

1

INTRODUCTION

Among the political changes that occurred in the West in the eighteenth century, no other was more profound than the revolution summarized in the terse formulation: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The radical character of these clauses is measured by the fact that no other political prescription is more widely accepted as an expression of distinctively modern politics. There has been enduring and sometimes confusing disagreement about the identity of the modern age. But there is virtual unanimity that a credible reading of modernity must make sense of the new relation between politics and religion that is given classic statement in the First Amendment to the United States Constitution.

It is not surprising, then, that the meaning of these clauses and the character of this new relation have themselves been the subject of continual disagreement. This debate has been especially prominent in the twentieth century, due to the increasing complexity of our common life in the United States and the increasing plurality of religious convictions, and this special importance is reflected in the increasing attention given to the religion clauses by the United States Supreme Court. It follows that the Republic has never been more uncertain about the relation between politics and religion to which it is committed. Roughly speaking, there is a persistent division between contemporary separationists and contemporary religionists. For the former, the constitutional disestablishment of religion means that religious convictions are properly separated from the activities of the state; for the latter, the constitutional protection of religious exercise means that religious conviction is essential to civic virtue and the well-being of the civil order. Both positions endorse the First Amendment, but neither has been able to persuade the other that it does so consistently. Religionists claim that separationists not only disestablish religion but also deny its free exercise; on this critique,

the "wall of separation" creates a secularistic civil order. Separationists claim that religionists not only affirm the free exercise of religion but also establish religious conviction; on this critique, religion cannot be essential to the civil order unless some particular religion is a necessary condition of civic virtue.

The present work seeks to answer the question: What, if anything, is the proper relation between modern politics and religion? So formulated, of course, the question makes no explicit reference to the United States or to the religion clauses of its constitution, and this is because I do not intend directly to enter current contention regarding the First Amendment. On the contrary, this work withdraws the spotlight from the peculiarities of the United States in order to give sustained attention to more general or philosophical aspects of the problem, that is, the conditions common to the relation between politics and religion in any modern community. I choose this course because I believe that an appropriate interpretation of the Republic's religion clauses depends on philosophical clarity, and I am further persuaded that the current impasse between separationists and religionists is largely controlled by philosophical confusion.

On my reading, the current contention is largely futile because those who disagree commonly assume an understanding of religion that prevents a consistent understanding of modern politics. I have in mind the pervasive assumption that religious beliefs cannot be the subject of public debate; they are solely matters of faith or confession in the sense that the differences among alternative religious convictions cannot be publicly assessed. I will call this "the theory of religion as nonrational," because it holds that distinctively religious convictions are not expressions of reason; their claims to validity do not belong to a rational order of reflection, and, in that sense, they cannot be rationally validated or assessed. As we shall see, differing adherents of this theory sometimes mean differing things by "non-rational"; in particular, we may contrast those who hold that religious convictions are "subrational" and those who insist that affirmations of faith are "superrational." In either case, however, it remains that religious claims cannot be rationally assessed or publicly debated, and, on this theory, I will argue, the distinctively modern relation between politics and religion cannot be coherently formulated. At least in this respect, then, an appropriate reading of the United States Constitution waits on philosophical clarity regarding the relation of politics to religious convictions.

This is not to say that the meaning of the First Amendment is settled by asking and answering the philosophical question. Whatever the answer to that question, it is a further matter to determine what the religion clauses prescribe. In addition to philosophical clarity, a constitutional interpretation requires some explicit or implicit theory of constitutional hermeneutics—that is, a method with which we may understand for ourselves in our situation the meaning of the religion clauses as written and ratified in the eighteenth century. Perhaps these clauses do not in fact stipulate a coherent constitutional principle. But even if this is the conclusion that we are bound to accept, we cannot reach it unless we first clarify the conditions, if any, given which modern politics and religion can be coherently related. In other words, the question about the First Amendment includes but is not exhausted by the philosophical question to which this work is addressed, and no attempt to complete the hermeneutical task can be successful if it is informed or controlled by philosophical confusion.

On the other hand, the relation between the hermeneutical and philosophical questions means that significant proposals regarding the philosophical problem have been advanced by those who also endorse the First Amendment. Thinkers who commend one or another understanding of the religion clauses have generally maintained that these interpretations are coherent. Moreover, thinkers who have sought a coherent understanding of modern politics have generally argued that the theory defended is also a proper interpretation of the First Amendment. Because it will be important to consider the relevant claims of some of these thinkers, reference to the United States will be frequent in the course of this work—and, indeed, I will offer some comments about the import of my philosophical conclusions for interpretation of the United States Constitution. But this does not gainsay that the two questions are distinct and that the focus of the discussion here abstracts from the hermeneutical problem.

Alternatively stated, then, the present work is addressed to what I will call the “modern political problematic,” and this problematic may be expressed in the question: What, if anything, is the proper relation between politics and religion, given that the political community includes an indeterminate plurality of legitimate religions? With this formulation, I assume that an indeterminate plurality of legitimate religions is a distinctively modern characteristic of the political community. The human adventure has,

of course, always been characterized by religious diversity, and only within the last century have we come to appreciate how profound the differences among religions can be. Summarily speaking, however, premodern religious diversity more or less exclusively coincided with differences between societies or political communities, so that a plurality of religions internal to a single political community is, on the whole, a modern development.¹ Also speaking summarily, then, we may say that medieval Western communities in which the modern age first emerged were characterized by an overwhelming Catholic religious uniformity, and this uniformity was sustained by the authority of the Catholic church. Thus, the emergence of an appreciable plurality of religions internal to these communities is coincident with the erosion of this authority and is a part of their transition to modernity.

My formulation of the modern political problematic stipulates that modern politics properly legitimates the plurality of religions. One might object that this stipulation begs the question against those who claim that modern politics can substitute force for the authority of the Catholic church and its tradition, such that all religions or all religions save one are coercively proscribed. The totalitarian experiments in the modern West are terrifying confirmations that this claim has been politically influential. But the important question is whether there are any other grounds for a political community inclusive of religious plurality, and, therefore, I stipulate that diverse religions are legitimate.

In calling this plurality of legitimate religions indeterminate, I mean that no limitation is politically prescribed, that is, any religion accepted by members of the political community is legitimate, and some may object more insistently to this aspect of the modern political problematic. Formally, at least, indeterminate religious plurality is not the only alternative to overwhelming religious uniformity. A modern political community might be characterized by a limited or determinate plurality, for instance, diverse religions all of which claim to be Christian. It may seem all the more important to credit this third alternative because many modern political com-

1. I do not mean to assert that religious diversity was or is entirely absent from premodern political communities; indeed, the Roman Empire, especially prior to Constantine, included an extensive plurality of religions. I here intend simply a summary comparison of the modern and premodern situations.

munities seem to be or to have been illustrations of it. Numerically minor exceptions aside, for instance, the religions in the English colonies in America at the time of their union were, some might say, all expressions of Christianity. But I seek to clarify the general problem of modern politics, and, so understood, the problem is not usefully formulated in terms of a limited plurality of religions. At least some modern societies have so developed as to include religious diversity more extensive than Christianity, or Christianity and Judaism, or even Western religions. Given that such a course is at least a possibility, the modern political problematic generally or in principle should be formulated in relation to the more extensive case. In other words, a resolution that is pertinent to the situation of greater religious plurality will also be pertinent to the situation in which that plurality is more limited, but the converse, at least if the limitation is essential to the resolution, will be false.

In principle, moreover, only coercion could limit the religious diversity that a modern Western society might include; that is, an indeterminate plurality of religions is, as a matter of principle, the only alternative to the religious uniformity that was effected by authority. Whatever its specific conditions, including the advances in transportation and communication that introduced people in the medieval West to other beliefs and practices, doubt about the Catholic church and its traditions was, at least implicitly, doubt about religious authority as such. A question about the authority of a given religion cannot be answered by appeal to the authority of another religion, because that response leaves one with the question of which authority to accept. Thus, the erosion of Catholic authority was in principle the increasing freedom explicitly to choose one's religion and, therefore, to affirm any religion with which one might become familiar—and this freedom can, as a matter of principle, be limited only by force. Peter Berger expresses this logic of the matter by saying that modern life faces "the heretical imperative"—where "heretical" is used with a meaning derived from the Greek verb *hairein*, to choose, and the imperative, therefore, is the requirement that one explicitly choose one's religious conviction (see Berger 1979: 23f.). In what follows, then, I will take for granted that the plurality of religions properly constituting the modern political problematic is indeterminate, so that the term "plurality of legitimate religions" implies this further qualifier.

Of course, it might be asked why a plurality of legitimate religions should be thought to constitute a significant political

problem. A summary answer is possible given only the widely shared understanding that religious convictions include adherence to fundamental or comprehensive beliefs regarding reality and human purpose. Since differing religions at least may differ with respect to these beliefs, it follows that adherents of two or more legitimate religions may find themselves in political conflict—as, for instance, religious adherents in the United States disagreed for religious reasons about slavery in the nineteenth century and about possible entry into the European war in the nineteen thirties. The significant problem, then, is this: How in principle can such political conflict be ordered or governed? Since the grounds in conflict are fundamental or comprehensive, there seems to be no common principle that could override the conflict and, thereby, civilize or unite the political community. To be sure, the state might seek coercively to impose an order, but, at least to first appearances, this course can only deny the legitimacy of at least one of the religions involved.

In sum, a legitimate plurality of religions seems to be in principle a prescription for political instability or civil war, and the modern political problematic may be reformulated: How, if at all, is politics consistent in principle with a plurality of legitimate religions? So to formulate the question is to focus on the political problem. But this focus may be changed in order to make clear that the issue is also a religious one. If legitimate religious diversity precludes an overriding political principle, then no religious adherent has grounds in principle to be a citizen. Thus, one may also ask: How, if at all, may adherents of a plurality of legitimate religions consistently be citizens of the political community? Since the political problem occurs by virtue of possible political conflicts among adherents of differing religions, the two formulations refer to the same problem. We may say, then, that the modern political problematic is a question in both political philosophy and philosophy of religion.²

2. Moreover, if one means by “theology” critical reflection on the convictions and practices of a given religious community or tradition, such that the term should always be qualified by the name of some or other particular religion, then the modern political problematic is also a theological problem. In Christian theology, for instance, the question may be formulated: How, if at all, may Christians consistently be citizens in a political community in which a plurality of other religions is also legitimate? *Mutatis mutandis*, any other specific kind of theology permits of a statement of the modern political problematic.

Still, some may assert that a resolution to this problematic is obvious. It is often said that a political community inclusive of diverse religions is possible if adherents of each religion are tolerant of those who adhere to others. Indeed, no exhortation has more widely expressed the modern political attempt to affirm religious plurality than the call for religious tolerance. In itself, however, this exhortation only restates the problem, which may now be formulated: What does tolerance mean, such that adherents of a plurality of religions might all agree to tolerate each other? The answer to this question is not obvious, precisely because a religious conviction identifies the comprehensive terms in which to assess all political convictions—including, one might think, the affirmation of tolerance. If we are told that tolerance means the affirmation of civil peace as an overriding value, we may ask how an indeterminate plurality of religions might all include this affirmation. Civil peace is inescapably the peace of some or other political order, and conflict will be about the character or content of this ordering. Whether the disagreement is more important to the parties than civil peace would seem to depend on the religious convictions in question, precisely because they are comprehensive. On what grounds, then, can one believe that civil peace will be in principle overriding?

Without some further explanation, in other words, the call for toleration is simply the exhortation that the modern political problematic should be solved. Indeed, the first use of the term during the sixteenth and seventeenth centuries in Europe, when the Reformation had led to enduring religious conflict, was simply imperative, so that the call for toleration begged for theoretical backing. On a widely accepted reading, in other words, the long years of religious wars in Europe first impressed on modern political thought what I have called its distinctive problematic (see, e.g., Stout: 3, 235; Toulmin: 16-17; Rawls 1993: xxii-xxv), and political theory sought to answer the question: In accord with what understanding of the political community, if any, may the hope for toleration be given reasonable grounds?

As this formulation of the question suggests, one might well use the term "toleration" as the name of that political principle for which modern political thought requires a coherent statement. By virtue of its history, however, this term is also associated with the attempt to maintain an established or politically favored religion even while "dissenting" or nonestablished religions are permitted in the political community. I seek to avoid this association because, as I will argue,

toleration in this sense is not a coherent solution of the modern political problematic. Alternatively, then, one might use "disestablishment" to name the solution to the modern political problematic. But this term is also troubled by associations that I seek to avoid. Some hold, for instance, that disestablishment is consistent with a secularistic state, and, in order to proscribe that possibility, some religious adherents insist, the First Amendment also includes the free exercise clause.

In contrast to both alternatives, then, I will use "religious freedom" to identify the political principle, if there is such a principle, in accord with which a plurality of legitimate religions internal to a political community is consistent with its unity. That it is *religious* freedom makes the legitimacy of religions explicit, and that it is *religious freedom* insists on their plurality. I emphasize, however, that the term is introduced here simply in order to name that principle rather than to assert its character. Here at the outset, in other words, religious freedom merely identifies the question to be pursued—namely, what, if anything, does religious freedom properly mean? On the assumption that such a meaning can be clarified, of course, one may also assert that it is the proper philosophical meaning of disestablishment and toleration, and I endorse that assertion. Still, I judge that clarity will be best served if the discussion is principally cast in pursuit of a coherent formulation of religious freedom.

My thesis is that religious freedom coherently means nothing other than a free political discourse that is also a full political discourse because it includes adherents of a plurality of religions, that is, a political discussion and debate in which differing religious convictions are or can be publicly advocated and assessed. I will call this "the democratic resolution" and will seek to show that only this resolution can be redeemed as an answer to the political and religious formulations of the modern political problematic. On this reading, religious freedom means that democratic discourse is the principle of political unity, and democratic civility is the constitutive political virtue consistent with all religious adherence.

It is apparent that this thesis takes exception to the theory of religion as nonrational. If I am correct that this theory is pervasively assumed, then it follows that the meaning of religious freedom I seek to defend contrasts with several other proposed understandings. In the second part of this work, I will seek to defend the critical claim that no proposal consistent with the theory of religion as nonrational

is a coherent resolution to the modern political problematic. The third and fourth parts of the work, then, pursue a constructive effort to clarify and defend the claim that religious freedom can mean full and free political discourse. But I will be in a position more fully to formulate this thesis and outline the book only subsequent to an attempt to clarify "religion" and "politics" as the central terms of the modern political problematic. Accordingly, the following chapter seeks to formulate and defend the meanings of these terms that will inform the subsequent inquiry, and, at the conclusion of the chapter, I will offer more precise statements of the thesis and of the character of the remaining discussion.