

## ARTICLES

# One and a Half Cheers for Integralism: Liberalism's Broken Promises and the New Draw of the Confessional State

Francis J. Beckwith<sup>1</sup>

<sup>1</sup> Baylor University

Keywords: Integralism, Christian nationalism, church and state, politics, liberalism

<https://doi.org/10.54669/001c.162007>

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## Journal of Religion, Culture & Democracy

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The rising interest in integralism and Christian nationalism, especially among the young, does not portend a future in which Western Christians celebrate and defend religious liberty, if present trends continue. This article argues that this new draw of the confessional state should not surprise us if we reflect on the ways in which liberalism—the political theory that we typically associate with the rise of religious liberty in the West—has lost its cultural salience among elites who at one time fancied themselves as liberalism's most strident apologists. Those drawn to integralism see the many cultural projects of these elites as working in concert to establish what is tantamount to a secular confessional state. Because the traditional custodians of liberalism have effectively broken their promises, the integralist-curious rarely find the boilerplate appeals to religious toleration—that were so effective in prior generations—remotely convincing.

## Introduction

In the traditional textbook account, the Nicene Creed was the end result of a monarch who had commanded the Christian bishops of his empire to convene a council whose primary purpose was to resolve a fundamental theological question: Is the Son of God eternally begotten of the Father, or was there a time when the Son of God was not? It is difficult to imagine such a scenario happening today in any one of the Western democracies that can trace its cultural and religious roots to that empire whose bishops gave us that creed. Or is it? In recent years there has arisen in the United States a movement—mostly among young, educated, professional Catholics—that goes by the name of integralism.<sup>1</sup> It is one of the two growing postliberal movements within the Christian world in the West.<sup>2</sup> The other goes by the name of Christian nationalism, and is almost entirely a phenomenon within the orbit of Reformed Protestantism, though it has also made some inroads

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1 For brief and accessible presentations of integralism by supporters of the view, see Thomas Pink, *In Defence of Catholic Integralism*, PUB. DISCOURSE (Aug. 12, 2018), <https://www.thepublicdiscourse.com/2018/08/39362/>; Edmund Waldstein, O.Cist., *Integralism and Gelasian Dyarchy*, THE JOSIAS (Mar. 3, 2016), <https://web.archive.org/web/20250210074426/https://thejosias.com/2016/03/03/integralism-and-gelasian-dyarchy/>; Brian Besong & Tyler Dalton McNabb, *Defending Integralism*, 1 J. NAT. L. 92, 92–100 (2025).

2 For a book-length presentation and defense of Catholic integralism, see generally Thomas Crean & Alan Fimister, *Integralism: A Manual of Political Philosophy* (2020). For a similar book-length treatment of Christian nationalism, see generally Stephen M. Wolfe, *The Case for Christian Nationalism* (2022). For a general critique of religious antiliberalism, see generally Kevin Vallier, *All the Kingdoms of the World: On Radical Religious Alternatives to Liberalism* (2023).

within non-Reformed evangelical circles. Both movements, and the variations within them,<sup>3</sup> call for the creation of some form of a Christian confessional state, but they nevertheless differ in fundamental ways. Integralism, because it is Catholic and has a long history in Europe, is more global in its aspirations, offering a general blueprint for how the temporal powers should be in the service of our spiritual ends, while allowing for that relationship to take a variety of forms given the particularities of the diverse cultures, nations, and societies in which Catholicism may take root.<sup>4</sup> On the other hand, Christian nationalism, at least in the American context, champions a return to what its advocates believe is the nation's original Protestant founding.<sup>5</sup> Unlike integralism—which champions cooperation between the global Catholic Church and the individual nation while still maintaining clearly defined boundaries between the two—Christian nationalism is a spectrum of views that bind Protestant Christianity to a particular national identity. This is why it was not surprising when in 2026 the Christian nationalist pastor Douglas Wilson said in an interview that in his ideal America Catholics would not be allowed to have a parade honoring the Virgin Mary and probably not be permitted to engage in a Eucharist procession.<sup>6</sup> Integralism, for its part, maintains that the Catholic Church may enlist the state to enforce moral and theological obligations on all the baptized, including Protestants,<sup>7</sup> but it has no jurisdiction over the nonbaptized (e.g., Jews, pagans, Muslims) unless the behavior of the nonbaptized interferes with the propagation and sustainability of the faith.<sup>8</sup>

I am neither an integralist nor a Christian nationalist, and nor do I consider myself an expert on either point of view. But as I have had the chance in recent years to interact and speak with advocates of both positions—some of whom are learned friends and gifted students—at formal and informal academic gatherings and in the classroom at Baylor University, I have become convinced that most of the critics of both positions have not fully come to

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3 See, e.g., Tyler Dalton McNabb, *God and Political Theory* ch. 4 (2022) (defending what he calls “soft integralism”).

4 “In contrast to nationalism, the Catholic Church offers a robust patriotism that supports the flourishing of human community, including at the national level, but also upholds the legitimacy of sub- and supra-national politics.... There is no ‘Catholic Nationalism.’ In fact, Catholicism is the only real alternative to nationalism.... ‘[The Church’s sovereignty] extends beyond the confines of nations and states, embrac[ing] within itself all the peoples of the whole world.’” Br. Anthony Maria Akerman, O.P., *Against Christian Nationalism: A Catholic Response to Stephen Wolfe*, THE JOSIAS (Aug. 19, 2024), <https://thejosias.com/2024/08/19/against-christian-nationalism-a-catholic-response-to-stephen-wolfe/> (alterations in original) (quoting Pope Pius XI, *Ubi Arcano Dei Consilio*, 67).

5 “[W]e must return to the old Protestant principles of our spiritual forefathers and ... apply them, with prudence and resolve, according to our own particularity and circumstances.” Wolfe, *supra* note 2, at 398.

6 Thomas Edwards, *Minister Invited to Preach at the Pentagon Calls for US Ban on Marian Processions*, THE CATHOLIC HERALD (Mar. 17, 2026), <https://thecatholicherald.com/article/minister-invited-to-preach-at-the-pentagon-calls-for-us-ban-on-marian-processions>.

7 “The Church is now the sole *potestas* [power] over religion, with a sovereign jurisdiction based on baptism to legislate for religion and to enforce that law through punishments.... While the state remains the sovereign *potestas* over civil questions, the Church ... may direct the state to support it with certain policies, such as enforcing church law.” Pink, *supra* note 1.

8 “The Church has no right to punish unbelief among the unbaptized, who are outside her jurisdiction and have no obligation of fidelity to the Church. But the Church still has the authority to use coercion to defend her jurisdiction against those unbaptized who interfere from without, proselytizing on behalf of false religions.... The Church cannot coerce the belief of the unbaptized because, as unbaptized, they lack any obligation of fidelity to the Church.” Thomas Pink, *Conscience and Coercion: Vatican II’s Teaching on Religious Freedom*, FIRST THINGS, Aug./Sept. 2012, at 47, 49.

terms with why many young and accomplished American Christians—both Protestant and Catholic—have found themselves increasingly drawn to the idea of a confessional state. My thesis is that because contemporary liberalism—from which ideas of religious liberty and state neutrality on religion get their salience—has failed to live up to its promises, these postliberals may very well have a point that their critics ignore at their peril. What follows is my cashing out of this thesis with a particular focus on integralism, though much of my analysis can easily be applied to Christian nationalism as well.

## Liberalism

The story of liberalism (or so we are told) begins soon after the Reformation and the wars on religion. Its pedigree is complicated. Everyone agrees that John Locke, Montesquieu, Mary Wollstonecraft, Adam Smith, Jeremy Bentham, and John Stuart Mill were liberals, but not everyone is so sure about Thomas Hobbes, Jean-Jacques Rousseau, or Immanuel Kant. When it comes to conceptualizing the relationship between church and state after the nineteenth century, Western democracies have settled on a variety of arrangements. Although the United States has been largely (though not entirely) Lockean in its sensibilities, other nations have embraced different though overlapping understandings, ranging from religious liberty with an established church (the United Kingdom) to privatized religion with an anticlerical ethos (France).

In his *Letter Concerning Toleration*, Locke argued that the state and the church have different responsibilities over different spheres of human existence in incommensurable jurisdictions.<sup>9</sup> The commonwealth, writes Locke, exists only “for the purpose of preserving and promoting *civil goods*,”<sup>10</sup> which he identifies as “life, liberty, physical integrity, and freedom from pain, as well as external possessions, such as land, money, the necessities of everyday life, and so on.”<sup>11</sup> But the commonwealth’s authority does not extend to those matters that concern religion, what Locke calls the “care of souls.”<sup>12</sup> This is because no one—neither the government nor ecclesial authorities—has been granted by God jurisdiction over the individual’s soul and his religious opinions.<sup>13</sup> A church, writes Locke, “appears ... to be a free association of people coming together of their own accord to offer public worship to God in a manner which they believe will be acceptable to the Deity for the

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<sup>9</sup> John Locke, *A Letter Concerning Toleration*, in *Locke on Toleration* 4, 4–46 (Robert Vernon ed., Michael Silverthorne trans., 2010) (1689).

<sup>10</sup> *Id.* at 6 (emphasis added).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 7.

<sup>13</sup> *Id.*

salvation of their souls.”<sup>14</sup> But is the government required to tolerate churches that “if they want to sacrifice a child or—as was once said falsely of the Christians—engage in promiscuous conduct, should the ruler tolerate these things simply because they take place in a church service?”<sup>15</sup> Locke answers no, as long as the laws that prohibit such conduct apply universally to all citizens regardless of whether they are motivated by their faith.<sup>16</sup> As he notes, the state may ban the killing of cattle, but it may not ban the religious killing of cattle.<sup>17</sup>

Not only is a church merely a human institution whose membership is purely voluntary, but Locke also maintains that “the principal mark of the true Church” is toleration, at least as he understands it.<sup>18</sup> Although he asserts that “care of souls cannot belong to the civil ruler, because his power consists wholly in compulsion,” Locke also asserts that the commonwealth should assume in its laws that “true and saving religion consists in an inward conviction of the mind; without it, nothing has value in the eyes of God.”<sup>19</sup> The implication for ecclesiastical matters is clear, as Locke notes: “Each person then has a care for his own soul and must be allowed to exercise this care.”<sup>20</sup> Unsurprisingly, Locke rejects the idea there is such a thing as a visible church which has a pedigree that can be traced back to Jesus’s first apostles and whose current leadership has juridical authority and spiritual responsibility to shepherd the church as well as a sacred obligation to form the consciences of its members. Writes Locke: “I ask you to point to the edict in which Christ laid down this law for his church.... The saying ‘where two or three are gathered together in my name, there am I in the midst of them’ (Matthew 18:20) appears to suggest otherwise.”<sup>21</sup> Thus, in Locke’s mind, Constantine not only had no authority to convene a council of bishops, but there literally were no bishops for him to summon.<sup>22</sup>

But what should one do when the commonwealth enacts laws that require that the believer violate his conscience? According to Locke, this will seldom happen if government is in fact advancing the public good. But if it does happen, the citizen must comply, since “the private judgment of any person concerning a law enacted in political matters, for the public good, does not

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<sup>14</sup> *Id.* at 9.

<sup>15</sup> *Id.* at 25.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 3.

<sup>19</sup> *Id.* at 8.

<sup>20</sup> *Id.* at 17.

<sup>21</sup> *Id.* at 10.

<sup>22</sup> “But to tell the truth, a church—if we should use the word ‘church’ of a set of clergymen making decrees—usually adapts itself to the court rather than the court to the church. We know well enough what the church was like when the prince was orthodox and what it was like when he was Arian.” *Id.* at 20.

take away the obligation of that law, nor deserve a dispensation.”<sup>23</sup> But if the magistrate legislates outside his jurisdiction and competence—such as requiring citizens “to adopt an alien religion and practise different forms of worship”<sup>24</sup>—the citizen is not obligated to obey the law. But what if the magistrate sincerely believes that this law advances the public good? Locke answers that this is merely the magistrate’s private judgment, and just like the private judgment of any one of us, it “gives him no new right to legislate for his subjects.”<sup>25</sup> But if the magistrate “believes that his commands are within his authority and in the best interests of the commonwealth, but his subjects take the opposite view,” it is only God who can adjudicate the dispute.<sup>26</sup>

There is something elegant and attractive about Locke’s account of religious toleration, even though it seems to violate its own boundary categories (“civil goods” and “care of souls”) by suggesting that the government ought to assume as correct an ecclesiology and understanding of church membership that is congregationalist and Pelagian, and that a true church’s doctrines should include religious toleration.<sup>27</sup> Nevertheless, it is easy to see the wisdom of Locke’s account given the conditions of his era and the theological questions over which European Christians had been deeply divided since the time of the Reformation.

## Lockean Liberalism and the American Founding

To be sure, Locke had a profound influence on the American Founding,<sup>28</sup> but the regime’s understanding of religious liberty was not purely Lockean and hardly uniform. Other influences abounded in an already religiously diverse nation that included Congregationalists and Presbyterians—the descendants of the Puritans—as well as Episcopalians and other groups that made their way to North America, such as the Quakers, Baptists, and Lutherans.<sup>29</sup> Out of this theological stew arose a range of perspectives on religious liberty

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<sup>23</sup> *Id.* at 33.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 34.

<sup>26</sup> *Id.*

<sup>27</sup> These are among the insightful observations made by Kenneth R. Craycraft Jr. Concerning the charge of Pelagianism, Craycraft writes, “Nor, of course, is this church [for Locke] the presence or bearer of grace for the salvation of souls. Rather, men are members of the church solely based upon rational persuasion, never upon a gracious act of God. Religion is reduced to instrumental reason, and a church is reduced to the number of persons who subscribe to the same conclusions. For example, in *An Essay Concerning Human Understanding*, Locke writes that ‘Revelation is natural Reason enlarged by a new set of Discoveries communicated by GOD immediately.’ Faith moved by grace has no place in Locke’s theology of conscience. Rather, religion is reduced to reason, and that only as it pertains to the mind of the individual. The church is not the divine institution in which doctrine is guided and grace dispensed but the sum of the wills of its members.” Kenneth R. Craycraft Jr., “*It Neither Picks My Pocket nor Breaks My Leg*: Rationalist Faith, Private Conscience, and a God Who Does Not Command,” 48 COMMUNIO: INT’L CATH. REV. 487, 503 (2021) (quoting John Locke, *An Essay Concerning Human Understanding* 698 (1975)).

<sup>28</sup> See, e.g., Michael Zuckert, *Natural Rights and the New Republicanism* (1994).

<sup>29</sup> Rodney Stark & Roger Finke, *American Religion in 1776: A Statistical Portrait*, 49 SOCIO. ANALYSIS 39, 39–51 (1988).

that, despite their differences, nevertheless shared a common conviction:<sup>30</sup> the government may not coerce a citizen to assent to religious beliefs or practices that are in violation of what the citizen believes is his duty to God. This principle is reflected in both the First Amendment's Free Exercise Clause as well as in various state constitutions. For example, part 1, article 2, of the Massachusetts Constitution of 1780 affirms:

It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the Supreme Being, the great creator and preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.<sup>31</sup>

However, the Massachusetts Constitution also allowed for the legislature to authorize and require that local governments make suitable provisions for the public worship of God and the support of Protestant ministers, as well as to require attendance at religious instruction as long as the citizen might do it conscientiously and conveniently.<sup>32</sup> This seems counterintuitive to many of us today, but the people of Massachusetts thought differently. They did not think (whether rightly or wrongly) that robust religious liberty was inconsistent with some state support of the church as long as individual believers were not coerced to personally affirm or practice what they believed violated their conscience.<sup>33</sup> Advocates of such a benefit saw it as advancing the common good, since they believed that religious formation cultivates in citizens certain virtues that make them better neighbors and compatriots.<sup>34</sup> This is not unlike how many have defended tax-supported free public

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<sup>30</sup> This is a point made by Michael Zuckert in his essay *Freedom of, Freedom for, and Freedom from Religion: The Contested Character of Religious Freedom in America*, L. & LIBERTY (Nov. 2, 2016), <https://lawliberty.org/forum/freedom-of-freedom-for-and-freedom-from-religion-the-contested-character-of-religious-freedom-in-america/>.

<sup>31</sup> Massachusetts Constitution of 1780, in 1 *The Founders' Constitution* ch. 1, doc. 6 (Philip B. Kurland & Ralph Lerner eds., 1987), <http://press-pubs.uchicago.edu/founders/documents/v1ch1s6.html>.

<sup>32</sup> "As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of GOD, and of public instructions in piety, religion and morality: Therefore, to promote their happiness and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies-politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of GOD, and for the support and maintenance of public protestant teachers of piety, religion and morality, in all cases where such provision shall not be made voluntarily." Mass. Const. pt. I, art. III (1780).

<sup>33</sup> "When it is remembered that no man is compellable to attend on any religious instruction, which he conscientiously disapproves, and that he is absolutely protected in the most perfect freedom of conscience in his religious opinions and worship, the ... objection [that state-supported religion violates a person's religious liberty] seems to mistake a man's conscience for his money, and to deny the state a right of levying and of appropriating the money of the citizens, at the will of the legislature, in which they all are represented." *Barnes v. First Par. in Falmouth*, 6 Mass. 401, 408 (1810).

<sup>34</sup> "The object of public religious instruction is to teach, and to enforce by suitable arguments, the practice of a system of correct morals among the people, and to form and cultivate reasonable and just habits and manners; by which every man's person and property are protected from outrage, and his personal and social enjoyments promoted and multiplied." *Barnes*, 6 Mass. at 409.

education,<sup>35</sup> even though some devout parents send their children to private religious schools and pay tuition out of pocket for that education while still paying property taxes for public schools that their children do not attend. As long as the religious parents are free to send their children to religious schools and are not coerced by the state to affirm or practice what they believe violates their conscience, so the argument goes, these parents still possess robust religious liberty despite the fact that they are required to contribute to the public schools just like all taxpayers, including those who do not have children.<sup>36</sup>

But, of course, others at the Founding, like Thomas Jefferson and James Madison, argued that it is unjust when the government creates taxing schemes for the purpose of directly supporting Christian ministers and, for this reason, such policies should be proscribed by law. When Patrick Henry drafted a Virginia bill that if enacted would have created a property tax whose revenues would be used to financially support Christian ministers,<sup>37</sup> Jefferson and Madison strongly opposed it. The proposed bill inspired Jefferson to write a draft of what eventually became the Virginia Statute for Religious Freedom.<sup>38</sup> For his part, Madison produced a pamphlet that he published and promulgated anonymously: *A Memorial and Remonstrance Against Religious Assessments*.<sup>39</sup> Like the Massachusetts Constitution, both Jefferson and Madison understood religious liberty as at least meaning that the government recognizes the citizen's conscientious duty to God as outside the state's jurisdiction unless it threatens peace and good order. But unlike the Massachusetts Constitution, Jefferson and Madison argued that any direct financial support of religious clergy or ecclesial bodies was a first step in establishing the sort of mischief and tyranny associated with the history of religious persecutions in Europe. Referring to Henry's bill, Madison writes, "Instead of holding forth an Asylum to the persecuted, it is itself a signal of persecution. It degrades from the equal rank of Citizens all those whose opinions in Religion do not bend to those of the Legislative authority."

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35 See Richard D. Kahlenberg, *Why Taxpayers Should Not Be Forced to Support Private Religious Education*, THE CENTURY FOUND. (Jan. 13, 2020), <https://tcf.org/content/commentary/taxpayers-not-forced-support-private-religious-education/>.

36 "The like objection may be made by any man to the support of public schools, if he have no family who attend; and any man, who has no lawsuit, may object to the support of judges and jurors on the same ground; when, if there were no courts of law, he would unfortunately find that causes for lawsuits would sufficiently abound." *Barnes*, 6 Mass. at 410.

37 See James R. Rogers, *Patrick Henry's Very Modern Proposal*, FIRST THINGS (Aug. 20, 2013), <https://firstthings.com/patrick-henrys-very-modern-proposal/>.

38 Thomas Jefferson, *A Bill for Establishing Religious Freedom* (ca. 1779), Founders Online, Nat'l Archives, <https://founders.archives.gov/documents/Jefferson/01-02-02-0132-0004-0082>.

39 James Madison, *Memorial and Remonstrance Against Religious Assessments* (June 20, 1785), Founders Online, Nat'l Archives, <https://founders.archives.gov/documents/Madison/01-08-02-0163>.

Distant as it may be in its present form from the Inquisition, it differs from it only in degree. The one is the first step, the other the last in the career of intolerance.”<sup>40</sup> Jefferson offers similar sentiments.<sup>41</sup>

There seems then to have been at the American Founding two competing accounts of the relationship between church and state that were in tension:<sup>42</sup> one whose advocates believed that if the government intentionally supports a community’s dominant religious tradition, this undermines equality between citizens and inevitably results in the debasement of the faith and persecution of dissenters; and another whose advocates believed that because a community’s dominant religious tradition is essential to the cultivation of personal virtue and public mindedness, government may be intentional in supporting it. Variations of both accounts remain with us to this day, neither of which has been able to secure a decisive victory in the culture or in the courts.

Steven D. Smith calls one of them “the secularist interpretation.”<sup>43</sup> Represented in the works of figures like Jefferson and Madison, it is marked by its strict view of the separation of church and state and its call for the government to remain neutral as to religion. But it would be a mistake to see this account as inherently hostile to religion, since it had wide support among Baptists, Quakers, and certain pietist groups, such as Mennonites and Moravians, all of whom had suffered persecution by governments that had established churches. These groups, in line with Jefferson and Madison,<sup>44</sup> saw a causal connection between an established church and the corruption of religion.<sup>45</sup>

Smith labels the other account “the providentialist interpretation,” which I associate with figures like Henry and the drafters of the Massachusetts Constitution.<sup>46</sup> Unlike advocates of its rival, advocates of this view see a causal connection between the total disestablishment of religion and the moral

<sup>40</sup> *Id.* at 9.

<sup>41</sup> “That to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical.” Jefferson, *A Bill for Establishing Religious Freedom*, *supra* note 38.

<sup>42</sup> What follows has been influenced by Steven D. Smith’s taxonomy in *The Rise and Decline of American Religious Freedom* (2014). Although my account is generally in line with Smith’s framework, and I use the same terms—secularist interpretation and providentialist interpretation—some of my analysis may not align with Smith’s.

<sup>43</sup> Smith, *The Rise and Decline of American Religious Freedom*, 9.

<sup>44</sup> “[I]t tends also to corrupt the principles of that very religion it is meant to encourage, by bribing, with a monopoly of worldly honours and emoluments, those who will externally profess and conform to it.” Jefferson, *supra* note 38 (emphasis omitted). “During almost fifteen centuries has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the Clergy, ignorance and servility in the laity, in both, superstition, bigotry and persecution.” Madison, *supra* note 39, at 7.

<sup>45</sup> In a famous and influential essay, the American Baptist minister John Leland (1754–1841) writes, “These establishments metamorphose the church into a creature, and religion into a principle of state; which has a natural tendency to make men conclude that bible religion is nothing but a trick of state. Hence it is that the greatest part of the well informed in literature are overrun with deism and infidelity: nor is it likely it will ever be any better while preaching is made a trade of emolument. And if there is no difference between bible religion and state religion I shall soon fall into infidelity.” John Leland, *The Rights of Conscience Inalienable*, in 2 *Political Sermons of the American Founding Era* 1087, 1087–88 (Ellis Sandoz ed., 1998).

<sup>46</sup> Smith, *The Rise and Decline of American Religious Freedom*, 9.

corruption of the community. For them, religion is an aspect of the common good that the government may legitimately support as long as the individual conscience is not coerced.

Despite their differences, it seems undeniable that both views—the secularist interpretation and the providentialist interpretation—are at their core liberal, with the former being more Lockean than the latter.<sup>47</sup> For each affirms that the religious liberty of the individual conscience is an unalienable right.

Given the presence of both accounts at the American Founding,<sup>48</sup> it is not surprising that the First Amendment’s religion clauses effectively reaffirm the status quo: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”<sup>49</sup> As Smith notes, “The central purpose of the clauses was ... to simply acknowledge in writing that even under the new Constitution, matters involving the establishment and exercise of religion would remain the business of the states, as nearly everyone agreed they should be.”<sup>50</sup> Because the clauses were a limitation on Congress’s power to affect the power of the states to craft laws pertaining to religion, they protected the individual conscience from coercion by the federal government while forbidding that same government from both establishing its own official religion and preventing those states, like Massachusetts, from providing support to religious activities that were widely believed to advance the common good.

When Massachusetts ended its taxing scheme in 1833,<sup>51</sup> there were no longer any states that provided direct financial support to religion, even though states still retained the power to enact such policies. But on other matters concerning religion, state and local governments advanced policies that

47 On Locke’s influence on Jefferson and Madison, see *supra* note 28.

48 The legal scholar and historian John Witte Jr. has famously made a compelling case that at the American Founding there were roughly four general views about the relationship between church and state: Puritan, Evangelical, Enlightenment, and Civic Republican. John Witte Jr. & Joel A. Nichols, *Religion and the American Constitutional Experiment* 21–40 (3d ed. 2011). But Witte’s taxonomy is not inconsistent with Smith’s. He writes that “[t]he Puritans and Civic Republicans wanted only a ‘mild and equitable establishment’ of religion,” and thus, as I see it, represented views within Smith’s providentialist interpretation, while “Evangelicals and Enlightenment exponents opposed any kind of establishment and called for a stronger separation of church and state,” and thus represented views within Smith’s secularist interpretation. And just like the two categories within Smith’s taxonomy, Witte’s four views share an overlapping consensus about the individual conscience and religious liberty: “Despite their differences, exponents of all four of these rival views eventually countenanced liberty of conscience, freedom of religious exercise, and the equality of a plurality of rival religions before the law. The Puritans and Civic Republicans cast these principles of religious liberty more narrowly; Evangelical and Enlightenment exponents cast them more broadly.” Witte & Nichols, *Religion and the American Constitutional Experiment*, at 37.

49 U.S. Const. amend. I.

50 Smith, *The Rise and Decline of American Religious Freedom*, 8.

51 Massachusetts replaced the 1780 article 3 of the first part of its Constitution with a new article 3: “As the public worship of God and instructions in piety, religion and morality, promote the happiness and prosperity of a people and the security of a republican government; — therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses: and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society, a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by such society: — and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.” Mass. Const. pt. I, art. III, amended by Mass. Const. amend. art. XI (1833).

required or allowed for public schools to teach about religion and begin the day with prayer, banned blasphemy and obscenity, enforced Sunday closing laws, hired chaplains to offer invocations in legislatures, and celebrated religious holidays in public spaces. This was the norm well into the twentieth century. Yet the United States remained undeniably liberal in its understanding of religious liberty.<sup>52</sup>

## Religion, the Supreme Court, and the Changing Face of Liberalism

This is not to say that there were not disputes or disagreements about the wisdom of such policies, but they were virtually never seen as matters that had to be resolved by the United States Supreme Court because they were possible violations of the Constitution. That, however, changes in the 1940s when the Court incorporates the First Amendment's religion clauses through the Fourteenth Amendment's Due Process Clause and applies them to the states. In *Cantwell v. Connecticut* (1940),<sup>53</sup> the Court used the free exercise clause to strike down a statute that required the licensing of door-to-door evangelism. And in *Everson v. Board of Education* (1947),<sup>54</sup> the Court used a strict separationist reading of the establishment clause to argue that it was permissible for a public school district to reimburse the bus fares of children who attended private religious schools. With the religion clauses now applying to the states, the Court was faced for the first time with addressing those policies that had been, since the Founding, left to the discretion of the state legislatures and local officials. But culturally, and among legal scholars and activists, the secularist interpretation was in ascendancy,<sup>55</sup> eventually becoming in the minds of many the only authentic American account of the relationship between church and state.<sup>56</sup> Yet, when it comes to the rulings of the Supreme Court, the secularist interpretation gets a run for its money from the providentialist interpretation. For this reason, over the subsequent decades neither interpretation achieves anything remotely resembling total victory.<sup>57</sup> On the one hand, the Court *rules against* prayer in public school

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52 For a nice summary of the legal landscape prior to the revolution in church-state jurisprudence after 1947, see Timon Cline, Josh Hammer & Yoram Hazony, *Everson Must Fall*, 48 HARV. J.L. & PUB. POL'Y 1 (2025).

53 *Cantwell v. Connecticut*, 310 U.S. 296 (1940).

54 *Everson v. Bd. of Educ.*, 330 U.S. 1 (1947).

55 As the advocacy group Americans United for Separation of Church and State (AU) documents in its history, in 1947 AU "was founded by a coalition of leaders to defend church-state separation, support public education, and ensure taxpayers are not forced to fund private, religious education;" in the 1950s "fought the censorship of books, plays, and films, lobbied for birth control access, and helped to end mandatory Sunday close laws (Blue Laws) in many states;" in the 1960s "faced tumult in public schools with conservatives calling for school-sponsored prayer;" and in 1971, "[a]s a plaintiff in *Lemon v. Kurtzman*, ... helped strike down programs aiding private schools with public funds." Americans United for Separation of Church & State, *History*, <https://www.au.org/about-au/history/>.

56 See generally Philip Hamburger, *Separation of Church and State* (2002).

57 "Indeed, with respect to religion (and much else), the American political tradition might be understood as the product of the ongoing competition and collaboration between the providentialist and secularist interpretations of the Republic." Smith, *The Rise and Decline of American Religious Freedom*, 94.

classrooms,<sup>58</sup> public displays of the Ten Commandments,<sup>59</sup> some public religious displays,<sup>60</sup> released time for religious education on public school grounds,<sup>61</sup> direct funding of private religious schools,<sup>62</sup> a Christian Legal Society student chapter that had been denied official status by a public law school because it excluded from leadership students who did not practice chastity,<sup>63</sup> members of the Native American church who had been denied state unemployment benefits after being fired as drug counselors because they had consumed peyote at a religious ceremony,<sup>64</sup> and a student who had been refused a state scholarship because it would be used to fund his ministerial education.<sup>65</sup> On the other hand, the Court *rules in favor* of some public religious displays,<sup>66</sup> prayer in state legislatures and city councils,<sup>67</sup> equal access to public facilities by religious entities,<sup>68</sup> the ministerial exception,<sup>69</sup> a Christian baker who refused to design a cake for a same-sex wedding,<sup>70</sup> the right of parents to direct their children's religious education,<sup>71</sup> the right of parents to receive vouchers or tax credit scholarships for private religious schools that had only been allowed for private secular schools,<sup>72</sup> the right of a state government to create a school voucher system that allows parents to use a voucher at a private religious school,<sup>73</sup> a church that had been denied a grant application for playground repair because of its status as a church,<sup>74</sup> and the right of religious groups at public colleges to not be denied funding because they are religious.<sup>75</sup> To be sure, the current Roberts Court (in 2026) seems far more inclined to be providentialist than secularist, a direction to which the Court has been moving since the early years of the twenty-first century. But from the 1940s through the late 1990s the Court's inclinations were in fact largely (though not entirely) reversed.

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58 *Engel v. Vitale*, 370 U.S. 421 (1962); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203 (1963).

59 *Stone v. Graham*, 449 U.S. 39 (1980) (per curiam); *McCreary County v. ACLU of Kentucky*, 545 U.S. 844 (2005).

60 *County of Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573 (1989).

61 *McCullum v. Bd. of Education*, 333 U.S. 203 (1948).

62 See, e.g., *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

63 *Christian Legal Soc'y v. Martinez*, 561 U.S. 661 (2010).

64 *Employment Div. v. Smith*, 494 U.S. 872 (1990).

65 *Locke v. Davey*, 540 U.S. 712 (2004).

66 See, e.g., *Van Orden v. Perry*, 545 U.S. 677 (2005); *Lynch v. Donnelly*, 465 U.S. 668 (1984).

67 *Marsh v. Chambers*, 463 U.S. 783 (1983); *Town of Greece v. Galloway*, 572 U.S. 565 (2014).

68 See, e.g., *Widmar v. Vincent*, 454 U.S. 263 (1981); *Bd. of Education v. Mergens*, 496 U.S. 226 (1990); *Good News Club v. Milford Cent. School*, 533 U.S. 98 (2001).

69 *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171 (2012); *Our Lady of Guadalupe School v. Morrissey-Berru*, 591 U.S. 732 (2020).

70 *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm'n*, 584 U.S. 617 (2018).

71 *Wisconsin v. Yoder*, 406 U.S. 205 (1972); *Mahmoud v. Taylor*, 606 U.S. 522 (2025).

72 *Espinoza v. Montana Dep't of Revenue*, 591 U.S. 464 (2020); *Carson v. Makin*, 596 U.S. 767 (2022).

73 See, e.g., *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002).

74 *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449 (2017).

75 *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819 (1995).

During those decades in which many of the most important secularist-inclining Court opinions were issued, several prominent philosophers, political theorists, and legal scholars began developing and defending accounts of liberalism that sought to cabin religion from the public square on what they argued were principled grounds. Most notable among these scholars were John Rawls and Ronald Dworkin. Like Locke and virtually everyone at the American Founding, they defended a robust understanding of the individual's freedom of conscience. But unlike those other figures, Rawls and Dworkin (and like-minded thinkers) offered a more capacious account of what would count as "religious," while combining it with a strict separationism akin to what one finds in Locke and the champions of the secularist interpretation. What results is essentially the sort of liberalism that once dominated the way in which most Americans, until fairly recently, tended to categorize their disputes over cultural, political, and legal issues of great controversy.

Think, for example, of issues like abortion, same-sex marriage, obscenity, or physician-assisted suicide. The Rawls-Dworkin approach to such issues was not to ask the question, "Which is the correct moral view that should be reflected in our laws?" Rather, they framed these debates as conflicts between contrary ethical traditions or comprehensive doctrines that, depending on what laws would be enacted, would either vindicate or violate a citizen's personal liberty and right of conscience.<sup>76</sup> (An ethical tradition or comprehensive doctrine refers to one's vision of the good life, which is bound to be diverse for citizens exercising their reason in a free society).<sup>77</sup> For Rawls and Dworkin such visions function in largely the same way as "religion" functioned for Locke and the secularist interpreters. Although for Rawls and Dworkin their new category includes the beliefs of conventional religions, it also includes beliefs tightly tethered to so-called nonreligious traditions and doctrines like utilitarianism, Kantianism, or Marxism. Because it is fundamental to justice to allow citizens to live out their vision of the

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<sup>76</sup> I should note that Dworkin and Rawls held different views on whether a ban on abortion would be consistent with liberal principles.

Dworkin defended liberal abortion laws as essential to justice; Rawls, toward the end of his life, argued that because liberal principles provided no direct guidance on whether the law should prohibit abortion, a prolife law could be consistent with a liberal state. For the fullest expression of Dworkin's view, see Ronald Dworkin, *Life's Dominion: An Argument About Abortion, Euthanasia, and Individual Freedom* (1994). Rawls, on the other hand, writes, "[D]isputed questions, such as that of abortion, may lead to a stand-off between different political conceptions, and citizens must simply vote on the question." John Rawls, *Political Liberalism* liii (expanded ed. 2005). As I note elsewhere, Rawls's earlier position, which he defended in the first edition of *Political Liberalism* (1993), was nearly indistinguishable from Dworkin's. But in the paperback edition of *Political Liberalism*, published three years later, Rawls changed his mind, arguing that as long as prolife legislation is based on public reason, it is not impermissible in a liberal state. See Francis J. Beckwith, *Rawls's Political Liberalism and the Problem of Taking Rites Seriously: From Abortion to Same-Sex Wedding Cakes*, in *Raised on the Third Day: The Gary Habermas Festschrift* 75, 75–88 (W. David Beck & Michael R. Licona eds., 2020).

<sup>77</sup> Writes Dworkin: "Orthodox religious convictions are plainly ethical on that account, and a tolerant secular society that adopted a right of ethical freedom would of course guarantee freedom of orthodox religious exercise. But it would not limit the scope of the ethical to orthodox religion; it could have no reason for embracing freedom of orthodox worship without also embracing freedom of choice in all ethical matters and therefore freedom of choice with respect to the ethical values that are plainly implicated in decisions about sexual conduct, marriage, and procreation." Ronald Dworkin, *Is Democracy Possible Here?* 61–62 (2006). Writes Rawls: "Political liberalism assumes that, for political purposes, a plurality of reasonable yet incompatible comprehensive doctrines is the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime." Rawls, *Political Liberalism*, at xvi.

good life unless it harms others, the only way that a coercive law can pass muster is if it is based on the sort of reason that it would be irrational for the coerced to reject.<sup>78</sup>

One of the virtues of this position is that it cultivates a kind of epistemic modesty about ultimate questions. In that sense, it is not unlike what one finds in Locke and some of the American Founders.<sup>79</sup> Another virtue of the position is that it seems to resolve disputes in a way that still requires respect for those whose views do not become law. Instead of saying, for example, that one's opposition to physician-assisted suicide is irrational, the liberal can honestly say, "I know of no good reason why your view may not be the morally correct one, but because it is not irrational for others to reject it, we should leave the matter of physician-assisted suicide to the individual citizen informed by her own vision of the good life." And this is precisely the argument that Rawls and Dworkin, along with four other philosophers, made in an amicus brief they submitted to the U.S. Supreme Court in 1996 in the cases of *Washington v. Glucksberg* and *Vacco v. Quill*,<sup>80</sup> in which the Court addressed the question of whether or not the Constitution includes an unenumerated right to physician-assisted suicide. (The Court, in a 9-0 decision, answered no). In what was called "The Philosophers' Brief,"<sup>81</sup> Rawls, Dworkin, and their collaborators write, "Different people, of different religious and ethical beliefs, embrace very different convictions about which way of dying confirms and which contradicts the value of their lives.... None of these dramatically different attitudes about the meaning of death can be dismissed as irrational. None should be imposed, either by the pressure of doctors or relatives or by the fiat of government, on people who reject it."<sup>82</sup>

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<sup>78</sup> Rawls writes: "Our exercise of political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in light of principles and ideals acceptable to them as reasonable and rational." Rawls, *Political Liberalism* at 217. Dworkin writes: "But dignity does not simply command that no one be forced to recite what he does not believe. It assigns us a positive responsibility to choose ethical values for ourselves, and though, as I said, we know we are influenced by a thousand dimensions of culture in making those choices, we must nevertheless refuse to accept subordination to a government that deliberately and coercively manipulates our choices." Dworkin, *Is Democracy Possible Here?* at 85.

<sup>79</sup> Writes Jefferson: "Well aware that the opinions and belief of men depend not on their own will, but follow involuntarily the evidence proposed to their minds; that Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint; that all attempts to influence it by temporal punishments, or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of our religion, who being lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do, but to extend it by its influence on reason alone; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world and through all time." Jefferson, *supra* note 38. Writes Madison: "The religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right. It is unalienable, because the opinions of men, depending only on the evidence contemplated by their own minds cannot follow the dictates of other men: It is unalienable also, because what is here a right towards men, is a duty towards the Creator. It is the duty of every man to render to the Creator such homage and such only as he believes to be acceptable to him." Madison, *supra* note 39, at 1.

<sup>80</sup> *Washington v. Glucksberg*, 521 U.S. 702 (1997); *Vacco v. Quill*, 521 U.S. 793 (1997).

<sup>81</sup> Ronald Dworkin, Thomas Nagel, Robert Nozick, John Rawls, Judith Jarvis Thomson & T.M. Scanlon, *Assisted Suicide: The Philosophers' Brief*, N.Y. REV. BOOKS, Mar. 27, 1997, at 41, 41–47. The first two pages, 41 and 42, are an introduction that Dworkin authored by himself.

<sup>82</sup> Dworkin et al., *The Philosophers' Brief*, 47.

So even though this form of liberalism is not ideal for the providentialist interpreter, it still allows the conventional religious believer some breathing room and social space. To be sure, it shifts the scope of religion from mere duty to God to a more expansive vision of the good life, but at least the religious believer can appeal to liberal principles to defend her own conscience when the government wants to enact a coercive law that she is not irrational in rejecting. This is why in 1992, when testifying before Congress in support of the Religious Freedom Restoration Act (RFRA), the quintessential liberal, Nadine Strossen, then-president of the American Civil Liberties Union (ACLU), argued that without RFRA, “at risk [are] such familiar practices as ... the sanctity of the confessional, religious preferences in church hiring, establishing places of worship in areas zoned for other use, permitting religiously sponsored hospitals to decline to provide abortion or contraception services, sex segregation during worship services, exemptions from mandatory retirements laws, a church’s refusal to ordain women or homosexuals, exemptions from landmark and zoning regulations, and the inapplicability of highly intrusive educational rules to parochial schools.”<sup>83</sup> Although Strossen surely knew that almost all of the issues she listed were matters that Locke would have categorized as *civil goods*, she also knew that they were nevertheless integral to the moral theologies and ecclesiastical practices of groups devoted to the care of souls, just as the authors of the “Philosophers’ Brief” surely knew that Locke’s taxonomy was not up to the task in distinguishing civil goods from the care of souls at the very moment medicine could no longer prevent the civilian’s soul from separating from the believer’s body.

But soon after the dawn of the twenty-first century, this sort of liberalism—which I call *political liberalism*<sup>84</sup>—begins to wane in the culture and something quite different begins to develop: a kind of secular progressive scrupulosity that I call *hegemonic liberalism*.<sup>85</sup> Not only does it lack the epistemic modesty, capacious understanding of religion, and respect for conscience advanced by its predecessor, but it also cultivates reflexes in its advocates that seem indistinguishable from the judgments of inquisitorial bureaucrats of a confessional state. We are all familiar with the stories and issues, some of which have been addressed by the Supreme Court in the cases mentioned above: parents disallowed from exempting their children from public school lessons inherently hostile to the family’s moral theology,<sup>86</sup>

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<sup>83</sup> *Religious Freedom Restoration Act of 1991: Hearing on H.R. 2797 Before the Subcomm. on Civ. & Const. Rts. of the H. Comm. on the Judiciary*, 102d Cong. 192–93 (1992) (statement of Nadine Strossen, President, American Civil Liberties Union) [hereinafter Strossen, *Hearing*].

<sup>84</sup> I take the term “political liberalism” from the title of Rawls’s book, *Political Liberalism*.

<sup>85</sup> This is a term I first used in my article *Political Liberalism, Religious Liberty, and Christian Higher Education*, Symposium on Religious Liberty & Christian Higher Education, Two Kingdoms Network (Concordia Univ., Neb.) (Feb. 1, 2017), <https://twokingdoms.cune.edu/symposium-beckwith>. I have since used the term in several other publications.

<sup>86</sup> *Mahmoud v. Taylor*, 606 U.S. 522 (2025).

Catholic priests specifically targeted by state government to break the seal of the confessional in sexual abuse cases while confidentiality in other professions remains protected for the same cases,<sup>87</sup> religious vendors being coerced to use their talents to celebrate a same-sex wedding,<sup>88</sup> Christian students at a public college not being permitted to form an official prolife group,<sup>89</sup> an order of Catholic nuns being required by the Secretary of Health and Human Services to offer birth control in its employees' health insurance plan,<sup>90</sup> a college professor ordered by the administration of a public university to use the preferred pronouns of his transgender student,<sup>91</sup> and a Catholic foster care agency banned by a local municipality from receiving referrals because the agency cannot as a matter of conscience place children with same-sex couples.<sup>92</sup>

To give you a sense of the tectonic shift that these stories signal, consider just two historical contrasts. While the "Philosophers' Brief" argued that none of the contrary views on how to morally address end-of-life care can be dismissed as irrational and imposed on citizens who cannot assent to views that violate their conscience,<sup>93</sup> the contemporary literature in medical ethics is replete with professional ethicists arguing that if a physician will not cooperate with legally sanctioned active euthanasia or the performance of an abortion, she should probably find a different line of work.<sup>94</sup> While political liberals like the ACLU's Strossen defended RFRA because of its promise to protect Catholic medical institutions from being coerced to violate their church's moral theology in the types of care they offer,<sup>95</sup> the contemporary ACLU considers it a miscarriage of justice for the state *not to coerce* those very same institutions if they insist on not violating the teachings of their church.<sup>96</sup>

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87 Wash. S.B. 5375, 69th Leg., Reg. Sess., ch. 197, 2025 Wash. Sess. Laws (amending Wash. Rev. Code §§ 26.44.020, .030). A federal district court issued a preliminary injunction blocking the law from taking effect as applied to the Sacrament of Confession. *Etienne v. Ferguson*, 791 F.Supp. 3d 1226 (2025).

88 *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm'n*, 584 U.S. 617 (2018); *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023).

89 *Queens College Students for Life v. Members of the City University of New York Board of Trustees*, No. 1:17-cv-00402-CBA-VMS, 2017 WL 5479634 (E.D.N.Y. Nov. 15, 2017). The case was later settled and dismissed.

90 *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania*, 591 U.S. 657 (2020).

91 *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2020).

92 *Fulton v. City of Philadelphia*, 593 U.S. 522 (2021).

93 Dworkin et al., *The Philosophers' Brief*, 47.

94 See, e.g., Julian Savulescu, *Conscientious Objection in Medicine*, 332 BMJ 294, 294–97 (2006); Julian Savulescu & Udo Schuklenk, *Doctors Have No Right to Refuse Medical Assistance in Dying, Abortion or Contraception*, 31 BIOETHICS 162, 162–70 (2017). Savulescu and Schuklenk write, "Doctors must put patients' interests ahead of their own integrity. They must ensure that legal, beneficial, desired services are provided, if not by them, then by others. If this leads to feelings of guilty remorse or them dropping out of the profession, so be it. As professionals, doctors have to take responsibility for their feelings. There is an oversupply of people wishing to be doctors. The place to debate issues of contraception, abortion and euthanasia is at the societal level, not the bedside, once these procedures are legal and a part of medical practice." Julian Savulescu & Udo Schuklenk, *Doctors Have No Right to Refuse Medical Assistance in Dying, Abortion or Contraception*, 164 (emphasis added).

95 Strossen, *Hearing*.

96 See, e.g., ACLU, *Miscarriage of Medicine: The Growth of Catholic Hospitals and the Threat to Reproductive Health Care* (2013), <https://www.aclu.org/report/miscarriage-medicine>. The report states: "When it comes to reproductive health care, religious doctrine can override medical standards of care or patient wishes at Catholic-sponsored facilities. These hospitals are governed by the Ethical and Religious Directives for Catholic Health Care Services (the Directives), which are issued by the U.S. Conference of Catholic Bishops and

Under a strict Lockean interpretation of religious liberty, none of the cases listed in the previous two paragraphs is difficult, since they all involve, at least at first glance, general laws that do not single out religion for a special burden.<sup>97</sup> Thus, the religious citizen should always lose. Although under the secularist interpretation of the religion clauses the prospects of religious dissenters may be more promising, I have my doubts, since in each of these cases the law or policy in question was enacted to advance something the government believed was necessary for peace and good order or public health. Under political liberalism or a providentialist interpretation, the religious citizen stands a better chance. But that will largely depend on whether or not she can convince her compatriots that her actions are politically or theologically reasonable.<sup>98</sup>

## Integralism

Imagine that you are a serious Christian believer under the age of forty who embraces doctrines that can be traced back to the earliest adherents of your faith. You are, in some important ways, out of step with what seems to have been the dominant trends in the wider culture over the past five decades. Suppose further that you are a highly educated professional in a field like business, medicine, or law, or you may be an academic who studies literature, philosophy, religion, sociology, or public health. In such employment venues you are subjected to a steady cognitive diet of memos, seminars, and trainings—not to mention a special vocabulary with its own moral grammar—that never ceases to remind you that much of what you believe about the most important things in life are outside the institution's circle of inclusion.

When you were younger you were told that you live in a liberal democratic republic whose citizens hold a variety of reasonable, and sometimes contrary, beliefs about religion, morality, politics, the welfare state, and the good life. But you were assured that because of this deep pluralism, you and everyone else has a civic obligation to cultivate in themselves a spirit of tolerance, openness, and critical reflection, while not hesitating to engage in robust and civil debate on contested matters in the proper currency of that endeavor:

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enforced by local bishops. The Catholic Directives prohibit a range of reproductive health services, including contraception, sterilization, many infertility treatments, and abortion, even when a woman's health or life is threatened by a pregnancy." ACLU, *Miscarriage of Medicine: The Growth of Catholic Hospitals and the Threat to Reproductive Health Care*, 2.

<sup>97</sup> This is the point made by Craycraft *supra* note 27, at 487–91, 501–07.

<sup>98</sup> The issue of theological reasonableness, I think, accounts for the fact that certain pacifist Christian groups, like the Quakers, were granted exemptions to some general laws whereas early Latter-day Saint practitioners of plural marriage were not. See Military Selective Service Act § 6(j), 50 U.S.C. § 3806(j); *Reynolds v. United States*, 98 U.S. 145 (1878). Although most Americans have never been Christian pacifists, they can easily imagine how someone could affirm that view. There is a way to read the words of Christ that seems consistent with Christian pacifism. On the other hand, the LDS practice of polygamy, when it was criminalized by the federal government, was not something that virtually any American could imagine may advance the common good. This is why the Supreme Court, in its denial of a free exercise claim by a Latter-day Saint who sought exemption from the federal anti-bigamy laws, argued that Congress was justified in criminalizing plural marriage because it leads to "stationary despotism," and that it is the type of vice that "has always been odious among the northern and western nations of Europe, and, until the establishment of the Mormon Church, was almost exclusively a feature of the life of Asiatic and of African people." *Reynolds v. United States*, 98 U.S. 145, 164, 166 (1878).

reasoned argument sustained by mutual respect. You were, in effect, told to be a good political liberal, with the promise that your own way of life—the religious community and tradition which is constitutive of who you are and how you understand goodness, truth, beauty, and your ultimate end—will not be the target of a government seeking to change or eliminate what you hold dear and what you believe to be your duty to God.

But from your teenage years onward, from your days in elementary school through your studies in college and in graduate school, as well as from what you have come to know about the trajectory of law, culture, and the best practices of your employer's human resources department, you get the sense that many of your compatriots—especially those who lead the most influential institutions in the land—seem to want to establish what you cannot help but conclude is the *de facto* equivalent of a secular confessional state.<sup>99</sup> You were promised by the advocates of political liberalism the fruits of reciprocity: so that each of us may live our vision of the good life unmolested by government and its many private subcontractors, all of us have an obligation to uphold our end of the bargain to not employ the mechanisms of law, politics, and culture to coerce or morally form fellow citizens who as a matter of conscience cannot assent to our vision of the good life. But because you have witnessed over the decades all the cases documented above, and how deeply burrowed into so many of our institutions are the sensibilities and moral reflexes that triggered the conflicts that made those cases possible, it seems to you that the political liberal's agreement for reciprocity is not worth the paper it is not written on.<sup>100</sup>

Imagine further that, because of your age, the only world you have ever known is one in which those institutions and ways of life that prior generations took for granted, and that your faith maintains are essential to the common good, have become fragmented, as well as mocked, marginalized, and designated as oppressive by the most important culture-shaping forces in North America and western Europe. Over time, you attribute these phenomena to the cultural primacy of what you come to believe is the autonomous, expressive, and unencumbered self of liberal philosophy,<sup>101</sup> which, whether intended or not by its advocates, provided the justification for the unraveling of the natural bonds and unchosen obligations that your ancestors uncontroversially believed were part of the furniture of the universe.

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<sup>99</sup> The phrase "secular confessional state" I picked up from J. Budziszewski's chapter, *The Strange Second Life of Confessional States*, in *Reason, Revelation, and the Civic Order: Political Philosophy and the Claims of Faith* (Paul R. DeHart & Carson Holloway eds., 2014).

<sup>100</sup> This is a variation on Robert Nozick's famous quip that "tacit consent isn't worth the paper it's not written on." Robert Nozick, *Anarchy, State, and Utopia* 287 (1974).

<sup>101</sup> I take the term "unencumbered self" from the work of Michael Sandel. He writes of the liberal "image of the self as free and independent, unencumbered by aims and attachments it did not choose for itself.... Freed from the sanctions of custom and tradition and inherited status, and unbound by moral ties antecedent to choice, the liberal self is installed as sovereign, cast as the author of the only obligations that constrain.... In the procedural republic the unencumbered self not only governs public life but penetrates the precincts of family life as well." Michael Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* 12, 113 (1996).

It is in this context that integralism steps in and makes its case and draws in so many bright and devoted young people. According to integralism,<sup>102</sup> God has authorized two separate authorities—spiritual and temporal—the former of which should direct the latter on matters over which their jurisdictions overlap. Because human beings are ordered toward communion with God, the temporal government should be in the service of the spiritual government. How that gets cashed out in practice will depend largely on contingent circumstances. For those of us who still identify as liberals, this sounds quite shocking and disorienting, since it means, as I noted in my introduction, that the state may assist the Catholic Church in not only carrying out its juridical responsibility over all validly baptized Christians, but also in restricting the freedom of the nonbaptized if the exercise of that freedom disturbs or impedes the sustainability and propagation of the Church’s mission. But those drawn to integralism are not the least bit shocked or disoriented. For they generally accept what philosopher Kevin Vallier calls the “no alternative objection”: “In my experience, all postliberals [including integralists] reject liberalism in part on the following grounds: there’s *no alternative* to government imposing a substantive value system or religion on the populace.”<sup>103</sup> In other words, the movement toward what I call a secular confessional state is not at all surprising, argues the integralist, since no nation, society, or culture can exist without substantive claims about the good, the true, and the beautiful that have implications for what the state enacts in its laws and policies. As the integralist sees things, if liberalism means forcing an order of Catholic nuns to provide birth control for its lay employees, requiring Christian artists to custom design websites and culinary items to celebrate liturgical events with which they cannot in good conscience cooperate, and compelling elementary school children to read sympathetic accounts of human intimacy inherently hostile to their parents’ religiously informed moral beliefs, then, reasons the integralist, why cannot the government enact an opposite set of policies, at the behest of the church, that advances its own moral vision of the good life?

Although I am convinced that one ought to reject integralism for all the reasons the Second Vatican Council affirmed religious liberty in *Dignitatis Humanae*,<sup>104</sup> I am also convinced that it is unlikely that the integralist-curious will be swayed by the sort of boilerplate liberal critiques that seemed so powerful up until just recently.<sup>105</sup> Such an approach will not gain any traction

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<sup>102</sup> See Pink, *In Defence of Catholic Integralism*; Waldstein, *Integralism and Gelasian Dyarchy*.

<sup>103</sup> Kevin Vallier, *The Main Argument for Postliberalism: The No Alternative Objection*, THE LIBERAL TORTOISE (Jan. 5, 2024), <https://liberaltortoise.kevinvallier.com/p/the-main-argument-for-postliberalism>.

<sup>104</sup> See Francis J. Beckwith, *Dignitatis Humanae at 60 and the New Challenges to Religious Liberty*, 56 LOY. U. CHI. L.J. 179, 179–209 (2025).

<sup>105</sup> See, e.g., Micah Schwartzman & Jocelyn Wilson, *The Unreasonableness of Catholic Integralism*, 56 SAN DIEGO L. REV. 1039, 1039–67 (2019). The authors argue that integralism is unreasonable from the perspective of liberal political theory. That is not unlike arguing that the doctrine of the Trinity is unreasonable from the perspective of Islamic theology. I am confident that this line of argument will not persuade Catholics and other Christians flirting with integralism.

with young, intelligent, well-educated, and serious Christians who have lived for virtually all of their lives under a liberal regime that has not kept its promises.<sup>106</sup>

Submitted: January 05, 2026 EDT. Accepted: March 17, 2026 EDT. Published: July 01, 2026 EDT.



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<sup>106</sup> I am grateful to Rick Garnett (Notre Dame Law School) and two anonymous reviewers for comments on an earlier draft of this article. Special thanks to Stephen O. Presley and Andrew McGinnis (both from the Center for Religion, Culture & Democracy) and my Baylor colleague Elisabeth Rain Kincaid (Institute for Faith and Learning and Truett Seminary) for the invitation to present a prior version of this paper as part of a workshop held in conjunction with a symposium at Baylor University celebrating the 1700th anniversary of the Council of Nicaea (24–25 September 2025). It was a true honor to have been included as a participant.