A differential capacity and the duties of office, rather than any creeping subjectivity, likely explain More's reticence. In any case, the kind of "knowing with" authority and tradition that, for More, defined proper conscience was historically doomed.

Madison, in Smith's account, did not agitate for the separation of society and religion, but (more narrowly) separated state and church, with a particular concern to disallow any ecclesial establishment. Religion itself was an important aspect of American community in Madison's thought. Scholars such as Jack Rakove are wrong to read Madison as a revolutionary secularizer. However, Madison's commitment to religion as a shared source of values was rendered unstable by his radical elevation of *individual* conscience. "His basic creed," Smith writes, "would be this: Our first Obligation. ... is to render homage to God as our conscience dictates. Anyone, and any government, that prevents us from doing this will be acting in opposition to what God requires" (120). To Madison this was itself a shared American religious perspective, which (however) took individual conscience as a higher object than any specific theology. Madison did not seek a "neutral" or strictly "secular" society. To him religion was essential to national community and also served "to ground and consecrate" other aspects of the American order (equality, rights, liberties). Membership in an ecclesiastical establishment was a divisive and unacceptable form of identity, but a broad religious inheritance privileging theism and conscientious worship remained an American tie that binds.

But in Smith's account this capacious religious sentiment valorizing individual conscience itself proved vulnerable. The Gospel of Individual Conscience contained a profound, latent subjectivity. As LaPlace famously dispensed with God as an unnecessary "hypothesis" in his natural philosophy, later American liberals would do the same as regarded God and conscience. This resulting cacophony of purely private judgment realized More's nightmare, but might not have pleased Madison either.

Smith might be clearer than he is that Madison's views had an older intellectual formulation. It was Hobbes who defined conscience as "mere opinion." It was Locke who rendered the obligation to worship God according to one's own lights a matter of natural law. Madison was clearly distilling the Anglophone tradition of the new *jus naturalists naturalis*. Certainly Madison's adoption of this line was enormously important within US constitutional history. But exploration of the earlier development of these basic ideas might suggest other historical lessons.

Similar chronological limitations attend Smith's chapter on Brennan. The Supreme Court's jurisprudence on religious freedom has quite dramatically evolved in the last decade or so. There is no disputing Brennan's role in the longer history of that jurisprudence, but to some extent he represents an older dispensation in the process of being overthrown.

Still, Smith's portrayal of Brennan is instructive. The Justice serves as the template of the "conscientious Catholic" willing to cordon religious conviction from public duty and to subordinate the former to the latter. The type will be familiar to anyone acquainted with John F. Kennedy or Mario Cuomo, but in Brennan's case the "compartmentalization" strategy produced, according to Smith, a jurisprudence on religious freedom that distorted the constitution and debased our general understanding of conscience and the self. The colorless Brennan may seem an unlikely anti-hero for such a story of civilizational decline, and here again we may see the limits of Smith's "telescoping" strategy of composition.

Nevertheless, his case carries punch. Brennan emerges as a Rawlsian *avant la lettre*, a proponent of "public reason" and the privatization of "comprehensive doctrines." Conscience thus devolves—as the grating formulation has it—into multiple accounts of "my truth" or "your truth." Conscience becomes an opinion personally gratifying but utterly ineffectual and thus prone to atrophy. "As a justice, Brennan read the compartmentalization that he had adopted for *himself* into constitutional law, so that it became normative for *everyone*" (152). Brennan misread the Madisonian inheritance and rendered public life strictly secular, dedicated to a specious neutrality. Court doctrines of "non-endorsement," "excessive entanglement," "strict" or even "absolute" neutrality proliferated, with Brennan as the "most vociferous advocate of public secularism" (154–56). The court became an "aggressive enforcer of secularism upon the public domain" (157). There are many existing legal critiques of this outcome. What Smith adds to the familiar criticism is insight into the stultifying effects that the legal context has had on our capacity for honest civil debate and democratic practice. The court's reasoning cordoned conscience, but also expanded it beyond its traditional religious meaning. This more capacious understanding of conscience served to augment its subjective and fundamentally private qualities, reducing it to the self-understanding of "millions of little Godlets" (181). To Smith, this conception is a "dissolvent," subverting any philosophically robust understanding of human dignity or the human capacity to know truth. It also breeds a vulgar contempt for the institutions and ideas of the Western tradition, which may, after all, affront one's subjective opinions and identity.

Appearing in the Notre Dame series "Catholic Ideas for a Secular World," the basic disposition of Smith's book will not surprise readers. He has long grappled with the challenge of faithfully adjusting Christian conviction to a political and legal regime once friendly but increasingly hostile. To those, like the present reviewer, sympathetic to this project, his books are trenchant and compelling. Those less sympathetic would also do well to read them as

judicious but uncompromising challenges to the regnant academic pieties of the moment.

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