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The Separation of Church and State and the Obligations of Citizenship

The issue of separation of church and state has great moral, legal, and political importance, and the subject currently holds special interest. An unprecedented number of people are injecting religion into politics; pressures are mounting both to have religious observances in public schools and to support sectarian education through tax revenues; and the United States Supreme Court may soon be reinterpreting constitutional constraints on the relation between religion and public life. In this article I approach the separation of church and state from a conceptual and moral standpoint. My broadest aim is to build a framework that clarifies certain moral, legal, and political questions about religion and civil life. My specific purpose is to develop a theory of separation of church and state that serves two major ends. The first is to clarify the traditional separation doctrine as usually understood—as addressed above all to governmental institutions. The second aim is wider and has not so far received substantial treatment in the literature: it is to ascertain what restrictions on individual conduct should, in a free and democratic society, accompany a commitment to separation of church and state.¹ Part I interprets the

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1. A notable exception to the general neglect of this topic is Kent Greenawalt's recent *Religious Convictions and Political Choice* (Oxford: Oxford University Press, 1988). I discuss the central thesis very briefly in Part VI. For a variety of recent perspectives, see *National Forum* 68, no. 1 (1988), a special issue devoted to church-state controversies.

separation doctrine. Part II considers its basis. Part III applies the doctrine to some important current issues. Parts IV and V introduce the second phase of my theory, concerning the obligations of citizens in a free and democratic society; here I propose principles of separation for individual conduct. The concluding sections apply the principles of individual conduct and explore the connections among religion, morality, and democracy.

I. THE CONTENT OF THE SEPARATION DOCTRINE

The doctrine of separation of church and state antedates the United States Constitution² and goes well beyond what is implicit in the Constitution's establishment clause, which says that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."³ There is a vast legal literature on the doctrine, including many pertinent court decisions. Philosophers, theologians, and others have also addressed the subject. In speaking of the *separation doctrine*, then, I am not referring to something codified for our scrutiny, but to the general view that in a free and democratic society the state should neither establish a church nor impair religious liberty. This formulation is intentionally vague; I want to begin with a statement encompassing a

2. An interesting case in point (though it did not protect non-Christians) is the Maryland Act of Toleration, passed, but also repealed, in the 1640s. It said, "no person . . . professing to believe in Jesus Christ shall from henceforth be in any ways troubled, molested or discountenanced for or in respect to his or her religion, nor in the free exercise thereof within this province . . . nor in any way compelled to the belief or exercise of any other religion." For the full text, see *The Proceedings and Acts of the General Assembly of Maryland* (Baltimore, 1883), pp. 244ff. An abridgment is contained in *Church and State in American History*, ed. John W. Wilson (Boston: D.C. Heath, 1965). This collection contains other indications of preconstitutional concern with separation of church and state, including a statement by Samuel Davies, fourth president of the College of New Jersey (Princeton) on behalf of dissenters in Virginia (pp. 38–42).

3. Article 1 of the first ten amendments (ratified in 1791) reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of people peaceably to assemble, and to petition the government for redress of grievances." Various accounts have been offered to explain the relation between the establishment and free exercise clauses, which have played distinct roles in Supreme Court decisions. For a useful discussion of this problem, see Paul G. Kauper, *Religion and the Constitution* (Baton Rouge: Louisiana State University Press, 1964), esp. chap. 3. My account of the basis of the separation doctrine suggests how the two clauses might be unified philosophically, but the account may at best reflect the thinking of *some* of the framers.

commitment shared by both the framers of the Constitution and most others who support a separation of governmental and religious institutions in the interest of religious liberty—including the freedom to reject religious views.⁴ In refining this formulation, my aim will be not to satisfy specific legal or historical demands, but to provide a series of principles that clarify the issues to which the separation doctrine is plausibly applied.

The establishment clause seems explicitly addressed to the state, and historically, at least in the United States, the separation doctrine has been conceived mainly, though by no means entirely, as restricting what the state may do vis-à-vis the church, that is, in relation to religious institutions—‘church’ here is a generic term.⁵ Let us call the doctrine so construed *the institutional separation doctrine*. By this I mean the doc-

4. In this connection it is noteworthy that James Madison not only supported Jefferson’s Virginia Statute of Religious Freedom, passed in 1786, which stated that “our civil rights have no dependence on our religious opinions, any more than our opinions in physics and geometry,” but also defended the nontheist, arguing that our freedom implies the right to have no religious beliefs. A vivid recent statement of the view is Justice Jackson’s in his dissenting opinion in *Zorach v. Clauson*, 343 U.S. 306 (1952): “The day that this country ceases to be free for irreligion it will cease to be free for religion—except for the sect that can win political power. The same epithetical jurisprudence used by the Court today to beat down those who oppose pressuring children into some religion can devise as good epithets tomorrow against those who object to pressuring them into a favored religion.” Cf. the citation in note 11.

5. This dominating interest arises largely from the historical centrality, prominent in the thinking of the framers, of the concern to prevent the state’s abridging religious freedom. It is apparent not only in the general literature, but in Supreme Court decisions. See, for example, the pertinent decisions in *The Supreme Court on Church and State*, ed. Joseph Tussman (New York: Oxford University Press, 1962). A vivid statement of concern with institutional relations between church and state is Chief Justice Burger’s in *Larkin v. Grendel’s Den* (103 U.S. 505, 1982). Striking down a law prohibiting Grendel’s Den from serving liquor near a church, he said that it “substitutes the unilateral and absolute power of a church for the reasoned decisionmaking of a public legislative body acting on evidence and guided by standards, on issues with significant economic and political implications. The challenged statute thus enmeshes churches in the processes of government . . . few entanglements could be more offensive to the spirit of the Constitution.” The term ‘enmesh’ recalls the threefold test laid down by the Court in *Lemon v. Kurtzman* in 1971 (402 U.S. 602): to satisfy the establishment clause a statute “first . . . must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion . . . finally, the statute must not foster ‘an excessive government entanglement with religion’ ” (pp. 612–13, citations omitted). The reference to entanglement recalls Justice Felix Frankfurter’s statement that “the public school must keep scrupulously free from entanglement in the strife of sects” (*McCullom v. Board of Education*, 333 U.S. 203, 1948).

trine of separation of church and state as applied to governmental institutions in relation to religious ones and taken to imply that the state should not interfere with the church, and (though this is usually given lesser emphasis) the church should not interfere with the state. The separation doctrine is also intended to apply to the state in relation to religious individuals who are not affiliated with any church. Such cases are not often discussed, but they are important and will be implicitly covered by my treatment of the general subject.

There are at least three basic strands in the institutional doctrine. These are bound together by the ideal of religious liberty as a central element in a free society; but other ideals, such as those of equality of persons regardless of their religious affiliation, unfettered democratic participation, and social pluralism, can also unify and support the various elements in the institutional doctrine. Throughout what follows I leave open whether the normative principles I formulate are moral. I argue only that they are appropriate *given* a commitment to a free and democratic society; but if (as seems likely) there is an adequate moral basis for preferring such a society, then the principles may also express (prima facie) moral obligations. For if a free and democratic society is morally preferable to its alternatives, then there is a prima facie moral obligation to adhere to principles that are known, or at least justifiably believed, to be required for the realization of such a society. Let me describe, in turn, the basic strands in the institutional doctrine of separation of church and state.

First of all, the institutional doctrine requires that the state permit the practice of any religion, within certain limits. Call this *the libertarian principle*. Both the relevant limits, and indeed, religion itself, are difficult to characterize. I shall not propose definitions, but some examples will help. Imagine a religion that permitted sacrificing young girls to appease its gods. A government's outlawing this practice would not violate the separation of church and state. The freedom of religion it guarantees is limited by certain basic human rights, such as the rights of life, liberty, and the pursuit of happiness. But there are difficult cases. For instance, is a proper separation of church and state violated by the prohibition of religiously sanctioned polygamy? At least two lines of argument support a negative answer. One is that the prohibition does not violate a proper separation, because polygamy breaches certain important rights, such as the right not to be legally bound in an exploitive marriage, and these

rights must be respected even at the cost of limiting the separation of church and state. This answer may be thought to be objectionably parentalistic, since it presupposes that consenting adults cannot adequately judge their own welfare. One might, however, argue the point without any suspect parentalism, on the ground that polygamous marriages are a serious moral wrong through injustice to the children of such marriages, who may be subject to damaging jealousies, or in any case may have a poor chance of adequate parenting. By contrast, one might argue that prohibiting religiously sanctioned polygamy *does* violate a proper separation of church and state, since it abridges religious liberty without a compelling reason, such as protection of life. Clearly, we are already in an area where the application of the institutional doctrine is controversial.⁶

The second strand in the institutional doctrine is perhaps less difficult to interpret. It is the principle that the state may not give preference to one religion over another. Call this *the equalitarian principle*. It not only rules out an established church—the existence of which might be plausibly argued to be consistent with the libertarian principle—but also precludes such things as requiring a certain religious affiliation, say that of the majority, as a condition for public office.⁷ This principle goes well beyond the libertarian principle; for in theory, at least, a state can allow virtually unlimited religious freedom and still treat some religious groups preferentially. The framers clearly accepted both principles, and it is a vexed question whether such practices as requiring Sunday closings, say of liquor stores, and declaring national holidays on Christian feast days, must violate at least the equalitarian principle. One relevant consideration is whether other religious holidays are *respected*, for instance by employees' having leave to observe them; another is whether the Christian feast days are observed as national holidays because a great majority of the people want them to be, and not because a majority *religion* does. Presumably, the principle would allow that, provided everyone's religious

6. In speaking of polygamy, we should note that if one man's having two or more wives is permissible, one woman's having two or more husbands should be also. In the latter case, the woman's children might be fated to wonder which husband is their father and the husbands to wonder which, if any, of the children are theirs. The troubles this might cause can be exaggerated, but they do not depend on religious considerations.

7. In Lebanon, for example, it has long been an unwritten requirement that the president be a Maronite Christian and the prime minister a Sunni Moslem. As this illustrates, there can be *degrees of establishment*, nor need it be restricted to one religion.

holidays are (within reason) respected, it is not preferential treatment of the religious majority as such to have national holidays coincide with its main feasts. But this is debatable, and even if correct it does not by itself square forced Sunday closings with the equalitarian principle.

The third strand in the institutional doctrine is less commonly recognized, but it belongs to any full-blooded interpretation of separation of church and state.⁸ What I have in mind might be called *the neutrality principle*: the state should give no preference to religion (or the religious) *as such*, that is, to institutions or persons simply because they are religious. One could of course derive this requirement from the equalitarian principle *provided* one construed being nonreligious as having a religious stance and thereby deserving equal treatment with the various other religious positions. But surely someone might be nonreligious through mere indifference or through ignorance of the alternatives, and hence not have any *stance* on the matter. It is also more perspicuous to distinguish the neutrality requirement from the requirement of equal treatment of the various religious elements in a society; there are differences in the ideals underlying the two requirements, and distinguishing the principles provides a better basis for concrete assessments of church-state relations.

The neutrality principle would go against requiring periods of prayer or even of silent religious observance in public schools; for even assuming that no one religion is favored by the practice, it tends to favor the interests of the religious over those of the nonreligious. It is difficult to say whether the neutrality principle prohibits allowing conscientious objector status only to people with appropriate religious objections to war, and not on moral grounds alone. That practice can certainly result in better treatment of the religious than of the nonreligious. But it could also be argued to be permissible in preservation of religious liberty, and hence justified by the libertarian principle. (This does not imply that the libertarian principle cannot be overridden, for example when on religious grounds too many citizens object to fighting for a nation in a self-defensive war; but no simple rule determines when that point is reached.)

Prima facie, one would expect anyone committed to freedom and democracy to want to be governed by the libertarian and equalitarian prin-

8. Some relevant points concerning constitutional interpretation are indicated in note 3. General reasons drawn from ethics and political philosophy will be offered in the text.

ciples. But the neutrality principle might seem desirable only for a society committed to fostering *pluralism*, and optional for one which, though upholding ideals of freedom and democracy, sees itself as religious. Granted, supporting liberty does not entail fostering, as opposed to protecting, pluralism. But clearly fostering pluralism tends both to protect liberty and to contribute to its substantive exercise. In any case, the neutrality principle must be distinguished from what we might call *the principle of pluralism*, the principle that (within certain limits) the state should foster pluralism. The former principle bears more directly on freedom and appears reasonable for a free and democratic society even if it is *not* committed to fostering any more pluralism than is implied by the exercise of liberty, and so not *directly* committed to fostering pluralism at all. The latter principle could be rejected by proponents of minimal government even if they heartily embrace the former. This point will be developed as we explore all three strands in the separation doctrine in relation to its underlying grounds.

II. SOME NORMATIVE GROUNDS FOR SEPARATION OF CHURCH AND STATE

Supposing the institutional doctrine of separation of church and state comprises mainly the three principles I have described, why should a free and democratic society endorse the doctrine? This is a large question, and I shall cite only the most general supporting grounds. I take the principles in turn.

It is plain that a society without religious liberty is simply not adequately free. Moreover, freedom is required for democracy, at least in any sense of 'democracy' relevant here.⁹ Thus, if one's ideal is a free and democratic society, one wants a social (presumably constitutional)

9. It would be a mistake, however, to identify a democratic society with a free one, as some have tended to do. Freedom surely does not entail democracy. Moreover, even if, by definition, political power in a *democracy* is exercised freely, it remains possible for a people freely to vote away a great deal of liberty, thus creating an unfree society. Pervasive restrictions of liberty that can be undone by democratic vote are still coercive. The ideals of freedom and democracy are distinct, as the possibility of freedom under anarchy or benevolent oligarchy shows, and it is best not to run the two ideals together. Equal treatment is yet another ideal, for reasons indicated in the text; and a constitutional case can be made for both the equalitarian and the neutrality principles by appeal to the equal protection clause of the Fourteenth Amendment.

framework to guarantee at least this: (1) freedom of religious belief, understood to prohibit the state or anyone else from inculcating religious beliefs in the general population, where this is taken to exclude or restrict cultivation of competing religious beliefs; (2) freedom of worship, involving, minimally, a right of peaceable religious assembly, as well as a right to offer prayers by oneself; and (3) freedom to engage in (and to teach one's children) the rites and rituals of one's religion, provided these practices do not violate certain basic moral rights. Clearly, then, a free and democratic society should adopt the libertarian principle. Without the freedom it guarantees, there would be inadequate protection against governmental *coercion*.

The case for the equalitarian principle is more complicated. The (or a) central premise is that if the state prefers one or more religions, people might well find it hard to practice another, or would at least feel *pressure* to adopt the (or a) religion favored by the state. The degree of pressure would tend to be proportional to the strength of governmental preference. The pressure might be as great as requirement of a certain religious affiliation as a condition for holding a government job, or as minor as inviting clergy from just one religion to officiate at certain ceremonies. Any governmental preference, however, creates some tendency for greater power to accrue to the preferred religion, particularly if it is that of the majority. Such concentrations of power easily impair democracy, under which citizens should have equal opportunities to exercise political power on a fair basis, even if certain disproportionate powers do not actually (or at least do not directly) restrict anyone's liberty. Moreover, when a state establishes or prefers a given religion, it is to be expected (though it is perhaps not inevitable) that certain laws will significantly reflect the outlook on life associated with that religion. These are among the reasons why a free and democratic society should adopt the equalitarian principle. Even when the libertarian principle is respected, the equalitarian principle is needed for protection against governmental *discrimination*.

What is the rationale for the neutrality principle? Recall that religious liberty, broadly conceived, includes the freedom to reject religious views. If the state shows preference for religious institutions as such (or for religion in general), there may well be pressure to adopt a religion, and quite possibly discrimination against those who do not. On the other hand, there are kinds of governmental preference that are consistent

with religious liberty; hence, the neutrality principle cannot be simply derived from the libertarian principle. There are many domains of possible preference for the religious: prayer sessions in public schools, exemptions from combat duty, and eligibility to adopt children are examples. Such preference may also tend toward political domination by the religious. Thus, even if there is protection both from religious tyranny and from discriminatory exclusions on religious grounds, governmental preference of the religious as such is likely to give them political, economic, and other advantages that threaten a proper democratic distribution of political power. It can also reduce the level of free *exercise* of liberty, as opposed to its mere legal *scope*. What is legally permitted, or even solicitously protected by law, may still seem to many people too troublesome to be worthwhile in day-to-day life. If, for example, exercising a freedom goes against governmental policy or even social tradition, it may be costly. Consider someone who declines to participate in state-sponsored patriotic activities; here, and surely even in absenting oneself from state- or community-sponsored voluntary prayer sessions, one might conspicuously separate oneself from most others.

It might be argued that the only reason to avoid reducing the exercise, as opposed to the scope, of freedom is a commitment to fostering pluralism. But the distinction is not sharp: apart from a courageous few, making the exercise of a freedom costly shades into narrowing its scope. Moreover, quite independently of a commitment to fostering pluralism, a free and democratic society should avoid reducing the exercise of freedom, if only because that tends to lessen creativity both in the lives of individuals and in the solution of social problems.

A second ground for the neutrality principle is the ideal of equal treatment, an ideal that, like liberty, is an important element in a free and democratic society. Governmental preference for the religious as such is intrinsically unequal treatment of the religious and nonreligious, however minor the material differences involved. On balance, then, the neutrality principle seems required to guarantee protection from governmental *favoritism*, in the sense of preferential treatment of the religious over the nonreligious. Even if this does not involve discrimination in favor of one religious group, nonreligious citizens will tend to *feel* the preferential treatment as discrimination and not as a legitimate expression of the will of a democratic majority.

There may, however, be further reason for a free and democratic soci-

ety to adopt the neutrality principle even if such a society need not be committed to protecting the freedom not to be religious. For once the state favors the religious over the nonreligious, at least three problems arise. (i) Where there is a majority affiliation, the views and even the interests of this group are likely to dominate legislation and policy affecting religion, sometimes to the detriment of religious minorities, for instance in the treatment of religious holidays and the celebration of major events, such as inaugurations. (ii) Religious disagreements are likely to polarize government, especially regarding law and policy concerning religion, say requirements for conscientious objector status or, at the institutional level, for tax exemption. (iii) If a government prefers the religious over the nonreligious, then, through the pronouncements and social policies that express the preference, that government will tend to influence churches, and, in deciding what to promote, to begin to set criteria for what counts as being religious in the sense in which that entitles institutions to preferential treatment. Once there are benefits to be had, there will be stretching to meet the criteria for getting them. This is a likely way to “entanglement” of the government in religious affairs. On balance, then, freedom and democracy seem best served by principles that keep the state from restricting *or* influencing the churches any more than is required for enacting laws and policies that are justified on nonreligious grounds.

III. SOME APPLICATIONS OF THE INSTITUTIONAL DOCTRINE

Even apart from the inevitable vagueness of the libertarian, equalitarian, and neutrality principles, their application to social issues is often difficult. One major problem is how to weight competing values. To see how this affects the principles in practice, let us explore some important cases.

Consider prayer in the public schools. Clearly, mandatory periods of prayer, such as daily assemblies addressed by clergy or others offering prayers, would violate the libertarian principle if that is understood, as it should be, to protect freedom *not* to practice a religion. Moreover, if, as may well be so, it is impossible to frame prayers equally acceptable to all faiths, then mandatory oral or written prayers in public schools would likely violate the neutrality principle. One natural course would be to displease as few as possible by reflecting those majority preferences least

offensive to any significant minority attending. Majority preferences would tend to be felt.

What, then, of *voluntary* periods for silent prayer? This is a difficult case.¹⁰ Here the nonreligious are left free to absent themselves. Moreover, since there is no oral prayer, presumably none of the religious need be offended—though someone might object to being asked to pray without the chance to hear or speak certain crucial words. On the other hand, given the conformism of many school children, might there not be pressure on many of the nonreligious to join, or pressure on some of the religious to boycott as a gesture of support for nonreligious friends? People being as they are, even voluntary silent prayer periods might diminish religious toleration and, ultimately, religious liberty.

A quite different point is that even if no particular religious outlook colors a prayer, in requiring or even sponsoring the offering of that prayer, the state is still, at least by proxy, establishing a religious practice.¹¹ The voluntariness of a practice must not be thought to imply that it is not officially established; nor would its nondenominational character show that it does not implicitly endorse a religion. The institutional and content requirements for a religion can be met by agents of government even without their preferring any standing church. A religion need not be inaugurated by a prophet, and it can be constructed by eclectic compilation, as well as by scriptural sanctification. Thus, the neutrality principle is favored by the antiestablishment premises of the separation doctrine, and not only by libertarian or pluralistic considerations, or by the

10. For discussion of the Burger Court's treatment of the prayer issue up to 1984, see Leo Pfeffer, *Religion, State, and the Burger Court* (Buffalo: Prometheus Books, 1984), esp. chap. 3. For a useful recent survey, see David M. Ackerman, "Church and State in the Supreme Court: The Non-Revolution of the '80s," *Federal Bar News and Journal* 33, no. 7 (1986).

11. That the establishment clause can be violated by state sponsorship of noncompulsory activity seems to have been recognized in a number of Supreme Court decisions. In *Illinois ex rel. McCollum* (333 U.S. 203, 1948), for example, Justice Black, writing for the majority, said of a program of (voluntary) released time for religious education: "This is beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith. And it falls squarely under the ban of the First Amendment (made applicable to the states by the Fourteenth) as we interpreted it in *Everson v. Board of Education* [330 U.S. 1, 1937]. There we said: 'Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. . . . No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or nonattendance'" (emphasis added).

ideal of equal treatment of churches. A government could establish a religion even without preference toward any existing church and hence without violating the equalitarian principle. Establishing a religion requires neither coercion nor an antecedently existing institution as a candidate for establishment.

In a different vein, voluntary periods of prayer in public schools are by no means clearly in the interest of the religious. By confronting religious children with nonbelievers, the practice may easily give those children the impression—alien to most faiths—that religious conviction is only a matter of personal preference. Moreover, the division between those who go to prayer and those who do not may be dangerously polarizing. A period of each day or week described as devoted to prayer *or* meditation might seem to solve the problem, since everyone should appreciate the secular values of meditation. But this would at best reduce the polarization, particularly if, as is likely, students generally recognize that it is mainly for encouraging or facilitating prayer that the relevant periods are set aside. A time reserved simply for mediation might avoid these difficulties; but if it were described in a way that makes that likely, it might also have less appeal to those who hope that it will promote religious practice.

The singing of Christmas carols and perhaps certain hymns in public schools should not be assimilated to the case of prayer in those schools. For one thing, what is said in prayer is affirmed, and it tends to express, and to be taken to express, one's beliefs. It is at least in some sense *confessional*. But what one sings in carols, and even hymns, one need not be affirming; nor need it be taken to express what one believes, any more than a student asked to recite a poem celebrating spring must be thought to accept its sentiments. These performances may be simply *aesthetic*. Nonetheless, singing carols or hymns is difficult to blend into mere musical training or simple celebration of the Christmas season conceived as a time of merriment and gift-giving. There is a continuum from presenting songs and other works as simply of aesthetic or academic interest, to treating them as sacred. Some students, however, might feel alienated from the activity if it is even religiously tinged. Hence, despite the importance of the distinction between confessional and aesthetic self-expression, care must be taken by public schools having Christmas carols and hymns during school hours; doing so can easily infringe the equalitarian principle. To add non-Christian songs would help, though

the problem of finding a balanced mix remains. Suppose one finds such a mix. Does one still violate the neutrality principle? This depends on the details; for instance, at least some of the carols, like "Rudolph the Red-Nosed Reindeer" and "White Christmas," seem to blend into the cultural meaning of the holiday season. It matters greatly, of course, not only what songs are selected, but in what context they are sung.

Another major problem area is that of state aid to sectarian schools. Again, my concern is to clarify the three principles, not to settle specific issues about their scope. Conceptually, one can distinguish aid that furthers a school's sectarian purposes from aid which serves its secular educational ends. The latter kind of aid need not violate separation of church and state, provided nonreligious private schools receive comparable support. But in practice it may be impossible to prevent aid to a sectarian school from furthering its overall aims and thereby its religious purposes. It might help to give aid directly to students, perhaps approximately what they would receive if attending a public school. But since this aid might relieve the school's general budgets, it might again help to further sectarian purposes. There is, however, a wider issue: *any* aid to religiously affiliated schools helps them compete with secular institutions—private as well as public—and thereby arguably favors the religious as such; yet providing *no* aid for such education makes the exercise of religious liberty more expensive for citizens committed to sectarian schools than for citizens willing to use public schools. It is hardly surprising that aid to private schools continues to be hotly contested, and that the principles I propose yield no simple resolution.¹²

The question of support for sectarian schools raises the issue of how the tax-exempt status of churches squares with the separation doctrine. *Prima facie*, it is preferential treatment of religious institutions. But churches are nonprofit, charitable institutions, and these points may justify their exemption. To be sure, if there are criteria for nonreligious nonprofit organizations which churches do not have to meet, then there is *prima facie* preference. I cannot pursue any specific criteria for exemption; my point is just that as long as churches have significant charitable

12. I am assuming that a condition of aid would be educational adequacy. For an interesting recent discussion of the related question of teacher competence in religious schools, see *State of Nebraska ex rel. Paul L. Douglas et al., Appellees, v. Faith Baptist Church of Louisville, Nebraska, A Corporation, et al., Appellants, Nebraska Reports* 207 (January 1981).

and philanthropic functions, their tax-exempt status does not by itself entail preferential treatment of religious institutions as such.

It may be, however, that the libertarian principle should also come in here; it might warrant tax exemption for churches even if charity and philanthropy are not a major part of their function. Consider the power to tax, with all its regulative and investigatory tentacles. It is the power to restrict, pressure, sometimes control, and sometimes choke to death. If we are to preserve religious liberty, and particularly to prevent the government from treating some religions better than others, it may be best not to give the state this power over churches, at least over their non-profit functions (any activities they may conduct for profit presumably should be taxable). If this is so, however, what justifies taxing businesses? The short answer is that they are run for profit. A long answer would begin by pointing out that, even if they were not, one's relation to one's business is quite different from one's relation to one's religion. One can go from one business to another and retain one's basic ideals, capacities, and identity as a person. But losing one's religion is (or certainly can be) far more profound. Even the capitalistic right to own a business at all is of lesser status in a free and democratic society than the right to practice one's religion. Moreover, a failed business can often be revived or its proprietors equally well sustained in some other venture. Whole sectors of an economy can become moribund and be resuscitated. But a religion's being choked out is quite different. Unlike viable commercial enterprises, a religion may not be supported by such ever-present incentives as the profit motive, and the state is certainly not entitled to assume that there would inevitably be a second coming.

So far, I have largely neglected the problem of how to tell what constitutes a religious institution or a religion. The situation is doubly difficult because decisions as to what counts as a religion may be religiously biased in a way that violates a proper separation of church and state. Must a religion be theistic, as many adherents of the main religions of the Western world tend to think? We are unlikely to find any simple, uncontroversial definition of 'religion'.¹³ But this need not be crippling,

13. For a valuable definitional discussion, see Philip E. Devine, "On the Definition of Religion," *Faith and Philosophy* 3, no. 3 (1986). While he holds that "A value-free definition of 'religion' is . . . impossible" (p. 271), he also offers two central criteria, which (he maintains) together yield a sufficient condition, and singly yield such a condition when supplemented by certain noncentral factors. One criterion is "doctrinal: a religion affirms the existence of one or more superhuman agents, on whose favor the welfare of human agents depends. . . . The second is psychosocial or functional. A religion by the second

either conceptually or legally. For there is a long list of uncontroversial cases, including most of those that raise the gravest cultural and legal issues; and there are some clearly significant features that guide our use of the term, including devotion to a deity, rites and practices related to a deity, a conception of the meaning or value of human life, attitudes of reverence, and a central place in the life of the people in question. Possession of a great majority of these features is *normally* both necessary and sufficient for the presence of a religion.

As these points suggest, while a good detailed definition of 'religion' is an immense task, it is not needed for case-by-case application of the three principles of separation. For that, a broad conception should be one's guide: it is generally better to extend a liberty to someone using 'religion' loosely than to deny it because of a too restrictive definition. Error on the inclusive side is at least limited by the point that separation of church and state does not protect violations of basic human rights, even if, like other doctrines meant mainly to preserve liberty, it does protect speech and ritual in which those violations are advocated. Suppose, indeed, that no precise, sound definition of 'religion' can be framed. It remains true that on the basis of the three proposed principles of separation, resolving specific church-state issues is usually possible given the intuitions we have about what constitutes a religion, provided these intuitions are tempered by an understanding of the uncontroversial cases, both of religion and of its separation from the state. Two negative points can also help. First, a moral outlook on life, even reverently held, is not sufficient for its possessor's being religious in the sense relevant to separation of church and state. Second, one does not have a religion simply because *some* coherent set of ideals is central in one's life. Even holding a world view *religiously* does not imply that that view is itself a *religion*, or that one is a religious person. (The moral and existential-centrality notions of religion I am rejecting here, which are often uncritically accepted, also seem defective in other ways, but there is no need to discuss them further now.)

I believe, then, that we need not violate the separation doctrine in the very act of interpreting it, particularly if we observe certain distinctions. The most important cases in practice, moreover, are those involving

criterion unifies . . . the framework by which an individual or group regulates its thought and its life" (p. 272). For a different approach, consistent with definitions of 'religion' being value free, see William P. Alston, *Philosophy of Language* (Englewood Cliffs, N.J.: Prentice-Hall, 1964), esp. pp. 87-90.

churches whose religious character is not in question. There have, however, been both debatable cases and arrant pretensions, as when, some time ago, year-round residents of a New York resort town, tired of paying property taxes to compensate for churches' having bought up the old hotels, became "ordained," with a parsonage cropping up for every household. Though a legal failure, the venture did illustrate the important point that an elastic doctrine can be stretched from both ends.

IV. SEPARATION OF CHURCH AND STATE IN THE POLITICAL ARENA

My concern so far has been governmental activities as they affect religion. But the institutional separation doctrine has another component, also based on ideals underlying a free and democratic society. For many of the same reasons why the state should not interfere in religion, churches should not interfere in government. The point is not legal or even constitutional. I am not suggesting, for example, that church donations to political candidates must be illegal in a free and democratic society—though a good case can be made that they should be *if* churches have tax-exempt status. My point is that protection of religious liberty, and certainly of governmental neutrality toward religious institutions, is better served if churches as institutions do not take political action. I suggest, then, *an institutional principle of political neutrality*: churches have a prima facie obligation to abstain from supporting candidates for office or pressing for specific public policies, especially the kind typically included in the platform of a particular party.

I am construing 'political' not in the broad sense of 'contested in the arena of politics' but rather narrowly, so that moral issues are not included, even if they enter into political debates. The separation of church and state does not require, nor do any sound principles demand, that churches should not take moral positions, even if there is political controversy about them. There are, to be sure, different ways of supporting moral positions; and some are closer than others to political statements, as when government officials of only one party are cited as offenders despite the prominence of offenders among their counterparts in another party. These matters call for discretion and do not admit of codification. But there is still much conduct that is clearly ruled out by the separationist standard in question.

The principle of political neutrality would not, however, prevent churches' encouraging their members' *participation* in politics; and it

certainly does not restrict political participation by religious citizens, or imply that they should not consider such participation an aspect of their religious commitments. The clergy could, under this principle, both oppose the arms race in public meetings and preach against political apathy from the pulpit. It is only taking political positions from the pulpit (and in other institutional ways) that the principle implies would be (prima facie) unjustified. To be sure, there are moral statements which, combined with certain obvious facts about politicians, government officials, or foreign powers, imply condemnation or approval of them. But there is a crucial difference between affirming moral truths which, *with* certain facts, imply political judgments, and, on the other hand, making political judgments themselves. Matters of fact may be controversial; and in any case, when the suggested distinction between the moral and the political is observed, the assessment of factual issues is left to the individual judgment of those in the congregation. That judgment constitutes an important filter between ministerial deliverances and political action.

I do *not* believe that the principle of political neutrality should be written into law; but if it is not conscientiously observed, then candidates for public office may be unduly influenced to serve the special, even the distinctively religious, interests of certain churches, particularly if there is a majority church.¹⁴ Furthermore, the polarities afflicting relations between certain religious groups are more likely to surface in government decision making, where the public interest should be the overriding concern. Admittedly, some polarization may arise from any public political disagreement, particularly when institutions themselves square off. But whereas, in a free and democratic society, political controversy is inevitable, religious polarization is not. Moreover, some clergy represent themselves as having, or in any case are generally taken to have, special insight into matters of human conduct; this (among other factors) increases the chance of polarization if corporate religion enters into politics

14. Cf. the quite different view of Leo Pfeffer: "I do not . . . think it improper or undesirable for the [Catholic] Church to take political action. . . . I think it was entirely proper for the Catholic bishops in Connecticut to warn legislators that how they vote on the parochial school bus bill would be remembered on Election Day. It would, of course, have been equally proper for Protestant ministers to issue the same warning. It has long been the policy of labor unions to reward their friends and punish their enemies on Election Day" (*Creeds in Competition* [New York: Harper Brothers, 1958]). There are better grounds for Pfeffer's view than the analogy between churches and unions; but on my account of separation of church and state the reasons for rejecting the view are far better than those for accepting it.

and public policy debate. Locke commented vividly on dangers of the sort I have in mind:

Immediate revelation being a much easier way for men to establish their opinions and regulate their conduct, than the tedious and not always successful labor of strict reasoning, it is no wonder that some have been very apt to pretend to revelation, and to persuade themselves that they are under the peculiar guidance of heaven in their actions and opinions, especially in those of them which they cannot account for by the ordinary methods of knowledge and principles of reason.¹⁵

To be sure, however hard we try to avoid basing political positions on religious considerations, there is no sharp distinction between moral and political issues, and certainly an admirable moral sermon on, for example, the duties of charity, could have obvious implications for legislative decisions on welfare policy. But if, in borderline cases, the moral and political intermingle, there is still a generally plain difference between, say, giving a moral sermon and endorsing candidates, political parties, or politically contested public policy positions.¹⁶

The principle of political neutrality is institutional; it does not imply that clergy may not take personal and even public positions on topics connected with politics or public policy, or even concerning personalities in government. Granted, in some churches what the clergy say even privately might often be taken for church doctrine; but there is still a great difference between what is so interpreted and what is publicly announced as church doctrine or policy, or paid out from church coffers.

15. Locke, *Essay concerning Human Understanding*, chap. XIX, sec. 5.

16. Three qualifications are in order. First, the matter becomes complicated if the *content* of a religion dictates political action. There one would hope votaries are as restrained as possible; in any case, a proper separation does not warrant unlimited freedom of religious practice, and reasonable limitations on the relevant church, for instance on its use of coercion in political matters, would remain warranted. Second, in tyrannical states things are different; my concern is free and democratic societies. In any case, preaching against a Hitler is not on a par with preaching for or against a candidate in a democracy. Third, here as elsewhere in this article I am talking not about the scope of the *right* of free expression but only about what principles *ought* (ideally) to govern behavior *given* a proper separation of church and state. On rights of free expression I agree with much of Mill's *On Liberty*. For pertinent discussion of free expression, including Mill's account of it, see Thomas Scanlon, "A Theory of Freedom of Expression," *Philosophy & Public Affairs* 1, no. 2 (Winter 1972).

Even in making avowedly personal statements or in giving private counsel, however, clergy who believe in freedom and democracy should follow *an individual principle of political neutrality* to the effect that clergy should (i) observe a distinction between their personal political views and those of their office, especially in making public statements, and (ii) prevent any political aims they may have from dominating their professional conduct. Such domination is possible even where one specifies that one is not speaking for one's church institutionally; but disclaimers of that kind can help in keeping official pronouncements distinct from personal conviction.

This principle does not imply that clergy should not *connect* their religious views and their political position; any citizen may put political stances in that wider context. Indeed, applying religious principles and insights to issues of law and public policy can be highly beneficial: it may have heuristic value in leading to discovery of new points; it may serve as a moral corrective, for instance in bringing out injustices; it may strengthen moral motivation; it may reduce strife and recrimination among disparate social groups, as when tolerance and forgiveness are stressed as part of a religious commitment; it may enhance the aesthetic and cultural aspects of civil life; and it may encourage a vivid and salutary modeling of the forms of life people cherish as part of their religious faith. Nonetheless, it is appropriate that clergy exercise restraint in touching on political issues, particularly in broaching them from the vantage point of the pulpit. If they do not, they invite peers who disagree to use religious leverage for opposite ends; and the public, possibly including their own congregations, may suffer. In such individual conduct, there are some specific principles that should be observed, especially by those who, by virtue of office or public visibility, may sometimes exercise an influence on others that goes beyond the credibility of their views. Principles of this sort are the main topic of the next section.

V. SEPARATION OF CHURCH AND STATE AS A DOCTRINE OF CONSCIENCE

The threefold institutional doctrine of separation of church and state I have set out rests mainly on ideals of freedom and democracy, including ideals that I take to be among those informing the United States Constitution. These are above all moral ideals, in the widest sense of the

phrase. Thus, it should not be surprising that the ideals of freedom and democracy underlying the proposed principles of separation imply certain principles of *individual* conduct. These further principles are applicable to church-state issues and indeed to the interaction between people's religious commitments and their duties as citizens. The principles apply whether one is acting for the public, for a religious institution, or as an individual considering what laws or social policies to support.

This section is devoted to articulating and defending such principles of conscience, as we might call them. One underlying idea is this: in a free and democratic society, people who want to preserve religious and other liberties should not argue for or advocate laws or policies that restrict human conduct unless they offer (or at least have) adequate secular (nonreligious) reasons to support the law or policy in question (where an adequate reason for a law or policy is a proposition whose truth is sufficient to justify it). By 'secular reason' I do not mean one that is consciously held in contrast to a religious one, nor is there anything antireligious implicit in a proper use of the term. Indeed, a secular reason may be fully *aligned* with a religiously sanctioned view, say in affirming a universal right to liberty; any notion of secularity that would preclude such alignment would prevent many *moral* reasons, such as those grounding the prohibitions of murder, rape, and theft, from counting as secular. Rather, a secular reason is, roughly, one whose normative force, that is, its status as a *prima facie* justificatory element, does not (evidentially) depend on the existence of God (for example, through appeals to divine command), or on theological considerations (such as interpretations of a sacred text), or on the pronouncements of a person or institution qua religious authority. This notion of a secular reason has some of the vagueness of 'religion'; nor can I precisely define 'theological considerations'. But much can be accomplished here without definitions.

The suggested idea does not apply to the same extent to nonrestrictive laws and policies, for example to excusing absences for religious observances. It also applies to a lesser degree to exempting children from public education beyond a certain point, as with the Amish,¹⁷ and to providing for the public's enjoyment, say in commissioning sculptures as opposed to gardens. To be sure, as draft exemptions illustrate, one per-

17. A crucial case here is *Wisconsin v. Yoder* (1972), decided by the Burger Court. For discussion of the case, see Pfeffer, *Religion, State, and the Burger Court*, chap. 3.

son's right or privilege may be another's restriction. But there is a vast difference between, for instance, allowing one's religious views to lead one to support religious tests for certain public offices and letting one's sense of what best does homage to God determine one's voting to use public funds for a garden rather than abstract sculpture. The central idea is that citizens in a free and democratic society are obligated, by their commitment to freedom and democracy and (I believe) morally as well, not to make decisions, as citizens, in support of laws or policies that restrict the scope, or even the de facto exercise, of liberty, unless they have a sufficient secular basis for so deciding. It might seem that stressing this is unnecessary if there is institutional separation of church and state; but that is not so. We have already seen that the institutional doctrine is unavoidably vague and that its application is itself subject to religiously grounded biases. Other reasons for a further principle will emerge shortly.

The points just made suggest the plausibility of what I shall call *the principle of secular rationale*: one should not advocate or support any law or public policy that restricts human conduct unless one has, and is willing to offer, adequate secular reason for this advocacy or support. This principle is normative, not genetic; thus, it allows advocacy that is religiously *inspired*, for example by one's reading of the Bible, and, in addition, allows one to be *more* impressed by the religious arguments for one's position than by the secular grounds for it. The principle also permits expressing religious as well as secular reasons in the course of advocacy, though this has its dangers. It might, for instance, invite impassioned religious opponents to respond with their own theological fire, and a resolvable matter, such as aid to a third-world nation, could go unsettled, or be less adequately concluded, because the parties are divided by unnecessary disputes about the religious status of the nation in question. A similar principle may well hold for laws or policies that create inequalities, even if that need not reduce freedom, and perhaps even for laws or public policies in general; but here and in what follows I concentrate on principles that concern laws or policies that would restrict conduct.¹⁸

18. Similar principles might also apply to nonreligious considerations, for example of social privilege. But (a) people may be presumed more nearly alike in some matters, such as self-preservation, than in religious ones; (b) the potential for irreconcilable conflict is less in most other matters; and (c) I am simply not concerned with the principle as a model

For the same reasons supporting the principle of secular rationale, one might hold a *principle of secular advocacy* to the effect that, in addition to adhering to the principle of secular rationale, we should keep religious considerations out of the relevant public debates, except where they are necessary to clarify positions or prevent misunderstanding of motives. I am not here arguing for this stronger principle, but only for the rationale principle, which simply demands that, whatever other considerations one brings to the relevant contexts of advocacy or support, one put forward such advocacy or support only if one *also* has and is willing to offer adequate secular reason for the view in question. Thus, while one may be *led* to consider polygamy wrong because of religious scruples against adultery, one could support its legal prohibition only if one had adequate secular ground, say its danger to children.

In practice, commitment to the principle of secular rationale will tend to lead conscientious citizens to follow a related one, *the principle of secular resolution*, which requires that, particularly in discussing laws or policies that would restrict human conduct, final resolution should be made along secular lines; more specifically, that while any kind of factor may enter into the discussion of such issues, a final decision to adopt a policy should be fully warranted by secular considerations and promulgated in that light.

One might object that so long as one brings adequate secular reasons for one's position to the debate, one should be free to give priority to other sorts of reasons, including religious ones, and the basis of decision may thus be a democratic balance of pluralistic considerations. The underlying model here might be called a *compromise model*. It contrasts with the kind of *secular decision model* favored (though not entailed) by the principle of secular rationale. The former endorses the results of compromises freely reached on the basis of unrestrictedly diverse considerations; the latter requires that secular considerations be the basis of policy discussions and provide the main warrant for decisions that issue from them. Given the reasons for institutional separation of church and state, and for the principle of secular rationale as a separationist counterpart for individual conduct, I believe that the principle of secular resolution is reasonable and that the compromise model yields too weak a basis of

for the nonreligious domain: if it is in some respects a good model, as is arguable, all the better.

public civility. Compromise cannot be expected to yield optimal results unless the debate is appropriately constrained in the first place. But defending the secular decision model requires far more than arguing for the principle of secular rationale, and it is only that principle, together with a strengthened version of it to be introduced shortly, that I am endorsing here.

There are of course practical difficulties in trying to follow the principle of secular rationale. Consider people who think that moral considerations are *not* secular—or hold the panreligious view that everything is religiously significant in some way. They would feel too restricted by the rationale principle, even though, within their category of religious considerations, they could make distinctions among degrees of closeness to the religious center and might allow some moral reasons to be a good distance from that center. By contrast, anyone attracted to the principle of secular rationale would tend to acknowledge quite readily a distinction between moral and religious considerations. In any case, here practice can be superior to theory: *using* moral reasons thinking them to be religious would not violate the principle, any more than using religious reasons thinking them to be secular would conform to it. It is true that adopting the principle would force one to think hard about what kinds of reasons one is using, and it would sometimes produce challenges of the admissibility of certain purported reasons; but that should be beneficial.

When we reflect on what the principle of secular rationale actually requires of us, however, it should become apparent that one can act with a secular rationale that functions in one's mind only as a *rationalization*—as a purported justification (or purported explanation) that does not explanatorily underlie the action or belief to which one applies it. My rationale for prohibiting polygamous marriages might be that they are dangerous to children, while my real reason for prohibiting them—what really motivates me in my opposition—is my belief that they violate God's law. Thus, my moral point might be just a secular rationalization that would not move me to oppose polygamy apart from my religious reason for condemning it. Surely I would be criticizable here, and the reasons why this is so suggest that the principle of secular rationale is not strong enough to express my obligation (even granting, as we should, that the obligation is *prima facie* as opposed to absolute). This is a subtle matter, and several aspects of it must be considered.

First, notice that I would be offering to others a consideration that does

not move me. Even if, in the abstract, it is a sound basis for my action, I do a wrong when, in this way, I give others a reason that does not move me, and invite them to be convinced by it. Does it not smack of manipulation to give reasons that do not move me, in order to get others to do what I want? I use the reasons as psychological levers to produce belief on a basis that does not carry my own conviction. It is as if I invited you to join me on a journey, but by a route I do not sufficiently trust to take it myself. You are entitled to wonder why, if the route is not good enough, or appealing enough, for me to take, I think it good enough for you.

It may be objected that there is no manipulation *if* I think the route is *trustworthy*, but simply do not trust it myself. This is parallel to the case of offering what one believes is a good secular reason, though one is not motivated by it. But if I think the route trustworthy, yet do not trust it, my rationality is suspect, and I should thus be quite uncomfortable with offering you my assurance about the route. For your part, you may reasonably think my (cognitive) actions speak louder than my words, and you might be hard pressed to believe that I really do think the route safe in the first place. Surely, then, the kind of argumentation and persuasion I would be using exhibits at best surface cooperation; it does not achieve the shared decision so characteristic of a successful democracy. I want to get you to my destination; but I will not journey there by your route, nor is there any route we are willing to take *together*. If I should candidly admit that I am not moved by the secular reasons I offer, I would at best extenuate my offense; indeed, the candid admission of regretted behavior often serves to reduce suspicion and thereby enhance its influence.

If we consider the long run, a second point emerges. If I persuade someone only by adducing secular reasons that do not move me, I tend to produce only a fortuitous and unstable agreement. For if I had not found the secular rationale, then (other things being equal) I would have been either intransigent in maintaining my position, or at least tempted to compromise my commitment to the principle of secular rationale by arguing for my view on religious grounds alone. Furthermore, suppose I later decide that the secular reasons I offered were not good after all—as I may well tend to conclude if they did not move me in the first place. Then I might no longer share, with the nonreligious or those of differing religious views, *any* reason for the position I advocated, and would thereby be more likely to disagree on its interpretation in practice. Again, it appears that if one should give adequate secular reasons at all, they

should be reasons that move one, not simply rationalizations designed (or at least expected) to move or satisfy others. Arguments that do not move both parties to a dispute are, at least on one side, a poor basis for agreement even if both believe them to be acceptable. They are also a weak social glue.

There is a third, still more important reason why it would be wrong to act on a religious ground while offering a secular rationalization to conform to (individual) requirements of separation of church and state. If what actually moves me to hold my position is religious considerations, are not my religious commitments the main determinants of my views and actions concerning how *others* should behave in civil society, including others who lack those commitments? It seems so, and my allowing this clearly violates the spirit of separation of church and state, understood to rest on the ideals of freedom and democracy presupposed in our discussion. The point is especially clear if the shoe is on the other foot: I would not want others to argue for laws to restrict my conduct, when their motivation is religious, so long as they could offer me an adequate secular reason. For one thing, if this is their motivation, I will mistrust their secular argument, however compelling it sounds. I will also feel that I am being pacified by such argument rather than respected as a partner in a shared civil life. What they are really *doing*—as judged, naturally enough, by the motivation underlying it—is pursuing a religious aim or commitment, or even agenda; but I am to be at ease because they can provide, and—in the abstract—they apparently respect, a secular reason that legitimates the laws in question.

A fourth, closely related consideration concerns the basis of mutual respect that should underlie public policy discussions in a free and democratic society. Even if the criteria for an *adequate* reason were clear enough to enable us to recognize an adequate secular argument regardless of its motivation, I would tend to resent being given such an argument when the underlying motivation for accepting its conclusion is religious. There is a certain lack of respect implied in seeking my agreement to a policy by offering reasons by which one is not oneself moved. I can see that I might get justice, since there would *be* a reason for the policy; but it would be like having a debt paid by someone who would not have paid it had that not been convenient. One feels neither treated with respect nor secure regarding future relations with the persons in question.

I believe, then, that if the spirit of separation of church and state is to be adequately reflected in individual conduct, we need something stronger than the principle of secular rationale. That principle is powerful and important; and it can stand as a far-reaching separationist principle of conscience. But a stronger principle seems warranted, which I shall call *the principle of secular motivation*: it says that one should not advocate or promote any legal or public policy restrictions on human conduct unless one not only has and is willing to offer, but is also *motivated by*, adequate secular reason, where this reason (or set of reasons) is motivationally sufficient for the conduct in question. This principle solves the problems I have just raised, yet is by no means extreme. It not only countenances inspiration by religious considerations; it also permits one to be motivated by them *as well as* by secular ones. Its intent is simply to require that one either not perform the relevant acts or see to it that one's secular, for instance purely moral, motivation is strong enough so that (other things being equal) one would do the thing in question even if one had no further motive. I leave open whether, as I am inclined to grant, there is a moral *right* to act otherwise; but I assume that rights do not exhaust oughts—that there are things one ought not to do even if one has a right to do them.

There is a general reason, independent of church-state issues, for preferring the motivational principle over the rationale principle. Surely an action is *justified by* a reason one has for doing it only if one does it *for* that reason, and hence would not be merely rationalizing in citing that reason to explain one's doing it.¹⁹ Suppose, for instance, that Tom avoids a storm out of sheer superstitious fear that the lightning will turn him into a devil until sunrise. He then does not do so rationally; and this holds even if the rain is so heavy that he can offer, to someone who wonders why he gave up his movie tickets, the rationalization that the drive was risky in a low-slung car. Granted, given the risk of stalling out, staying home was, for Tom, *the rational thing to do*; but, since he was motivated by superstitious fear and not at all by fear of stalling, he did not *rationally do it*.

To illustrate the distinction in the domain of separation of church and state, if a religious reason is not an adequate ground for supporting laws

19. I develop and defend this point in detail in "Rationalization and Rationality," *Synthese* 64 (1985).

that prohibit polygamy—as it will not be for those who accept even the secular rationale principle—then opposing legalized polygamy *for* that reason is not acting *justifiedly* even though one may *have* a sufficient secular reason which one can present as a rationalization. This point helps to explain why we should go beyond the principle of secular rationale to that of secular motivation. If we do not, we condone actions that, from the overall point of view of separation of church and state, have the wrong kind of basis and hence are unjustifiedly performed. It is not that there cannot *be* religious justification; the point is that actions permissible under separation of church and state should not *depend* on such justification. On the rationale principle, however, we would condone actions whose only justification in terms of the motivating reasons of the agent is religious, so long as they admit of a secular rationalization, whether anyone is moved by it or not; and these actions are of a kind that would not, from a secular point of view, be justifiedly performed.

A Kantian perspective may be useful here, though the case does not depend on it. Suppose the secular reason that merely rationalizes a public policy decision is moral. Then the decision would be the very kind of action of which Kant said that, though it conforms with duty and is thus not wrong, it is not done *from* duty and therefore has no moral worth.²⁰ For it exhibits mere conformity with the moral rationale; it is not grounded in it: it is grounded in a religious reason and hence can be justifiedly performed only by virtue of being done from that ground. Hence, from a secular—in this case moral—point of view, the action is not justifiedly performed and, by Kantian lights, has no secular worth. This does not imply that the religious, motivating reasons *cannot* justify; but even where they may, the nonreligious cannot be expected to accept their doing so.

We might weaken the principle of secular motivation, for example requiring only that one's secular reason be *necessary* for one's action, rather than sufficient. This would yield a *principle of essential secular*

20. Kant is well known for this view; but it is noteworthy that his great opponent, David Hume, held a similar one: " 'Tis evident, that when we praise any actions, we regard only the motives that produced them, and consider the actions as signs or indications of certain principles in the mind. . . . After the same manner, when we require any action, or blame a person for not performing it, we always suppose, that one in that situation shou'd be influenc'd by the proper motive of that action, and we esteem it vicious in him to be regardless of it" (*A Treatise of Human Nature*, ed. L. A. Selby-Bigge [Oxford: Oxford University Press, 1888], pt. II, sec. I, p. 477).

motivation. The original principle can be weakened further, by degrees, until we come to the minimal requirement that an adequate secular reason be *some* part of what actually motivates one to act. We would then have merely a *principle of partial secular motivation*. The weaker principles seem less plausible. Consider the most reasonable of them, which says that secular motivation need only be necessary for one's action. Even if I would not have opposed legalized polygamy without a secular reason, my religious reasons can be *far* more influential in my thinking. Thus, if my acting solely for those reasons is unjustified from the point of view of separation of church and state, the much weaker influence of my secular reason seems only to extenuate my unwarranted behavior. It is significant that I would not have opposed polygamy without, say, believing that it is exploitive; but if I also would not have opposed it on this basis alone, without religious scruples, my opposition is strongly religious and may be predominantly so. My conduct toward others can thus be mainly colored by my religious preferences, so long as I find a secular rationale strong enough in my own thinking so that I would not press my religious views without it.

Certainly weaker versions of the principle of secular motivation would be better than none. But a conscientious citizen strongly committed to preserving religious and other liberties should probably strive to follow the stronger principle, which requires that one do one's best to have sufficient secular motivation, particularly for actions in support of laws or policies that would restrict human conduct. What follows will help to show why.

VI. THE APPLICATION OF THE PRINCIPLES OF CONSCIENCE

We can clarify the two proposed individual principles of separation—the rationale and motivation principles—by applying them to a major issue of our time: abortion. Suppose I believe that the fetus is, from conception onwards, a human person. I might then argue that abortions are permissible at best as self-defense, say where a pregnancy due to rape threatens to kill the pregnant woman. Now, *prima facie*, the view that the fetus from conception is a person is not religious but moral or, in a broad sense, philosophical. Yet if I am conscientious, then, realizing that this view itself is controversial, I will ask myself why I hold it. It may occur to me that all the genetic information is encoded in the zygote and that this implies that the fetus is a person from conception on. This is a sec-

ular consideration; and if it provides an adequate reason for my conclusion and is the reason *for* which I believe the fetus is a person, my opposing abortion on that basis (and opposing laws permitting it) does not violate the principle of secular motivation.

Imagine, on the other hand, that I am like many people for whom, whatever the plausibility of such arguments as the genetic one, what really underlies their belief that the fetus is a person from conception is the religious conviction that at conception the zygote is ensouled by God, or at least has a divine blessing. It is not that they do not accept the secular arguments. The point is that if they were not disposed to embrace them by this deeper commitment, they would not; they would, for example, consider the fetus a potential person (rather as the implanted acorn might be thought a potential oak), but, at least in the first trimester, not yet a person. This is where it makes an immense difference whether I adhere to the rationale or the motivation principle. For if I live up to the latter, I will not support restrictive laws on abortion unless I find myself really convinced by secular argument taken on its own merits. I will hold that if the genetic argument, say, would not convince me except through nonevidential factors deriving from my independent religious commitments, then I should not try to restrict the conduct of others using that argument as a rationale. For I will likely suppose that if they do not share my religious convictions, they may reject it, which would leave me opposing their freedom on a religious basis they do not accept. Even if they do accept the argument, I would tend to feel that my action causing them to accede to the restrictions is *based* on religious convictions which they need not accept. Moreover, I would not want such action taken toward me if the roles were reversed.

This example can be better understood if we distinguish two importantly different ways in which an action may depend on religious considerations. First, it may depend on a belief, such as that the fetus is a person, which one holds for a reason that expresses a kind of religious premise, say that the fetus is ensouled by God. Here one's belief that the fetus is a person, and, derivatively, one's actions based on that belief, exhibit *evidential dependence* on a religious consideration. Second, one may simply be caused to believe that the fetus is a person by religious influences that do not produce this belief through any premises they may provide one; rather, the belief may be produced, either as a kind of axiom or as a sort of article of faith, through repeated statements by those whose religious authority one respects, or through rituals, repetitions of

texts, or the social influence of parents or peers. Here the belief and, indirectly, one's actions based on it exhibit *nonevidential, causal dependence* on religious considerations. This is not to say that one could not find, or think up, various kinds of evidence for it; the point is that there are (at least) two importantly different ways that beliefs, and thereby actions, can depend on religious considerations, and the secular motivation principle requires that one try to prevent one's conduct in matters regarding church and state from depending on them in either way. For on this principle, a secular reason should be motivationally as well as evidentially sufficient for the conduct in question.

With this distinction in mind, recall the example. Suppose I am so anxious to conform to the motivation principle that (perhaps nondeliberately) I manipulate myself, exposing myself to people and other sources of information likely to convince me of the cogency of secular arguments for the personhood of the fetus. Compare people who want mandatory periods of school prayer in order to promote religion, but come, through repetition and self-manipulation, to be moved by their own rationalization in terms of giving students a time for reflection and a peace that reduces anxiety. If one really thinks this is a reason for the practice, one will surely *tend* to be moved by it in any case: such, fortunately, is our normal psychological makeup. Thus, successfully cultivating that tendency is by no means a psychological feat.

Where nonevidential factors, in this way, transform a reason one merely *has* to believe something into a reason *for which* one does—a cognitively motivating reason—I shall speak of *artificial sustenance*. One has, as it were, upgraded a plausible rationalization for a belief into a real reason underlying that belief. This is not a change *in* beliefs, but a change of relations *between* beliefs. It need not alter what one believes; one belief may simply become a sustaining basis of another. Cases like this may in fact be fairly common. Nevertheless, there is an insidious immorality in trying to make oneself fall for one's own rationalizations so that one can argue for one's deep-seated views—or prejudices—with a good conscience. As Christianity and other religions teach, morality is not wholly a matter of external conduct; and the principle of secular motivation is intended to proscribe one's producing appropriate cognitive motivation by an artificial, nonevidential route. It is a principle of conscience; it speaks to both inner and outer conduct, and to the heart as well as the head.

Once we notice the possibility of self-manipulation and self-deception,

it becomes plain that others can similarly manipulate a person, for instance offering secular arguments in a context of authority, or of religious sanction, that makes them seem cogent even if, on their evidential merits, they would not carry conviction. Thus, we should also take the principle of secular motivation to rule out *artificial conviction* as a main factor in the relevant action. (I take a *main* factor to be a condition at least necessary for the performance of the relevant action.) To illustrate a common objectionable ground of conviction, the motivation for the action must not be based on manipulation, including one's own, which causes acceptance of secular arguments that, on their evidential merits, would not convince one. The restriction applies both to artificial belief of a proposition expressing a purported reason (for example, that polygamy is exploitive) and to artificially taking a proposition to support another (for instance, the conclusion that polygamy should be illegal).

More broadly, if one's action, say in pressing to outlaw certain conduct, rests on considerations that, evidentially or just causally, depend themselves on religious considerations, then it violates the principle of secular motivation as I am construing it, and is inappropriate for a conscientious citizen committed to separation of church and state. (There may be wayward or other kinds of causal chains to be ruled out, but such cases would be rare and need not be considered here.) Granted, *nonreligious* influences can also produce artificial conviction or artificial sustenance; and an action based wholly on either of them, whatever it is, may be no better justified than in the cases we have considered. But the generalizability of the proposed principle of secular motivation does not imply that it is inappropriate to a sound theory of separation of church and state. If some of the arguments that support the secular motivation principle show that a commitment to freedom and democracy makes it objectionable to vote one's pocketbook as well as to vote one's religion, so be it.

There are countless kinds of conduct to which both the secular rationale and the secular motivation principles apply. They apply to legislators making law, to judges and lawyers interpreting it, and to citizens proposing it; they apply to government officials carrying out laws and policies, including foreign policy,²¹ to educators, particularly in public

21. Regarding foreign policy, in addition to controversy over appropriate U.S. relations to the Vatican, there are questions about how the U.S. government should coordinate foreign aid with religious institutions. Writing for the *Los Angeles Times*, Bernard Cooke criticized the view that U.S. aid to the Philippines should go through the Catholic Church: "one can see a certain logic in wanting to distribute such aid through the church. . . . But given the

institutions, and to clergy and laity alike in their activities that affect society as a whole. The application of the principles is not always straightforward, for instance because it may be difficult to discern why one believes what one does, or to see just what *is* the evidential force of certain reasons. But often it is obvious what the principles imply for a given issue, and a society whose citizens do their best to observe them is more likely to be free than one whose citizens do not.

Surely in a free society, questions of the scope of freedom should be settled mainly by secular arguments. Adherence to the principle of secular rationale helps to ensure that, in determining the scope of freedom in a society, the decisive principles and considerations can be shared by people of differing religious views, or even no religious convictions at all. If, beyond this, people follow the principle of secular motivation to the best of their ability, the issues are much less likely to be decided along religious lines. For if one adheres to that principle, one's drive is for reasonable solutions that observe general moral and social-political principles. If we obey only the weaker principle of secular rationale, we too easily seek to build our religious preferences into law wherever we can find what we take to be good secular arguments for their legitimation.

VII. RELIGION AND MORALITY IN A FREE AND DEMOCRATIC SOCIETY

It is appropriate to conclude with some general observations on religion and morality.²² If one thinks, as many seem to, that a person cannot be solidly moral without being religious, then one will view separation of church and state differently than I do. Referring to "four decades of misguided [Supreme] Court decisions," William Bennett has maintained

open alliance of the Philippine bishops with Corazon Aquino's candidacy and the post-election resistance, any aid sent through the bishops would have been seen as subtle assistance to one side of the struggle" (*Lincoln Journal*, 1 March, 1986). Arguably, if the church were completely nonpolitical, separation of church and state would not be needed in such instances; but there is in any case the issue of preference of one church over another (as when one is dominant in a foreign country needing aid) or at least of religious institutions over nonreligious ones.

22. For a lucid short discussion of the relation between religion and morality, see William K. Frankena's article on the subject in the *Dictionary of Christian Ethics*, ed. James F. Childress and John Maquarrie (Philadelphia: Westminster Press, 1986). Another valuable treatment of the topic is Jude P. Dougherty, "Assessing the Value of Religion," *Homiletic and Pastoral Review*, July 1984; it stresses both the ways in which religion may be foundational to civilization and the point that "morality does not depend on religion. Moral norms have a life of their own" (p. 24).

that “neutrality to religion turned out to bring with it a neutrality to those values that *issue from* religion. ‘Values clarification’ flourished in our schools.” In the same speech he said—citing the Declaration of Independence—that our “unalienable rights” come from our Creator, and that “our values as a free people and the central values of the Judeo-Christian tradition are flesh of the flesh, blood of the blood.”²³ Proponents of these views may wonder why the liberty of the nonreligious should be fully protected, and may think it reasonable for the state to treat religious institutions preferentially. I suspect that some of the impetus behind the move to have periods of prayer in the public schools stems from this sort of view: many apparently hope to make students moral by making them religious, or more religious.

My view is that a person can be moral without being religious and that there could be moral truths even if there should be no religious truths that support them. This is not to deny that religious commitments often *motivate* people to be moral; indeed, it is not to deny that there might be religious truths sufficient to *guarantee* moral ones or that, other things being equal, people who are religious—in some traditions—have a *stronger* tendency to be moral than those who are not. My point is simply that moral truths need not derive from religious ones, or, even if they should so derive, need not be knowable only through the latter; and whatever causal connections there may be between commitment to one or another religion and being moral, a moral agent need not necessarily be religious.²⁴

23. William J. Bennett, address to the Knights of Columbus (Washington, D.C.: U.S. Department of Education, 7 August, 1985), italics added. Bennett does not distinguish values in the *psychological* sense of (roughly) ‘positive attitudes’ from values in the objective sense of ‘items of real intrinsic worth’. That religion is historically the, or a, basis of values in the former sense is a highly plausible thesis; but Bennett appears to hold—though I do not find him explicitly stating—the controversial and very different view that religion is the (normative) basis of values, including moral ones, in the latter sense. Cf. James Hitchcock, “Church, State, and Moral Values: The Limits of American Pluralism,” *Law and Contemporary Problems* 44, no. 2 (1981): “The classical doctrine of strict separationism rests on an assumption that the state can and must be neutral. But in practice this is impossible. Values are necessary for the functioning of any society” (p. 21). I reject the implicit suggestion here that the state cannot achieve *religious* neutrality, which is the kind I am concerned with; but even if such neutrality can only be approached, my theory would still warrant a directive that the state should come as close as possible to it.

24. Ernest van den Haag makes a case for a stronger view: “I am not arguing that there can be no morality without religion. I am arguing, however, that historically religion has been the source of morality, and it remains the source of meaning and morality for most people who cling to either” (“Religion in the 1980s,” *National Forum* 68, no. 1 [1988]).

The relation between morality and religion is an important matter. If moral truths do not depend on religious ones, then not only can the religious and the nonreligious presumably agree on a set of moral principles basic to civilized life, but when different religions hold certain *incompatible* moral principles (say, regarding capital punishment) their adherents can perhaps settle their moral disputes by secular argument—or can at least agree to structure the coercive machinery of the law by such arguments. Moreover, it is also possible to concur on certain general moral principles as a basis for moral education; and that, in *some* form, seems desirable in a free and democratic society, particularly one that follows the principles suggested here. Thus, far from the (at least partial) independence of morality and religion hindering moral education, it increases the chance that, in a religiously pluralistic community, agreement can be reached on the core of a program of moral instruction—one which emphasizes moral values that are almost universally recognized, for instance liberty, justice, equality of opportunity, and respect for persons.

It is difficult to overemphasize the need for an approach to moral, legal, and social-political issues which, however much scope it allows for religious expression and religious inspiration in the invention and execution of policy, does not *depend* on religious convictions. Such an approach is crucial both for religious liberty and, as the issue of abortion shows, for determining the scope of other liberties. The theory of separation of church and state proposed here is meant to help in protecting those various liberties and to strengthen rational discussion in democratic societies. The theory stresses three principles concerning governmental and other institutions: the libertarian principle, prohibiting unwarranted governmental restrictions of religious freedom; the equalitarian principle, prohibiting governmental preference of one or more religions; and the neutrality principle, proscribing governmental preference toward the religious as such. These principles protect us, in religious matters, against governmental coercion, discrimination, and favoritism. For similar reasons, I have suggested a principle of political neutrality applicable to the converse relation, the church's behavior toward the state. It says that churches should not take political positions, whether toward candidates, legislation, or public policy issues, particularly but not exclusively where restrictions of liberty are at stake.

On the basis of the moral and social-political ideals underlying the in-

stitutional separation doctrine, I have extended the theory to include principles of conscience. If those ideals constrain the state, they may be expected to require similar conduct of individuals. The state is not just an abstraction, after all; its actions are a matter of certain individuals' doing specific things that affect actual people. I have argued for two principles of conscience in particular, applicable especially to cases in which the restriction of human conduct is at stake: the principle of secular rationale, which requires that, for any such restrictive action we take, whether as legislators or as lawyers or as private citizens, we have, and be willing to offer, adequate secular reason; and the stronger principle of secular motivation, which, for the same range of conduct, rules out using adequate secular reasons merely as rationalizations, and requires that, in addition to having and being willing to give such reasons, we be (sufficiently) motivated by at least one such reason for the action in question.

I want to stress again that the two principles of conscience allow one to draw *both* inspiration and motivation from religion in framing or supporting laws and public policies. Religious factors are altogether legitimate in the order of discovery, in the attempt to find new truths and to construct one's position. They are also appropriate in choosing *what* public issues to concentrate on, for instance disarmament versus education, just as moral commitments may properly influence one's choice of what scientific research to undertake. But in the order of justification, in the attempt to justify actions or beliefs—particularly action that would restrict human conduct—a commitment to a free and democratic society requires that one have, and be sufficiently motivated by, adequate secular reasons.

It might be objected that the principle of secular motivation is too strong, at least where secular considerations are not decisive, and particularly if they leave conscientious citizens in disagreement even after extensive discussion.²⁵ For surely some principle of resolution is required

25. This objection is suggested by Greenawalt, *Religious Convictions and Political Choice*. He plausibly argues that "legislation must be justified in terms of secular objectives, but when people reasonably think that shared premises of justice and criteria for determining truth cannot determine critical questions of fact, fundamental questions of value, or the weighing of competing benefits and harms, they do appropriately rely on religious convictions that help them answer these questions" (p. 12). He takes the abortion issue to be a case in point (chap. 7). Much of what he says is consistent with my views; but most of the time he does not distinguish degrees of influence of religious considerations, and even apart from that he allows them considerably more influence than my view

here, and there is no more warrant to make it wholly secular than to allow religious considerations to determine the balance: reason has done its work and need not be pressed into deciding how we are to go beyond it. This view is initially plausible, but it overlooks a *second-order principle of liberty* implicit in a full commitment to a free and democratic society: where extensive, conscientious use of secular reasoning cannot decide whether a kind of conduct is morally permissible, that conduct should not be prohibited by law. This principle would provide no reason not to use religious considerations to oppose such conduct by the force of one's example and in arguments aimed at producing voluntary compliance with one's ideals; but to allow those considerations to tip the balance in determining restrictive legislation would give them a role not appropriate under a proper separation of church and state. It also might encourage an unwarrantedly strong tendency to judge public policy issues to be irresolvable on secular grounds; for those who take religious reasons as an appropriate basis for settling such issues may well be prone to conclude prematurely that secular considerations cannot yield a solution. Whatever our personal beliefs may be, when it comes to imposing legal sanctions, conduct, like persons, should be presumed innocent. This seems particularly so where there is no decisive secular objection to it; and such a presumption protects religious freedom at least as much as it restricts the role of religious reasons.

One might also object that the proposed principles would preclude religious elements from coloring the life and institutions of a society in a way perfectly appropriate to a free and democratic nation in which religion is a major cultural force. Why should our cultural existence be a pale still life, instead of a multicolored *tableau vivant* that displays the people's character—their religious views as well as their moral and aesthetic preferences? This objection is poignant, but misplaced. If one's religion commands loving one's neighbors, nothing said here would prevent one's so conducting oneself and indeed publicly proclaiming one's motivating faith. One can live one's faith—acting, arguing, and even preaching it—even while constraining one's efforts in supporting restrictive laws and policies, or indeed other sorts of legislation or social programs, in accord with the principle of secular motivation. The same

would countenance. I discuss his position in detail in "Religion and the Ethics of Political Participation," *Ethics*, in press.

holds for religiously motivated ideals of conduct that stress justice, reverence, prophecy, or any other peaceful behavior and attitudes.

Religious expression, like individual diversity, is protected by the framework I have laid out. Nor need the framework prevent a society from being, by virtue of the voluntary conduct of enough people, in a significant sense Christian or Jewish or Moslem or Buddhist. It is only in certain ways, however, that this can be warranted in a free and democratic society. The institutional principles of separation of church and state are essential here, but not sufficient. The principle of secular motivation is needed to ensure *both* that religious liberty will be protected and that the nonreligious will not feel alienated or be denied adequate respect. To count on the institutional principles alone to secure separation of church and state, and to consider oneself otherwise free to act wholly for religious reasons, is a special case of the tendency to leave to government too much of the work of the world.

There is something more to be said about the relation between religious commitment and the principles of conscience I have proposed. Even if one believes that the truth of moral principles depends on God, one need not doubt that there should be adequate and generally convincing secular reasons for holding them. Indeed, it is difficult to understand how an omnibenevolent God could allow that the only possible way for a rational agent to discern correct moral principles is through scripture or revelation; and many of the greatest religious thinkers have not held or implied that it is impossible. If, on the basis of my religious experience or my interpretation of scriptures, I hold a moral view for which I *have* no adequate and convincing secular justification, then I should reconsider my interpretation, or the authenticity of my experience. Religiously grounded moral and political views that have no adequate and convincing basis in secular considerations are suspect. This claim should not offend the religious; it is quite consistent with the counterpart view that moral and political views with no adequate and convincing basis in some appropriate range of religious considerations are suspect. If, however, a moral or political view *is* grounded in God's will, God's goodness may plausibly be taken to imply that some secular basis is accessible to rational inquiry. On the other hand, if such a view does not depend on God's will, it is even more plain that it should be accepted only if an adequate, convincing secular basis is found.

It is to be hoped, of course, that a desirable separation of church and

state can be maintained without civil strife or frequent litigation. In this effort, the religious who want to pass laws linking religion and government have the primary responsibility; but the nonreligious also have obligations to help in reducing conflict, and one step toward this end is to avoid gratuitous or captious complaints. Prayer in the public schools is clearly a major and perhaps unavoidable issue; but the inscription 'In God we trust' on money is arguably of more historical than religious significance, and it often goes unnoticed. A challenge of it under separation of church and state, while theoretically plausible, might produce rulings or reactions detrimental to the overall cause of liberty. Debate and, especially, litigation can harden or even exaggerate positions which, in an atmosphere of pluralistic good will, need never clash. There is no substitute for good judgment in the application of social-political principles, and wisdom may dictate waiving their application in some cases or at some time.²⁶ But a free society must still constantly respect, and, in some cases, legally guarantee, principles of separation of church and state. We are prone to extremes in the service of our holy causes. Conflicting secular ideas, even when firmly held, can often be blended and harmonized in the crucible of free discussion; but a clash of gods is like a meeting of an irresistible force with an immovable object.²⁷ The separation of church and state, both as a body of principles addressed chiefly to the state and as a set of principles of individual conscience, should be steadfastly preserved.

26. The point applies not only to challenging governmental practices, but to challenging individual ones as well. The case of S. Simcha Goldman, a nonpracticing rabbi in the Air Force, seems to illustrate this. Until he had to testify in court, no one challenged his wearing his yarmulke indoors. While it is not clear that the Supreme Court erred in deciding (five to four) in favor of the regulation (in *Goldman v. Weinberg*, 106 U.S. 1310, 1986), in this case it is doubtful that the religious practice should ever have been questioned. For discussion, see Ackerman, "Church and State in the Supreme Court," and former Supreme Court Justice Arthur Goldberg's article on the First Amendment in the *Christian Science Monitor*, 12 May 1986.

27. Strictly speaking, an irresistible force and an immovable object are impossible: they cannot simultaneously exist. But that may just enhance the aptness of the simile, since, for the same kind of reason, the existence of one omnipotent being apparently precludes that of another, and this may in part explain why those confident that they worship the true God, conceived as omnipotent—or that they have the best access to interpreting God—tend also to be confident that proponents of different interpretations of God's will are in error, and that worshippers of another god are at best misplacing their devotion.