

Separation of Church and State

The Past and Future of Sacred and Profane

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Note to Conference Participants

I wanted to write a paper. Instead I wrote a little book. I do apologize for that. Since it is now written and makes the points that I would like to make, I have decided to present it as it is. At the same time I recognize that readers may be pressed for time. I have therefore included an overview of the whole argument below. I hope it will let the hurried catch my drift and prepare the unhurried for the text.

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Overview

The received wisdom about religion in the history of Europe is that religion has gradually lost power over the European mind. During the Middle Ages religion ruled supreme. Then the Reformation broke up the unity of Christianity; the Enlightenment shook the foundations of religion; and the astonishing discoveries made by the natural sciences in the nineteenth century, especially the theory of evolution, dealt a deathblow to religion. Thereafter religion survived only in the nooks and crannies of modern life. It could no longer show itself in public without looking befuddled, ignorant, and cranky. God had died. If Max Weber can be believed, the outcome was a spiritually barren and disenchanting form of life in an "iron cage" of modern legal, scientific, and bureaucratic rationality whose origin and nature Weber so feverishly sought to understand.

1 A Challenge to the Received Wisdom

In my opinion, this view is wrong. In the first place, it rests on a mistaken notion of religion because it identifies religion with the intellectual content of religious faith. It points, for example, to the account of human origins in the book of Genesis, contrasts it with the account established on principles of science, and concludes that science has displaced religion. The contrast between biblical and scientific accounts is perfectly real. But the conclusion does not follow. Religion does not consist of any particular belief. It rather consists of distinguishing the sacred from the profane. The ways in which that distinction can be drawn are infinitely variable. So far from displacing that distinction, science may well have become its most important source of strength.

Second, the received wisdom imposes a false continuity on European religious history. Because it identifies religion with the content of particular beliefs, it identifies the history of religion with the history of those beliefs. As a result, the history of religion looks like the gradual displacement of certain dogmas of theology rooted in sacred texts by certain secular-scientific views founded on rational analysis and empirical observation. The speed and intensity of the change may be acknowledged to have varied over time and place. But overall there is a single development that leads from the assertion of religious supremacy at the beginning to its denial at the end. In fact, so I shall try to argue, there is no such development. There rather are two separate phases, a medieval and a modern one, each with its own religious faith, each zealous in its devotion to the sacraments. The displacement of medieval theology by modern scientific rationality went hand in hand with the assertion of a modern form of religion that makes its own claims on supremacy. What looks like a gradual displacement of religion by science at the level of particular beliefs conceals a transition from one form of religion to another.

Third, the received wisdom offers a false explanation for the decline of religion. It maintains that religion fell under the onslaught of enemies of faith. It views the history of religion in terms of a battle between opposing parties. On one side are those who have religious faith, and on the other those who rest their case on reason. This is pure ideology. In fact faith and reason are fully present on both sides, in medieval as well as modern times. Religious faith has rather fallen under the onslaught of its friends. It fell because the friends of religion, far from opposing reason, harnessed their reason most closely to their faith and worked the hardest to turn their faith into a coherent intellectual system. They meant to lead their faith to victory. Instead they crossed the boundary between the sacred and the profane. They did not realize that faith expires in the arms of systems. They violated the taboo and paid the penalty. The danger posed by heresy was small by comparison.

Fourth, the received wisdom is blind to the power of religion in the modern world. It draws attention to the dismantling of traditional Christianity. But it fails to notice the concomitant establishment of a modern faith that leaves nothing to be desired in terms of the clarity with which it distinguishes the sacred from the profane, or the religious intensity with which its sacraments are worshiped by the faithful flock. The received wisdom therefore has no conceptual means with which to grasp the religious crisis that has been growing for a century and is now in full bloom. Of course it notices the pathologies of modern society. It knows about the growth of religious fundamentalism at home and abroad. It understands that it is facing a fundamental challenge. But it is so closely identified with the religion whose crisis we are witnessing today that it cannot interpret the challenge as anything other than an assault on reason and cannot respond except by repeating itself. It cannot tell the difference between faith and reason and confuses knowledge with belief. Far from supplying us with an intelligible account of our current predicament, it looks with blind eyes at others and fails to comprehend itself.

2 An Alternative View

I would like to propose an alternative. In my view, speaking at an abstract and schematic level, the history of Europe is best divided into two periods. The first extends roughly from the so-called Investiture Controversy in the eleventh century, also known as the Gregorian Revolution, to the failure of the conciliar movement in the fifteenth century. The second extends roughly from the Peace of Westphalia to the present. Between the two phases there lies a violent and revolutionary interlude in which the principles governing the first phase gave way to the principles governing the second. Each period has its own characteristic kind of faith, along with equally characteristic forms of social, political, and intellectual life. But both have the same internal structure. They begin with the assertion of a new religious faith in the form of a particular distinction between the sacred and the profane. They continue with a period of enthusiastic creativity on the foundations secured by that beginning. Each has its own particular sacraments and worships them with the same fervor. Each ends in a religious crisis caused, not by the enemies of the faith, but by friends seeking to turn the faith into a coherent system of intellectual belief and social organization. The difference between the former and the latter is that the former lies in the past whereas the latter is still unfolding.

Speaking at the same abstractly schematic level, the most important differences between the received wisdom and this alternative are three. In the first place, there is no continuous line that leads from the dominance of religion at the beginning to its disappearance at the end. There rather are two separate cycles divided from each other by a hiatus. In the second place, the decline of religion is not attributed to its enemies, attacking from outside. It rather arises from developments internal to each phase and carried forward by religion's friends. In the third place, from this perspective modern history cannot be viewed as progress from medieval history, not even progress in an attenuated form. It must rather be viewed in terms of repetition and analogy. The periods differ in the historical particulars. Their meaning is the same.

I realize that it is difficult to make this argument. It requires renaming and rethinking fundamental features of European history that we have been accustomed to name and think about in certain well-established ways. It leads me to refer to things as sacred of which traditions of long standing have taught us to believe that they are secular. It undermines our normal sense of who we are. It disagrees with our understanding of the past. It also forces me to establish connections between logic and history to which historians do not ordinarily pay much attention. This can occasion a kind of vertigo: words seem to lose their meaning, concepts are swamped by confusion, and empirical details seem to be denied their rights. I would not run that kind of risk were I not thoroughly convinced that we have failed to call some fundamental aspects of modern European history by their proper (religious) name, placed them in conceptual neighborhoods where they do not belong, and thereby blinded ourselves to the challenge that we now face. History is about the past. But what we believe to be the case about the past determines how we approach the future.

In order to reduce the potential for confusion, I shall be as direct as possible. I shall prefer schematic oppositions to thick description and polemical clarity to polite qualification. I shall also focus on only one particular aspect of the history that I am trying to re-describe, namely, the separation of church and state.

On the one hand, the separation of church and state is widely seen as a unique accomplishment of the modern West of which the West deserves to be proud because it secures freedom from religious oppression. It is one of the most important ingredients in the received wisdom, one of the chief exhibits in the great trial designed to convict the Middle Ages of having sacrificed human rights on the altar of religious orthodoxy, and demonstrate the progress made by the modern world to liberty and reason. On the other hand, the separation of church and state is now under growing assault by religious fundamentalists. If you accept the received wisdom, that assault will look like a battle between ignorance and reason, reaction and progress, oppression and liberty. If you agree with the perspective adopted here, it will rather look like a religious war over the question, "What is sacred?" The separation of church and state thus furnishes a kind of litmus test for the question I have proposed. Is it a principle of reason? Or is it an article of faith? That makes it ideally suited for the purposes of this paper.

3 Separation of Church and State

Let me present you with the main points to be taken from an examination of the separation of church and state. The separation of church and state is one of the crucial boundaries by which we mark the distinction between the sacred and the profane. It is therefore hedged about with powerful restrictions and taboos. Clearly it differs from any comparable boundaries drawn during the Middle Ages. In medieval Europe the church was universal and there was nothing quite like the modern state. From this perspective the modern separation of church and state marks a real break with the Middle Ages. Yet to assert that it led to the demise of religion is to confuse a departure from just one form of the distinction between the sacred and the profane with a break from all of them.

It is true that medieval Europe did not guarantee religious liberty to individuals. It is also true that the medieval church insisted on its superiority over the state. But it is quite untrue that medieval Europeans did not separate the sacred from the profane in ways directly analogous (and historically related) to the modern separation of church and state. On the contrary, few societies can be imagined in which the distinction between the sacred and the profane functioned as a more fundamental principle of social order than it did in medieval Europe. The notion that medieval civilization was suffused with religion top to bottom is a figment of the modern imagination. The spirit of utter secularity flourished in medieval Europe. Conversely, it is true that the separation of church and state has left the clergy without political power in the modern world. But it is quite untrue that religion has no significance in modern politics or that the modern state does not enforce a certain kind of religious faith. The difference between the Middle Ages and the modern West is not that the former did, and the latter did not, insist on worship of the sacred. It is that they had different altars, different sacraments, and different ways of distinguishing the sacred from the profane.

In medieval Europe the distinction between the sacred and the profane was symbolized by a distinction between two different groups of people. One group consisted of the clergy; the other consisted of the laity. The two groups were closely interrelated, but no single person could be a member of both groups. The chief sacrament consisted of the Eucharist. Its function was to integrate the differences between the ranks and orders of medieval society, especially the difference between the clergy and the laity, with their equality as Christians united in one, true, universal church, and looking forward to salvation.

In the modern West the distinction between the sacred and the profane is symbolized by a distinction between two different spheres of action: the private and the public sphere. Some matters are considered private and therefore subject to individual free choice (faith, morals, conscience, culture); others are considered public and therefore subject to the exercise of legal force by the sovereign state (citizenship, government, taxation, crime, defense). Each individual participates in both spheres, but must make sure never to confuse private with public affairs. The chief sacrament is individual consent, especially the vote. Its function is to integrate the difference between the freedom of individuals in the private sphere and their subjection to the state in the public sphere with their equality

as citizens belonging to the same community and looking forward to the progress to be expected from the future.

The difference is profound. In medieval Europe a person was permanently lodged on one side or the other of the boundary between the sacred and the profane. In the modern West the boundary runs straight through each individual. And yet the modern boundary developed out of the medieval one. As medieval Europe insisted on the freedom of the clergy from political oppression, so the modern West insists on the freedom of conscience. As medieval Europe insisted on the superiority of the clergy over the laity, so the modern West insists on the superiority of human rights over economic interests. As medieval Europe depended for social order on knowing for certain where the difference lay between the clergy and the laity, so the modern West depends on knowing for certain where the difference lies between the public and the private sphere. What is merely believed (so that it may be left to private choice) and what is actually known (so that it may be enforced)? What is cultural (so that it may be allowed to vary) and what is natural (so that it must be the same for all)? On the surface, the separation of state and church differs profoundly from the distinction between the clergy and the laity. In reality both help to guard the distinction between the sacred and the profane. Conscience is the successor of the medieval priest.

Both are also liable to lose their ability to inspire faith. Here the transition from medieval to modern forms of order is instructive. The last two hundred years of medieval history were dominated by attempts to maintain the border dividing the clergy from the laity by reforming corrupt clergy and finding a place for the religious laity. These efforts failed. The very success with which medieval society had since the eleventh century driven the distinction between clergy and laity home eventually merely served to prove success to be impossible: no living human being can be entirely exempt from commerce with profane affairs, and none can be entirely excluded from sacred functions. As a result the boundary between the clergy and the laity collapsed. The consequence was two centuries of religious upheaval. A durable form of order was not restored until, in the aftermath of the Peace of Westphalia, the distinction between clergy and laity was replaced with the separation of church and state.

Today we face a situation not unlike the later Middle Ages. The modern West has flourished on the foundation of a consensus on the distinction between the public and the private sphere that was established in early modern times. Since the beginning of the twentieth century that consensus has come under intense and growing pressure from totalitarian governments, genocide, biotechnology, religious fundamentalism, the discovery of the unconscious, addiction, pollution, mental disease, and other factors. As it became impossible for late medieval people to decide whether a given person was cleric or lay, so it is now becoming impossible for modern people to decide whether a given issue is private or public, a matter of physics, free choice, or action by the state. As late medieval Europe was terrorized by the religious hostility of Hussites mounting military campaigns in order to overturn the denial of the priestly cup to the laity, so the modern West is terrorized by the religious hostility of fundamentalists mounting campaigns of destruction in order to overturn the modern West's denial of political effect to religious

faith. The distinction between the private and the public sphere has not yet collapsed. But it is certainly collapsing. We are witnessing the disintegration of the modern faith.

In the short run, we are therefore likely to face an age of conflict fueled by increasingly inflexible assertions and increasingly destructive violations of the boundary between the public and the private sphere. The exhibition of private affairs on televised talk shows; the political significance of purely moral failings; the war against drugs; the use of pharmaceuticals to control mental disease; the reality of addiction; the debate over abortion; revelations of child abuse by Catholic clergy; gay rights; genetically modified crops and cloning; conflicts between human rights activists and sovereign states; the use of military force in the name of moral causes; restrictions on civil liberties in the name of security from terrorism; and terrorist attacks deliberately designed to destroy the boundary between the private and the public sphere by targeting private individuals who are guilty of nothing beside insisting on their right to lead their lives inside the private sphere: these are some of the contemporary flash points where the distinction between the sacred and the profane is being tested as it has not been tested since the late Middle Ages.

In the long run, social order is as unlikely to be maintained by insisting on the distinction between the private and the public sphere as it was in late medieval Europe by insisting on the distinction between the clergy and the laity. It is even less likely to be restored by a return to traditional forms of family or religion whose appeal, no matter how widespread, is parasitic on conflicts arising from within to the modern West itself. A durable consensus will prove elusive until the boundary between the sacred and the profane has been redrawn by an act of the imagination as great as was required for putting an end to the age of religious wars.

4 Method of Presentation

The body of this paper will make the case for this argument in detail. I shall present it in four separate installments. First, I shall draw attention to the assumptions on which this paper rests. They are that we are facing a crisis of religion; that history can help to understand the crisis because there is an analogy between the history of medieval Europe and the history of the modern world; and that the analogy turns on the distinction between the sacred and the profane, quite independently of the specific intellectual, emotional, and institutional forms in which that distinction has taken shape in medieval and modern times. I shall particularly try to clarify the reasons why I believe that the distinction between the sacred and the profane is, on the one hand, necessary to the well-being of individual human beings and the societies in which they live, but on the other hand impossible to grasp in terms of any coherent system, dogma, or definition.

The second installment of this argument will deal with religious liberty in the Middle Ages. I shall look at the subject from two different points of view. First, I shall try to describe the principles of the religious faith that governed the Middle Ages from a synchronic point of view. I shall take up three reasons why the common wisdom denies that there was religious liberty in the Middle Ages. I shall then offer reasons why the common wisdom is wrong. I shall focus particularly closely on the distinction between the clergy and the laity and the function of this distinction in securing the boundary

between the sacred and the profane. And I shall try to clarify the sense in which it is legitimate to speak of religious liberty in the medieval world.

In the second half of this installment of my argument I shall look at the subject from a diachronic point of view. Here I will try to unravel the logic of the historical development that led from the assertion of the distinction between the clergy and the laity as the governing principle of medieval social and political order in the eleventh century via its efflorescence in the high Middle Ages to its decline in the late Middle Ages and its destruction in the Reformation. I shall focus especially on the conventional diagnosis, according to which the late medieval crisis is to be attributed to a failure of the clergy. I shall argue that, quite the opposite, it followed from the clergy's continued determination to uphold the principles established in the eleventh century.

The third installment of the argument will be devoted to the separation of church and state in the modern world. Again I will distinguish between a synchronic and a diachronic approach. I shall first take a synchronic point of view in order to characterize the fundamental principles that govern the modern religious faith. I shall take special care to show where modern people draw the boundary between the sacred and the profane, and how that boundary differs from the same boundary drawn in the Middle Ages. Specifically I will focus on the distinction between the public and the private sphere, because that distinction is the closest modern analogy to the medieval distinction between the clergy (defined in medieval Europe as acting for the public interest of all alike) and the laity (defined as acting in the realm of private interest and therefore subject to control by the clergy). I shall try to show that free speech, the vote, and childbirth are sacraments no less important to the religious health of the modern world than the Eucharist and baptism were to the Middle Ages. And I shall trace the limits the modern faith imposes on religious liberty.

Then I shall take a diachronic point of view again to show how the attempt to turn the distinction between the private and the public sphere into the foundation of a coherent and universally applicable order led the modern world into religious crisis. I will identify National Socialism and Communism as modern heresies directly aimed at destroying the boundary between the public and the private sphere. And I shall argue that their defeat must not be confused with a solution to the religious problems arising from within the dynamic of modern development itself.

Finally, I shall try to draw some lessons about the present and the future. I shall turn to the contemporary debate about abortion as a specific instance of the manner in which the very effort to uphold the distinction between the private and the public sphere destroys the meaning of that distinction, transforming it from a foundation for social consensus into a source of partisan polarization. I shall touch briefly on the same loss of meaning concerning sex, drugs, and speech. I shall conclude that religious doubt is quite in order for humanity during a period of change as fundamental as we have faced for two centuries and will continue to face for some time to come. Doubt need not necessarily result in religious violence. But violence is unlikely to be defeated without a public reconsideration of the distinction between the sacred and the profane.

Separation of Church and State

The Past and Future of Sacred and Profane

Fundamental is a Word used by the Laity, as the Word Sacred is by the Clergy, to fix every thing to themselves they have a mind to keep, that nobody else may touch it.

George Savile, First Marquess of Halifax

1 Preface

Since the organizers of this conference explicitly seek to develop "an alternative to the standard practice of reading papers aloud to a passive audience," I hope you will forgive me if I take the opportunity to put my cards more openly on the table than scholarly custom normally allows.

I wrote this paper in the belief that our way of doing history is fundamentally inequitable to the past. The iniquity is embedded in the idea of progress and it falls squarely on the head of the Middle Ages. I am aware that progress no longer holds the attention to which it seemed entitled once upon a time. I know as well that the Middle Ages receive a more sympathetic hearing than used to be the case. But I am also certain that, when the chips are down, our way of doing history demands assent to the proposition that we are better off today than they were then. This is not only because of the technology and science that give us so much more command over the physical forces of the universe. It is also because we believe that we have shaken off the bonds of ignorance and superstition by which the people of medieval Europe were held in thrall. Indeed, what could be better proof that we are better off than they, so it is thought, than the practice of history itself? Can it be seriously maintained that the knowledge of the past that keeps rolling off the academic presses of today is anything but vastly superior to the myths, legends, and superstitions that passed for history in medieval minds?

What troubles me about this point of view is not the evidence on which it rests. Of that there is abundance. What troubles me is that the evidence is brought by people judging in their own cause. Progress may very well be real. But since it is the beneficiaries of progress who are proclaiming its reality, their proclamations seem to me impossible to tell apart from self-righteousness and condescension to people who, though long dead, have every right to be considered our equals. Not that I want to put in a good word for the Middle Ages. The Middle Ages hardly need assistance from people such as me. They can stand up for themselves. It is my contemporaries whom I want to address. For I suspect there is a moral fault that runs right through the heart of the historical endeavor.

2 Principles

In this section I would like to state the main assumptions on which this paper rests. There are three of them. First, we are confronted by a profound dilemma. On the one hand, the values we have inherited from the past no longer seem as certain as they once did; on the other hand, we have no good alternatives. The conflict between the desire to start afresh and to continue as before is seemingly impossible to solve. That causes considerable anxiety.

Second, the function of history is not only to tell what happened in the past, but also to help us deal with change. It does so by distinguishing things that change from things that stay the same. This does not mean that history ought to uncover necessary laws of historical development, or to identify eternal essences immutably exempt from the flow of time. It rather means that history can draw analogies between the present and the past that help to locate our place in time.

Third, the separation of church and state is not a principle of reason. It rather is the modern application of the distinction between the sacred and the profane. On the one hand, the separation of state and church is meant to protect religious liberty; on the other hand it is a central ingredient in a specifically modern religious faith. It parallels the separation of the clergy from the laity that was practiced during the Middle Ages. As such it affords us an opportunity to draw an analogy between our current time and the religious crisis of late medieval times, and that in turn may help better to understand our current predicament.

All three of these assumptions lie somewhere beyond the scope of history proper. Yet they make up the conceptual frame of reference from which the historical account to follow draws meaning. Let me therefore present them in somewhat more detail.

2.1 *The Dilemma*

The point of this paper can be stated in terms of a dilemma.¹ On the one hand, we—meaning us modern, enlightened, and secular descendants of Western Civilization, who subscribe to reason, science, and democracy as opposed to custom, faith, and hierarchy—have lost some confidence in the achievements of the West. The certainty with which our predecessors in the eighteenth and nineteenth centuries believed themselves to have discovered the truth about nature and society was deeply shaken by the barbarism that took root in the very heart of European civilization in the twentieth century. The missionary faith with which Europeans once went out to civilize the world is now under assault both from without and from within. John Stuart Mill was confident that "despotism is a legitimate mode of government in dealing with barbarians, provided

¹ Since the purpose of this paper is not to convey new information drawn from original research into primary sources, but to cast a new glance at matters that are already well and widely known, I find it impossible to meet the scholarly obligation to document my findings without either making the bibliography unreasonably large or selecting citations arbitrarily. I shall therefore refrain from using footnotes for any other purpose than to indicate the sources of direct quotations and books directly related to the ideas I am trying to convey.

the end be their improvement, and the means justified by actually effecting that end."² We are no longer quite so certain how to distinguish barbarians from cultivated people, nor do we always know exactly what constitutes improvement. We are too well aware that European civilization has brought not only knowledge, health, and liberty, but also the atom bomb, colonialism, environmental degradation, designer drugs, mental disease, disintegrating families, and the rest. It is, as a result, now difficult for the inhabitants of the West to assert their point of view without feeling the need to defend themselves from charges of pigheadedness.

Yet on the other hand we have no plausible alternative to the values commonly identified as Western. It is not difficult to point out where the West has failed to bring the happiness, prosperity, and justice that once seemed to be in reach. But when you ask just how to bring them closer, the answers tend to come in one of two equally unsatisfactory varieties. Either they consist of repeating the same ideas that have been guiding us all along, perhaps improved in one way or another, but not essentially departing from the pursuit of individual liberty, natural science, political democracy, and market enterprise in the manner now most closely identified with the United States. Or they consist of demands for a return to traditional forms of social and religious organization that take their inspiration from the belief that things used to be better in the past. The proponents of traditional family values and of Islamic fundamentalism may not see eye-to-eye on many matters. But they do share a common antipathy for what they regard as the corrosive features of the modern West.

Neither of these answers is likely to succeed. The difficulty with the former is that it fails to do justice to the changes the world has undergone since the revolutions in America and France just over two centuries ago. From a historian's perspective it seems entirely implausible that a society can live through changes as profound as those that have reshaped the globe in the last two hundred years and evidently will continue to reshape it for an indefinite time to come without some fundamental reorganization in the system of beliefs by means of which the members of that society explain the meaning of their lives to themselves and others. No doubt that liberty and science deserve our whole-hearted support. Yet no doubt either that our support of them needs to be reconsidered when confronted with threats that Locke never imagined.

The difficulty with the latter is that the arrow of time points in just one direction. There is no going back. The past is, in the first place, no good guide to the future and, in the second place, the past to which we are invited to return is one whose main attraction is not that it in fact existed, but that it contrasts so pleasantly with the present. As far as I can tell, most of the strength to be attributed to contemporary movements to return to traditional forms of society does not inhere in themselves, but in the weakness of their opponents. There is no answer to the question how to move forward that commands assent across the United States, let alone the West or the globe. It is only the lack of such an answer that makes alternatives to so-called Western values seem temporarily convincing.

Hence the dilemma. We are confronted with a question. The question is how we shall organize our lives. But we no longer have an answer on which we can agree. We

² John Stuart Mill, *On Liberty with The Subjection of Women and Chapters on Socialism*, ed. Stefan Collini (Cambridge: Cambridge University Press, 1989), 5.

know the problem. But we have no solution. Facing the future without much to assure ourselves of what it will bring, we are in the grip of anxiety.

2.2 History and Analogy

Historians are hardly qualified to find ways out of that dilemma. It is difficult enough for normal human beings to look into the future. It is doubly difficult for human beings trained to look into the past. Yet history, I believe, can help. It can do so on the assumption that human nature has not yet changed so fundamentally as to forestall comparisons with the past. The changes we are facing now may well be unprecedented. But human beings have had to adjust to unprecedented change before. Examining the problems they had to face in doing so and the solutions which they adopted in the end may therefore help us to develop a perspective on our own condition, if only by distinguishing more clearly what is in fact unprecedented about the problems that we face, and what is typical for all societies that have to deal with change. Even if history cannot propose solutions, history can offer analogies that help not only to understand the nature of our problem, but also to reassure ourselves about the kind of change for which we may need to prepare ourselves.

What I should therefore like to do is to draw just such an analogy. In order not to get lost in unmanageably large complexities, I shall focus on one specific issue, namely, the separation of church and state. By "separation of church and state" I mean the principle that secures what we call religious liberty from interference by political powers. The separation of church and state is thus not identical with religious liberty, but clearly the two are closely related. Depending on the context, I may therefore refer to the separation of church and state itself or to the religious liberty at which it is aimed.

There are four reasons why the separation of church and state strikes me as a particularly promising subject to illustrate the dilemma. The first is that it developed in an area of history with which I am familiar—a useful if perhaps not necessarily essential prerequisite for the adventure to which I am herewith committing myself.

Second, the separation of church and state is central to our contemporary troubles. It is, on the one hand, a central pillar of individual liberty, as it is understood in the West. On the other hand, it is a central target of religious fundamentalism. Its application to specific issues, from faith-based initiatives to headscarves in French schools, permission to speak of God in public settings, and keeping peace between Sunni and Shia Muslims in Iraq, is proving increasingly difficult to secure without domestic and international dispute.

Third, the separation of church and state forms part and parcel of the broader distinction between the private and the public sphere. The distinction between the private and the public sphere is fundamental to modern society. It permeates our modern lives and is ever present, at home and abroad, at work and at play, in illness and in health, in peace and war. But it is not self-evidently fundamental in the sense that George Savile identified in the epigraph to this paper: "A Word used by the Laity, as the Word Sacred is by the Clergy, to fix every thing to themselves they have a mind to keep, that nobody else may touch it." The separation of church and state, by contrast, does evidently have significance for religion. It is therefore well suited to clarify the degree to which the broader distinction between the private and the public sphere amounts to one of the chief articles of the modern faith.

The fourth reason why the separation of church and state affords a useful case of cross-temporal analogy is that there is at least one earlier occasion in European history on which it proved difficult to maintain without domestic and international dispute so intense that it was, in fact, eventually abandoned—at least in the form it had had so far—and replaced with a radical alternative. That occasion was furnished by the Reformation and the religious wars that followed. I say "at least one earlier occasion," because I believe that the Reformation was not the first attempt at separating state from church in order to secure religious liberty. A similar attempt had been made once before, during the so-called Investiture Controversy of the eleventh and twelfth centuries. But the means that had been used to gain religious liberty in the Investiture Controversy were different from those that were used in the Reformation. What thus was new about the Reformation was not that it attempted to secure religious liberty as such. What was new was rather that it rejected the methods of the past and replaced them with a modern scheme.

It is therefore instructive to compare the later Middle Ages with our times. There is a real analogy between the trouble we now have defending our views on the separation of church and state and the trouble late medieval people had defending their views on the distinction between the clergy and the laity. That analogy is worth examination. Such an examination, I believe, can help to clarify the difficulties we face today, and by clarifying them help find a solution. This is not in the least to deny the real progress that was made by the invention of the form in which religious liberty has flourished in modern times. But it is to insist that progress began longer ago than commonly believed and has not ended yet. For, "progress," as Johann Nestroy said in a line that Wittgenstein chose as the epigraph for his *Philosophical Investigations*, "has the characteristic that it generally looks much greater than it actually is."³

But I am getting ahead of myself. Most of my readers, particularly those of Protestant persuasion, are, I believe, unlikely to agree with the formulation that the principle of separating state and church and the defense of religious liberty had any valid application in times preceding modern history. They will consider it to be one of the most fundamental characteristics of the medieval world that it was hostile to the separation of church and state. They will protest against my plan to look for analogies in the later Middle Ages to the difficulties we now face in trying to separate church from state because, on their understanding, the later Middle Ages were a period that stands in flat contradiction to our times. Faith, they will point out, was at that time enforced by civil and military government, by the inquisition, by the stake, by torture, by the crusades, and so on. There was no freedom of religion, they will say. The very enterprise of looking for an analogy will come to grief over the differences dividing medieval Catholicism from modern Protestantism, and still more effectively dividing the medieval church from modern secular nation states.

There is of course a sense in which such objections are completely right. No medieval person enjoyed freedom of religion in the same form as we enjoy it nowadays. One merely needs to note the understanding of "the universal and public welfare" that a superb medieval political theorist such as John of Salisbury expressed in book three of his *Policraticus* in order to realize how deeply church and state were intertwined in medieval

³ "Überhaupt hat der Fortschritt das an sich, dass er viel grösser aussieht als er wirklich ist."

times. The *Policraticus* is meant to elucidate principles of government. Yet John of Salisbury has barely time to mention the "public welfare" before he turns to talk about the soul and its relationship to God.⁴ For John of Salisbury, the state of the soul is clearly an issue of supreme political interest. For how, he asks, can the common good be achieved so long as people's souls are injured by false faith? On medieval principles this may have seemed a sensible position (and fundamentalist may well agree). On modern principles it raises instant and well-justified fears of religious oppression. As modern people we are thankfully agreed that sin is a matter best left to private conscience and to morality so long, at least, as it does not entail the violation of some publicly sanctioned law. The business of the state is many things, and certainly its business includes enforcing law and suppressing crime. But it is not to root out sin.

Far be it from me, therefore, to maintain that medieval people knew freedom of religion as we know it nowadays. Far be it from me to declare that people as different from each other as Pope Gregory VII and Thomas Jefferson were allies in the battle for religious liberty. Clearly the one held views the other one denied. Clearly the two are separated by some kind of deep divide. I would, however, like to insist that the divide is not as absolute as it must seem so long as our attention is focused on finding out what makes Catholicism different from Protestantism, and where the boundary lies between the Middle Ages and modernity. As I shall show in more detail below, there are some rather fundamental similarities. There also was a kind of religious liberty in the Middle Ages that prefigures the religious liberty we enjoy. Conversely, in our modern world there is something quite like the enforcement of religious faith. Seen from the distance of Beijing, Karachi, Tokyo, Baghdad, or Penang, Thomas Jefferson may seem more similar to Pope Gregory VII than either Tom or Gregory would like.

But before I can point out the similarities, I shall need to put a certain gentle effort into loosening the powerful grip that the distinction between Catholicism and Protestantism and the concurrent distinction between the Middle Ages and the modern world exercise over our minds. This may be impossible to do without provoking more than merely intellectual disagreement. Our understanding of ourselves as modern, in contradistinction from the Middle Ages, is crucial to our identity. And though the precise relationship between Protestantism and modernity may be a matter of disputes dividing by no means only Protestants from Catholics, any attempt to challenge the association of Protestantism with modernity and point out fundamental similarities between medieval Catholicism and modern Protestantism is likely to be experienced as a threat that cannot but release emotions ranging from mild anxiety to fear and revulsion or even outright rage.

⁴ "The public welfare is therefore that which fosters a secure life both universally and in each particular person. There is nothing worthwhile in human life which is not advantageous for a secure life. The ancient philosophers have defined human beings as consisting of a rational soul and corruptible flesh. Yet flesh takes life from the soul, since the body cannot otherwise be alive, inasmuch as that which is always inert will remain inactive unless it is moved with the aid of some spiritualized nature. This latter also has a life of its own. For God is the life of the soul, a thought which is profoundly and truly embraced by one of the moderns, although in light verse: 'God is the life of the soul, the soul the life of the body; the one dissolves when the other flees, lost when it is undermined by God.'" John of Salisbury, *Policraticus: Of the Frivolities of Courtiers and the Footprints of Philosophers*, bk. 3, c. 1, ed. and trans. Cary J. Nederman (Cambridge: Cambridge University Press, 1990), 14.

I shall therefore proceed with some deliberation. Specifically, I will take three steps. First, I shall try to persuade my readers that the separation of church and state is but one specific instance of a distinction that is not at all unique to the modern world but fundamental to the well-being of any human community, namely, the distinction between the sacred and the profane. The distinction between sacred and profane lies at the very heart of religion. It necessarily entails some kind of religious liberty, if only because the mere act of establishing a difference entails that in some way the sacred escapes from profane control. There is no such thing as a religion from which religious liberty is completely gone. The separation of church and state as we observe it nowadays is therefore not a question of all or nothing, on which there can be neither change nor compromise. That point, I hope, will help to reduce any anxiety on the part of my readers and prepare them to recognize the operation of the same fundamental distinction in the medieval world.

My second step will be to describe the operation of the distinction between sacred and profane in the Middle Ages. I will try to show, not only the sense in which it is legitimate to speak of a separation of church and state in medieval Europe, but also how it differs from the sense that we attribute to that phrase, how it came to lose its meaning in the late Middle Ages (because of far-reaching changes by which late medieval society was transformed), and how it regained its meaning in the aftermath of the religious wars. For the sake of analytical clarity I will divide my presentation into a synchronic and a diachronic part. In the synchronic part I will describe the basic features of religious liberty in the Middle Ages from a static perspective. In the diachronic part I shall try to explain how they changed over time in an extended process that led from the assertion of religious liberty by the Gregorian reformers via its classical elaboration during the highpoint of scholasticism in the thirteenth century to the religious crisis of the fourteenth and fifteenth centuries and the end of the Middle Ages. I will pay special attention to the paradox by which the very determination with which medieval people sought to perfect their faith in the high Middle Ages caused them to lose their faith in the late Middle Ages.

Finally, I will treat religious liberty in the modern world in terms parallel to those I use to treat the Middle Ages. Here, too, I shall divide my presentation into a synchronic and a diachronic part. First I shall try to demonstrate the operation of the distinction between sacred and profane in general and the specific shape it gave to religious liberty in modern times. Second, I shall try to show how it changed over time, from its assertion in the seventeenth century via its classic elaboration in the Enlightenment to the religious crisis we face today in which it is once more threatened with destruction. I shall be specially concerned to argue that the defense of religious liberty in the modern world is grounded in a specifically modern form of religious faith that has its own kind of sacraments and its own mechanisms of enforcing religious orthodoxy. (I know it sounds paradoxical: religious liberty enforced by religious orthodoxy? Please wait.) I will conclude by showing that we are now confronted with a loss of meaning analogous to that which troubled the late Middle Ages, because our society has similarly been transformed, and that the task before us is to redefine religious liberty in such a way that its meaning may be restored.

2.3 Sacred and Profane

The separation of state and church as we know it is but one specific incarnation of a much broader principle, namely, the distinction between the sacred and the profane.⁵ The distinction between the sacred and the profane is one of the most fundamental means at the disposal of human beings to settle the relationship between the individual, the world, and the community. It defines the center and the boundaries of the universe, assigns a definite place to everyone, binds them to other members of their community, and shields them from having to face the finitude of their existence by themselves. We may never know the cause of the anxiety to which humanity is prone. But precisely for that reason we need a means to calm its effects. The distinction between the sacred and the profane is not the only means that has been used for that purpose. But it is, so far as I can see, the most effective one.

There are a myriad different shapes in which that distinction can be found. It can, for example, be embodied in different roles taken by different members of a given society, such as the shaman and the chief, the prophet and the king, the sibyl and the emperor, the priest and the knight. It can be marked in spatial terms, by drawing some kind of line to form a square or circle and thereby to create a temple—*templum* initially meaning nothing other than a space set apart for sacred observances—or by relying on special features of geography, such as mountain tops, caves, and springs. It can be marked in terms of time, by drawing on phenomena in the sky, such as the rising and setting of the sun, the vernal equinox, the summer solstice, the full moon, or by drawing on the cycle of changes through which the human body goes—such as birth, puberty, menses, and death—and marking them with rituals of separation, liminality, and reintegration. It can be focused on animals or plants or trees, or certain foodstuffs with psycho-pharmaceutical properties, like alcohol, nicotine, coca, and peyote. In short the variety of ways to mark the distinction between the sacred and the profane is perhaps one of the most effective proofs for the inventiveness of human beings. There is no thing so small, so large, so close, so far, so high, so low that it cannot be used to mark the distinction between sacred and profane.

It is an interesting question what this distinction means and why it can be found in all human societies, apparently without exception. The answer must, I think, turn on one of the most fundamental features of human existence, and that is the peculiar asymmetry between our experience of ourselves and our experience the world. Pain is the example used most often to illustrate the point, perhaps because pain makes for some of the strongest and most memorable forms of experience. A human being knows perfectly well that another human being's hand in the fire hurts just as his own hand would, but is incapable of feeling the pain unless his own hand is in the fire. How to explain the fact that you can feel your pain but not the pain of others? Is it because we live in two separate worlds, one for ourselves, and another one for everybody else? That makes no sense at all. We meet, we touch, and we communicate. We live in one world. When someone else feels pain, we know, and know for real. But how, then, can it be the case that, living in one and the same world, we are surrounded by an abyss so deep that no one

⁵ Mircea Eliade, *The Sacred and the Profane*, trans. Willard Trask (New York: Harper & Row, 1959).

else can ever come over to our side and feel the pain we feel? How does it happen that two people who know each other well cannot have the same experience of one person's pain?

The same asymmetry manifests itself in all other forms of experience. It turns on the fundamental fact that human beings are, on the one hand, obviously part of the world and yet are, on the other, capable of taking a position vis-à-vis the entire world, including themselves and their destiny. We are mortal creatures, ashes to ashes and dust to dust. Yet we have knowledge of our existence as human beings with a mind, a conscience, and a self that are anything but dusty. We can, as it were, take ourselves out of our dusty condition and reflect on it as such, including the world of which it is a part. How is that possible? How can the part take a position vis-à-vis the whole? How does it happen that a thinking, living human being with knowledge of the world can have a past shrouded in prenatal mysteries and a future ending in death?

Those are unsettling questions. They have been variously answered. The most familiar answer consists of traditional religion. Religion appeals to a power larger than we are. That power manifests itself in the gap between the asymmetrical sides of our experience. It is the sacred—what Rudolf Otto called "the wholly other" (*das ganz Andere*).⁶ It is "wholly other" because it is neither identical with ourselves nor with anything we know. It is neither on the side of mortal ashes nor on the side of our selves. It is neither a part of the world nor is it the whole. It is by definition that which cannot be accounted for by reason or by empirical observation. Reason and experience lie on one or the other side of the divide between ourselves and the world, between our experience of ourselves and our experience of others. The sacred lies on neither side. It manifests itself between the two, which is to say, in no place that can be located at all. It transcends both sides and all places. It is neither self nor other, neither subject nor object. It is nowhere and everywhere, nothing and everything. It is therefore entirely incomprehensible. And yet it is impossible to do without, if only because the mystery—the silent void—that lies between us and the world demands some explanation that neither reason nor experience are qualified to give.

That void is real. More than real, it is powerful. Because it emerges from a place beyond all thought and observation, it has an unutterable power to destroy the fragile bond that holds our living parts together and places them in space and time. Its power is unlike any mere physical force. If it were physical, it would be subject to examination. Its power is equally unlike any mere power of the mind. If it were mind, it could be understood. But it is neither mind nor matter. As wholly other, it threatens our familiar existence with disintegration, death, and destruction. It can provoke tremendous fear and transcendent terror. But it also accounts for the asymmetry between ourselves and the world. It keeps us safe from chaos and gives us life. It can therefore inspire love and admiration. And in all cases it inspires awe.

Traditional appeals to the sacred, of course, no longer satisfy inquiring modern minds. Hence there is a long series of modern answers to the questions that arise from the asymmetry between our knowledge of ourselves and our knowledge of the world. The answer I like least—but need to mention here because it dominates most modern

⁶ Eliade, *The Sacred and the Profane*, 8-10, with reference to Rudolf Otto, *Das Heilige* (Breslau, 1917).

thought—begins by distinguishing between subject and object. It claims that there exists an objective world out there that our rational subjective minds examine and interpret from in here. The senses are supposed to be the channel through which the world enters the thinking being in the form of empirical observations, which are then analyzed by reason. Here is the thinking being, there is the material world. But this creates more problems than it solves. It answers the question how we can know about a pain we do not feel by saying that, actually, we do not really know that pain at all. We merely think we do. Actually we only know the pain we feel. We know about the pain of others only because we proceed by analogy from our pain, which we do feel and therefore really know, to their pain, which we do not feel and therefore do not really know.

I like this answer least because it treats the world as Alexander treated the Gordian knot: it takes a sword, cleaves it in two, and leaves us with the pieces, materialism here, idealism there. It treats the relationship between subject and object as though it were a kind of symmetrical equation—material world out there equals mental world in here—so that one side of the equation can be explained in terms of the other. Materialism tries to explain thought as a function of physical events, and idealism tries to explain physical events as a function of thought. They start at opposite ends of the same distinction. Each has its advantages. But neither accounts for our relationship to the world at all. For, once the self has been divided from the world, there is no way to put it back where it belongs without some kind of subterfuge, some kind of philosophical *deus ex machina* who comes from nowhere just in the nick of time in order to restore the unity that was, it seems, never entirely undone but only hidden temporarily so as to make the drama more interesting—as if it could possibly be boring.

The answer I like best is given in Ludwig Wittgenstein's *Philosophical Investigations*. I like it best because, as far as I can tell, Wittgenstein succeeded in doing two equally important things. One was to show that the attempt to understand objective reality as such—the attempt by which the subject seeks to lay its hands upon the object so completely that no remainder of the gap between the two is left unaccounted for—is fundamentally misguided. It cannot but end up with false solutions, attractive to minds twisted out of their natural reason by the temptations of philosophy, but utterly devoid of sense. "Der Glaube an den Kausalnexus ist der *Aberglaube*" (the belief in the causal nexus is *superstition*), as he put it in the *Tractatus Logico-Philosophicus*, 5.1361.

The second thing Wittgenstein did was to show more clearly than any other philosopher I have read that there neither is nor can there be a private language. Perhaps a human being does feel pain no other human feels. But if it did, it could not tell and more important, it could not even know. A single human being could neither give a name to pain nor recognize its pain as such were there no language that it had learned from others. Language has a reality entirely its own, and far more powerful than that of the mere system of more or less arbitrarily chosen signs as which it is commonly portrayed. The signs are not arbitrary in the least. Whoever really tries to say something differently from how it is has been said before will find out how difficult and even dangerous that can be. Language precedes the separate existence of the subjective individual. It constitutes a real living bond. The reason why we are able to take ourselves out of the concrete living context in which we actually live and speak is that it does not depend on us for its existence. We always are already part of it. Language is not the tool of the self that it

appears to be to the subjective self. It is the other way around: the self is the tool of language.

But none of the answers that philosophers have given has ever undone the urgency of the question how to account for the asymmetry between the person and the world. Birth and death, like pain, are perfectly familiar ingredients of human experience. And yet they constitute a threat to the integrity of human beings that no rational explanation has managed to overcome for good. Perhaps the most memorable aspect of Wittgenstein's answer, therefore, is the conclusion of the *Tractatus Logico-Philosophicus*: "Wovon man nicht sprechen kann, darüber muss man schweigen." (Whereof one cannot speak, thereof one must be silent.) Language does simply not allow us to answer the questions raised by the relationship in which we stand to the world. It offers us no means to understand the mystery of our existence. The mystery must be accepted for what it is: inexplicable and unutterable.

That is precisely what the distinction between sacred and profane is meant to do. In the midst of a world apparently divided into subjects and objects of which it is impossible to understand how they are linked together, it establishes a symbolic space for the unutterable truth. It does not seek to explain anything at all. It lets the silence be. It makes it known for what it is and marks its presence in the world as such. Thus it embodies a deeply rational denial of the ability of reason to account for itself as it is able to account for everything else.

The rationality of this denial explains the enduring success of the distinction between the sacred and the profane. The distinction between the sacred and the profane, and the rituals in which it has been embodied, amounts to the best method humanity has so far devised to stabilize the threat of disappearing into the universal void that faces human beings as soon as they recognize the asymmetry between the partiality of their existence and the universality of their thought. The distinction between the sacred and the profane works as well as it does because, on the one hand, it acknowledges the asymmetry in question and, on the other hand, takes it out of the hands of individual responsibility and places it in the hands of rituals that need not be understood in order to achieve their effect. However the distinction between the sacred and the profane is expressed, its maintenance is crucial to the well-being of any human community.

We tend to think of the separation of church and state as a principle of reason. I think it is much better understood as an instance of the distinction between the sacred and the profane. Like earlier members of the species, modern humans need more reassurance about their place in the world than they can take from reason and observation. They take it, among other things, from the separation of church and state. The separation of church and state embodies one of the basic articles of faith to which the modern world is sworn. It is integral to the identity of ourselves and of the community in which we live. Like the distinction between the private and public sphere it is essential to the self-understanding of our society, and invested with the same sacred power. It helps us to define who we are, in church, at home, in public, in politics, in the media, and in scholarship. It serves like a backbone that gives upright stature to the musculature of our thought and action. It cannot even be examined, much less put into doubt or altered, without unleashing anxieties about our ability to keep standing upright. It is hedged about with dangers and prohibitions that go deeper than mere legality. It is guarded by the modern equivalent of primitive taboos.

3 The Middle Ages

In this section I shall present my understanding of religious liberty during the Middle Ages. Contrary to the common wisdom I shall insist that religious liberty did exist in the Middle Ages, but that it took a different form. Instead of being founded on the separation of church and state, it was founded on the separation of the clergy from the laity.

First I shall deal with the common wisdom in static terms, without paying attention to historical development. I shall maintain that religious liberty did in fact exist in medieval Europe. In order to grasp the specific form it took at that time, and thus distinguish it from the specific form it took in modern times, I shall review three major reasons why it seems plausible to deny that there existed religious liberty in medieval Europe. Then I shall counter each of those reasons with an alternative.

Second, I shall turn to historical development. I shall describe the general trajectory that led from the assertion of religious liberty in the eleventh century via its elaboration in the high Middle Ages to the religious crisis of the fourteenth and fifteenth centuries. I shall be relatively brief about the first half of this story, because it seems comparatively well understood. Most of my emphasis will fall on the religious crisis of the late Middle Ages. I will try to show that the corruption of the clergy and the rise of lay heresy are twin aspects of a single historical development that was fueled by a continuing desire to perfect the religious principles that had been laid down in the eleventh century.

I shall conclude this section by portraying the Reformation in a double light. On the one hand, the Reformation broke with medieval principles and thereby managed to put an end to the crisis. On the other hand, it reaffirmed the distinction between the sacred and the profane and thereby started a process of historical development that would parallel what had just happened in medieval Europe and would end up with the same paradoxical dilemma.

3.1 The Character of Religious Liberty in the Middle Ages

The difference between the Middle Ages and the modern world is most commonly treated in terms of a dichotomy. Nowhere is this more obvious than where the separation of church and state is concerned. There are, so it would seem, two possibilities. Either you do enjoy religious liberty, or you do not. If you do, you do so because the separation of church and state has deprived the church of its former power to impose religious faith by force. If you do not enjoy religious liberty, it is because there is no separation of church and state, preventing the church from imposing religious views by force. This is one of the differences, so it is thought, that sets the modern world apart from medieval Europe. Indeed, it is perhaps the most important difference of all, because freedom from force in matters of religion furnishes the single most important test for the extent of our liberty. Where freedom of religion is undermined, no other form of liberty can be considered safe.

This view, I think, is false. It does no justice to the reality of medieval Europe or, for that matter, the reality of the modern world. It prevents us from grasping the manner in which modern forms of liberty grew out of medieval ones. It does not allow us to understand the ties continuing to bind the modern world to the Middle Ages. It imputes a kind of liberty to us that we do not in fact enjoy, and it is blind to the liberty that

medieval people really had. Most importantly it leads us to base our decisions for the future on a flimsy foundation.

But no false view can last for long unless it has at least some plausible reasons on its side. The view in question here has stood the test of centuries. In order to clarify what makes it wrong, it is therefore essential to begin by pointing out what makes it seem so right.

3.1.1 Three Reasons for Denying There Was Religious Liberty

I would like to distinguish between three separate reasons for thinking that there was no religious liberty in medieval Europe. The first of these is abstract in nature. It consists of the logical dichotomy as which we have been accustomed to treat the distinction between the Middle Ages and the modern world. The second is that medieval Europe did not in fact grant the kind of religious liberty with which we are familiar today. The third is that medieval Europe did not know the distinction between state and church either.

The first reason for believing that there was no religious liberty in medieval Europe, then, is that it rests on a dichotomy between medieval and modern history. We know of course that it is difficult to tell exactly where to draw the line between the Middle Ages and modernity. As soon as one begins to look more closely, the separation of church and state, like any other historical phenomenon, dissolves into a myriad of special issues that no single definition can possibly contain. Religious freedom, for example, does so far not entail the liberty to practice human sacrifice. That makes it difficult to give a straightforward meaning to what the separation of church and state really means in a specific case. One may therefore well ask whether the prohibition on human sacrifice is an exception to the separation of church and state, or one of its integral elements. All sorts of plausible answers can be suggested here, the most obvious being that it is not, in fact, human sacrifice that is prohibited, but only the killing of another human being. It is, of course, unfortunate for members of religions requiring human sacrifice that it is impossible to practice the ritual without killing a human being, too. But that need not mean that their religious liberty as such has been denied. Conversely, one can point out that there were Jews and Muslims in medieval Europe who were allowed to practice their faith. Of course their liberty was tightly circumscribed by legal prohibitions and civil disabilities, but it was not simply non-existent.

However, those are details, and they can hardly force us to concede that there exists no difference between the Middle Ages and the modern world as far as religion is concerned. The difference is real, however difficult it may be to define. We know that for a fact. Thus, it must be possible to state in terms of a dichotomy: we have it now, and they did not yet have it then. Whatever thick description we may need to grasp exactly what *it* was, we need no thick description whatsoever to maintain that we do separate church from state, and they did not. Leave it to the professional historians to figure out exactly what that means. Leave it to common sense to point out that it is true.

This is as far as I would like to go with the dichotomy between the absence of religious liberty in the Middle Ages and its presence in modernity, not because I have already gone far enough, but because I lack the means for going any further. Going further would require a sustained discussion of logic, language, and the meaning of the verb "to be" that I am not qualified to undertake and that does not fit in this place. What I

am qualified to say, however, and what fits well, is that the issue here is very real. There is an important difference between the truth of logical dichotomies and the truth of statements made in the ordinary course of communication, including statements about the past and the presence or absence of religious liberty. If Wittgenstein can be believed—to mention my favorite philosopher once again—the truth of dichotomies is tautological, which is to say a truth that communicates nothing whatsoever. Tautology, he thought, was the source of the enormous hold dichotomies have over our minds and the reason for their ability to make us lose sight of what is really true. That needs to be acknowledged here, because it is the truth of a dichotomy ("we have religious liberty, and they did not") that constitutes the most fundamental reason for the longevity of the mistaken view we have about a liberty they did in fact enjoy.

Thankfully for you and me, there are more tangible reasons, too. One is that medieval Europe did not grant what we mean by religious liberty. If by "separation of church and state," we mean the freedom of individuals to follow the spirit wherever it may lead, then of course there really was no separation of church and state in the Middle Ages. Not that medieval people had no choice at all. Medieval scholastics debated the question whether the soul is or is not immortal with an abandon that is merely one obvious example for liberties of thought and expression that were much greater than is often imagined. The villagers of Montaillou were immortalized by Emmanuel Le Roy Ladurie for their freewheeling discussions about all sorts of heretical ideas.⁷ But of course those liberties did not entail the freedom to contest the authority of the church. When the church made it a point to speak, the faithful had to obey. The limits of religious liberty were defined by law, and the law was enforced with the assistance of bailiffs, seneschals, sheriffs, and other officers of the state.

Thus the fourth Lateran Council passed legislation in 1215 requiring every Christian to take communion at least once per year. Communion taken less frequently than that meant, at least potentially, excommunication; and excommunication, if sustained with pertinacity, could lead to loss of property and life. Since communion could not be taken with a guilty conscience, confession, absolution, and penance also had to be performed at least once per year. On top of that the council authorized bishops to inquire from the members of their diocese whether they had any evidence concerning heretics. Refusal to cooperate with such investigations was construed as support for heresy. Thus a system was put in place that required every Christian man and woman to visit their priest in order to confess their sins at least once every year and to furnish information to the authorities whenever asked about the presence of heresy. That system constitutes about as good a reason as can be imagined for denying that medieval Europe separated church and state. Small wonder that the villagers of Montaillou were eventually forced to toe the line. Their liberty ended in the bishop's jail.

There is another tangible reason for denying that medieval Europe separated church and state, namely, that medieval Europe separated, not church from state, but clergy from laity. The difference is fundamental. Church and state are separate institutions. Clergy and laity are different groups of people. In the modern West, the distinction between church and state cannot be identified with a distinction between two

⁷ Emmanuel Le Roy Ladurie, *Montaillou: The Promised Land of Error*, trans. Barbara Bray (New York: Vintage Books, 1979).

different groups of people. It rather consists of a distinction between two different spheres of action in which all people can participate. On one side are matters of the church, among which personal religious beliefs may be the most important. On the other side are matters of the state, among which voting (in representative democracies), obedience to the laws, and military service perhaps range first. The former are considered to lie in the private sphere, along with other things like morals, conscience, commerce, and cultural activities. What lies in the private sphere is thought to be subject to free choice. No compulsion may be used. Nobody may be forced to believe one thing rather than another, to enter into a contract they do not wish to make, to read a book instead of going to the movies, and so on. The latter lie in the public sphere. There compulsion is legitimate. People may very well be forced to abide by criminal and civil law, and may be punished for infractions.

Here, too, there is of course a great deal of dispute about exactly how to distinguish one sphere from the other. There also are numerous occasions on which the distinction between the private and the public sphere is violated. But no matter where the boundary is drawn and how commonly it may in fact be crossed, as a matter of principle it does not run between two different groups of people, but between two different kinds of action that anyone can take, no matter to which group of people he or she belongs. On a modern understanding each person participates in both the public and the private sphere, in both state and church—or more precisely, since no compulsion may be used in matters of the church, each person participates in matters of the state, but participates in matters of the church only by choice. The separation of church and state thus is a principle that everybody practices.

In medieval Europe, by contrast, the boundary ran not only between two different spheres of action, but also between two different groups of people. Each person had a place in one or the other group. None could belong to both. The difference turned on the performance of a ritual of ordination that elevated an ordinary human being from the ranks of the laity to those of the clergy. The most important actions the clergy could perform, but not the laity, consisted of the sacraments. Only full members of the clergy could perform the mass, give extreme unction, administer penance, and so on. The most important actions the laity could perform, but not the clergy, consisted of engaging in sexual intercourse and shedding blood. Only the laity had the right to marry and have children, and only the laity had the right to go to war and put criminals to death. Again, there was a great deal of dispute about precisely what belonged on one side of the boundary and what on the other. Here, too, the laws distinguishing the clergy from the laity were often observed only in the breach, not to mention that the distinction between monks and clerics, the distinction between regular and secular clergy, and the rise of military monastic orders such as the Knights Templar complicated matters.

Yet the complications must not obscure the underlying fact that the distinction between clergy and laity is utterly different from what we mean by the separation of church and state. It is one of the basic principles of the modern West that no one is exempt from the government of the state while everyone is free to participate in any church they like. Likewise, it was one of the basic principles of medieval Europe that no one was exempt from the government of the church and that no one was fully qualified to participate in the actions of the church unless they had been ordained. Those who had been ordained were thought to be "really" different from those who had not. The

difference that counted was not that between church and state. The church was universal. Its rule was supposed to extend over clergy and laity alike. Ideally it was even supposed to extend over infidels and heathens living beyond the limits of Christianity. The difference that counted was that between the clergy and the laity. "Repeating canonists such as Stephen of Tournai (d. 1203), the civilian Alberic of Rosate (d. 1354) summed it up around 1300: 'There are two peoples, one of the clerks and the other of laymen ... and they are two types of diverse nature, one superior and the other inferior. ... There are therefore two governors in Milan, the archbishop who rules the clerks and the temporal lord who rules the laity.'"⁸

There are, then, three good reasons to conclude that there was no separation of church and state in the Middle Ages. The first consists of the seductive power of the dichotomy that claims that we modern people have something clear and distinct that those medieval people did not have. The second consists of the historical fact that the medieval church relied on the medieval state in order to enforce religious conformity. And the third consists of the further historical fact that medieval Europe distinguished between clergy and laity, not church and state. These reasons have truth on their side—but only up to a point. All three confuse identifiable differences between medieval Europe and the modern West with an account of the historical relationship between the two. They obscure the continuities by which the modern separation of church and state is linked to medieval Europe. They lead to a mistaken understanding of the liberty we do in fact enjoy. And they entail unwelcome consequences for our orientation towards the future.

3.1.2 Three Reasons for Asserting There Was Religious Liberty

In order to substantiate those claims, it will be useful to balance the two more tangible differences between medieval Europe and the modern world I have discussed so far against two equally important points of similarity. The first point of similarity concerns religious liberty. It is true that medieval Europe did not grant the form of religious liberty we have today. Yet it would be mistaken to conclude that it did not grant religious liberty at all. It did grant religious liberty, namely, by granting liberty to the clergy with the consent of the laity. By common consent the clergy was entitled to determine matters of religion on its own, without interference from the laity. It was the clergy that decided what was canonical and what was not. The clergy determined whether or not the philosophy of Aristotle was possible to reconcile with Christian faith. The clergy decided which forms of conduct were sinful and which were laudable. The clergy administered the sacraments only to those whom it considered fit. The laity had no business telling the clergy how to run the church. And from the laity's own point of view that was just how it ought to be.

The laity's consent, of course, was by no means always forthcoming. In order to protect the liberty of the clergy from interference in contentious cases, the clergy was therefore officially exempt from any form of compulsion at the hands of the laity. It had its own elaborate system of jurisdiction, with its own courts and judges and procedures, in order to root out misconduct by its members without having to call on the assistance of

⁸ John Hine Mundy, *Europe in the High Middle Ages, 1150-1300*, 3rd ed. (London: Longman, 2000), 18.

the laity. It heard petitions and appeals and rendered judgment and imposed penalties as the case demanded without needing to heed the laity. No member of the laity had the right to lay hands on any member of the clergy. No member of the laity was allowed to seize clerical property or tax clerical revenues—exceptions requiring special permission from the pope. Property once transferred into the possession of the church became *mortmain*—property held by a hand called dead because it had died to the world of the laity and did therefore no longer participate in the kind of traffic in goods and estates that circulated through the ranks of the laity by inheritance (whenever someone dying left property to heirs) and marriage (whenever someone living gained control over the property of a spouse). In short, the clergy was not only separate from the laity. The clergy also enjoyed freedom from whatever force the laity could command.

Perhaps the most important penalty the clergy was able to impose on its members therefore consisted of defrocking. A cleric who had been defrocked returned to the ranks of the laity. The effects of ordination by which he had been made a member of the clergy were undone. They did not disappear completely. There was the so-called indelible character that ordination imprinted on a priest. It was called indelible because it was there to stay even in priests who were defrocked. But once defrocked the clergy lost the liberty from the laity they had enjoyed before. They could be turned over to the laity for imprisonment or execution and they no longer enjoyed any of the privileges the clerical estate had conferred on them.

There are many reasons why it is difficult for modern people to acknowledge that the exemption of the clergy from compulsion at the hands of the laity amounted to religious liberty. One of those reasons is quite simply that religious liberty is here restricted to a certain estate, a certain group of people. It is a privilege conferred only on those who join the clergy and it requires an explicit act before it can take effect, regardless of whether the act consists of conversion to a religious order, entry into a university, or the sacrament of priestly ordination. It is therefore quite different from the freedom of religion that we attribute to all human beings as a natural right that they enjoy simply because they have been born. No special action is required to obtain religious liberty in modern times because, on our principles, there are no legitimate restrictions that could limit the enjoyment of religious liberty to one special group of people. Again, the liberty of the clergy in medieval Europe was closely tied up with the clergy's right to exercise spiritual jurisdiction over the laity and have its sentences enforced by agents of the state. Even if we could grant that the clergy did enjoy a kind of religious liberty, it would be difficult for us to persuade ourselves that they did not abuse that liberty to their own advantage, merely in order to increase their power. From a modern point of view, the liberty of the clergy must look like a special privilege to exercise a special kind of power. Special privileges conflict by definition with the equality of natural rights. Religious liberty is a natural right. Hence the liberty of the clergy cannot be seen as an instance of religious liberty, but must be seen as a denial of religious liberty.

Hence it is also difficult for us to recognize the importance of defrocking. If one assumes, as modern people do, that every human being enjoys the same natural rights, including the right to freedom of religion, then one thing and one thing only stands out about the process by which the members of the clergy were defrocked, namely, how deeply it violates our sense of equity that members of the clergy were treated differently from members of the laity. How could it possibly seem right to anyone, we find ourselves

compelled to ask, that members of the laity are punished painfully for crimes that have no further consequences for members of the clergy than a loss of privileges to which, we believe, they only have a doubtful claim to begin with? From our point of view, defrocking seems unforgivably lenient. From our point of view, a cleric who commits a crime ought not to be treated any differently from any member of the laity committing the same crime because, from our point of view, the distinction between the clergy and the laity should have no bearing on their fundamental rights.

But these are modern distractions from the medieval point. The medieval point was that hierarchy was the proper order of society. Hierarchical distinctions between different groups of people, far from conflicting with the demands of justice, embodied them. And that was most particularly true of the elevation of the clergy above the laity. The central fact of the matter was that the sacred was not equally accessible to all members of society. The sacred was located in the sacraments and most importantly the Eucharist. Only the clergy were qualified to administer the Eucharist. No ordinary person was. Hence access to the sacred depended exclusively on the ability of the clergy to perform its appointed task at the appointed time and place. Would it have mattered if the clergy had been treated the same as ordinary people? Most certainly it would. It would have embroiled them in the affairs of ordinary life and deprived them of the ability to perform the sacraments for free. The sacraments would have become a matter of profanity, on sale for profit and available to force. But sacraments that were extorted or purchased for a price could not perform their sacred function. They would not sanctify. From the medieval point of view the liberty of the clergy from secular control was therefore something totally different from any special privilege unfairly granted to a special estate. The liberty of the clergy was rather the key to the free exercise of religion. Indeed, it was more than that. The liberty of the clergy was in and of itself identical with religious liberty.

It may be easier to recognize the privileged condition of the clergy as a form of religious liberty if I draw your attention to the second similarity between medieval Europe and the modern world. It is that the distinction between the clergy and the laity played the same fundamental role for the organization of medieval society as does the separation of church and state for the organization of the modern world. Of course the distinction of the clergy from the laity is not identical with the separation of church and state. Of course the former supports a form of religious liberty that differs from the religious liberty supported by the latter. But it is only in our society that the distinction between different groups of people such as the clergy and the laity amounts to a violation of fundamental principles of order, because it is only our form of society that is governed by the conviction that all people enjoy the same natural rights, regardless of their social rank. In medieval society the distinction between clergy and laity could not possibly violate that conviction because that conviction had not yet gained the force it was going to have in modern times. In medieval times the distinction between clergy and laity, far from amounting to any violation of principles of social order, was to be reckoned one of those principles, and perhaps the most important one.

If you do not compare one form of society with the other but focus on the principles on which each was built in its own right, you will therefore perhaps be able to agree that the medieval distinction of the clergy from the laity and the modern separation of church and state are similar in this respect: they serve the same underlying purpose.

That purpose is to protect the line between the sacred and the profane. They constitute the most important means by which that line is kept inviolate. They are not to be confused with the distinction between the sacred and the profane itself. The medieval clergy was no more sacred than is the modern church, nor are the medieval laity or the modern state to be regarded as profane. But the distinction between the clergy and the laity was just as crucial to protecting the sanctity of the sacred from contamination with the profane as the separation of church and state is in modern times.

The difference is that the sacred has, as it were, changed its location. In medieval times the sacred was found in the sacrament. The sacrament was sacred because it was regarded as a visible sign of the invisible grace by which the human being was brought into proper relationship with the deity. Hence those who were capable of administering the sacraments needed to be distinguished from those who were not. In modern times the sacred lies in the realm of nature and in the heart and soul of every individual. No sacraments administered by clerics in holy orders are needed in order to bring the individual into the proper relationship with the deity. What is needed is rather a very different kind of sacrament, a visible sign that the person does indeed stand in the right relationship to nature and that the person does indeed have a clean conscience—a conscience of the sort that legitimates civil disobedience, conscientious objection, and fighting for human rights. Hence there is a grave need for the freedom of expressing your religious views. If they cannot be freely spoken, there is no sign by which to recognize your relationship to the sacred. But there is no fundamental need at all to distinguish between clergy and laity. All people are equally endowed with the ability to speak and take their true place in nature. All people have a conscience. All people can bring themselves into the proper relationship to the deity, so long as some special time and space—space for some sort of temple and time for some type of ritual observance—is set aside where they are free to follow the voice that calls them from within, as God called the medieval clergy to perform the Eucharist in church. What is required is, not a sacrament, but the modern equivalent of one: a means to distinguish pure motives from impure ones, the fight for civil liberty from the pursuit of profit, and true humanitarian concerns from personal advantage.

In sum, there was religious liberty in medieval Europe. Of course it was violated on more than one occasion. One thinks of the Investiture Controversy, of antipopes installed by the emperor, and of the conflict between King Philip the Fair of France and Pope Boniface VIII. But those violations only confirm the norm. It was an unprecedented scandal when Philip the Fair arrested the bishop of Pamiers in 1302. It was a scandal because it violated the liberty of the clergy. *Libertas ecclesiae*, the liberty of the church, was the banner under which the reformers of the monastery of Cluny and Pope Gregory VII fought for the right of the clergy to administer their offices without interference by the laity.⁹ The liberty of the church was the medieval version of what we call the free exercise of religion nowadays. It was established as the result of an upheaval no less profound than that to which we owe the establishment of religious liberty in the modern

⁹ See the classic study by Gerd Tellenbach, *Libertas: Kirche und Weltordnung im Zeitalter des Investiturstreites* (Stuttgart: W. Kohlhammer, 1936), available in English as *Church, State and Christian Society at the Time of the Investiture Controversy*, trans. Ralph F. Bennett (London: Basil Blackwell & Mott, 1959).

world. It is well worth mentioning that it went well beyond exempting the clergy from compulsion by the laity. It lay at the heart of academic freedom, because students and professors were more or less by definition regarded as members of the clergy. It included all of those to whom the clergy extended their protection, such as widows, orphans, and pilgrims. Moreover, there is but one step from going on pilgrimage to going on crusade. Crusaders were regarded as a certain kind of pilgrim. As pilgrims, they were entitled to the freedom to serve their religious cause. Their pilgrimage earned them not only special grants of indulgences from the papacy but also protection from creditors and enemies.

So much can fairly be maintained by relying on the two similarities between medieval Europe and the modern world that balance the two differences to which I drew attention first, namely, that the medieval distinction between the clergy and the laity was (like the modern separation of church and state) designed to safeguard religious liberty, and that (again like the modern separation of church and state) it played a fundamental role in keeping social order because it helped to maintain the distinction between the sacred and the profane. The most important argument in favor of religious liberty in medieval Europe, however, must come from confronting the dichotomy on which we commonly rely in order to distinguish the Middle Ages from modernity.

The most illuminating way to make that argument consists, I am convinced, of a philosophical investigation into the means we have at our disposal for understanding change. For only such an investigation could show exactly what is wrong with subsuming temporal change under the rubric of dichotomy. I have already ruled out such an investigation here. What I have not ruled out, however, is a description of the change by which the medieval form of religious liberty gave way to its modern successor. That is the matter I should like to take up next, and for three separate reasons: first, because it will help to understand the extent to which the modern form of religious liberty is rooted in medieval soil; second, because such an understanding will help to weaken the seductive force of the dichotomy that governs our thinking about the relationship between the Middle Ages and modernity; and third, because an examination of the change that destroyed the medieval form of religious liberty and led to its replacement with the form we now hold dear can furnish us with the analogy for the dilemma we face today that I set out as the main goal of this paper.

3.2 The History of Religious Liberty in the Middle Ages

So far I have proceeded without paying much attention to change. That may have given the impression that the distinction between the clergy and the laity was a stable feature of medieval society. But nothing could be further from the truth. As soon as you turn from a static description of differences between the Middle Ages and modern times to attempt to capture the development of medieval history itself, it will become apparent that the distinction between the clergy and the laity was something quite different from a stable social fact. It was more like a principle of social action, a norm describing how society ought to be organized, a goal to which the leading sectors of medieval society were committed because they saw it as the single most important means for protecting the sacred from contamination with the profane and thus for bringing society as a whole into the right relationship with God.

The force of the distinction between the clergy and the laity did therefore not consist at all of anything that might be called reality. The force of the distinction rather

consisted of the desire of the desire to make it real. That very desire presupposed, not that the distinction between the clergy and the laity was real but, quite the opposite, still waiting to be brought about. Its reality was never more than imaginary—and I cannot refrain from pointing out that this is so because the distinction between the clergy and the laity rests on a logical dichotomy just like the dichotomy between the Middle Ages and the modern world, and equally distant from reality.

Nothing is therefore easier than to show that, in reality, the distinction was often disobeyed—and nothing does less to detract from its significance for medieval history. This is most obviously true at the beginning of the great movement carried forward by the Gregorian reformers. That movement got its energy precisely from the extent to which the distinction between the clergy and the laity had broken down in late Carolingian times, when clerical offices could be inherited by members of the family or sold for adequate compensation.¹⁰ But even after such practices came to be seen as scandalous violations of proper social order, the extent to which the distinction was enforced never approached the clarity of the desire for its realization. In that regard the high and late Middle Ages brought no change at all.

3.2.1 From Optimism to Anxiety

Something else did change. After the victory of the reformers in the eleventh and twelfth centuries, there was at first no doubt that the distinction between the clergy and the laity amounted to a valid principle of social organization. Hence it was clear what needed to be done: all instances in which the principle was violated needed to be discovered and rooted out, and their recurrence needed to be prevented for the future. The result was a massive and Europe-wide attempt to reshape society in order to bring it into conformity with what was thought to be the right order of the world.¹¹ Legislation was passed, administrative offices were built up in Rome, papal letters and papal legates were sent into the provinces, alliances were struck up with sympathetic secular governments, unsympathetic ones were challenged, unworthy clerics were taken to court, uneducated clerics were asked to improve themselves, lay people interfering with the bestowal of ecclesiastical offices were made to feel the power of the church, and so on. And though the multiplicity of purposes at which all of this activity was aimed was infinite, no goal ranked higher than the desire to protect the performance of the sacraments from defilement by secular concerns.

There is therefore a definite sense in which high medieval European society may be said to have been engaged in a massive effort to make itself conform to that right order of the world of which the distinction between the clergy and the laity was not the only, but the most fundamental features. It is that effort that gave cohesion and direction to all of the major undertakings of the high medieval world. It gave to those who were engaged

¹⁰ For good examples see Richard W. Southern, *The Making of the Middle Ages* (New Haven: Yale University Press, 1953).

¹¹ The phrase "right order of the world" is central to the argument of Gerd Tellenbach, *Church, State and Christian Society at the Time of the Investiture Controversy*, trans. Ralph F. Bennett (London: Basil Blackwell & Mott, 1959), on whom I am happy to rely for my understanding of the basic character of the Investiture Controversy.

in it a clear goal to pursue and a good conscience with which to pursue it. That explains the sense of optimism that may be attributed to high medieval times. It also explains the extraordinary energy with which Europe devoted itself to the task that had been sketched out in the eleventh century. The building of Gothic cathedrals is perhaps the most familiar aspect of the dedication with which medieval Europeans committed themselves to the task of separating the sacred from the profane as they thought right. Cathedrals were temples where the clergy in holy orders preserved the sacraments and bestowed them on the community of the faithful laity. But there are other undertakings that range not far behind the building of the cathedrals. One thinks of the crusades, of the defeat of the Albigensians in Southern France (for whom the sacrament of the Eucharist was a form of blasphemy), of the founding of the universities, Thomas of Aquinas's *Sum of Theology*, and not least of the defeat of the Hohenstaufen Emperors by the papacy and its allies in the middle of the thirteenth century. These left an imprint on Europe at least as indelible as the character left on the priest by ordination.

Two centuries later the optimism and the certainty were gone. In the late thirteenth century Acre was lost, and the crusading plans to follow never managed to capture the energy of Europe as earlier crusades had done. In 1303 Pope Boniface VIII lost a dramatic confrontation with King Philip the Fair of France. The papacy found itself compelled to relocate to Avignon in order to escape from the consequences of its failure to keep the peace in Italy. Famine struck in the second decade of the fourteenth century, and the plague in 1348. A third or more of the population died. For more than a hundred years England and France were engaged in war with each other. Ottomans advanced towards Constantinople and took increasingly firm hold of the Balkans. In 1399 a king of England was deposed (Richard II). In 1400 an Emperor suffered the same disturbing fate (Wenzel). Meanwhile France had to make do without a king because its king was mad (Charles VI), and for close to forty years the papacy was divided between two and eventually three claimants to St. Peter's seat.

3.2.2 The Familiar Diagnosis: The Failure of the Clergy

Something seemed to have gone wrong. But what? There was surprising unanimity on the answer: what had gone wrong was that the clergy and its followers had failed to live up to their principles. Far from devoting themselves to the task of realizing the distinction between the clergy and the laity, as they ought to have done, and far from devoting themselves to the task of bringing the world into the right relationship with God, as Pope Gregory VII had demanded, the clergy had become enamored with its own success, forgetful of its duties, interested only in the pursuit of wealth and power, no longer caring for the spiritual well-being of the laity or the sanctity of the sacraments, accumulating one benefice on top of another while never ministering to the care of souls for which those benefices were conferred on them, and so on. The failures and disasters that were visited on late medieval Europe were taken to be signs of the wrath of God: penalties he visited upon a sinful people for failing to heed the boundary between the sacred and the profane and serving Mammon in preference to Christ. Since the clergy were by common consent supposed to be the leaders of Christendom, the cause of the unhappy fate befalling Europe in the later Middle Ages was found in the failure of the clergy.

This explanation for the change from the optimism of the high Middle Ages to the age of anxiety as which the later Middle Ages are often characterized received surprisingly wide-spread agreement at the time. It was confirmed by the judgment the Protestant Reformation passed on the medieval church, and continues to receive endorsements from historians today. The problem, so it is thought, is that somehow the medieval church did not succeed in doing what it had set out to do. Somehow corruption seeped into the world. Somehow private interests began to replace devotion to the common good. Somehow purely material gain displaced spiritual sincerity. Perhaps devotion had never even been sincere. Perhaps it had all just been a grab for domination ever since the papacy took such unfair advantage of the minority of Emperor Henry IV in the eleventh century. But no matter how or when the trouble started, there could be no doubt at all that in the end the clergy failed to live up to the standards they had set for themselves and the laity. The clergy were hypocrites.

Of course it is true that nowadays historians no longer speak of hypocrisy and the failure of the medieval clergy with the same sense of moral righteousness that used to pervade accounts of late medieval history. Protestants, Catholics, and secular historians alike are all more willing to look with sympathy on the difficulties faced by the late medieval church and to find fault with its critics. Indeed, historians are for the most part quite impatient with the description of the later Middle Ages as "waning." They see too many signs of positive developments, and much too close a relationship between the so-called waning of the Middle Ages and the simultaneous flowering of the Renaissance. Late medieval nominalism is no longer treated as an indication of intellectual decline, and Luther's theology is now acknowledged to have much deeper roots in medieval thought than previously believed.¹²

But such modifications notwithstanding, the basic explanatory pattern still holds true. It still continues to be thought that in some fundamental sense the later Middle Ages departed from the principles laid down in the eleventh century. Whether or not this change ought to be condemned as a failure of will, censured as an expression of moral depravity, or welcomed as "the birthpangs of the modern era" (to quote a phrase of Heiko Oberman) is a subordinate consideration.¹³ The main point to be kept in mind is that the foundations on which the high medieval world had once been built were, for whatever reason, no longer treated with the care that they deserved. Hence they fell into disrepair and needed to be replaced.

¹² The publication of Heiko Oberman, *The Harvest of Medieval Theology: Gabriel Biel and Late Medieval Nominalism* (Cambridge, Mass.: Harvard University Press, 1963) may be taken as symptomatic of a trend that has not abated yet. Paul Oskar Kristeller's *Renaissance Thought, 1: The Classic, Scholastic, and Humanist Strains* (New York: Harper & Row, 1961) helped the trend by showing that Renaissance humanism was far more deeply rooted in medieval traditions than Jacob Burckhardt's classic *Civilization of the Renaissance in Italy*, trans. Samuel George Chetwynd Middlemore (New York: Macmillan, 1890) had allowed. But it is worth noting that as early as 1903 as acute a Protestant historian as Johannes Haller, who had entered the recently opened papal archives fully expecting to find abundant evidence for clerical corruption, declared himself to be baffled by his failure to find anything more damaging than evidence for the frustrations even the best-managed bureaucracies inevitably cause those who turn to them for help and guidance.

¹³ Heiko A. Oberman, "The Shape of Late Medieval Thought: The Birthpangs of the Modern Era," *Archiv für Reformationsgeschichte* 64 (1973): 13-33.

3.3.3 A Different Diagnosis: The Dangers of Success

It seems to me that this diagnosis is fundamentally mistaken. True is that later medieval Europeans departed from the principles they had laid down in the eleventh century. Perhaps they even lost their way. True is also that they were living in an age of anxiety. But it is not true that they were doing so because they had failed to live up to the standards they had adopted as their own in the times of the Investiture Controversy. Quite the opposite is the case: they lost their way because of the very determination with which they sought to put their standards into effect. They were living in an age of anxiety because it was their success, and not their failure, that kept making matters worse.

Success made matters worse in two complementary ways. In the first place, it involved the clergy increasingly in temporal affairs. It does not take much reflection to recognize that any effort to distinguish yourself from someone else requires some form of engagement with the other. This is most obviously so in the case of a clergy determined to exercise supreme authority over society at large in order to preserve its liberty from secular interests and temporal powers. The pattern was laid down at the very beginning of the entire enterprise when Pope Gregory VII entered into his famed alliance with the Norman conquerors of Southern Italy in order to defend himself against the attacks of Emperor Henry IV. It was repeated in the alliance between the northern Italian cities with the papacy in the times of the Hohenstaufen. It continued with the bankers who supplied the papacy with the means it needed in order to finance its courts, crusades, and political undertakings. The very effort to secure the church from temporal domination, protect its innocence from profanation, and give it the liberty it needed in order to fulfill its sacred role only involved the church more deeply in political, military, and financial affairs. Liberty that cannot be defended against unwarranted attacks—by force if that should turn out to be necessary—can hardly be relied upon. What could be more obvious than that? Thus corruption did indeed enter the church. But not because the clergy changed its tune. Corruption entered the church because of the unflagging energy with which the clergy stayed the course.

One could of course maintain that the clergy should never have fought for its liberty to begin with. There are, after all, other forms of separation from the world, and other means of securing the distinction between the sacred and the profane, than those that were perfected by the high medieval clergy. But that is to cast doubt, not on the success or the sincerity of the devotion with which the clergy sought to realize the distinction between clergy and laity, but rather to contest the principle to which they were devoted. That would have meant abandoning the fight for religious liberty right from the start. The point on which I would like to insist is that the enterprise of the clergy became corrupt because of the sincerity of their devotion to liberty. Once the freedom of the clergy from profanation by matters temporal was sanctioned as fundamental to the right order of the world, it was only a matter of time before the attempt to bring the right order of the world into existence was going to involve the clergy in the very profanation they were committed to avoid. The more emphatically they insisted on maintaining their independence from the laity, the harder it became to distinguish them from lawyers, politicians, soldiers, and businessmen. Never mind that they were soldiers, lawyers, politicians, and businessmen only in order to achieve the goals to which they were devoted. The very means they were compelled to use in order to pursue their goal had the effect of putting the goal ever further out of reach.

Small wonder that, under the pressure of such impossibly contradictory forces the clergy lost its bearings. Corruption did take hold and spread even among the best. If—so they may be imagined to have reasoned in some hidden corner of their mind—my best efforts to protect the sanctity of the sacraments by fighting for the liberty of the church are only going to expose me to charges of corruption against which my best intentions are no valid defense, then why should I continue to beat my head against the wall? I would be better off without the fight for principles that earn me such a prize. Why should I then continue to struggle for religious liberty? Why not devote myself directly to the pursuit of wealth and power, instead of taking a detour past principles of which no one, myself included, can explain how they are to be reconciled with what I am in any case compelled to do? Enough! Enough about the liberty of the church. Perhaps such a thing exists somewhere. But if it exists down here, it is impossible to tell apart from secular wealth and power. Thoughts like these, one may suspect, led to the form of despondency with which Petrarch—not coincidentally both a member of the clergy and one of the founding fathers of the Renaissance—struggled in his *Secretum*.¹⁴

It is thus not the case that clerical corruption eroded the boundary between the clergy and the laity. A boundary that had never been real to begin with could hardly be eroded. What happened was rather that the very desire to perfect the boundary caused clerical corruption. The clergy turned themselves into hypocrites. They were both their own worst enemies and their own harshest critics. The gravest danger to the church came not from its enemies without, but from its friends within, from clergy and laity alike. "We are at peace with pagans, we are at peace with heretics, but we are definitely not at peace with our sons," as it was put by Bernard of Clairvaux.¹⁵ As a result the distinction between the clergy and the laity lost its ability to function. Corruption was not the cause of failure. Corruption was the consequence of success.

In the second place, success led the laity to undermine the boundary between the clergy and the laity as well. Just as the liberty of the church involved the faithful clergy in the affairs of the laity, so it involved the faithful laity in the affairs of the clergy. If the consequence of success for the clergy was that it became corrupt, the consequence for the laity was that it became heretical. In the very effort to enshrine the leadership of the clergy and to confirm the distinction between the laity and the clergy, the laity came to take on a spiritual function.

Here, too, the pattern was laid down at the very beginning of the enterprise. As R. I. Moore has shown, the first attacks on lay heretics were not at all directed against people who dissented from the goals of the church.¹⁶ The opposite is true. They were directed against people who argued more fervently for lay devotion to the sacraments than the clergy were willing to countenance. The pattern was repeated throughout the

¹⁴ Francesco Petrarca, "Secretum: Second Dialogue," in *The Renaissance*, ed. Eric Cochrane and Julius Kirshner (Chicago: University of Chicago Press, 1986), 46-68.

¹⁵ "Pax a paganis, pax ab haereticis, sed non profecto a filiis." Bernard of Clairvaux, *Super Cantica Cantorum*, Sermo 33, *Opera*, ed. J. Leclercq, C. H. Talbot, and H. M. Rochais, 8 vols. (Rome, 1957-1977), 1:244.

¹⁶ Robert Ian Moore, *The Formation of a Persecuting Society: Power and Deviance in Western Europe, 950-1250* (Oxford: Blackwell, 1987).

Middle Ages, from Peter Waldo's desire to preach the Gospel on his own via the laity of Metz that Pope Innocent III was forced to call to task for their desire to meet in private gatherings and study the Bible, on to the Franciscans, whom Innocent III was barely persuaded to accept into the church.¹⁷ The most telling examples from the late Middle Ages are probably the spiritual Franciscans and the so-called Modern Devotion, a late medieval spiritual movement on the part of laymen and women that caused endless troubles for the church, not because they were heretical, but because they were devoted.

What looked like corruption in the case of the clergy thus looked like heresy in the case of the laity. The cause of corruption and heresy was the same. Heresy and corruption both arose from the desire to perfect the boundary between the clergy and the laity. The difference in the case of the laity was that the desire arose in a different sector of society and that the vector of its direction was reversed. Lay heresy was the mirror image of clerical corruption.¹⁸

3.2.4 The Failure of Reform

Clerical involvement in temporal affairs and lay involvement in spiritual devotion thus are two complementary ways in which the border between the laity and the clergy (as well as that between men and women) was eroded. It was the very desire to make the world conform to dichotomy that caused both clerical corruption and lay heresy, both the assertion of hierarchical male privilege and its subversion by female spirituality.

It was the same desire that caused the failure of all late medieval movements of reform. Their failure can certainly not be attributed to any lack of energy. There is perhaps no time in European history when more people devoted themselves more energetically to the task of rooting out corruption, defeating heresy, and perfecting spiritual life. The means they chose were varied. Spiritual movements by the laity like the Modern Devotion were one. Mystical contemplation was another. Reorganization of monastic orders was a third. Novel departures in the theology of the *via moderna* were a fourth. The conciliar movement was a fifth. All of them represent new levels of intensity. But all of them continued to be wedded to the same principles that had been laid down

¹⁷ See the texts assembled in Julius Kirshner and Karl F. Morrison, eds., *Medieval Europe*, University of Chicago Readings in Western Civilization, vol. 4, ed. John W. Boyer and Julius Kirshner (Chicago: University of Chicago Press, 1986).

¹⁸ I have not yet found the time to show how the growth of lay heresy and clerical corruption are related to changes in the relationship between men and women. But for the record I would like to state that the relationship is crucial. There is a sense in which the distinction between men and women is parallel to the distinction between the clergy and the laity. As the high medieval clergy sought to distinguish itself from the laity, so it sought to distinguish men from women. As the distinction between the clergy and the laity gave way, so did the distinction between men and women. The history of religion in medieval Europe is therefore impossible to grasp without accounting for the relationship between men and women. Surely much research remains to be done before we can claim to understand how the relations between men and women changed. But the research that has already been completed leaves little doubt that the role of women in spiritual affairs, and of lay women in particular, grew apace during the later Middle Ages. Nor can there be much doubt that the success of women caused much anxiety to men, particularly men placed in one of the hierarchical offices of the clergy even, indeed, perhaps especially if they were sympathetic to the spiritual activity of women. See the classic by Caroline Walker Bynum, *Holy Feast and Holy Fast: The Religious Significance of Food to Medieval Women* (Berkeley: University of California Press, 1987).

centuries before. That was the essence of reform. Hence none were able to stop the destructive logic that led from the desire for reform to the reality of heresy and corruption. Instead, they made matters worse by involving the clergy more deeply in the lives of the laity and the laity more deeply in the affairs of the clergy. Thus William of Ockham, a spiritual Franciscan, found himself battling the papacy in favor of an excommunicated emperor. Thus Meister Eckhart, a Dominican, ventured onto heretical terrain. Thus Joan of Arc, a girl whom the Archangel Michael called to save France, was burned at the stake.

3.2.5 Anxiety and Terror

The anxiety so commonly attributed to the later Middle Ages can thus be given an explanation in keeping with its interpretation by psychologists as a condition in which a powerful internal conflict between opposing forces has not been brought to consciousness.¹⁹ The fear of eternal hell and damnation so commonly singled out as one of the features of the later Middle Ages must not be confused with the cause of that anxiety. It was only a symptom for a cause that lay beyond the reach of consciousness and found equally symptomatic expression in the extremes of spiritual love for which there is such abundant documentation in late medieval Europe. Nor does it seem appropriate to attribute the anxiety of the laity to mere indoctrination by the clergy.²⁰ Those explanations fall too short. They do not manage to elucidate the conflict between two contradictory desires in which the laity and the clergy were equally involved and of which both were equally unconscious: the conflict between the desire to maintain the distinction between the laity and the clergy and the desire to maintain the distinction between the sacred and the profane. They wanted both. But they could only have one at the expense of the other.

If there is anything that the history of the preceding centuries ought to have taught the inhabitants of medieval Europe, it is that no living human being can be entirely exempt from commerce with profane affairs, and none can be entirely excluded from sacred functions. It was a grand idea to call for the liberty of the clergy in order to secure the sacred from contamination with the profane. It seemed to work for quite some time. But in the end it had the opposite effect. The liberty the clergy won for itself proved in the end that the desire of human beings to make the world conform to the will of God is nothing more than that: human desire. So long as it had seemed to work, it could with reason be regarded as an expression of the will of God. But once its success began to have the unanticipated consequence of corrupting the very principle for whose sake it had at first been undertaken, there was no longer any reason to view it as the will of God.

¹⁹ Needless to say, anxiety is a subject on which there is a huge body of literature. The classics are Søren Kierkegaard, *The Concept of Anxiety: A Simple Psychologically Orienting Deliberation on the Dogmatic Issue of Hereditary Sin*, ed. Reidar Thomte, trans. Reidar Thomte (Princeton: Princeton University Press, 1980) and Sigmund Freud, *Inhibitions, Symptoms, and Anxiety*, ed. James Strachey, trans. Alix Strachey (New York: Norton, 1989). For an informative survey see Rollo May, *The Meaning of Anxiety*, Rev. ed. (New York: Norton, 1996).

²⁰ This strikes me as a central conceptual weakness of the otherwise excellent book by Jean Delumeau, *Sin and Fear: The Emergence of a Western Guilt Culture, 13th - 18th Centuries*, trans. Eric Nicholson (New York: St. Martin's, 1990).

Rousseau was right: a people can only gain their liberty once. Once it is lost, it cannot be regained.²¹ There opened an abyss in the foundations of the medieval world, and vertigo took over. Liberty was lost indeed. But the desire to recover it continued unabated. Thus anxiety turned into terror.

The best example for terror in the late Middle Ages was furnished by the Hussite wars. The Hussites were no ordinary heretics. There were perhaps some points of theology on which one might have challenged, and did challenge, their orthodoxy. What made them frightening, however, was not their deviation from the faith, but the lengths to which they went in practicing its demands. For in the first place the Hussites demanded that one of the most important symbols of the distinction between the laity and the clergy be undone. That symbol was the practice according to which the laity were entitled only to one of the two forms under which the Eucharist was presented, namely, the bread. Drinking the wine was the exclusive privilege of the clergy. The Hussites insisted on the right of the laity to drink the wine as well. Their demand shows very nicely how firmly the laity had come to believe in the sanctity of the sacraments that had been preached to them by the clergy since they were first converted to Christianity in the early Middle Ages. But it shows also that the very strength of their faith led them to erode the boundary by which the clergy sought to keep itself distinct from the laity.

In the second place the Hussites were willing to pursue their cause with military force. I can think of no better word than terror to describe the effect the Hussite wars had on the late medieval European mind. Here were a people who challenged one of the central symbols of medieval order, did so with military force, and did so with the very same combination of energy, faith, and good conscience with which the orthodox had first set out to reorganize the world. The Hussites were different from medieval Cathars. The Cathars had adopted an alternative theology in which the sacraments were seen as machinations of the devil with which to consign the laity to eternal damnation. They had been powerful opponents of the orthodox, but they had never managed to gain the allegiance of more than a sector of the church that was too small for victory. Hence they succumbed to force. The Hussites, by contrast, embraced the theology of the church. Their heresy was not so much that they opposed the teaching of the church. Their heresy was wanting more of it, and wanting it without compromise. They turned to military force with the good conscience of the believer who demands more holiness from the pope than any pope can offer. Here the entire enterprise that had been started by Pope Gregory VII was confronted with its own alter ego, whose justice it could not deny but at the price of denying the justice of its own undertaking.

3.2.6 From Reform to Reformation: The End of the Middle Ages

There were, in principle, two ways in which the anxiety troubling the late medieval world could have been cast off. One was to recognize that the desire to maintain the distinction between the sacred and the profane is but human, all-too-human and to abandon all attempts to make it the foundation of society. There are some indications that such wisdom was not far from the minds of some contemporaries. Among them I would

²¹ "Free people, be mindful of this maxim: 'Liberty may be gained, but can never be recovered.'" Jean-Jacques Rousseau, *The Social Contract*, bk. 2, chap. 8, here quoted from http://www.constitution.org/jjr/socon_02.htm (14 January 2004 at 4:14 PM, EST).

count Nicholas of Cusa, whose philosophy of learned ignorance and the coincidence of opposites seems quite directly meant to defuse the conflict between two contradictory tendencies by showing that the contradiction merely exists in the mind of human beings, not in the mind of God. Perhaps one might add the mixture of determination and resignation with which the Renaissance papacy, once it had managed to regain control over a church that seemed for a moment to fall into the hands of its conciliar opponents, devoted itself to maintaining its authority by political and military means. Perhaps one may even count Machiavelli—old Nick himself—among the people who recognized the futility of human attempts to separate the human from the beast and Christian spirituality from arts of war and politics. But in the long run these were not solutions that captured the allegiance of the people.

The other way by which anxiety could be cast off was not to give up on the task of making the world conform to the distinction between the sacred and the profane at all, but rather to redraw the line in a new place. If that were possible to do, it was not going to be necessary to resign oneself to the more modest goals of doing human work and stooping to the dirt of daily life. One could return to purity and continue to devote oneself as firmly to the work of God as the Gregorian reformers had done in the eleventh century. But one no longer needed to devote oneself to what the Gregorian reformers had thought the work of God to be: the distinction between the clergy and the laity. One could dismiss that formulation of the program to make the world conform to the will of God as a false start or an infernal error. One could make a new start by pointing out another place where the line between the sacred and the profane ought really to be drawn and then devote oneself to that.

This was, in essence, the solution proposed by the Protestant Reformation, in all of its varieties. This is what distinguishes the Reformation from late medieval movements of reform in a profoundly paradoxical conjunction of continuity with innovation that alone was capable of solving the late medieval paradox of corruption resulting even from the best intentions. A paradox requires another paradox to be resolved. The reformers continued to insist that there was no salvation for society without the distinction between the sacred and the profane. In that regard they shared the views of Pope Gregory VII. But the reformers replaced the distinction between the clergy and the laity with an alternative: the distinction between faith and works.

It is no accident that Luther proposed the new distinction with the most startling clarity. As a member of a particularly stringent monastic order—the Augustinian Eremites—Luther was particularly firmly devoted to the sacred task as it had been defined five hundred years before, and therefore particularly well qualified to cut through the logic of the Gregorian church in order to replace it with a logic of his own—or more precisely, with a new application of the same logic that had seduced the Gregorians. Nor is it coincidental that Luther lived in Germany. Germany had resisted the medieval separation of church and state more stubbornly than Italy, France, or England when it was first proposed. In Germany the nobility exercised blatant control over the clergy and clerical wealth. A famous detail is that candidates for canonries at the cathedral of Strasbourg needed to prove that they had sixteen noble ancestors in order to be considered eligible for the post. Germany furnished the largest and most inviting target for reform when the late medieval passion for perfecting social order crested.

Thus Luther was entirely like the Gregorians in his desire for a clean separation of the sacred from the profane. The difference was that he regarded the attempt to achieve such separation by distinguishing the clergy from the laity as bound to fail. He demolished the medieval understanding of liberty with an assault of unparalleled rhetorical and logical ferocity, and he replaced it with the distinction between faith and works. The distinction between faith and works was, of course, by no means new. But never before had it been given the fundamental place to which it was assigned by Luther, and never before had it been turned into a weapon designed, not to confirm, but to destroy the distinction between the clergy and the laity.

What Luther accomplished, in other words, was that he found a way to restart the sacred enterprise by changing its foundation. Because he gave up on the distinction between clergy and laity as the most elementary means to protect the sacred from the profane, he gave permission to the clergy to involve itself in secular affairs, get married, have children, leave the monasteries and so on, and also gave permission to the laity to engage itself in spiritual pursuits. What in the later Middle Ages seemed forms of corruption from which there was no escape was suddenly transformed into praiseworthy forms of life. The need to divide the clergy from the laity was gone, and with it the anxiety to which that need had given rise. Henceforth the central task of European society was to protect the boundary between the sacred and the profane by keeping faith distinct from works and making a whole series of parallel distinctions—between culture and nature, private and public, self and other, morality and law, history and science, mind and matter, men and women—all of which were aimed at the same sacred goal.

Admittedly it took a while before the task was clear. The new manner in which the distinction between the sacred and the profane was going to be guarded surely did never take the form that Luther or, for that matter, Calvin, Zwingli, or other reformers had intended. Luther himself retrenched as soon as he realized exactly what it meant to abandon the liberty of the clergy and therefore the ability of the clergy to exercise political control over the laity. The terror first mooted by the Hussites spread and turned into religious wars engulfing Europe from one end to the other. It took a century of violence and more before the new distinction was accepted. And even then the old distinction was not entirely forsaken. Today the clergy is still alive and well, and it continues to fulfill a role that is not altogether easy to square with the logic of the modern world. There never was a single formulation of the new principles to which all Europeans could possibly have subscribed. Perhaps John Locke's *Letter Concerning Toleration* and John Stuart Mill's *On Liberty* come close to canonical standing. But both of them have always had their rivals.

Exactly how to draw the distinction between the sacred and the profane was therefore never any clearer in modern times than it had been in medieval times. Hence, over time, the same anxieties that seemed to have been banished were bound to return in forms perhaps still harder to resolve. But, like the distinction between the clergy and the laity that had served medieval Europe well in the eleventh century, when no one had yet tried to put it into actual effect, the line dividing the public from the private sphere served early modern Europe well because it, too, had not yet been put into effect—or rather seemed to have been put into effect just once before, in classical antiquity, with limited success. There seemed to be no reason not to try drawing it once again, nor was it a foregone conclusion that moderns were doomed to fail where ancients had failed so long

ago. On the contrary, perhaps the moderns would turn out to be able, in the light of science and nature, to emancipate themselves, not only from clerical corruption, but also from the burdens under which ancient republics had declined and fallen. Thus Europe decided for a second time that it was going to impose the right order on the world, and did so with the same combination of certainty, vigor, and determination that once inspired Pope Gregory VII and his followers. Thus the Middle Ages ended.

4 The Modern World

This paper argues that we are facing a crisis in the religion that has governed the modern world. It thus departs from the conventional wisdom according to which the modern world became increasingly secular, and only the medieval world was firmly bound to religion. I do not in the least wish to deny that modern Europe departed from medieval ways. I do, however, wish to insist that modern innovations amount to only half the historical equation. The other half consists of a fundamental continuity. The continuity stems from the abiding human need to venerate the sacred and to distinguish it from the profane. The answers changed. The question stayed the same. Thus medieval and modern Europe each has its own characteristic form of religious faith.

In order to make this argument I have focused on religious liberty. Religious liberty serves as a useful point of reference because it is particularly closely identified with the idea that the modern world is best defined by the extent to which it has broken with medieval principles. In the preceding section I focused on medieval Europe. My purpose was twofold. First, I wanted to show that, contrary to the common wisdom, religious liberty did exist in medieval Europe. Second, I argued that the assertion of religious liberty led Europe into religious crisis.

In this section I shall focus on the modern world. I shall therefore first try to show that, contrary to the common wisdom, the modern world is founded on a religious faith quite like the medieval one. It has its own modern dogmas and its own modern sacraments, and it imposes equally strict limits on religious liberty as medieval Europe did. Second, I shall examine how the assertion of religious faith in its modern form led into a religious crisis analogous to the crisis that shook late medieval Europe.

4.1 The Character of Modern Religion

Religious liberty in the modern world does not simply amount to an abolition of the limits imposed on religious liberty in medieval Europe. It rather is the modern answer to the same basic problem: how to secure the boundary between the sacred and the profane. Like its medieval predecessor, modern religious liberty is founded on a certain kind of faith. Like its predecessor, that faith imposes definite limits on liberty. In order to recognize those limits and the faith by which they are defined, it is essential to distinguish between two different aspects of the consensus that took shape in the aftermath of the religious wars. One of those aspects is that religious liberty was taken out of the hands of the clergy and bestowed on every member of the community. The other is that a new form of religion was put in place.

The first of these two aspects is familiar, a staple of textbooks on European history. The clergy were deprived of the public authority with which they had been endowed in medieval Europe. They were turned into the heads of private organizations whose charitable deeds could earn them exemption from taxation, but no special voice in

government and no monopoly on sanctity. Religious liberty was turned from the possession of a restricted group of people into the right of everyone. All citizens were equally considered able to have access to spirituality. All, therefore, were regarded as entitled to religious liberty, and the protection of their liberty became one of the noblest functions of the state, the only institution thought capable of keeping the boundary between faith and works intact, and thus the only institution entrusted with the force needed for the defense of liberty at home and abroad. Under the sovereign's protection, the subjects of the modern state would be at liberty to worship as they saw fit without fear or restraint. Where in the past a temporal power could never be regarded as legitimate unless it helped to preserve and protect, by force, if necessary, the liberty of the clergy, hereafter no temporal power could be regarded as legitimate unless it helped to preserve and protect, by force, if necessary, the freedom of its citizens to worship as they pleased, and speak their consciences without restraint. These are the kinds of changes that have long allowed us to view modern history as progress from the medieval world.

4.1.1 Modern Articles of Faith

The other aspect is less familiar and more difficult to recognize. It places limits on religious liberty and looks more like repetition than progress. It consists of the adoption of a new religious faith in the form of a renewed commitment to the distinction between the sacred and the profane. The new faith transcended the confessions because it was defined as natural, rational, and secular. It may roughly be summed up like this: all of us human beings have the same kind of material body and the same kind of rational mind. The differences dividing us are many. We come in all sorts of shapes and sizes, from different times and places. We have learned different things and we have different talents. Some of us are lucky, some are unfortunate. We also have many different ideas about religion. But those distinctions play no essential role in understanding who we are. They are matters of culture, history, and chance. They can be changed without affecting our essence. Our essence is fundamentally the same: by nature, each one of us has the same rational capacity to understand the truth, the same ability to tell right from wrong, the same kind of body, the same capacity for pleasure and for pain, the same kinds of desires, the same joy of life, and the same fear of death. Our true self, our essential being, our reality is what we are by nature. Culture and history may vary. But nature is the true universal, whether it is the universality of physics, whose laws govern the material universe, or the universality of natural law that governs the moral universe. We may hesitate to speak of God outside of church, because God's name is so embarrassingly closely identified with the confessional divisions that we have tried to overcome, but not so closely identified with the faith in nature and reason that we have put in their place. But sometimes we do let down our guard and call nature's laws divine. Quite regardless of whichever words we use to designate the sacred, our commitment to the truths we take from reason and nature abounds with the same religious fervor as the commitment confessions make to God. In short, nature unites us in a sacred community. Culture is merely the external accident by which our natural substance is given a variable shape.

John Locke put it like this:

The *State of Nature* has a Law of Nature to govern it, which obliges every one: And Reason, which is that Law, teaches all Mankind, who will but consult it, that being all

equal and independent, no one ought to harm another in his Life, Health, Liberty, or Possessions. For Men being all the Workmanship of one Omnipotent, and infinitely wise Maker; All the Servants of one Sovereign Master, sent into the World by his order and about his business, they are his Property, whose Workmanship they are, made to last during his, not one another's Pleasure. And being furnished with like Faculties, sharing all in one Community of Nature, there cannot be supposed any such *Subordination* among us, that may Authorize us to destroy one another, as if we were made for one another's uses, as the inferior ranks of Creatures are for ours.²²

Those lines make the same basic points that I just made: that nature is the foundation of society; that it is made by God; that nature is governed by a law that is identical with reason; that nature endows all human beings with liberty ("independence"); that it endows them with equality ("like Faculties"); that human beings are the property of God and that their life must therefore be held sacred; that human beings are also agents of God, sent into the world to do his business; that therefore there is such a thing as a community of nature in which all human beings are united to enjoy their life, health, liberty, and possessions equally; and that there are "inferior ranks of Creatures" over which God has appointed us to rule in the name of reason. That is the faith no one may challenge in the modern world without encountering charges of heresy.

Lest it be thought that Locke is an exception, let me give you a comparable statement from the conclusion of Kant's *Critique of Practical Reason*:

Two things fill the mind with ever new and increasing admiration and awe, the oftener and the more steadily we reflect on them: the starry heavens above and the moral law within. I have not to search for them and conjecture them as though they were veiled in darkness or were in the transcendent region beyond my horizon; I see them before me and connect them directly with the consciousness of my existence. The former begins from the place I occupy in the external world of sense, and enlarges my connection therein to an unbounded extent with worlds upon worlds and systems of systems, and moreover into limitless times of their periodic motion, its beginning and continuance. The second begins from my invisible self, my personality, and exhibits me in a world which has true infinity, but which is traceable only by the understanding, and with which I discern that I am not in a merely contingent but in a universal and necessary connection, as I am also thereby with all those visible worlds.²³

Kant's philosophy lies at the opposite extreme from Locke's, and the *Critique of Practical Reason* is a work of moral analysis about as far removed from Locke's account

²² John Locke, *The Second Treatise of Government*, c. 2, par. 6, in *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), 271.

²³ Immanuel Kant, *Critique of Practical Reason*, trans. Thomas Kingsmill Abbott, quoted from http://www.4literature.net/Immanuel_Kant/Critique_of_Practical_Reason/47.html and [48.html](http://www.4literature.net/Immanuel_Kant/Critique_of_Practical_Reason/48.html) on 30 January 2004, 1:48 PM EST. Kant continues, "The former view of a countless multitude of worlds annihilates as it were my importance as an animal creature, which after it has been for a short time provided with vital power, one knows not how, must again give back the matter of which it was formed to the planet it inhabits (a mere speck in the universe). The second, on the contrary, infinitely elevates my worth as an intelligence by my personality, in which the moral law reveals to me a life independent of animality and even of the whole sensible world, at least so far as may be inferred from the destination assigned to my existence by this law, a destination not restricted to conditions and limits of this life, but reaching into the infinite."

of civil society in the *Second Treatise of Government* as can be imagined. Here Kant does not have anything to say about property and society, nor does he speak of men sent into the world by God to do his business. And yet, in spite of different terms and meanings, Kant testifies if anything with even greater eloquence to the faith uniting the modern world: that nature and reason are divine.

The fundamental task of a society that has this kind of faith is to assure that cultural differences will not be allowed override our natural equality. The reason why we grant religious liberty is, therefore, not that we no longer have a faith we share. It rather is that our faith commands us to seek our identity from nature and to deny to the cultural differences dividing us the power to destroy the natural community in which all of us enjoy the same rights. As the medieval clergy made sure that all Christians received the same sacred sacraments, regardless of the rank and order they occupied in the social hierarchy, so the modern state makes sure that all human beings may exercise their reason and their natural rights, regardless of whatever distinctive cultural characteristics they may have. The reason why we separate church from state is that combining them would be to grant a monopoly on the sacred to one church at the expense of others and thus destroy the natural equality that our states are set up to protect. Religious differences can be allowed, but only so long as they do not break out of the sphere of culture. The moment they conflict with nature's sacred truths, they are to be restrained. Whenever culture or history manage to venture onto the terrain of reason and nature, a sacred boundary has been crossed, and a religious terror rises.

The freedom to choose between the confessions therefore goes hand in hand with strict injunctions to obey the limits drawn by conscience and nature. In medieval Europe religious liberty was vouchsafed to the clergy only in compensation for the clergy's disengagement from commerce with money, blood, and power. In the modern world religious liberty is vouchsafed to everybody's conscience in compensation for the same disengagement, now no longer the mark of distinction for a particular estate, but the responsibility of every full participant in the community. Conscience furnishes a place of entry for the sacred into the world. Free speech is a sacramental sign by which the presence of the sacred can be signified. Conscience must therefore be protected from profanation, regardless of whether profanation takes the form of the illegitimate irruption of physical force into the sphere of free speech or the form of conscience's own willingness to yield to the insidious temptations of profit and power. Both cross the sacred line. Both are ruled out by prohibitions that enjoy religious force. As the medieval clergy was obliged not to embroil itself in usury and the punishment of crime, so the modern soul is obliged not to embroil itself in the pursuit of profit for profit's sake or in the exercise of force for personal advantage. The medieval clergy was not allowed to marry, so that its sacred functions could never be contaminated by the desire to benefit their children. For the same reason the modern conscience must never bend the truth for personal advantage or exercise public power for the sake of private advantages.

"Religious faith," of course, is not what these beliefs are called, or what they were called when they were introduced. They are called natural, rational, and secular. When we speak of religious faith, we do not mean these principles. We rather mean the kind of faith that is demanded by any of the many churches existing in competition with each other in the modern world. Such linguistic usage is entirely legitimate. Reserving the label "religious faith" for the traditional religions helps to avoid confusing the modern

faith with what was called religion in the past. But it is also a source of much confusion. It obscures the fundamental fact that the modern world is no less governed by religion than medieval Europe was. It is religion of a different kind. It offers a different kind of salvation from that offered in medieval Christianity. It rests on different articles of faith and practices different sacraments. But it rests on the same distinction between the sacred and the profane, and worships with the same favor. If true Catholicism means—to quote a famous definition by Saint Vincent of Lérins—a firm adherence to "what is believed everywhere, at all times, and by all,"²⁴ then the belief in science and the equality of human beings has a much better right to be called Catholic than the dogmatic propositions taught in Rome. In our world the true word of God is revealed to reason and it is read in the book of nature. That it is found outside of books written by human hands and that it manifests itself in mathematically formulated laws and universal rights makes it, if anything, more of a revelation.

"Secularization" is therefore a fundamentally misleading characterization of modern history. "Secularization" focuses attention on the degree to which the sacred has disappeared from traditional religion. But that is only half the story. The other half is that the sacred has moved into a new domain in which it claims the same sort of universal truth that used to be ascribed to the traditional religions. The God of medieval Christianity went away, but only to reappear as the God of nature. The laws the medieval clergy imposed on the medieval laity were overturned, but only to make room for natural law and natural rights—the God, the law, and the nature that figure so prominently in the opening lines of the Declaration of Independence and justly inspire the same veneration that canon law inspired in the Middle Ages.²⁵ Never mind the certainty with which modern believers insist on calling their religion natural, rational, and secular. Their certainty could not possibly fulfill its fundamental role if it were not sustained by the sanctity of nature and nature's God. It does not rest on reason or experiment. It rests on unadulterated faith.

4.1.2 Modern Sacraments

New sacraments were therefore put in place as well to serve as visible signs of the invisible grace endowing our material bodies with the ability to grasp and speak the sacred truth. In medieval Europe the word of God was thought to be incarnate in God's son. God's son was present in the flesh and blood of the Eucharist that none but priests in holy orders were qualified to administer. Religious liberty was therefore centered on the clergy. Only the clergy were qualified to speak the sacred truth—in Latin. Any constraint upon the freedom of the priest amounted to a constraint upon the freedom of the Word of God. In the aftermath of the Reformation those principles lost credibility—never entirely,

²⁴ "In ipsa item Catholica Ecclesia magnopere curandum est ut id teneamus quod ubique, quod semper, quod ab omnibus creditum est." Vincentius Lirinensis, *Duo Commonitoria*, Patrologia latina, vol. 50, ed. J. P. Migne (Paris: Migne, 1846), 640.

²⁵ "When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation."

but enough so that they could no longer serve to bind the whole of society together. The sacraments that clerics were able to perform were, like religious worship itself, relegated to the sphere of private life where they bound some, and bound them in separate churches, but never all in the one church that mattered. The sacraments that clerics were able to dispense lost their most sacred function. But new sacraments took their place. The sacraments were redefined and placed in the hands of the modern laity, without reliance on the distinction between cleric and lay, without discrimination, and without prejudice or favor—but with a sharp insistence on the new religious (natural) order that had been put in place and with requirements for the laity to educate themselves as stringent as those imposed on the medieval clergy.

The modern Eucharist, therefore, consists of the expression of the sincere, true, honest, well-informed conviction of the speaker, in separation from all fear of force and all temptation by purely secular advantage. As the true word of God was bodily represented in the Eucharist whenever a properly ordained priest pronounced the proper words over the bread and wine, so the true word of nature is bodily represented in each human being that speaks its true mind, no matter the differences between the languages the speakers may be speaking, the clothes they may be wearing, the habits they may have been taught in their youth, and the churches where they may gather to maintain their adhesion to one or another traditional religion. So long as they are certified as natural human beings (the modern faith insists that there exist unnatural ones) and so long as they have at least learned how to read and write (the modern faith demands that you can sign your name), the truth they speak is recognized as sacred.

The modern laity performs the modern Eucharist wherever and whenever it needs to speak the truth, the whole truth, and nothing but the truth. Among the most important occasions for its performance one may mention, in no particular order, the freedom of the press, whereby the truth is investigated and reported in order to combat the corruption to which the truth is exposed by the pursuit of profit and of power; the freedom of the vote, whereby the voter chooses his or her own destiny; the freedom of the oath whereby the foreigner signifies his accession to the community; the freedom of the conscientious objector to renounce the exercise of force completely; the freedom of the charitable gift; the freedom of the scientist and the professor to seek out and to proclaim the truth without restraint and not for the sake of material advantage; the freedom of the jury to render its verdict on a case whose outcome may entail the banishment of one of their peers from the community or even banishment from life; and not least the freedom of the elected officers of government and their assistants to serve the common good without finding themselves beholden to "special interests." This list is obviously not complete. But all of the items on it take their significance from the certainty with which they may be considered safe from the effects of fear or concupiscence. They furnish the occasions on which the sacred word of God is signified to a modern "secular" community in full awareness of the sanctity of the role the laity has taken over from the clergy, in modern equivalents of medieval cathedrals. Whoever wants to challenge them rebels against the modern church.

Birth deserves mention as well. Birth takes the place of baptism in the modern world. It is the door through which a human being enters into the natural world, the most elementary condition that has to be fulfilled in order for a human being to learn to speak the truth, one of the crucial points where nature and culture meet. As baptism was the

sacrament by which a medieval human joined the community of Christians, so birth is the sacrament by which a modern human joins the community of nature. As baptism was the precondition for priestly ordination (and thus for the ability to perform the Eucharist), so birth is the precondition for rational maturity (and thus for the ability to gain full access to the exercise of natural rights). Baptism washes away the original sin that was transmitted to the infant by the parental sexual act. In the same way birth washes away the crimes of history in order to bring forth a new life that is as natural as it is innocent and pure and not to be held responsible for the misdeeds of past generations. Birth qualifies mere fetal matter for membership in the community. Birth consequently has a sacred association with citizenship. A person wishing to become a citizen of a community in which he was not born, must therefore do so by undergoing a legal ceremony tellingly called “naturalization.”

That changes the significance of natural life. The modern faith assigns a sacramental role to life that it had never had before. In medieval Europe sanctity was not attributed to life as such. What counted in medieval Europe was the sanctity of the soul—the baptized soul, the soul converted to the Christian faith that took upon itself the life of Christ and would enjoy heavenly blessings in the life to come. It was not birth but baptism and entry into the community of Christians that gave sanctity to human life. In those times it was still thought to be the case that you could gain your life by losing it. The modern faith, by contrast, declares that life itself is sacred. A special ceremony of entry into Christian life is no longer needed because Christianity has given way to nature, and birth is no longer a purely physical event. Birth has become a sacred matter, the point of transition where physics ends and humanity begins, where reason and speech—or at least the possibility of reason and speech—become incarnate. Life is held dear forever, no matter what the cost or what the medical complications. The modern faith reverses the relationship between life and salvation: today you may have to lose everything you call your own, including not only your possessions but also your mind and your dignity in order to preserve the immortal sanctity of natural life maintained indefinitely by machines.

Birth and life, of course, are not enough to make a full-fledged citizen. The full-fledged citizen enjoys a standing in the modern world that is equivalent to the standing of a priest in the medieval times. Just like a priest the citizen must be ordained. He is ordained by education. Education puts the modern laity in a position to perform the sacred rituals on which the modern world relies for its integrity, just as the ability to read and write was what allowed the medieval clerk to do the same for his parishioners. A lack of education is therefore more than a private deficit. It is a public failing. It soils the sacred rights. Only the educated citizen deserves the benefits of modern liberty, to vote, to serve on juries, to serve in public office and, not least, to teach the truth. The naturalization of alien residents is therefore conditional on their ability to pass an examination that tests their understanding of the English language and the Constitution of the United States. Schooling is not only free and universal but also compulsory—a public good. You may be free to worship or not to worship in any confessional church as you please. But you must go to school. No price is to be placed on the spirit that manifests itself in the exercise of liberty, and ignorance must never be allowed to undermine the natural reason by which all citizens attain their standing. No child may refuse to go to

school, and all parents bear a sacred obligation to give their children the opportunity to learn. For ignorance, as John of Salisbury pointed out, is the mother of all vices.²⁶

4.1.3 Modern Limits on Religious Liberty

Thus the religion of the modern world stands in a double relationship to its ancestor in the Middle Ages. On the one hand it is called secular, because it is founded on nature and natural reason, and thus entirely distinct from confessions that rest their case for the will of God on different interpretations of revelations found in sacred books. Nature and natural reason grant liberty to the confessions, but only so long as none of them deny the same liberty to any of the others, and all of them bow to reason. Every inhabitant of the modern world is free to choose any confession. In that sense, there really has been progress, and progress has really led to toleration and religious liberty. Yet on the other hand religious liberty and toleration are granted only on the condition that their beneficiaries submit to the authority of the modern successor of the medieval church. On that score obedience must be as uniform as it ever was in the Middle Ages.

The double relationship in which modern religion stands to its medieval predecessor is difficult to grasp. It would be easier if, instead of having to disentangle two different forms of religion that are identical in some respects and different in others, one could simply say, there is religion there but no religion here. It would be easier, but wrong. Religion is both here and there. John Locke himself already said as much, said it clearly, and said it not coincidentally in the most famous piece he ever wrote in defense of religious liberty, the *Letter Concerning Toleration*. On the one hand, Locke draws a sharp distinction between church and state. That makes it possible for him to insist on freedom of religious worship for the former and to reserve the exercise of public force in civil matters to the latter. Here is a seemingly secular and rational distinction between the private and the public sphere. Religion seems to have lost its public force and been placed into the private sphere. Yet, on the other hand, Locke insists that toleration is not unlimited. It ends where the foundations of social order are concerned. Hence there are two complementary exceptions to the principle of toleration. One consists of atheists, which is to say, of people who believe neither that there exists a God nor that there is an afterlife in which our actions in this life are going to be punished and rewarded. The other consists of people who are convinced that their religious belief entitles them to resist the state by force, which was not so much a thinly veiled reference to Catholics (although it was that, too) as a statement of principle about the kind of religious belief for which there could be no toleration because it crossed the line from private into public affairs. Here an apparently secular and rational distinction serves to sanction the use of force against certain religious views.

Those exceptions may seem strange to people who believe that atheism and Catholicism are essentially no different from any other kind of religious belief. Yet to Locke they clearly were. James Tully, in the introduction to his edition of the *Letter*,

²⁶ "And ignorance is rightfully the mother of vice because it is never so sterile that it does not provide a hateful harvest of wretched objects." John of Salisbury, *Policraticus*, trans. Cary J. Nederman, 16.

explains succinctly why.²⁷ Atheists were people who could not be trusted at all—in the same way, I would say, in which we would find it impossible to trust people who have no conscience. You are entitled to believe whatever you like. But you are not entitled not to believe at all. Thus atheism stands for something quite different from a certain type of conventional religious faith. It stands for people who have no belief in anything at all. From Locke's perspective atheism was something different from any one of the confessions. It was a direct assault on the foundations of society as defined by the faith in the reality of conscience and the distinction between the public and the private sphere. Therefore it could not be allowed.

Catholics were the direct opposite of atheists: they had a certain faith. They had a conscience too. The trouble was that their conscience was not content with limiting itself to its allotted sphere. Their conscience claimed public authority. Catholics owed their allegiance to the pope, and they believed that it was right for them to act as the pope demanded, even if he asked them to break the law of their civil community. Atheists could not be trusted at all, because they denied the reality of conscience. Catholics could be trusted, but only in one respect, namely that they would violate the boundary dividing the private from the public sphere. Both undermined all social order. Neither accepted the validity of the distinction between the private and the public sphere. Neither, therefore, was entitled to toleration, and both were justly restrained by public force.

Locke's account is well designed to clarify that toleration and freedom of religion are not, in fact, simply a matter of secular rationality. It shows that toleration and freedom of religion are themselves a matter of (modern) religion. They are the direct result of the transferal of sanctity from the high medieval clergy to the modern laity, and they are sanctioned with the modern equivalents of medieval sacraments. They are sustained by a religious faith in the sanctity of the individual conscience and the imperative to keep the conscience distinct from commerce with profane affairs. Religious liberty in modern times does stand in opposition to the ideas that governed the high medieval church. But it can do so only because it embodies a renewal of the high medieval commitment to religious sanctity. The modern world differs from the medieval world in that it has a new understanding of where the sacred can be found. But it shares with the medieval world an absolute commitment to the true faith. It tolerates religious diversity only so long as such diversity does not conflict with its own understanding of what is sacred. And it combats whatever faith denies the reality of the distinction between the private and the public sphere. On that score, religious liberty does not exist. Modern believers in toleration and religious liberty are as committed to maintaining the truth of their faith as medieval clerics were committed to maintaining the superiority of the clergy. Locke said as much himself, in the first sentence of the *Letter*, when he called toleration the mark of, not a well governed state, but "the true Church."²⁸

²⁷ John Locke, *A Letter Concerning Toleration*, ed. James Tully (Indianapolis: Hackett Publishing Company, 1983).

²⁸ "Since you are pleased to enquire what are my thoughts about the mutual toleration of Christians in their different professions of religion, I must needs answer you freely that I esteem that toleration to be the chief characteristic mark of the true Church." *Letter Concerning Toleration*, http://www.4literature.net/John_Locke/Toleration (22 January 2004 at 1:08 PM, EST).

4.2 The History of Modern Religion

A brief sketch of the history of the modern world from the perspective taken here will show that modern history followed a course not unlike that taken by medieval Europe. The distinction between the public and the private sphere took hold in the aftermath of the religious wars. It could not have taken hold had a century and more of religious war not eroded the ability of the distinction between the clergy and the laity to safeguard the sanctity of the sacred. But in the end the violence convinced victims as well as perpetrators that no consensus could be reached among Catholics, Lutherans, Calvinists, and any of the many other confessional groups that kept growing in number and diversity throughout early modern times. The attempt to achieve confessional consensus was abandoned and a new religion was laid down on the foundation of the distinction between the public and the private sphere. Thus Europe regained the certainty, the courage of conviction, and the proud faith that it had once upon a time drawn from the distinction between the clergy and the laity, but then had lost during the later Middle Ages.

4.2.1 From Optimism to Anxiety

What happened in the two centuries or so that followed was an enormous cultural, industrial, and political efflorescence. It was as though a nightmare had lifted. The doubts were gone or silenced. The new distinctions that had been put in place endowed their devotees with just the same good conscience and the same successful and creative display of energy that had once enabled people like Saint Bernard of Clairvaux, Pope Innocent III, Saint Louis of France, and Saint Thomas Aquinas to make the medieval world safe for Christianity. The clarity of the relationship between the individual and society allowed genius to flourish seemingly without effort. Wherever you look, you can observe the new distinctions achieving clarification and deepening their hold on the European mind. This was the great age of philosophic systems, from Descartes and Locke via Leibniz and Spinoza to David Hume and Immanuel Kant. Modern political philosophy rose from the writings of Jean Bodin, Hugo Grotius, Thomas Hobbes, John Locke (again), Samuel von Pufendorf, Montesquieu, and not least Jean-Jacques Rousseau. It was a great age of legislation, whether you mean the civil laws of domestic affairs, the international laws governing relations between states, the laws of harmony supposed to govern musical composition, the laws of mechanics Newton found to govern the motion of material bodies, the laws of the economy that Adam Smith laid down in his classic treatise, or the moral laws that Hume and Kant debated. Old customs fell into disuse like so many old clothes and new customs were rapidly being put into place, all in the name of reason, enlightenment, and nature. Scales seemed to be falling from the eyes of anyone who cared to look.

As the twelfth and thirteenth centuries may be regarded as the classic age of high medieval civilization, so the seventeenth and eighteenth centuries may be regarded as the classic age of the modern world, the age of reason and enlightenment. The goals were clear. The feudal system needed to be overturned—and it may be worth mentioning that it only came to be known as "the feudal system" during the seventeenth and eighteenth centuries, because it was only then that the distinction between the private and the public sphere made it possible to understand the medieval world as a world of ranks and orders contrasting unfavorably with the equality demanded by the modern world. All ranks and

orders needed to be abolished or at least subordinated to the logic of liberty and equality. Outdated privileges enjoyed by the clergy and the nobility had to be taken away, if necessary by revolution and the formal abolition of the "feudal regime," as in the case of France. The power of the church needed to be restrained. The property of the church needed to be redistributed and integrated into the modern state, whether by sale, secularization, or by some other means. The Jesuits were banned from several countries. The papacy's annulment of the Peace of Westphalia was ignored. New constitutions needed to be written and put into effect. New law codes needed to be published and equality before the law needed to be imposed on all. The rights of men and citizens needed to be declared. The theorems that followed from the axioms of a free society needed to be thought through, articulated, and turned into coherent systems. Torture needed to be abolished. The people needed to be taught. Power needed to be transferred to the sovereign state, so that it could protect its subjects from the intolerance of foreign and domestic enemies. Feudal knights and noble lords needed to be brought to heel and peasants were to be turned into the loyal soldiers of modern standing armies willing to do their civic duty as defenders of their fatherland. In short, there was a lot to do.

Around the time of Napoleon, the tide began to turn as it had once upon a time turned at the beginning of the fourteenth century, during the days of Pope Boniface VIII. It turned not at all because the inhabitants of Europe abandoned their attempts to make the world conform to nature but, quite on the contrary, because of their determination and continuing success. The enemy had been defeated. The last Holy Roman Emperor had abdicated from his throne, the papacy had made peace with Napoleon, and the feudal regime was gone. Victory was complete. The great age of new discoveries in the art of legislation was over (just as the great age of canon law ended with the completion of the *Corpus Iuris Canonici* in the early fourteenth century). The task was now no longer to elaborate the goal. The goal had been codified. The task was to reap the fruits of victory. But the fruits proved elusive. Just as the success of the medieval church in gaining adherence to the distinction between the clergy and the laity led late medieval society into a paradox from which it could find no escape, so did the success with which the modern West committed itself to the distinction between the public and the private sphere.

On the one hand, the project of bringing liberty and equality to the work continued without a break. It has not ended yet. New states are still forming across the globe and taking up the principles that were laid down in early modern Europe first. Old regimes continue to be abolished all over the world in order to be replaced with representative democracy and secular administrations. Human rights organizations and the United Nations are spreading the gospel of equal rights and peace between all nations. Science continues to improve our understanding of the physical universe, technology continues to improve our ability to put the forces of nature at our command, medicine is continuing to improve our health and to prolong our lives. The economy is continuing to increase our wealth. And religious liberty is spreading at the expense of traditional religious claims on universal truth and unconditional obedience.

Yet, on the other hand, the great age of legislation has for at least two centuries been giving way to a great age of criticism, doubt, and anxiety. Ever since Napoleon marched into Italy, Germany, Spain, and Russia, liberty, equality, and fraternity have become difficult to tell apart from military conquest and imperial expansion. The atom bomb and cloning are raising doubts about the benefits of science. Pollution, hunger, and

tropical deforestation are casting doubt on the ability of the economy to make us prosperous. And traditional forms of religion increasingly assert their opposition to secular society. The principles on which we rest our modern case have never been replaced. But they no longer inspire the confidence they did when they were first advanced five hundred years or so ago. Now we are faced with problems that we find difficult to solve and cannot solve until we realize that they are problems of our very own design.

4.2.2 The Dangers of Success

First signs of trouble emerged in the Romantic movement. In the writings of Rousseau nature was for the first time turned into the enemy of society, and society subjected to a withering critique that came from within the logic of the modern faith. In Goethe's early work enlightened reason stood powerless before the suicide of Werther. Kant is not well characterized as a romantic. Yet he played a crucial role in the great turn from modern to postmodern thought.²⁹ On the one hand, in an astonishingly brilliant display of critical reasoning he proved that natural science could not grasp the reality of things as they were in themselves, but only their phenomenal appearance. That shook the faith in science. On the other hand, he severed the conjunction between morality and natural law that had seemed safe in the Enlightenment. That shook the faith in law. With Kant, European history took a decisive turn from the assertion to the critique of reason. From there it was but one short step to the unlimited desire for self-identification with the universe that permeates the various idealisms of Fichte, Hegel, Schelling, and Novalis. Romanticism posed the first systematic threat to the distinction between the public and the private sphere.

Thereafter the threats began to multiply. Wherever you look in the nineteenth and twentieth centuries, you can find evidence for the increasing difficulties Europeans faced in trying to convince themselves that the distinction between the private and the public sphere would hold. Take John Stuart Mill's anguished attempt to preserve the originality of the individual from the tyranny of social conformity. His work amounts to one of the most brilliant expositions of the foundations on which the modern world was built, and at the same time one of the most urgent expressions of the fear that those foundations were under assault from within the modern enterprise itself. Take any of the authors who focused on the so-called social question. Whether or not they agreed with Marx's radical conclusions, they recognized that equality before the law did not suffice in a world in which the very pursuit of profit in the private sphere led to extremes of wealth and poverty that could not but have political effect. Throughout the nineteenth century, both in the world of industrialization and in the world of slavery, private property proved far more difficult to reconcile with equality than had seemed possible to Locke. The same was true in the arena of international relations. The confidence of Europe's early modern expansion turned into colonial oppression and imperial competition between sovereign states fighting each other for their place in the sun with no more regard for liberty and

²⁹ I agree fully with the contention of Robert B. Pippin, *Modernism as a Philosophical Problem: On the Dissatisfactions of European High Culture*, 2nd ed. (Oxford: Blackwell, 1999), that contemporary postmodernism merely represents the most recent formulation of a problem that has been fundamental to modern thought since Kant first presented it.

equality than owners of factories and plantations had for the prosperity of workers and slaves in the national economy.

Perhaps the unsettling discoveries made in the sciences did most to shake the confidence that Europe was on a divinely sanctioned mission. Darwin's account appeared to show that human reason was nothing more than an evolutionary adaptation, the epiphenomenal result of an entirely mechanical process driven by accidental variations and the survival of the fittest. The theory of evolution seemed to leave very little room for any kind of culture that could not be accounted for in terms of biology. Culture became a dependent variable in the evolutionary calculus. Traditional religious faith in the divine creation of human beings was flatly contradicted, and modern religious faith in the autonomy of the self was sapped at the root. Nietzsche and Freud went on to reveal the animal and the unconscious drives beneath the civilized human exterior. Thereafter culture could be regarded a symptom for some malady resulting from a repression of natural desires—an evolutionary mis-adaptation likely to make the species unfit for survival. By the late nineteenth century classical physics itself was running into trouble. By the time of Einstein, Planck, and Heisenberg the very concept of nature as a stable foundation of the physical universe appeared to have been replaced with relativity, uncertainty, and fundamentally incompatible accounts of physical reality. The days when culture could be reconciled with nature without challenging the very possibility of the distinction between the two were gone. Nature and culture now looked like mortal enemies.

What followed was the self-destruction of Europe in two world wars that echo the self-destruction of late medieval Europe during the age of the Hundred Years War, the plague, and the Great Schism. In World War I the compact between the individual and the state broke down. Henceforth the individual was no longer able to trust in the safety of the private sphere, and the state no longer able to guarantee that the defense of liberty would not turn into international catastrophe. World War I made a sham of the promises on which the people had been raised. Now the people could no longer trust either the state or themselves. Doubts about the relationship between the individual and society had long been growing. So far they had been a matter of speculation for intellectuals, critics, and activists. In the aftermath of World War I they were on the mind of entire populations. The dominant consensus was in ruins. The question was: if the distinction between the private and the public sphere could not be trusted, then what could? If nature and culture were at war, who could bring peace, and how?

4.2.3 Two Modern Heresies

An answer was immediately proposed in the form of two great modern heresies: racism as practiced in the German extermination camps, and communism as practiced in the Gulag. Of course, National Socialism and Communism were utterly opposed to each other. But they were identical in one respect: both shared a deep contempt for the distinction between the public and the private sphere. Both sought to abolish that distinction altogether, without replacing it with an alternative. It was this common purpose that earned them the designation as totalitarian and that allowed them, on occasion, to make common cause against representatives of the modern faith that they despised. The difference was that their allegiance went in opposite directions.

For National Socialism it was nature—interpreted as a perpetual battle among the races for domination of the globe—that was to furnish the point of departure for transcending the boundaries between states and individuals. Up to this point physical differences among the members of the species were not supposed to have political significance—and if they did, as was the case with African slaves, children, women, and many other groups of people, it constituted an embarrassment that needed some explanation in terms of property rights, reason, education, the structure of the family and so on. Now the embarrassment became the point of principle. By subjugating all public and private order to the commands of nature, and turning the struggle for survival among competing species into the governing principle of politics, weak races were supposed to be rooted out until only one race was left to enjoy the fruits of conquering the globe. Thus nature, far from serving as a foundation of equality, was turned into a principle of hierarchy. Culture, by contrast, was shunned and derided unless it could be viewed as a direct expression of nature. There were to be no more individuals. There was to be no more individualistic atomization in society. There was to be no more parliamentary democracy. There was to be no culture apart from the life of the race. There was to be but one racial community in which all individual wills were merged into the single will of its leader. This was what Hitler explicitly understood to be doing the work of God. Perhaps the deepest reason why his hostility was focused on Jews was that no other group of people in European history is more clearly defined by its commitment to a religious faith, as opposed to any kind of biological, natural, or racial form of community. From Hitler's point of view, Jews were the single most important case in which culture needed to be brought under the rule of nature.

For Communism the logic of heresy worked in the opposite direction. Here it was culture—interpreted as an unceasing battle of antagonistic classes—that was to serve as the point of departure for transcending the distinction between the private and the public sphere. According to the modern faith, differences in terms of wealth and education were not allowed to serve as the foundation of politics. Admittedly, such differences did exist and did have political effects. That was embarrassing. But, like the embarrassingly obvious political effects of differences in the realm of nature, they could be explained as temporary aberrations or the result of individual merit and individual failure. The principle was equality before the law. But Marx turned the differences between the classes into the very substance of social life. All history became the history of class struggle. All talk of nature—of natural rights and of equality before the law—became a bourgeois subterfuge to maintain its domination under the veil of false consciousness. The task of a just society was to let culture rule over nature. The task was to lead the class of laborers to victory and to destroy all other classes because only the laboring class was able to release the fully self-conscious human being from its enslavement to alienated property. Only the proletariat was qualified to build a global community in which there would no longer be any distinction between the public and the private sphere; where imperialism, colonialism, and other forms of bourgeois exploitation would vanish; and where nature was entirely at the command of the fully developed productive forces of proletarians who had succeeded in turning their class into humanity itself.

It is therefore not quite appropriate to see National Socialism and Communism as purely secular movements. Nor is it appropriate simply to see them as inspired by some kind of misguided religious faith, a hope for some kind of strange or abhorrent paradise

on earth. It is especially misleading to regard them as accidental aberrations from the main course of modern history. To treat them as aberrations is to assume the validity of the norm from which they stray. Yet it is just that norm which both of them self-consciously deny. The horror they wrought must not be allowed to obscure the truth that both grew directly out of the logic of modern history. Both were deliberate attempts to solve the central difficulty that modern society had faced since the nineteenth century and that it was no longer able to ignore after World War I. Both denied the truth of that fundamental article of the modern faith that distinguishes the subject from the object and gives political expression to the distinction by locating the individual in a private sphere and reserving politics for the public sphere. Both insisted that the distinction between the private and the public was a sham. They advanced a faith that stood in flat contradiction to the distinction between the public and the private sphere, one by treating the individual as a part of the master race, the other by treating it as a part of the universal class. Both sought to abolish the individual existence of the solitary private human being and both sought to abolish the state. National Socialism and Communism are best understood as modern heresies because they defined themselves in conscious opposition to the modern faith. Neither could tolerate the form of religious liberty that modern faith demands.

4.2.4 The Failure of Reform Revisited

The heresies have now been defeated. The Great Schism of the modern world has come to an end. The antipopes have been deposed, the church is reunited, and the faith in democracy and nature has been reaffirmed. Our Hundred Years War is over. But the comfort that can be taken from the victory of democratic states in general and the United States in particular is limited. There was a reason why National Socialism and Communism flourished. The reason is that they addressed the doubts that have beset the modern faith since the nineteenth century. Their answer was to do away with the distinction between the sacred and the profane. Their defeat confirms that no society can flourish without that distinction, and that the price for trying is human sacrifice on the grand scale. But it does not at all remove the doubts about the boundary on which the success of the modern world was built. The contrary is the case. Now that the totalitarian alternatives have been defeated, the anxiety and doubt surrounding the foundations of the modern faith are only like to increase. Now we have entered the modern equivalent of the late medieval age of reform. Reform abounds across the globe. But reform merely reduplicates the question. The boundary between the sacred and the profane does not seem to be holding tight. And modern Hussites are spreading religious terror.

From the perspective taken here, modern history thus went through a cycle quite similar to that which led the Middle Ages from the Investiture Controversy to the Reformation. Both histories began with the assertion of a dichotomy that was designed to safeguard the distinction between the sacred and the profane. The dichotomy served as a principle of social action rather than as an accurate account of social reality. The energy and optimism that first allowed Europeans to express their devotion in classic works of art, thought, and politics eventually gave way to doubt, anxiety, and terror. The turning point for each came when victory seemed complete. The desire to make the world conform to that dichotomy thus ended by proving that no such conformity is possible for human beings to achieve. In both cases the result was a paradoxical dilemma that seemed

to allow for no escape. The difference is that we can look back at the Middle Ages and see what happened next. But we do not know our future.

5 The Present and the Future

In order to gain a clear perspective on our current predicament against the backdrop of the argument as I have sketched it to this point, it may be useful to look closely at a concrete example. Abortion will serve that purpose well, because it is at once an issue of present political debate and straightforwardly connected to the fundamental issue. The question is whether abortion should be considered as a private or a public matter. If it is treated as a private matter, then the decision whether or not to abort ought to be left to the woman bearing the child. If it is treated as a public matter, the government is entitled to issue laws that limit the liberty of the woman to run her life as she sees fit. The answer depends on knowing where to draw the line.

5.1 A Test Case: Abortion

There are good reasons on both sides of the argument. The fundamental reason in favor of treating abortion as a private matter is that women ought to have no less control over their bodies than men have over their own. The fact that female bodies differ from male bodies, and that pregnancy and childbirth place burdens on women that men need never bear, ought not to be allowed to limit the right of women to control their destiny as freely as men do. It follows that a woman who wishes not to have her liberty diminished by an unwanted pregnancy should have the right to act on that wish by means of abortion. A wanted pregnancy and the childrearing duties that will follow are in and of themselves enough to place burdens on women of which it is by no means clear how well they can be reconciled with the principle of equality. To deny women the right to end an unwanted pregnancy would merely add insult to injury. Surely it would be fundamentally inequitable to limit women's control over their bodies by means of law and law enforcement if no similar limits are placed on men. Tradition and images of mothers living at home and in the kitchen ought not to be allowed to trump the God-given right of all human beings, including pregnant women, to liberty and equality. So long as the state abstains from punishing men for conduct that reduces their fertility or their ability to participate fully in the duties of raising children, it should abstain from punishing women from ending an unwanted pregnancy.

The fundamental reason in favor of treating abortion as a public matter is that it concerns not only the rights of the woman, but also the rights of the unborn child. An unborn child is a citizen in the making. As such, the unborn child enjoys, at least in principle, the same rights as everybody else. Those rights include protection from physical harm and fair treatment under the law. The fact that an unborn fetus is not capable of speaking and acting in its own behalf is no reason to ignore the lively interest it has in the question whether or not it will survive. It follows that the decision to abort must not be left to the unlimited discretion of a single human being, especially not a human being whose personal interests happen, for better or for worse, to be as deeply affected by the matter as a woman's personal interests are affected by her pregnancy. Asking a woman caught in such conflict to render an impartial judgment would be both cruel and irrational: cruel, because the woman would be asked to treat herself and her unborn child as strangers; irrational, because the outcome can hardly be impartial.

Both sides of the argument rest their case on the foundations of the modern faith. Both argue in terms of the rights of human beings to liberty and equality. Hence neither side can simply be ignored. The argument can only be resolved by drawing a line between the rights of the mother and the rights of the unborn child. The trouble is that no such line exists. The rights of the mother and those of the unborn child are just as closely intertwined as their bodies are during pregnancy. They are impossible to separate without harming one or both. The unborn child simply does not possess a private sphere in which it enjoys liberties that can be protected from interference by the mother.

Alternatively one might try to find a point where mere fetal matter can be distinguished from real human life. In that case the conflict could be resolved depending on whether or not that point is reached. Mere fetal matter could be left to the discretion of the mother, on the grounds that it does not have any rights, and real human life could be entrusted to protection by the state. Unfortunately no such point can be reliably identified. It used to be identified with birth, since birth was acknowledged to result in the appearance of a new human life. But modern medical technology makes birth a relative event. The moment at which mere fetal matter becomes medically viable is rapidly moving closer to the moment of conception, and conception can take place in a Petri dish.

Moreover, modern biology has taught us to understand the genetic code. A human being can be regarded as the result of a molecular transcription of information shared by the parents in an act of biological communication, and procreation as the process in which our bodies are reading and copying genetic texts. That makes the difference between culture and nature difficult to tell. It leaves no room for a clear line of distinction between inanimate matter and animated life. Lines can of course be drawn. But whatever line is drawn, no matter how or where, will instantly be seen to be too to afford a satisfactory reconciliation of the conflicting rights. Thus both the obligation to respect the rights of the mother and the obligation to respect the rights of the unborn child become impossible to meet.

In principle there are many ways out of this dilemma. One might, for example, simply admit that the obligation to safeguard the rights of both the mother and the unborn child is impossible to meet. In that case the debate would have to shift away from rights. It would instead be necessary to find criteria other than rights in order to decide whether or not to abort. Custom, religion, family councils, and casting lots might furnish such criteria. Perhaps it might be thought that rights do furnish the proper criterion, but that they are relative to time and circumstance, not absolute and universal. It might then be acknowledged that abortion is, in fact, a killing and the debate might turn on the circumstances under which a mother may have the right to kill her unwanted child. Or one might try considering all matter as potential life, and all life as potential matter. The distinction between life and death might be replaced with something like a hierarchy of life in which nothing is entirely dead and nothing entirely alive, but everything a little bit of both. In that case the question of abortion would no longer have the urgency it does today. It would no longer be a question of life or death. Indeed, no question would any longer be a question of life or death because the radical dichotomy between the two would either disappear completely, or at least be taken out of the hands of human beings.

I mention these possibilities, not because they are realistic (they may or may not be), but only in order to clarify the nature of the dilemma. The dilemma has two parts.

One part is that abortion constitutes a fundamental threat to the distinction between the public and the private sphere. It threatens our ability to reconcile the most fundamental rights of one human being (the mother's right to liberty) with the most fundamental rights of another (the unborn child's right to life). It is therefore impossible to ignore. The other part of the dilemma is that the questions raised by abortion are impossible to answer in terms of the distinction between the public and the private sphere (or that between human live and dead matter). So long as we start with the conviction that mother and unborn child each hold inalienable rights to equality and liberty, abortion can only be treated as an exception from the norm or an anomaly that cannot really be accounted for. So long as the debate is framed in terms of individual rights to liberty and equality, it can only lead to exceptional, anomalous, or arbitrary answers to the question posed. The only rational way to end the debate is to abandon the distinction between the public and the private sphere itself, because it is the use of this distinction that makes it impossible to find a rational solution to the problem of abortion. But dropping that distinction is precisely the one solution that is excluded from the realm of possibilities, because it is the starting point of the debate. How could it possibly be dropped? It is the reason why the debate got underway. Thus dropping it is something of a logical impossibility. There is no logically satisfying chain of reasoning that ends by disproving the truth of the premises on which it rests. It is therefore a political impossibility as well. The distinction between the public and the private sphere figures among the fundamental articles of the modern faith. Its reality cannot even be doubted, much less abandoned, without provoking fear and shaking the religious foundations of the modern polity.

Abortion thus fuels a self-destructive logic from which there appears to be no escape without changing the foundations of society. It poses a threat that cannot be ignored. A solution is proposed. Upon inspection the proposed solution turns out to violate the norm. The threat returns, now magnified. The old solution is discarded, a new one is proposed. That, too, turns out to violate the norm. That magnifies the threat again. What is to one party a legitimate attempt to safeguard the rights of the mother is to the other an illegitimate attempt to deny the rights of the unborn child. What starts out as an attempt at reason ends up by causing the very fear it is intended to avoid. So it continues in a logical loop of escalating arguments and polarizing parties that must keep feeding on itself until the distinction between public and private is dropped or displaced from the argument.

5.2 The Logic of Crisis

Since this is both a central point in my argument and a potential source of much confusion, let me restate it in somewhat different terms. One of the fundamental principles of the modern faith is that it is possible to draw a line between the private and the public sphere. What makes it fundamental is that it gives us the means by which we reconcile our liberty with our equality. All human beings are entitled to the same fundamental liberty. None are entitled to take it away from others. All are obliged to limit the exercise of their liberty to the confines of their private sphere. The moment they cross the boundary from private into public, they are obliged to bow to the laws passed by the state and the force the state employs to punish those who do not bow. Hence it is crucial to know exactly where to locate the boundary between the private and the public sphere. Unless it is located in the right place, there will be damage to one or the other of the two

great ideals to which modern societies are devoted: equality or liberty. Such damage is forbidden.

In order to reconcile our subjection to the state with our liberty we rely on representative democracy. Our vote, I have maintained above, is a modern sacrament. It is a visible sign that our liberty as free and independent agents agrees with our membership in a community of other such agents, all of whom share their subjection to the same sovereign state. The vote is the point at which the liberty the individual citizen enjoys in the private sphere is transfigured into the public power of the state. The power of the state is the incarnation of the private will in public force. The vote thus serves as the modern equivalent of transubstantiation: a sacred act by which the private conscience is transformed into a public agent entitled to draw the boundary between the public and the private sphere by means of laws and force. As Rousseau stated with memorable clarity, it is a paradox that the force of the state derives its legitimacy from the will of the same people whom it may force to obey the law against their will. But however the paradox is to be interpreted, whichever form the government may take, whatever procedures it may follow, the legitimacy of the force that limits the exercise of liberty in the public sphere depends on the freedom with which its subjects have given their individual consent. Drawing the boundary between the two is the most dangerous thing that modern men can do. Hence it is hedged about with the most sacred rituals.

These are the principles that made it possible to put an end to religious war. They have been used as a foundation for politics ever since. But they are proving impotent in the face of abortion. They dictate that the problem be solved in terms of a distinction that cannot be applied and of a vote that cannot be taken. Ideally, the fetus and the mother ought both to be consulted. If they agree with each other, the problem has been solved. If they do not, the government must intervene in order to adjudicate between the rights of the fetus and those of the unwilling mother. The trouble is that in this case the private sphere of the fetus and that of the mother coincide. They cannot be disentangled. No vote can function as a sacrament in such a case. The fetus is not qualified to vote because it has no conscience to consult; it has no proper vote to give. The woman can speak neither only for herself nor only for her baby; she speaks for both. She votes for two. She violates the rule "one man, one vote" in two ways at once: by voting as a woman and by voting for two. The sacrament is failing to reconcile the sacred with the profane.

Abortion thus puts the foundations of modern society to a crucial test. It can neither be practiced nor avoided without endangering liberty and equality, whether it is the liberty of the mother or that of the unborn child. It reveals that the distinction between the public and the private sphere works well to resolve disputes between adult males. It does not work so well when the dispute involves two individuals one of whom is not adult, the other one of whom is not male, and neither one of whom is debating with the other. Trying to decide the question of abortion in terms of individual rights to liberty and equality and the distinction between the public and the private sphere can only end up by showing that those terms are neither as neutral nor as universal as they seem. They were developed by adult males in early modern times in order to settle disputes amongst themselves that they had for a long time tried, but failed, to solve by violence. If those same terms are used to settle disputes about abortion nowadays, the result will be to prove that the liberty and equality promised by modern society cannot be extended to

women without either ignoring differences between the sexes or denying women the rights that men enjoy.

5.3 Sex, Drugs, and Speech

I have focused on abortion because it is a convenient example with which to illuminate the crisis confronting us today. I shall forego examining other examples at the same length. Yet it needs to be said that the problems posed by abortion do not exist in isolation. They are merely the result of one particularly recent attempt to verify the logic of the modern world. The logic is as old as the modern world itself, and the attempts to verify it have been continuing for centuries. The same kind of dilemma therefore manifests itself wherever people try to make the world conform to the distinction between the public and the private sphere. Far from securing the foundations of society, the distinction between the public and the private sphere now serves as a trustworthy guide to the most fundamental challenges we face.

Take sex, not in the sense of the material act of copulation, but in the sense of an elementary human need. Whether it is called love, eros, or physical desire, sex is a potent solvent of the distinction between self and other. Sex therefore poses a fundamental threat to all attempts to separate the sacred and the profane, including the distinction between the public and the private sphere. In sex reason's ability to distinguish this from that is overcome by physical emotion. The fences dividing one person from another are taken down. The asymmetry between my experience of myself and my experience of the world is put on trial. Through sex two separate individuals reproduce themselves in a child—a newborn individual whose very individuality arises from the sexual union of its progenitors, which is to say, from the surrender of their individuality to each other. Nothing is better qualified than sex to prove that we neither do nor can really exist as separate individuals. Sex militates against distinction and sex confounds our liberty. It is, therefore, the modern sin par excellence.

Attempts, of course, have long been made to root out sin by making sexuality conform to the distinction between the private and the public sphere—attempts far older than the modern world. But sex is not content to let itself be covered up by clothes, confined to the marital bed, or practiced in forms approved by rational adults. Its very nature is to cross boundaries. The effort to make sex conform to the logic of individual rights and natural equality can therefore only have the opposite result. Far from confining sex to the private sphere, it puts sex front and center on the stage of public life. Sexual difference simply does not conform to the logic of equality, regardless of whether the difference lies between men, women, gay men, lesbians, transsexuals, or any other sexual group or sexual minority. Abortion is only one specific instance of the challenge that sexual difference poses to the logic of natural rights and equality. The rights of women pose the same challenge in an older form, and the rights of sexual minorities pose it in a more recent one. Thus the decline of the traditional family, the prevalence of divorce, and the display of sexuality in public are fundamentally misinterpreted as symptoms of cultural decline. They are symptoms of the dilemmas that necessarily arise from the attempt to make the principles of the modern world prevail at any cost.

Take drugs. If sex dissolves the boundary between self and other in the context of pleasure, drugs dissolve the same boundary in the context of pain. Drugs are a means we use in order to maintain the modern self intact when pain threatens it with disintegration.

The classic modern point of view on drugs is therefore like the classic modern point of view on sex. Drugs are your private business so long as you do not harm others. If others may be harmed, the state may interfere by making you listen to the voice of reason (education) or bow to force (the war on drugs). Thus we seek to stop drugs from threatening the boundary between the private and the public realm. Yet by that very effort we only prove that the self is nakedly exposed to forces beyond the control of reason. We try not to draw that conclusion. We distinguish between pains that deserve to be treated with drugs and pains that do not. We distinguish between pain that is natural and pain that is unnatural, as well as physical pain and mental pain. We distinguish between legitimate drugs and illegitimate drugs, drugs that are dangerous and drugs that are not. And so on. Yet the reality of pain, like that of sex, is such that it refuses to obey those distinctions. The more energy we spend on keeping them in force, the more quickly we cause their corrosion.

Take speech. The freedom of the individual to express his or her views and the freedom of the press are two of the fundamental liberties of the modern world. They complement each other. By means of the press—the media as a whole—private individuals can make their voices heard in the public sphere in order, not only to inform each other of their views, but also to expose to public scrutiny any abuse of power that threatens individual rights to liberty and equality. The freedom of the press and that of individual expression lay the foundation for a vote that can be trusted to succeed in reconciling liberty with the power of government. This presupposes that individuals, the press, and government exist in some kind of isolation from each other, namely, the isolation guaranteed by the distinction between the public and the private sphere. But the reality of speech is such that, like sex and drugs, it breaks through those boundaries. Speech is meant to result in communication. Its very purpose is to transcend the boundary between the public and the private. Hence any effort to enforce the distinction between the public and the private sphere can only end up by eroding freedom of speech, and any effort to maintain freedom of speech can only end up by eroding the distinction between the public and the private sphere.

The symptoms of that erosion are plain to see. They include the public display of the most intimate aspects of private life on television and the internet; the manipulation of public opinion by marketing and spin in commerce and politics; and the effect of private wealth on political campaigns. Private speech is moving onto the public stage, and public speech is losing public force. Politicians are turning into celebrities, and celebrities are turning into politicians. Movies imitate reality, and reality imitates the movies. On the one hand television establishes the presence of the public sphere in the middle of your living room. On the other hand television broadcasts words and events from your living room to an audience of millions. The words of politicians no longer move their audience, and the words of private citizens escape from their private control. The internet merely accelerates a development that is built deeply into the logic of the modern world and goes much further back than the first time a telephone rang in someone's home because someone else had called. Free speech is turning into a commodity. It sells. And since it sells, it cannot communicate the truth. Thus the sacrament of free speech is losing its power to the same social logic that once upon a time turned papal indulgences into commercial transactions.

Whether it is sex, drugs, or speech, the pattern is the same. It begins with the assertion of a set of clear distinctions and ends with their destruction. It begins with rational assertions and ends with mutual incomprehension and the use of force. What leads from the former to the latter is the attempt to make reality conform to the distinctions. Such an attempt may well succeed for long enough to justify a certain pride in the accomplishments it gathers along the way. The history of the modern West is filled with reasons for such pride, as was the history of the high Middle Ages. But once a certain line is crossed, the same attempt must throw society into a state of confusion. Unless at that point reason steps back from the brink, it falls into an abyss from which it cannot escape on its own strength.

5.4 The Tower of Babel

Confusion used to be regarded as a sign of the wrath of God. It is the punishment the Lord is said to have inflicted on the people of Babel, because they built a tower that reached heaven. He punished them by dividing their language into many. They could no longer understand each other, left off building their tower, and were scattered across the earth.³⁰ Given the nature of our faith, we certainly no longer share the belief in the truth of that particular story. But our condition is the same. Like the people of Babel, we have tried to build a tower that reaches into heaven. Like them, we are now facing the consequences of such an attempt. The consequences consist of escalation and polarization. They erode the consensus on which society was built in early modern times. Fear, violence, and mutual incomprehension are, as it were, the natural punishment for the pride of human beings acting in the conviction that they have understood the logic of the universe.

Our condition in the present may therefore be summed up like this: on the one hand, we have no credible alternative to the distinction between the public and the private sphere, much less to the distinction between nature and culture. We still rely on nature for salvation. We are still certain that the difference between culture and nature is *real* in the same sense in which it used to be thought that the distinction between clergy and laity was real. And we are certainly unwilling to give up the benefits we have derived from science, medicine, democracy, and the wealth of nations. We are still building our tower into heaven. Yet on the other hand we find ourselves increasingly unable to determine just where the lines are to be drawn. We do not understand each other; we do not even understand ourselves. Our world abounds in the same neurotic, counter-intuitive, and paradoxical tendencies that characterized late medieval attempts to keep the boundary between the clergy and the laity intact. As late medieval clerics performing the sacrament of the Eucharist were difficult to tell apart from merchants putting the sacrament up for sale, so modern individuals speaking the truth are difficult to distinguish from people selling their vote to the highest bidder. As late medieval clerics could be forgiven for giving in to cynicism, so modern citizens and politicians can be forgiven for the same. If politicians doing their very best against all odds in service to the common good are going to be charged with corruption anyway, why should they not go out and try to reap the fruits of corruption before they have been charged? If citizens seeking to make the truth

³⁰ Genesis, 11:1-9.

prevail are only going to find their honest efforts used as grist for someone else's private advantage, why should they not resort to force?

These are the circumstances that help to explain the rise of religious fundamentalism at home and abroad. They help to understand the rise of terror, too. Religious fundamentalism and terror share a common enemy. The enemy consists of the faith in the distinction between the public and the private sphere. Both aim to undo the separation of church and state. Religious fundamentalism does so by reasserting traditional religion. It draws a "moral majority" into political affairs in order to break the boundary between morality and law. That is its fundamental challenge, regardless whether it is politely abstaining from any explicitly confessional identification, less politely attacking reason and science in the name of the Bible, or still less politely calling fire and brimstone down on contemporary sinners and their political representatives. Terror is not content merely to reassert an older religious faith or to expand the scope of morality. It seeks to destroy the modern faith by force. Its violence is aimed neither at people nor at governments but at the principles from which people and governments draw their conviction. The violence goes straight to the heart of the distinction between the private and the public sphere. It is designed to prove the impotence of the modern deity that asks you to confine your liberty to the private sphere and allow your publicly elected government to adjudicate whatever conflicts may arise between your liberty and that of others. Like religious fundamentalism, terror is a reaction to the pathologies of the modern world. Both seek to cure the disease, the former by changing the patient, the latter by killing him.

5.5 The Future

If the analogy with late medieval Europe holds, I can envision two different possibilities for the future. One is a repetition of what happened in the past. In that case, the boundaries on which we have relied so far would have to be abandoned in favor of an alternative, so that a fresh start could be made in the attempt to make the world conform to an intelligible order. The distinction between the sacred and the profane would have to be redrawn so that the sacred could be worshiped in some hitherto unimagined place. This is what happened in the Investiture Controversy and in the Reformation. What a new Reformation might be like, no one can say until it has been tried. But certain is that it could not occur without much violent destruction of the order existing now. This does not mean that the distinction between the public and the private sphere or any of the other distinctions basic to the modern faith will have to disappear. As medieval Catholicism survived into the modern world as one of several confessions, so the distinction between the private and public sphere is more than likely to survive. But it would lose the meaning it had for the modern world and true devotion would have to be offered to some other God.

The other possibility is that we have grown a little wiser than we were in the late Middle Ages. Perhaps we have learned enough from the destruction of the last century in order to agree that muddling through is not only preferable to clarity and to the violence that issues from clarity all too soon, but quite appropriate for human beings engaged in one of the most dramatic stages of their entire evolutionary history. The industrial revolution began just a few generations ago, and it has hardly ended yet. I do not see how, from the perspective of world history, nuclear physics, computer science, and

genetic engineering can be interpreted as anything other than the most recent contributions to the unprecedented increase in knowledge and technical capacity that we have witnessed in the last two hundred years. There is no reason to believe that they will be the last.

That human beings have, as a result, been thoroughly unsettled is hardly a surprise. But the confusion can hardly be undone by denying its reality. It needs to be confronted for what it is. There are no substitute solutions. There are no patents that we could borrow from the past in order to avoid the future. Change challenges humanity to its core. But it would be unnecessarily defeatist to view the past as proof that humanity can only deal with change by taking recourse to violence. Humanity has brought the change about. If there is any lesson that it is safe to learn from history, then it must be that humanity can change. If it can change, then it can learn to do without the temples in which it gathered in the past and reckon with the possibility that the sacred is nowhere closer than in confusion and anxiety.