



Liberalism and Christianity

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ABSTRACT

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What is the relationship between liberalism and Christianity? In this thesis, I analyze this question from both a historical and philosophical perspective. Historically, liberalism owes something to Christianity, as liberal ideas were encouraged by the Reformation. However, we have reached a point today in our liberal culture where it seems that Christianity and liberalism are at odds. Examining works from Guido de Ruggiero, John Locke, Ludwig von Mises, L.T. Hobhouse, Alan Wolfe, as well as Supreme Court jurisprudence on religious free exercise, I trace the relationship between liberalism and religion over time. Ultimately, I argue that liberalism has become increasingly intolerant toward Christianity as a result of the liberal temper. This temper places the pursuit of freedom over any specific belief practices. Today liberals may seem to expect religious believers to sacrifice their convictions for the sake of the novel freedoms. In the end, both liberals and religionists bear a responsibility to address this dilemma moving forward.

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LIBERALISM AND CHRISTIANITY

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CHAPTER ONE

Introduction

From the vantage point of our current liberal culture, the relationship between liberalism and Christianity is one of contention. From Supreme Court cases with national implications such as *Hobby Lobby*, to more local disputes about individual business and the recognition of same-sex marriages (*Elane Photography v. Willock*), liberalism and Christianity seem at odds in significant ways. This should be puzzling to anyone who knows the history of liberalism. For the view of the most prominent historians on the subject is that the earliest liberal ideas first emerged in connection with a religious movement (the Reformation) and that its initial spark, so to speak, was the idea of religious freedom. How then can a movement that was hatched in a thoroughly religious context turn out to be, in the end, so directly opposed to religious thought and expression? How and why has liberalism shifted from a position of tolerance to one of intolerance in the matter of religion in general and Christianity in particular?

This is the question I pursue in this thesis and my approach shall be both historical and philosophical. I pursue an answer to the question of liberalism's shifting attitude toward religion by studying the history of this relationship. First, I look at the emergence of liberalism out of the Protestant Reformation. Next I discuss the "classical" phase of liberalism by analyzing Locke's *Letter Concerning Toleration* and the much later restatement by Ludwig von Mises in his book *Liberalism*. Next, I describe the relationship as it appears in the "social" or "new" liberalism of L.T. Hobhouse. Fourth, I turn to American Supreme Court jurisprudence on religious free exercise in order to

determine if there is a detectable pattern. And finally, I examine a present attempt to describe what the relationship between liberalism and religion should be, that of Alan Wolfe in his book *The Future of Liberalism*.

I argue that two phenomena help explain why liberalism became increasingly hostile to religion over time. The first is a theoretical problem. As liberalism became an economic and political doctrine in the late seventeenth and early eighteenth centuries (its classical phase) it was routinely thought of in terms of the “two spheres” argument—the idea that religion and politics exist in separate spheres that do not overlap. But this argument proved impossible to sustain over time. In fact, religion and politics necessarily overlap in significant ways. The new theory of liberalism (best articulated by Hobhouse) acknowledges this way of thinking. But then came a difficult problem: namely, how should citizens reconcile the tensions that inevitably emerge in the day-to-day practice of religio-political life? What should be done when secular goods are pitted against religious good?

This is a problem that haunts us today, as anyone can see who reads the newspaper or follows the rulings of the U.S. Supreme Court. But the way this question has been answered has not been static. Rather it has changed dramatically over the past several hundred years. Why? This is where the second important phenomenon comes in. I argue in this thesis that the relative value of religious freedom as a human good competing with other human goods has diminished (or at least become unstable) over time. As liberalism was emerging in the West, religious life and freedom were thought to be among the most important goods; but they are now thought to be among the least important, at least for many people. What has happened to explain this radical revaluation

of goods? The answer, I argue, is that liberalism not as a doctrine but as a temper has been at odds with the religious temper from the start, and that over time it has taken a large toll on religious belief. I show this by contrasting the values of the liberal temper with those of religion, and I demonstrate the effects of this shift by presenting a brief history of court cases, some from a century ago, when religious claims still prevailed, and some from today where the legacy is more ambiguous. Ultimately, the future of the relationship between liberalism and religion is unclear. In attempting to clarify this problem, I show that there is serious need for theoretical work to be done in this field.

CHAPTER TWO

A History of Liberalism and Religious Liberty

What is liberalism's historical relationship to Christianity? In today's culture, it seems that liberalism and religious belief are at odds, as countless numbers of court cases reflect. However, this hasn't always been the case. Classically, it seems religion and liberalism have coexisted peacefully. In fact, in this chapter I show that liberalism came about in part through the Protestant Reformation. I show this in three steps. First, I detail the spiritual forces surrounding the Reformation and how this laid the groundwork for liberalism. Next, I turn to the actual effects of the Reformation, that is, the rejection of papal authority both spiritually and politically. This rejection led to the formation of nation states and the eventual disintegration of the Holy Roman Empire. Finally, I show that some liberal ideas and procedures trace back to Calvinist churches. Following the Reformation, Calvin's democratic church structure initiated some of the practices that eventually come to be connected with liberalism. At the conclusion of the chapter, I offer a potential explanation for why the relationship between liberalism and religion has changed as we have continued to modernize. But however the relationship has changed, I want to stress that liberalism and Christianity are necessarily connected and will remain so.

The spiritual forces surrounding the Reformation were extremely influential in the development of liberalism. The Reformation ultimately represented a rejection of Catholic authority and teachings in favor of individual freedom of conscience in scriptural interpretation. The Reformation rested on the fact that there should be no

interpreter “between man and the scriptures; no ecclesiastical mediation to come between the believer and God.”¹ The individual was to be the ultimate determiner of his relationship with God, not the Pope. The idea of *sola scriptura*, that is, that the Bible is the ultimate source of religious authority, was central to the Reformation. Reformers argued that man should have the ability to read, understand, and critically analyze the Scriptures on his own. Guido de Ruggiero argues that this freedom of conscience in reading Scripture is “purely a Protestant claim.”² Freedom of conscience liberated man from blind obedience to religious authority and gave the individual the right to shape his own future, while also resisting authorities who sought to eliminate this freedom.³ Moreover, the Reformation led to the idea that reason, not blind faith in an authority should lead a person in the relationship with God.⁴ Freedom of conscience, evident first in the Reformation, is synonymous with “the first great affirmation of modern liberalism: religious liberty.”⁵

The ideas of individual liberty ushered in by the Protestant Reformation eventually led not only to a rejection of Catholic teachings, but also a complete break from the Church. If we focus on England as an example, we find that the break from the Catholic Church was a rejection of Papal authority as both an ecclesiastical and political entity. The Reformation was “a reaction against central authority, especially distant authority, in the name of individual judgment, or local rule.”⁶ Ministers throughout Europe came to believe that they “were consecrated not by investiture from above but by

¹ Guido de Ruggiero, *The History of European Liberalism* (Boston: Beacon Press, 1959), p. 20.

² *Ibid.*, p. 19.

³ Harold J. Laski, *The Rise of European Liberalism* (London: Unwin Books, 1962), p. 13.

⁴ David Schmitz and Jason Brennan, *A Brief History of Liberty* (Hoboken: Wiley-Blackwell, 2010), p. 99.

⁵ De Ruggiero, *European Liberalism*, p. 17.

⁶ Schmitz and Brennan, *Brief History*, p. 98.

selection from below, and there arose a new way of looking at authority and government, as a function rather than as a transcendent law.”⁷ Such ideas led to local state sovereignty throughout Europe, and the eventual breakup of the Holy Roman Empire. It was no longer the case that the religion of the emperor was the religion of the state. The split from the Catholic Church produced by the Reformation further confirmed basic liberal ideas of individual conscience. Leaders in the movement, such as Luther, taught their followers that government is legitimized only by consent, and not simply divine authority.⁸ This rejection of Roman spiritual and political authority was the first of many steps and made possible “the mental climate” for liberalism to grow.⁹

The various Protestant sects that appeared post-Reformation were also formative in the development of liberalism. The church started by Reformer John Calvin serves as a good example in illustrating this relationship. Specifically, Calvin helped lay the groundwork for liberalism in the way he structured his church. Calvin maintained that every specific church belonged to the local congregants, and that they should establish their leaders on a self-determining basis. Therefore each area had an individual church in which they were represented in that church by elected officials.¹⁰ Calvin’s church structure became one of the first examples of representative institutions in the post-Reformation era. It set in motion ideals that would continue to be championed by liberals into the future. Deliberation amongst congregants and the ability to change church structure through a democratic process were both evident in Calvin’s church. These concepts of personal autonomy and self-help laid the groundwork for basic liberal goods

⁷ De Ruggiero, *European Liberalism*, p. 16.

⁸ Schmitz and Brennan, *Brief History*, p. 99.

⁹ Laski, *Rise of Liberalism*, p. 12.

¹⁰ *Ibid.*

to take root outside of the church walls. In this way, Calvin congregationalized the Protestant faith by implementing a new form of ecclesiastical polity that was flexible and placed an emphasis on individual rights.¹¹

It should be noted however, that Luther and Calvin were by no means political liberals. Their actions provided the framework for liberalism to grow. But their own views were quite illiberal in many respects. Calvin was most assuredly not in favor of religious toleration. In fact, he maintained that “heretics should be coerced and killed” in his *Defense of the Orthodox Faith*.¹² Moreover Calvin was by no means a liberal concerning political order. He ruled tyrannically in Geneva, scrutinizing every action of its citizens. However, despite Calvin’s illiberal tendencies politically and relationally, liberalism still owes a great deal to Calvin. Similarly, Luther adamantly argued against the toleration of outsider religions. Any sort of theological dissent was discouraged, and those who disagreed with Luther’s brand of Christianity were not to be allowed. He advocated for the vicious persecution of the Jews and argued against the faculties of reason.¹³ Still Luther and Calvin’s ideas set in motion a movement that championed many ideas they explicitly rejected, such as religious toleration.

The new spiritual forces of the Reformation, the rejection of Rome as a political and religious authority, and internal structure of the post-Reformation churches all greatly influenced the beginning of liberalism. However just as important as the Reformation was the struggle between the church and the state over the life of the individual. The struggle produced a deadlock in which neither the state nor church could wholly

¹¹ John Witte, Jr. and Joel A. Nichols, *Religion and the American Constitutional Experiment* (Philadelphia: Westview Press, 2011), p. 11.

¹² *Ibid.*, p. 101.

¹³ Schimdtz and Brennan, *Brief History*, p. 99.

dominate. The Reformation brought about an era where there was neither “a State oppressing a Church, or a Church oppressing a State, neither able to throw off the other, since each is equally and eternally rooted in the human spirit.”¹⁴ This struggle effectively neutralized both forces from extending dominance. The result was further liberty to the individual. In other words liberalism owes much to the Reformation, because it expanded the sphere of liberty.¹⁵ The conflict in and of itself was instrumental in facilitating the free development of the individual conscience. The conflict is no obstacle to liberty, but rather promotes it, by facilitating the destruction of an authority which may oppress the conscience of the individual.”¹⁶

In these ways liberalism owes something to the Reformation, even if the relationship between the two was unintended. The Reformation set in motion many of the practices and ideals that liberalism would eventually triumphantly proclaim. Those similarities include freedom of conscience, religious freedom, the authority of the individual and democratic representation. Liberalism was at least in part born from a religious movement and revolution. In particular the emphasis on the individual as his own rightful authority seems to capture the fundamental common ground between the Reformation and what we would later call liberalism. The Reformation truly freed the individual spiritually and consciously. Moreover, one might say that the inner freedom of the post-Reformation Christian church provided the precondition for liberal freedom: Man must feel that he is free spiritually before he is able to feel free in other capacities. The idea of freedom itself starts from the fundamental premise that each individual is the

¹⁴ De Ruggiero, *European Liberalism*, p. 397.

¹⁵ Schmitz and Brennan, *Brief History*, p. 93.

¹⁶ De Ruggiero, *European Liberalism*, p. 403.

sole determiner of his spiritual fate in the choices that he freely makes. In this way, the Reformation and liberalism are closely related indeed. Spiritual freedom provides the basis for the expansion of liberal theory.

But if all this is true, then why has the relationship between liberalism and Christianity changed so drastically in our modern society? Today, it seems that liberalism is antagonistic to Christianity in various forms. What has caused this change? Originally, liberalism grew out of a religious movement, but today it seems to mock and even reject many of the premises, such as religious liberty, that inaugurated the liberal tradition itself. I believe that this speaks more to the nature of liberalism than religious freedom. Liberalism is the pursuit of freedom, in whatever form that might manifest itself. In its early history, this meant the rejection of papal control of religion in favor of religious liberty. It meant a curtailing of the Catholic Church so that the individual might have freedom of conscience. However, today the freedoms liberalism espouses are much different. In our society, liberalism fights for freedom and autonomy in matters of women's health, marriage, and scientific research. Issues such as abortion, gay marriage, and stem cell research stand in contrast to many of the moral convictions of religious people. As a result, it becomes necessary that liberals diminish the religious rights of believers in order to advocate for its new freedoms. It seems that Christianity in general has become the equivalent to what the Catholic Church was at the time of the Reformation. Liberals today view Christianity as an oppressive force used to exert control over the lives of others. Liberalism, by nature, is in a continual push for new freedoms, and Christian belief has now become an obstacle.

This is the complex relationship that I will try to illuminate in the pages that follow. Historically, it is obvious that liberalism owes much to Christianity, especially in its Reformation variety. The Reformation laid the groundwork for liberalism to flourish. However, the relationship between the two has become quite polarized and tumultuous. It leads one to wonder, is there a place for serious Christian belief and practice in modern liberalism? Or have we come too far in our push for freedoms to make room for religious dissent? I will analyze various positions on this topic from both a classical liberal perspective as well as a more modern conception of liberalism.

CHAPTER THREE

Classical Liberalism and Religion

The first approach reconciling liberalism and religion that I examine is that of classical liberalism. This conception of liberalism, promoted by John Locke and defended into the twentieth-century by his successor Ludwig Von Mises, separates religion and government into two mutually exclusive spheres. Both Locke and Von Mises hold that government and religion should be basically separate from each other. In this chapter, I first detail how Locke separates religion and government into exclusive entities in his work *A Letter Concerning Toleration*. In separating religion and government into two spheres, they both obscure politically significant ways in which politics and religion necessarily interact. By ignoring significant conflicts, they both espouse a system that seems appropriate but in the end is ultimately unable to prevent conflict.

Locke initially separates the spheres of government and religion in the way he chooses to define a commonwealth. He defines a commonwealth as a community with the sole purpose of advancing civil interests. These interests consist of “liberty, health, and indolency (the absence of pain) of body; and the possession of outward things.”¹⁷ Locke claims that these are the only things that the commonwealth is designed to protect. In doing so, he precludes the state from engaging in any spiritual matters. In fact, the state is wholly confined to things of this world and must “have nothing to do with the world to come.”¹⁸ Locke proposes a system of government that is intended to protect its citizens’ prosperity

¹⁷ John Locke, *A Letter Concerning Toleration* (New Haven: Yale University Press, 2003), p. 218.

¹⁸ *Ibid.*, p. 220.

and physical health, not one that is concerned with their eternal salvation. He cites the Gospels and Christ himself as proof that there should be no such thing as a “Christian commonwealth.”¹⁹ Churches can show others the faith and good works of the believers, but they should in no way mix with the state. Thus for Locke, the commonwealth is a system that is “absolutely separate and distinct” from a church.²⁰

By distancing the commonwealth from religious matters, Locke concludes that the ruling authority, or the magistrate of the commonwealth, should be wholly indifferent towards religious matters. The magistrate should create a state where toleration is essential in order to preserve the well-being of those he rules. Outside of that, he is not concerned with the salvation of any one man’s soul.²¹ His only duty is to secure unto all people the civil interests he is designed to protect.²² Locke’s reasoning is that even if the magistrate did command certain religious laws that all must obey under fear of penalty, this would not actually save any man’s soul. Locke argues that religious faith is formed through reason and the faculties of the mind. Man is to assent to his belief through well thought out proofs and evidences. Therefore the political power of the magistrate is worthless when it comes to religious matters and the salvation of men. He invokes examples such as Henry VIII and Edward VI to show the danger of governmental authorities decreeing religious matters. The penalties that these kings, and other such princes, declare as reparation for disobedience are ineffective when it comes to matters of belief. In the end, these reparations are not actually able to convert men. Rather, they only subjugate men with fear and may drive them further away from the truth. Locke

¹⁹ *Ibid.*, p. 239.

²⁰ *Ibid.*, p. 220.

²¹ *Ibid.*, p. 219.

²² *Ibid.*, p. 218.

concludes: “in vain therefore do princes compel their subjects to come into their church-
communion.”²³ The inward belief of the individual is the only belief that matters. And
yet the outward acts of individuals are the magistrate’s sole interest. Therefore, the
magistrate’s duty is not one of religious authority. In the end, he must refrain from
dictating any religious precepts.

Locke’s characterization of the church further undergirds the distinctions between
religion and government. He describes a church as “a voluntary society of men, joining
themselves together of their own accord, in order to the public worshipping of God, in
such a manner as they judge acceptable to him, and effectual to the salvation of their
souls.”²⁴ Each church is founded by men who worship with the desired end of attaining
eternal life. Locke claims that the church can only be concerned with itself and its
worship.²⁵ The church body can commune when they want, establish church doctrine,
and create an internal hierarchy. However, it is not the business of the church to influence
the doctrine of other churches or social institutions. Locke sees the relationship between
individual churches in the same way he sees the relationship between private individuals.
²⁶ They are autonomous groups with a right to worship and conduct their ceremonies in
the ways they see fit. Church remains essentially outside the sphere of government. It
cannot be permeated by or influenced by the state because it has rights similar to the
rights of the individual. In his definition of a church, Locke thus makes the assertion that

²³ *Ibid.*, p. 232.

²⁴ *Ibid.*, p. 220.

²⁵ *Ibid.*, p. 221.

²⁶ *Ibid.*, p. 224.

the state cannot mandate change from religion and that religion cannot demand change from the state.²⁷

In addition to his view of the church, Locke's view of public worship also highlights how church and government are necessarily separate. Locke claims that a free church joins together in the public worship of God.²⁸ However, there is an equivocation in Locke's definition of public worship. By limiting the scope of the church's worship to the confines of the church walls, what he defines as public is, in fact, private worship. Without being able to influence other churches or the state, the church's public worship has nothing public about it. Worship is privatized within the church and even more specifically within the individual. Locke says that religious worship is not intended to convert others through pompous expressions, judgments, or violence. Its purpose is so that man might "make war upon his own lusts and vices."²⁹ It is impossible to promote a specific style of worship as public because to publicly promote one tradition would be to oppress other faith traditions and doctrines, which breeds seditious commotions.³⁰ Rather whatever is "left free by law in the common occasions of life, let them remain free unto every church in divine worship."³¹ Locke's sees the "accidentals" of worship as essential to different faith traditions. As a result, he holds that each must be able to privately practice their beliefs. Therefore we must demonstrate justice and charity to all denominations. In this regard, religious worship in the church is private and separate from the state. The government must not promote any forms of worship over others.

²⁷ *Ibid.*

²⁸ *Ibid.*, p. 220.

²⁹ *Ibid.*, p. 215.

³⁰ *Ibid.*, p. 248.

³¹ *Ibid.*, p. 249.

Therefore, only the individual church has private authority over the forms of worship practiced within their sanctuary.

It is clear that Locke divides religion and government into two mutually exclusive spheres. But is this model really workable? It appears that Locke has both overlooked and clouded many significant and necessary interactions in which government and religion influence one another. As Americans, we are able to see first-hand the practical effects of Locke's philosophy in our polity. We are founded upon the Lockean ideals of preserving our civil interests, yet it seems that many of the main issues concerning our government today are tied up in religious conflict. From gay marriage, to abortion, to the Affordable Care Act, everyone has different viewpoints that often times are bound to their religious beliefs. This is where I believe Locke has overlooked the significance that religion has in shaping one's worldview.

Locke fails to see the significance of how a person's religious beliefs ultimately guide his actions towards what he believes to be the highest good. The very nature of religious beliefs commands the highest and most important respect from the believer. As a result, the outward actions of man is shaped by what he thinks will order him towards his highest religious good. Locke downplays this problem by relegating religious practice to within church walls. However this is not practical, as is played out very demonstratively in American politics today. For example, Hobby Lobby has chosen not to adhere to the recently enacted Affordable Care Act by refusing to provide contraception for its employees in its health plans. This company's decision ultimately says something about what its CEO believes to be right and good according to his religious beliefs. This conflict represents an interaction of the two spheres that Locke

attempts to separate. The religious beliefs of men like Steve Green prevent obedience to policies viewed as immoral. It is not enough to expect people to make a decision without allowing their religion to influence this decision. We make our choices in life and politics according to what is most conducive to salvation and what we perceive to be the ultimate good worth pursuing.

To solve the problem of religious pluralism in society, Locke claims that any religious practice that is not harming another must be tolerated.³² However, once again this is practically untenable in the long term. For example, in the 1989 U.S. Supreme Court case of *Employment Division v. Smith*, the Court chose to deny unemployment benefits to those who were fired after smoking peyote during religious ceremonies. The Court denied the religious rights of the Native Americans even though it seemed to be completely harmless to those surrounding them. More recently, in 2014 the New Mexico Supreme Court ruled against a photographer who would not photograph a gay couple's commitment ceremony because of her religious beliefs (*Elane Photography v. Willock*). Neither case seemed to inflict harm upon anyone, yet both cases ended up high in the judicial circuit. These situations once again show the intrinsic value of personally held beliefs and the unwillingness to abandon those beliefs or compromise, even if the law commands otherwise. In a pluralistic society individuals often look to an authority, like the Court, to resolve conflicts that arise. Whether that is for better or worse, it shows that issues involving religion and government are necessarily tied together and unavoidable.

Locke simplifies the issue involving the interaction of religion and government to such an extent that he fails to practically show how we can keep these two spheres

³² Locke, *A Letter Concerning Toleration*, p.236.

separate. His rhetoric seems to be too stark for the issue at hand, and he fails to engage with examples concerning the potential conflicts of religion and the state. Religious beliefs are held in the highest esteem, and those who hold them are not quick to compromise. I believe that this speaks to the incredibly difficult situation we face today. The interaction between government and religion is ever increasing in our polity, and Locke's ideal of keeping these two spheres separate is not realistic. It is our duty to come up with practical ways in which we can balance these spheres because to ignore their interaction is no longer an option.

Likewise, twentieth-century Austrian liberal Ludwig Von Mises, in his book *Liberalism*, holds that government and religion must necessarily be separate spheres that do not interact or influence one another. Von Mises believes religion is beneficial to man's well-being but should exist in a sphere wholly separate from the state. Von Mises pictures the state and its economic growth in one sphere, while religion and spiritual matters occupy a completely different domain. The state tolerates religion, but the two do not share any meaningful interaction. Von Mises argues that toleration is necessary for the sole purpose of maintaining peace and order in society to further economic flourishing. Ultimately, he claims that the state should only concern protecting the conditions for economic growth and must not make any moral judgments regarding transcendental matters.

Von Mises recognizes the importance of religion for man's well-being. He says that all religions point to the intrinsic spiritual needs of man. As a result, the state should tolerate religion. Von Mises writes, "Liberalism, however, must be intolerant of every

kind of intolerance.”³³ He also writes that “liberalism proclaims tolerance for every religious faith and every metaphysical belief.”³⁴ Von Mises recognizes that religion fulfills man’s spiritual needs, and believes that its toleration is necessary. However, the state is to have no interaction with religion outside of toleration. It is not to interpret, condone, or oppose any religious views. The state is only to recognize religion and tolerate it because of its necessary role in a peaceful society.

Von Mises is adamant that the state should not have any place in determining the morals of society. He says that “Liberalism is derived from the pure sciences of economics and sociology, which makes no value judgments within their own spheres, and say nothing about what ought to be or about what is good.”³⁵ It is not capable of determining whether something is moral or immoral because it is a theory based in the sciences. Von Mises writes that, “Science has succeeded in showing that every system of social organization that could be conceived as a substitute for the capitalist system is self-contradictory.”³⁶ As a result, Von Mises believes that liberalism is the only political system that is scientifically proven to sustain itself. The scientific basis of classical liberalism leaves no room for making decisions about what is good. This view does not esteem any sort of religious order but only prizes economic prosperity. He sees this doctrine as one of great value, which can allow people to prosper by the means of the private ownership of production. The state must not make decisions based on moral reasons but rather purely on scientific and economical grounds. This leads to Von Mises’

³³ Ludwig von Mises, *Liberalism*, (United States of America: CreateSpace Independent Publishing Platform, 2012), p. 55.

³⁴ *Ibid.*, pp. 55-56.

³⁵ *Ibid.*, p. 88.

³⁶ *Ibid.*, p. 89.

conclusion that “liberalism and religion could both exist side by side without their sphere’s touching.”³⁷ He sees the state as an entity devoid of religious affiliation or influence with the sole purpose of providing economic opportunity. Von Mises says that the scope of liberalism “limits its concern entirely and exclusively to earthly life and earthly endeavor.”³⁸ As a result, Von Mises concludes that liberalism and religion are completely separate, non-intersecting spheres, which can coexist side by side without imparting influence on one another.

Both of these conceptions of liberalism fail to address the overlap between the civil and ecclesiastical domain. They are more concerned about private property and economic productivity than protecting any specific religious belief. Freedoms of expression and worship are allowed as long as they are not a hindrance to productivity. Thus, the conception of classical liberalism presented by Locke and Von Mises does not offer a substantial solution to the problem of man’s religious beliefs and practices. It individualizes religious belief to a fault. It allows that religious liberty could be infringed upon if it comes in the way of the economic growth of the state. Examining our society, it is evident that religion and politics interact substantially on a daily basis. That being said, this conception of classical liberalism posited by Locke and Von Mises is an insufficient perspective on the meaningful interactions between religion and liberalism.

³⁷ *Ibid.*, p. 55.

³⁸ *Ibid.*

CHAPTER FOUR

The New Liberalism of L.T. Hobhouse

The second approach to reconciling liberalism and religion that I examine is the “new” liberalism posited by L.T. Hobhouse. In this chapter, I show that Hobhouse applies the concept of “overlapping spheres” to describe the relationship between religion and his adapted interpretation of liberalism. He argues that they cannot be separated into separate spheres, as in classical liberalism, but rather that these two spheres are implicitly touching and will come into conflict with one another. He differs from the classical liberalism of Locke by simply acknowledging that religion and liberalism inherently overlap in their interests and desired ends. The highest good of Hobhouse’s new liberalism is equality in the service of the free expression of personality. This good potentially conflicts with religious freedom as I show below. And he knows this. Thus, he offers an argument to address conflicts when they arrive. In the end, Hobhouse allows the state to block religious beliefs and practices that pose a threat to the state’s secular goods. He thus places the state ahead of religion.

First, the new liberalism of Hobhouse must be defined and understood properly. He is in favor of what he calls “social liberalism” which he distinguishes from free market capitalism on the one hand, and other more aggressive forms of socialism on the other. He knows that his conception of liberalism is novel, but he thinks that economic prosperity has allowed liberals to pursue broader goals. Liberalism was previously a destructive force designed to break down barriers so that individuals might flourish in every aspect. However the wealth of modern society allows liberalism to be positive and

constructive. In fact, Hobhouse believes that liberalism must become constructive in order to survive. The times seemed propitious to pursue new goals that give rise to human flourishing and well-being. This is where the idea of a “new” liberalism appears. Whereas classical liberalism favors economic gain, Hobhouse’s liberalism pursues ethical goals which he identifies as “social justice” concerns. Social justice is about “the conditions upon which mind and character may develop themselves” for all people.³⁹ This is the ultimate goal of the new liberalism. Hobhouse felt the fostering and expression of individual personality should be held highest. In contrast, the classical liberalism of Locke esteems productivity above all. Hobhouse thus places an ethical concern as the essential task of liberalism. In doing so, he acknowledges the critical role of governmental intervention to order to achieve this specific ethical goal that is prized above all others.

Hobhouse advocates for this “justice” by means of government intervention. He believes that the relationship between the less fortunate and the state is both complex and undeniable. Liberalism has always acknowledged an “organic” or “harmonic” conception of society, but many past writers have either failed to realize this, or ignorantly dismissed this fact. The organic conception of society, or social harmony theory, is the way in which Hobhouse is able to advocate for constructive governmental interaction with society. How does Hobhouse describe his idea of the organic conception of society? He writes, “It means that, while the life of society is nothing but the individuals as they act one upon another, the life of the individual in turn would be something utterly different if he could be separated from society.”⁴⁰ Even if man could somehow stay alive by means

³⁹ L.T. Hobhouse, *Liberalism and Other Writings* (Cambridge: Cambridge University Press, 1994), p. 76.

⁴⁰ *Ibid.*, p. 60.

of primitive skill, his life of mere survival pales in comparison to the one he lives in society.

According to Hobhouse, as individuals, we are nothing without our community, and we need the government to rule over us in order to maintain a stable society. We are all unique individuals, yet at the same time we owe everything that we are to society. As a result, Hobhouse advocates that government must have the right to do what is necessary to secure the optimal conditions for all in society. Therefore, government must be able to actively help individuals in need and individuals must be willing to sacrifice some of their own personal luxuries for the good of society. This is a further element of the organic society which he identifies as the “social basis of wealth.”

Hobhouse establishes the idea of the social basis of wealth in the fact that anything we accumulate in society is not an individual effort. Rather, we as individuals must rely on the community as a whole to achieve our wealth. Hobhouse writes that “there is a social element in value and a social element in production. In modern theory there is very little that the individual can do by his unaided efforts.”⁴¹ As a result, this creates a responsibility to the community which the state (as its duty) can enforce. It is a relationship that cannot be understated and this conception of the organic society is what Hobhouse considers to be the heart of liberalism. He argues that “we may fairly say that, if the State owes the utmost consideration to the conscience, its owner owes a corresponding debt to the State.”⁴² Hobhouse’s theory increases the duty of the state significantly in comparison to the theories of classical liberalism. Individuals are wholly

⁴¹ *Ibid.*, p. 92.

⁴² *Ibid.*, p. 72.

indebted to society and thus must be willing to sacrifice personal desires to further the good of all.

The liberalism Hobhouse champions must necessarily touch every sphere of society. It is no narrowly circumscribed movement. In fact, he writes that liberalism “touches industry, law, religion, and ethics. It is concerned with the individual, the family, and the state. It is an all penetrating element of the life-structure of the modern world.”⁴³ This liberalism is a comprehensive theory that must touch every aspect of life because all aspects of life are influential and harmonious with benefiting the greater societal good. This creates a liberalism that is coextensive with all of life. This broad scope allows liberalism to be a theory that is disposed toward taking positive action to help those who are in need. Classical liberalism could not operate in a similar fashion because it was narrowly described as a theory of economic well-being. However the target of liberalism’s criticisms has evolved from simply economics. In order to foster the proper functioning of individuals it must open the channels for the flow of free spontaneous vital activity for all.

Ultimately, the new liberalism of Hobhouse comes down in favor of one thing above all: equality. Economic inequality was prevalent during Hobhouse’s time and liberals took it upon themselves to push for equality. To them, solving the problem of inequality was far more pressing to any other goal. They saw that it might be necessary to sacrifice other certain liberties in order to achieve their goal. One must be able to express himself as a unique person and it is the government’s duty to ensure this comes to fruition. He emphasizes that “Liberty without equality is a name of noble sound and

⁴³ *Ibid.*, p. 22.

squalid result.”⁴⁴ However, it is not simple equality that Hobhouse finds necessary. Rather, it is equality aiding in the flowering of individual personality. Therefore, equality pointed towards helping personal expression is the highest good of Hobhouse’s liberalism. Everything is aimed towards this goal and is the centerpiece of individual freedom. He argues that in order for everyone to exercise their abilities to maximum effect, everyone must start at a place of equality. Those who are wealthy are predisposed towards success and wealth, while those who are born into low incomes might never have the same opportunity. If we are not able to provide for ourselves or our family, how can we exercise our personal rights and freedoms that our country esteems? Thus, “Full liberty implies full equality.”⁴⁵ All must be equal so that every man has equal opportunity in exercising the liberty bestowed upon him.

It is evident that the new liberalism esteems holistic equality in the name of personal expression. In order to facilitate this practically, Hobhouse promotes specific principles that he believes will alleviate men from hardship. In his chapter, “The State and the Individual” he writes of specific measures that must be taken to facilitate equality. First, he says that the absolute right of private property must be rejected and there is no such right. We must restore the “social conception of property to its right place under conditions suitable to modern needs.”⁴⁶ The social basis of property places the distribution of property into the hands of the state. Hobhouse says the state must own tons of property and rent it to peasants giving them “access to the land” and then would “reward them with the fruits of the labor.”⁴⁷ Further public policies include the payment

⁴⁴ *Ibid.*, p. 41.

⁴⁵ *Ibid.*, p. 14.

⁴⁶ *Ibid.*, p. 91.

⁴⁷ *Ibid.*, p. 85.

to widows to raise their children rather than go into the workforce. He calls for a serious curtailment of inheritance funds because it widens the gap of inequality amongst the working class and upper class. Finally, he promotes free education provided by the state. All of these all are social and public policies with their ultimate end grounded in equality.

Furthermore, Hobhouse argues that all must have the right to employment. As a result, it is the duty of the state to guarantee a living wage to everyone who needs it and also supply public assistance to all. Many individuals are born into a situation where they are unable to earn employment, but are also unable to make a difference politically and change their circumstance. However, just because they are not capable of changing society does not make their right to employment any less of a right. It becomes the duty of the state to provide work for all, provide a living wage in order to eradicate inequality, and set up the conditions necessary for free expression. In fact, “the right to work and the right to a living wage are just as valid as the rights of person or property.”⁴⁸ Hobhouse believes that employment lies at the base of equality, and he therefore elevates this to a category on par with the very personhood of an individual. A man must be able to provide for his family, and Hobhouse claims that without this capability man lacks the ability to exercise any of his basic human rights.

It is evident that the “social liberalism” of L.T. Hobhouse does, in fact, touch all spheres of life. From the rights of property, to the rights of individuals, to the rights of employment, it seems that the state must necessarily have involvement in all aspects of life in order to facilitate the championed good of equality. It seeks to provide in every significant aspect of the individual’s life. Only once equality is achieved we will be able

⁴⁸ *Ibid.*, p. 76.

to flourish as human beings. The state must have its hand in removing obstacles seen to inhibit this ultimate goal. It must “save men from suffering”⁴⁹ wherever possible and break down those things seen as opposed to the equality and flourishing of human beings. This means that it becomes the responsibility of the State to properly determine those things which must be removed for the common prosperity of the whole. Liberalism can now become a positive force by the perceived impediments to equality and building up the conditions for personal expression.

Thus it becomes necessary that liberalism eradicates those things that hold back individuals. How might this view of the relationship between the individual and the state affect the role of religion in liberal society? First, we must understand how Hobhouse views religion before his solution can be appreciated. He starts by claiming that religion is both private and public in its domain.⁵⁰ It is personal as an expression of sincere belief, but it is also social because one’s beliefs can have a direct impact on others. He argues that religious liberty must go beyond mere toleration because it resonates with man’s innermost feelings and yearnings. Religious liberty must be allowed insofar as it does not infringe on anybody else’s liberty. The role of religious liberty in society includes “the liberties of thought and expression, and to add to these the right of worship in any form which does not inflict injury on others or involve a breach of public order.”⁵¹ Hobhouse holds that religion is a staple of individual personality and must be granted, but with one small caveat—that it must not interfere with the personality of others. He admits that his

⁴⁹ *Ibid.*, p. 74.

⁵⁰ *Ibid.*, p. 14.

⁵¹ *Ibid.*

view of religious liberties among individuals may leave “room for strained and unfair applications” but this is the necessary end of his social liberalism.⁵²

It seems this presents an inherent conflict. What should the state’s response be if religious beliefs of individuals clash with the personality of another individual, or with a group of individuals? Hobhouse both understands this conflict as well as addresses what the response should be. He plainly states that “So far as they infringe the freedom, or, more generally, the rights of others, the practices inculcated by a religion cannot enjoy unqualified freedom.”⁵³ Therefore, in matters of dispute, it may become necessary to sacrifice the religious liberty of a person or of a religious sect. Hobhouse applies his social harmony concept to the realm of religion. If it is harmful to the organic whole of society, it is permissible to constrain religious freedoms. In the end, the greater community holds the authority over any religious liberties no matter the protests of the individual. If a conflict arises between a religious group and other members of society the “common conviction of the common good must have its way.”⁵⁴ The expression of religion is wholly free, but any action that may be perceived as detrimental to another’s well-being may be restricted, which includes any sort of proselytization.⁵⁵ Believers are fully allowed to read and believe the teachings of Jesus, Mohammad, or whoever else. But the instant that their beliefs turn into an act of worship or any tangible expression that may clash with the well-being of others, it may be necessary to restrict their religious beliefs.

⁵² *Ibid.*

⁵³ *Ibid.*, p. 15.

⁵⁴ *Ibid.*, p. 72.

⁵⁵ *Ibid.*, p. 14.

As a result, Hobhouse's liberal socialism limits religion according to a criterion of civic harm. Freedom and equality are so esteemed that any belief that may carry the illusion of conflicting with these goods must be denied. Religion that infringes on the rights of any others must be struck down and the individual freedom must not be subjected to the religious claims of certain groups. Restraining certain religious claims becomes something that "we [society] have to do whenever uniformity is necessary to the end which the general will has in view."⁵⁶ The proper relationship between the state and religious liberty is one of utility. It should only be allowed if matters of religious liberties can be agreed upon by the community and the state without sacrificing any other individual freedoms. This creates a religion in which the individual will is subjected to the *raison d'état*.⁵⁷ However, the beliefs of individuals are never harmonious. In these matters of conflict, the consolation of the devout is the right to futile protest. It becomes clear that the relative value of religious freedom is diminished as a human good competing with other human goods.

This view of religious liberty is a direct result of a liberalism that prizes certain goods over religion. Hobhouse holds economic equality as a means to personal expression as the highest attainable good. Therefore, it is necessary that religion must be sacrificed if it clashes against this goal. Religion thus serves a secondary role for Hobhouse. He does not see it as essential to a person because it lacks the ability to influence the economic equality of individuals. He says that "we are never to suppose that we are in the possession of complete and final truth."⁵⁸ We are to keep are beliefs to

⁵⁶ *Ibid.*, p. 17.

⁵⁷ *Ibid.*, p. 15.

⁵⁸ *Ibid.*, p. 52.

ourselves and not attempt to impose our notions about truth upon others. The individual's religious liberty remains subject to the community and the state. Hobhouse favors a system that allows people to keep their individual beliefs, but if necessary will restrict the manifestations of these beliefs in the service of equality. It becomes necessary to restrict these actions because "It is not open to men to practice such of their precepts as would violate the rights of others or cause a breach of the peace."⁵⁹ Thus, religious liberty becomes a distinctly social issue, and it is evident that the community has the final say in the expression of religion among individuals.

The idea of overlapping spheres at least acknowledges that there is some relationship between liberalism and religion. However, this is not satisfactory in solving the claims between liberalism and religion. It inevitably comes down on the side of religious oppression if it is not seen as helpful to the societal whole. Those that hold sincere religious belief will not be quick to give up their traditions just because the community or the state commands them to do so. Hobhouse places the flowering expression of personality as the supreme good, but it could be argued that the religious would consider their worship to be the highest good. The "full liberty" that Hobhouse espouses really becomes full only in one sense. For the religious faithful, the full liberty does not extend to them if their actions are interpreted as creating a breach of public order.⁶⁰ This comes as a direct result of the fact that the state has a significant interest in all spheres of life. Liberalism will not stay stagnant simply to appease the religious. For Hobhouse, it must be moving in the name of equality, and religion will not be a roadblock for this end.

⁵⁹ *Ibid.*, p. 15.

⁶⁰ *Ibid.*

How dangerous is this to those who are sincerely religious? It would seem very dangerous indeed. Religion is intrinsically valuable to individuals and, to many, the ultimate expression of their humanity. Therefore to suppress this right in the name of equality seems counterintuitive to the end of the free expression for all peoples. This interpretation of religious liberty seems to raise more questions than it answers. It would be difficult to argue against suppressing a religion that practices “cannibalism, human sacrifice, or the burning of witches.”⁶¹ However the claims made by Hobhouse extend beyond just those religious practices we consider inhumane. By evaluating all religious claims by reference to their usefulness in furthering economic equality, Hobhouse’s liberalism could very quickly and easily dispose of essential elements of the Christian life.

That being said, Hobhouse must be given credit for recognizing the times that religion necessarily interacts with society in negative ways. For example, he specifically lists actions such as religious sacrifice, or other antiquated religious practices that physically harm individuals. Situations like these must be restricted, and Hobhouse says as much. However, the problem with Hobhouse’s proposal concerning religion is its vagueness. Outside of extremely obvious examples, he gives no practical advice on how the state should interact with religion. He simply subjects religion to the common good. This is a dangerous teaching because it leaves the door open for the state to gut religion. There are situations and times when religion interacts with society in problematic ways, which Hobhouse alludes to, and I shall address in the following chapter. However,

⁶¹ *Ibid.*, p. 14.

Hobhouse does not do enough to draw out this argument, and the vagueness of his position is concerning for the devout.

It is evident that the liberalism of L.T. Hobhouse seeks to solve the issue of religious liberty and individual freedom by coming down in favor of individual freedom over religious belief. Hobhouse's liberalism is one that is necessarily involved in all spheres of life. Social liberalism must prize certain goods over others in order to further equality in the name of free personal expression. Religion must not be a roadblock to these ends and must be subservient in matters of dispute. I believe that this vision of liberalism ultimately says something about the liberal temper as a whole. This temper is one that refuses authority per se; it is a temper that craves freedom from anything and everything that seems constraining.

CHAPTER FIVE

Supreme Court Jurisprudence on Religious Free Exercise

To gain perspective on the relationship between liberalism and religion in modern American society, it seems appropriate to look at the jurisprudence on religious free exercise delivered by the Supreme Court. As the final authority on judicial matters in the United States, an examination of the major decisions of the Court should help illuminate the connection between liberalism and religion in practice. In this chapter, I specifically examine how the Court has dealt with the free exercise of religion. Many defenders of religious liberty interpret the actions of the Supreme Court to be trending in the direction of limiting religious freedom as our secular culture continues to dominate in the public sphere.⁶² At the same time, others see the Court as sympathetic to religious free exercise and interpret the jurisprudence to be favorable towards religious individuals.⁶³ Ultimately, I find that there is, in fact, no discernable pattern concerning Supreme Court jurisprudence in this area. This indiscernible pattern goes to show that although we may look to the Court to be the arbitrator of conflicts between liberalism and religion, it is ultimately unable to be a neutral source of judgment. There is no pattern to track what stance the Court might take next in deciding matters of free exercise. Looking at the modern landscape, this inconsistency on religious free exercise seems to pose a mild threat to religious individuals.

⁶² "Hostility to Religion: The Growing Threat to Religious Liberty in the United States," *Family Research Council*, (2014)

⁶³ "Religious Liberty: Shield: Or Sword?," *People For the American Way*. Accessed February 12, 2015.

After giving a historical overview of the free exercise clause of the First Amendment and detailing the different views concerning its modern interpretation, I demonstrate that these views tend to coincide with the contrasting approaches to liberalism proposed by Locke and Hobhouse. In the end, I conclude that it is important that we continue to err on the side of conservatism in protecting the religious rights of individuals. An attitude of complacency towards religious liberty can easily lead to the constriction and oppression of the devout. Whether it be in the public square or in schools, it is easy to see that many religious individuals feel their free exercise rights have been violated. I argue that we must always view the free exercise of religion with a deep reverence that requires the utmost protection.

The founders who forged the First Amendment understood the inherent importance of the free exercise of religion. They did not see the Free Speech clause as sufficient in covering the necessary liberties they considered so important. Something new needed to be said, not just about our ability to voice our opinions on religion, but rather our ability to act on our beliefs. For the Founders, the most essential component of the free exercise of religion was liberty of conscience.⁶⁴ Liberty of conscience is “the right to be left alone to choose, to entertain, and to change one’s religious belief.”⁶⁵ One could act publicly on the religious beliefs one held without fear of state punishment as long as one does not infringe on the rights of others. In fact, James Madison wrote that religion consists of “the duties that we owe to our creator, and the manner of discharging them.”⁶⁶ Religious free exercise is not merely voicing our opinion on theological issues,

⁶⁴ Witte and Nichols, *American Constitutional Experiment*, p. 41.

⁶⁵ *Ibid.*, p. 45.

⁶⁶ *Ibid.*

but rather acting on our religious beliefs according to the manner called upon by God. Despite the plurality of thought on how religion should interact with politics, there was a consensus amongst the founders that the exercise of religion, and not just mere belief, was essential if our new nation was going to be serious about individual liberty.⁶⁷

It is thus evident that the free exercise of religion was incredibly important to the fabric of our country, and its protection was so important as to have a place in our nation's Bill of Rights. However, the diversity of religious thought that we see today was not nearly as prevalent in the late eighteenth century and into the majority of the nineteenth century. Although there were still dissenting religious views, most of the early American population held Protestant Christian beliefs. In fact, "people assumed that Christianity was the national religion [and thought] that government could sponsor religion in various ways, and that religion was the main support of public morality."⁶⁸ Many states had established religions in the Christian tradition, and this was relatively uncontroversial because of the overwhelming prevalence of Christianity. So it would seem obvious that from the year 1789, all the way until 1879 with *Reynolds v. US*, Americans lived in a mildly homogenous religious atmosphere with no real outsider challenges to free exercise. Laws about public morality and duty were viewed through the broader lens of Christianity, and as a result the Supreme Court did not face many challenges to the First Amendment's interpretation. This history leading up to the start of the Supreme Court's jurisprudence on the free exercise clause is important to consider because it provides a framework in understanding the religious landscape of the time.

⁶⁷ *Ibid.*

⁶⁸ Kent Greenawalt, *Religion and the Constitution* (Princeton: Princeton University Press, 2006), pp. 26-27

I turn now to examine the two different lenses of viewing the history of religious free exercise and its future trajectory. First, I will examine the position that the Court has diminished religious freedom throughout its history and that we are heading toward an era of decreased religious liberty. *Reynolds v. US* (1879), which was one of the Supreme Court's first cases involving the free exercise clause of the First Amendment, was a 9-0 decision. In this case, the Supreme Court upheld a Utah law permitting the prosecution of Mormons engaged in polygamous and bigamous relationships. The Court upheld the prosecution on the grounds that the law was reasonable and generally applicable. Chief Justice Morrison Waite stated in the opinion that "while the laws cannot interfere with mere religious belief and opinions, they may with practices." As long as the law was generally applicable religious free exercise could, in fact, be prohibited. The Court reasoned that for the common good of society, it may be necessary that certain religious practices be curtailed. Amidst a culture of religious homogeneity, the Court seemed to be making a moral judgment on what was considered an "outsider religion." The Mormon practice of polygamy, however devout, did not fit into the religious fabric of the time. Consequently, the Supreme Court easily upheld a law that infringed upon the Mormon practices. For many who see the Court attacking religious belief, this case is precedent for the Court to strike down religious liberty if the belief is out of the ordinary.

The decision in *Reynolds v. US* is the catalyst for many who see a consistent history of abuse towards religious free exercise. The line of reasoning delivered by the Court in *Reynolds* seems counterintuitive to the words of Madison that called for a protection not only of just religious belief but also of action. However, for the next sixty years this was the standard held by the Court, and nearly every case, "resulted in a win

for the government.”⁶⁹ Richard Epstein says that the *Reynolds* case “erred in setting the initial presumption not in favor of liberty, but in favor of the overall use of state power.”

⁷⁰ The ruling set up a standard of “rational basis” that was used to allow the imposition of any uniform and general law made by a majority against a minority.⁷¹ The rational basis standard has been prevalent throughout the Court’s history, vanishing at times only to reappear at the most unlikely of times. Cases such as *Prince v. Massachusetts (1944)*, *United States v. Lee (1982)*, and *Bob Jones v. United States (1983)* all employ the standard of rational basis and were significant in limiting the free religious beliefs of others. Whether it was denying a Jehovah’s Witness’ ability to proselytize, taking away a religious institution’s tax exempt status because of its beliefs, or demanding that an Amish man pay Social Security against his religion, all of these cases placed a societal interest over the beliefs of the devout.

The tipping point came in 1990, in the watershed decision of *Employment Division v. Smith*. Justice Antonin Scalia, writing the majority decision, echoed the *Reynolds* Court by saying that it is not the responsibility of the legislature to make religious exemptions to those breaking criminal law, in this case smoking peyote for religious purposes. All the state of Oregon needed was a generally applicable law to prosecute those who broke it, even if they broke it because of a devout religious belief. It was made clear by this decision that rational basis would be the standard that the Supreme Court would take in looking at religious liberty for the foreseeable future. When viewed in this light, the standard of rational basis is frightening to those who held sincere

⁶⁹ Witte and Nichols, *American Constitutional Experiment*, p. 137.

⁷⁰ Richard Epstein, *The Classical Liberal Constitution: The Uncertain Quest for Limited Government* (Cambridge: Harvard University Press, 2013), p. 464.

⁷¹ *Ibid.*, p. 465.

religious belief. There was an immediate public backlash to *Employment Division v. Smith* as Americans called for the Court to “draw the sting from *Smith*, and isolate it, even if not explicitly overturn it.”⁷² The Court has still not overturned this decision, and when examining cases dealing with the Free Exercise clause, this is still the standard that it holds. A religious believer is forced to appeal to RFRA at the federal level, rather than their First Amendment rights (i.e. *Burwell v. Hobby Lobby*) to protect their beliefs.

It is important to note here exactly what RFRA (Religious Freedom Restoration Act) is and its role in Supreme Court jurisprudence. The outrage following the *Smith* verdict led to a bipartisan decision in Congress to pass RFRA in 1993. This piece of legislation demanded that the Supreme Court restore a standard of “strict scrutiny” when examining cases of religious free exercise. Any case involving religion at the federal level was now to be decided by strict scrutiny, which meant that a state must have a compelling interest and the law must be passed in the least restrictive means. Congress passed RFRA “using section 5 powers of the Fourteenth Amendment which empowers Congress to enforce the liberty provisions of the amendment against state and local governments by appropriate legislation.”⁷³ However, in the 1997 case of *Boerne v. Flores* the Court declared RFRA unconstitutional as applicable to state and local governments because it fundamentally changed the free exercise clause by mandating strict scrutiny.⁷⁴ The *Boerne* decision meant the end for RFRA at the state level, but said nothing about its applicability at the federal level. In fact, RFRA is still acknowledged by the Supreme Court at the federal level, most recently in *Hobby Lobby*. For religionists

⁷² Witte and Nichols, *American Constitutional Experiment*, p. 163.

⁷³ *Ibid.*, p.138.

⁷⁴ *Ibid.*

today in a dispute concerning religious free exercise at the federal level, RFRA is their best defense.

However, since *Employment Division v. Smith*, even in cases that have been victories for religious free exercise, the Court has continued to diminish just exactly what religious free exercise entails. One such example of a recent case that was a technically a victory for religious liberty, but indicative of the Supreme Court's ability to diminish religious belief is the *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC* (2012) decision. In the majority opinion, Justice Roberts claims that any religious action that consists of only outward physical acts, like in *Smith*, can be regulated by the government. However if the case concerns an "internal church decision that affects the faith"⁷⁵ the Court should not interfere. This distinction must be incredibly disheartening for religious believers. I would argue that Justice Roberts has fundamentally misunderstood the relationship between physical acts of worship and one's religious belief. The precedent set from this case could theoretically "ban, under some general law the use of religious wafers in Communion, but could not require [the church] to permit unions to organize the nuns"⁷⁶ This is where the Court stands on religious free exercise today. Seen through this lens, religious believers hold that "further free speech and statutory protections of religious liberty must be vigilantly pursued."⁷⁷ As a result, many see the Court's standard set in *Smith* and the current rational basis standard in examining the First Amendment to be constricting religious free exercise.

⁷⁵ Epstein, *Classical Liberal Constitution*, p. 472.

⁷⁶ *Ibid.*, p. 473.

⁷⁷ Witte and Nichols, *American Constitutional Experiment*, p. 163.

On the other side of the argument, there are people who firmly believe we are in an era of great religious liberty and that the Supreme Court has done its best in defending the rights of believers throughout our history.⁷⁸ I now turn to the positive view that many hold concerning the Supreme Court's treatment of religious free exercise. In the 1940 case of *Cantwell v Connecticut*, the Court incorporated the First Amendment through the due process clause of the Fourteenth Amendment. This opened up the ability for the Court to rule on cases concerning religious free exercise and rule against state laws limiting free exercise. In this case, they ruled in favor of Jehovah's Witnesses who were proselytizing in a Roman Catholic neighborhood. The Court strayed from the *Reynolds* precedent and instead imposed a level of "heightened scrutiny" when ruling on cases that affected religious freedom. This case "marked the first time the Court ever responded favorably to the claim of a religious group...and set the direction that most religious-freedom cases would follow for the next half century."⁷⁹ Those who see the Court as defenders of religious liberty point to this case and its newly established level of scrutiny as the first example of the Court attempting to extend every possible opportunity for religion to flourish.

However, arguably the most significant case concerning the protection of religious free exercise has been *Sherbert v. Verner (1963)*, which led to an even tighter level of scrutiny than the one applied in *Cantwell*. Adell Sherbert was a Seventh Day Adventist who was suing to receive unemployment benefits following her termination. She was fired because she refused to work on Saturdays, which was in conflict with her

⁷⁸ "Religious Liberty: Shield: Or Sword?"

⁷⁹ James Hitchcock, *The Supreme Court and Religion in American Life, Vol. 1: The Odyssey of the Religion Clauses* (Princeton: Princeton University Press, 2004), p. 155.

religious beliefs. The Court ruled in her favor, and set up a new standard for how the Court was to deal with laws restricting religious liberty. The new standard was “strict scrutiny” and required that a law must serve a compelling interest, and must be narrowly tailored in achieving its end. Subsequent cases such as *United States v. Seeger (1965)*, *Wisconsin v. Yoder (1972)*, and *Thomas v. Review Board (1981)* all provided religious exemptions in favor of believers. With these cases, the Court provided a precedent that called for a strict examination of any law that infringed on an individual’s religious free exercise. They went from a level of minimal scrutiny, to a level of strict scrutiny in a short period, and consistently did its best to appropriately defend the rights of religious individuals.

The defenders of the Court’s treatment of religious free exercise will point to the fact that even after the controversial decision in *Smith*, which overturned the standard of strict scrutiny in *Sherbert* and reinstated rational basis, the Court has still ruled in favor of religious institutions and individual believers many times, such as in *Church of the Lukumi Babalu Aye, Inc. v. Hialeah (1993)*, *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC (2012)*, *Watchtower Society v. Village of Stratton (2002)* and most recently in *Burwell v. Hobby Lobby (2014)*. Those who see the Court as stout defenders of religious liberty would point to these cases as perfect examples of the Court standing with religious believers even with the standard of rational basis in place. The Supreme Court has done its best to uphold the free exercise of religion and the Court is in no way “out to get” religion as some might think. If one steps back and examines the free exercises cases as whole, one would see a pattern of respect and toleration for religion. In

fact, “despite *Smith*, religious liberty litigants have continued to find ample protection against religious discrimination.”⁸⁰

After examining both sides of the argument, it seems that there is no easy story to tell concerning the jurisprudence on religious free exercise. The Court has jumped back and forth, from championing religious liberty to restricting the beliefs of the devout. This conflicted history makes it difficult for one to interpret the Supreme Court’s jurisprudence on religious free exercise and its possible future trajectory. In the end, it seems that there are two lenses to view their treatment of religious free exercise. One could very easily see it negatively in light of the enduring *Smith* decision and the employed standard of rational basis, while another could interpret it positively in light of the Court’s ability to continually grant religious institutions and individuals exemptions even up to this day, as evident in *Hobby Lobby*. Therefore there is not a clear discernable pattern on where we have come from, or where we are going when it comes to looking at free exercise. For moments in time the Court has seen religious free exercise in a certain light, and then shortly thereafter they have interpreted it completely different. Whether it be the level of scrutiny applied, or the seriousness with which they take the religious claim, the Court has shown little consistency and this is manifested in the fervor of debate on both sides of the argument concerning free exercise.

In light of this inconsistency, what exactly is the correct way for the Supreme Court to deal with religious free exercise? Two liberal thinkers, John Locke and L.T. Hobhouse have proposed different views of how the government should interact with the free exercise rights of individuals. Locke argues for a two spheres model where politics

⁸⁰ Witte and Nichols, *American Constitutional Experiment*, p. 160.

and religion do not interact and religion enjoys extensive freedom. On the other hand, Hobhouse espouses a closely tied political regulation of religion as one of many competing public interests. Both views correlate with differing ways of seeing the free exercise clause and are fought over, albeit unknowingly, as the prevailing interpretation.

The way Locke characterizes the church and public worship highlights his belief of a strict separation between religion and government. He describes a church as “a voluntary society of men, joining themselves together of their own accord, in order to the public worshipping of God, in such a manner as they judge acceptable to him, and effectual to the salvation of their souls.”⁸¹ Locke articulates that the church can only be concerned with itself and its worship. The church body can commune when they want, establish church doctrine, and create an internal hierarchy. Locke sees the relationship between individual churches in the same way he sees the relationship between private individuals. They are autonomous groups with a right to worship and conduct their ceremonies in the ways they see fit. In this way, the church remains completely outside the sphere of government. In regards to public worship, whatever is “left free by law in the common occasions of life, let them remain free unto every church in divine worship.”⁸² Individuals must be allowed to practice their religious beliefs in a manner that is uninfluenced by the state because religion is in a sphere that is not to interact with politics. In addition, Locke sees the “accidentals” of worship as essential to different faith traditions. Therefore, we must be tolerant to all and allow the flourishing of religious belief. In this regard, we all must be able to privately practice our beliefs and individual

⁸¹ John Locke, *A Letter Concerning Toleration* (New Haven: Yale University Press, 2003), p. 220.

⁸² *Ibid.*, p. 249.

religious worship and collective worship in the church should be private and separated from the state.

The views of Locke are echoed in many decisions throughout Supreme Court history. The Lockean line of reasoning is evident in such cases as *Wisconsin v. Yoder*, *Hosanna Tabor*, and *Hobby Lobby*. In *Yoder*, a group of Amish families wished to remove their children from the public education system after eighth grade, when the law mandated that all children be educated until the age of sixteen. The Court ruled in favor of the Amish and argued that the government should not be in the business of violating deeply held religious conviction. Some might see the Amish practices as absurd, but like Locke believed, these “accidentals” (such as removing children from public education) could be essential to their system of religious belief. The free exercise of religion should not “force its citizens to choose between duties and dictates of faith and the rights and benefits of citizenship.”⁸³ *Hosanna Tabor* and *Hobby Lobby* also fall in line with the Lockean philosophy on the rights of religious individuals. In *Hosanna Tabor*, the decision was made that it is not the duty of the government to determine who is a “lay” minister or a “called” minister; rather, that right should be left to the religious institution itself to determine its internal hierarchy. Similarly, in *Hobby Lobby*, the Court ruled that it was not the right of government to enforce the contraception mandate of the Affordable Care Act against the conscience of a religious employer. These cases decided by the Court echo the Lockean sentiment that government should not be intertwined with religion. Rather, they should be two spheres completely separate from one another.

⁸³ Witte and Nichols, *American Constitutional Experiment*, p. 155.

In contrast, Hobhouse claimed that religion is both private and public in its domain.⁸⁴ It is personal as an expression of belief, but it is social because the actions of belief can affect others. He knows how important religion can be to an individual, and he argues that it should be allowed under one condition - that it must not interfere with the personality of others. Hobhouse admits that his view of religious liberties among individuals may leave “room for strained and unfair applications,”⁸⁵ but this is the necessary end of his liberal ideas. It seems this presents an inherent conflict. What should the state’s response be if religious beliefs of individuals clash with the personality of another individual, or with a group of individuals? Hobhouse both understands this conflict as well as addresses what the response should be. He plainly states that “So far as they infringe the freedom, or, more generally, the rights of others, the practices inculcated by a religion cannot enjoy unqualified freedom”⁸⁶ Therefore, in matters of dispute, it may become necessary to sacrifice the religious liberty of a person or of a religious sect. Hobhouse applies his social harmony concept to the realm of religion. If it is harmful to the organic whole of society, it is permissible to constrain religious freedoms. The expression of religion is free, but any action that may be perceived as detrimental to another’s well-being may be restricted, which includes any sort of proselytization.⁸⁷ The instant beliefs turn into an act of worship or any tangible expression that may clash with the well-being of others, it is necessary to restrict their religious beliefs.

⁸⁴ L.T. Hobhouse, *Liberalism and Other Writings* (Cambridge: Cambridge University Press, 1994), p. 14.

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*, p. 15.

⁸⁷ *Ibid.*, p. 14.

Many Supreme Court decisions on religious free exercise have followed similar logic to Hobhouse's views on religion in public life. Most notably in *United States v. Lee*, *Prince v. Massachusetts*, *Bob Jones v. United States*, and of course *Employment Division v. Smith*. In *Lee*, the Supreme Court forced an Amish man to pay Social Security tax despite a religious objection. The Court ruled that the law was generally applicable and served an overriding government interest. This view aligns perfectly with Hobhouse's position that some religious beliefs must be sacrificed for the common good of society, which in this case was Social Security. Likewise, in *Bob Jones*, the Court held that Bob Jones University could, in fact, lose its tax exempt status for discriminating against interracial dating. The government had a compelling interest in eliminating racial discrimination, and therefore mandated that the university, despite their religious beliefs, adhere to this policy. In *Smith* and *Prince*, the Court also ruled that there may be times when religious beliefs and practices must be sacrificed to the common good of society. In this way, the government has an interest in eliminating those practices that are contrary to the agenda which it is trying to advance. Similar to Hobhouse's reasoning, all of these cases involve the Court calling for a government regulation of those religious practices that may affect the rights of others or society as a whole.

These two differing liberal views on the interaction between religion and the government have manifested themselves in various decisions throughout the history of the Supreme Court. Consequently, we have an imperfect, arbitrary, and indiscernible jurisprudence on religious free exercise. Moving forward, there is a lack of clarity on exactly what freedoms religion will enjoy in the future. Many times, a justice's personal view of religion largely determines just exactly how he or she will act. If they see religion

as disposable, or a competing good among many others, its significance is diminished and its influence in the public sphere can be sacrificed. In contrast, if one views religion as a sacred and essential truth about themselves and the world around them, its influence is not so easily dismissed. From *Reynolds* to *Hobby Lobby*, justices have treated religion according to how important they believe it is to the individual. I believe this is why the jurisprudence of free exercise is so erratic. As a result, the future of religious free exercise is just as puzzling as its past, but one thing is for certain: as long as there are religious people operating in public life we will continue to look to the members of the Supreme Court to arbitrate the disagreements. How they mediate the conflicts, however, is anybody's guess.

What then is the proper response to the seemingly erratic jurisprudence on religious free exercise? Regardless of an individual's opinion on the sacredness of religious truth, it is important that we stay true to the First Amendment and continue to fight to extend liberties to religious believers. For many, their relationship with their creator determines who they are, and we must be willing to protect this fundamental right for all. However, the history of the Supreme Court has shown, the rights extended to religious individuals can just as easily be taken away as they can be given. Therefore, we must come down in favor of consistently advocating the protection of religious belief. Today, many people believe that believe religious liberty has simply become "an ideological rallying cry for a collection of culture warriors."⁸⁸ They view religious liberty as non-absolute that must necessarily be restricted at times if the government has a compelling interest. Regardless, as a First Amendment right, our nation must foster a

⁸⁸ "Religious Liberty: Shield: Or Sword?,"

reverence towards religious free exercise that consistently questions the laws and procedures where it is violated. A survey of the modern landscape reveals dozens of cases where seemingly harmless instances of religious free exercise have been challenged. From a college punishing a Catholic student for wearing a cross necklace to a teacher confiscating a Bible from a fifth grade student during a “free reading time”, there seems to be a mild threat to individual free exercise.⁸⁹ In these instances, religious people are by no means wielding religion as ideology, but rather simply exercising their right to religious exercise.

This mild threat must be taken seriously if we are committed to protecting our First Amendment rights. The Supreme Court has combated this threat at times, but has also aided it in other instances. True religious liberty is always worth fighting for, but it must not be wielded as an ideological tool. We must fight for the free exercise rights of all people, regardless of religion, race, or creed. If we are to remain faithful to our heritage, we must take it upon ourselves to call attention to the importance of religious free exercise, because the Court has not demonstrated consistency or clarity in its protection of individual religious liberty. Today we might have great liberty in religious free exercise. However, tomorrow we could have significantly less. Therefore, we must take charge in advocating the protection of religious belief. The moment we stop is the moment that the threats to free exercise will grow.

⁸⁹ “Hostility to Religion” pp. 11-12.

CHAPTER SIX

A Modern Response to Liberalism and Christianity

In light of all this, what should be modern liberalism's response to Christianity? Alan Wolfe, professor of political science at Boston College, offers a proposal to solve this crisis in his book *The Future of Liberalism*. In this chapter, I outline the argument that Wolfe presents, and point out the weaknesses of his proposal. He first details the historical relationship between religion and liberalism in both positive and negative respects. Then he turns to examine the modern relationship and proposes that liberalism has a "triple duty" towards religion.⁹⁰ Wolfe's proposal is that liberals must wage a campaign for open-mindedness, and defend the idea of religious tolerance. I argue that while Wolfe's call for religious toleration is uncontroversial, he ultimately fails to consider the inherent conflicts that arise between liberal practices and free religious associations today.

First and foremost, Wolfe proposes that there are two ways in which liberals can respond to religion. They can either fight religion because of its apparently illiberal qualities: it is sectarian, dogmatic, violent and uncompromising. Or liberals can be open, rather than closed, toward religious claims and defend the rights of the faithful even if believers would not extend the same rights in return. This is the dilemma facing liberalism and religion. Wolfe dismisses the idea that there are culture wars happening now between the secular and religious spheres.⁹¹ Both belief and nonbelief are

⁹⁰ Alan Wolfe, *The Future of Liberalism* (New York: Alfred A. Knopf, 2009), p. 177.

⁹¹ *Ibid.*, p. 157

permanent fixtures of humanity in our culture and each attracts its own followers. It is important for liberals to understand that religion is ingrained into our culture, and the liberal approach to religion must be candid and straightforward. Will liberals fight against religion, or embrace religious toleration in the name of openness?

In order to gain perspective on this looming question, Wolfe examines the liberal temper of the Enlightenment philosophers to examine how they viewed religion in their time. At the time of the Enlightenment both the church and state were extremely oppressive. In fact, the *ancien regime* often blended the church and state together. Therefore, what was considered a crime in the church, such as heresy, was also a state crime. The idea of openness was nowhere to be found in the pre Enlightenment regimes. There was secrecy in government, restriction of education, and forceful criminal charges brought upon anyone who made an attack on religion. This is why, “of all the features of a closed-minded world that attracted their attention, none played a more prominent role than religion.”⁹² The combination of the church and state made it a force worthy of attention.

Wolfe focuses mainly on the Enlightenment philosopher Immanuel Kant and his work, “What is Enlightenment?” to study the liberal temper in response to the closed minded ruling powers. In this work, Kant “anticipated a world in which individuals, by developing their own capacities, would become masters of their own fate; daring to know, people would have to grow.”⁹³ The Enlightenment philosophers called for an end to the closed societies in which they resided. People were not mechanical beings destined to follow the monarchical and religious ruling classes above them. Knowledge was being

⁹² *Ibid.*, p. 160.

⁹³ *Ibid.*

accumulated at an incredible pace and this knowledge was for all to know, and this knowledge could be used to challenge the oppressive actions of the *ancien regime*. This is why Kant held the motto that we must, “*Dare to Know*”, because there is in fact a danger to opposing the state. Liberals knew they did not want to be a part of the dogmatic, blind belief forced upon them by the church and state. Rather, they were in favor of openness towards religious matters. They agreed upon this premise but out of the theory of openness came a further question. Should liberals be in favor of freedom *for* religion or for freedom *from* religion?

This question was complicated by the rising phenomenon of civic religion in Enlightenment era politics. The political order benefited greatly from religion, and the two were blended because in the rulers’ mind, “What could exist without a dominant religion?” Religion was critical to the state but religious diversity sowed seeds of discord. Therefore, the state suppressed religious diversity so that religion might serve its proper function in the state. A state religion was championed, and the state and its favored religion became jointly oppressive. Enlightened thinkers knew that they were most definitely against this type of oppression. This led many thinkers, such as Voltaire and Diderot, to conclude that liberty and religion were incompatible. These skeptics saw religion as the problem holding back humanity from flourishing and led Diderot to say that “Man will never be free until the last king is strangled with the entrails of the last priest.”⁹⁴ These skeptics saw through the façade of state religion and its oppressive nature, and they stood for freedom from religion.

⁹⁴ *Ibid.*, p. 162.

However, to say that this is where the liberal tradition concerning religion ends would be a mistake. In fact, there are many challenges to the idea that liberalism is constantly skeptical and against religion. In his book *Victory of Reason*, historian Rodney Stark shows that the liberal goods such as toleration and democracy have Christian roots. Christianity is responsible for many of the “seemingly secular ideals”⁹⁵ associated with liberalism. It is not solely responsible for liberalism, but it is appropriate to deduce that it was a significant contributor. Wolfe concludes that “If religion was not that hostile to liberalism, neither was liberalism necessarily hostile to religion.”⁹⁶ In fact, there were numerous Enlightenment thinkers who argued for religious liberty. One of the fathers of liberal thought, John Locke, argued for religious toleration in his work, *A Letter Concerning Toleration*. Enlightenment, and most definitely liberal thinkers, such as Adam Smith, “had no quarrel with religion itself.” The answer to the question “for or from” was complicated by the fact that the Enlightenment supported many different conclusions about religion. In France, thinkers such as Voltaire and Diderot found religion unnecessary and wished to be freed from it, while British thinkers such as Locke and Smith saw the importance of the toleration of religion.

Wolfe goes on to show that the beliefs of the Enlightenment skeptics were historically flawed. By viewing liberalism and religion as incompatible, these thinkers failed to grasp the entirety of the liberal tradition. The most striking example in support of the compatibility of liberalism and religion is the United States. The United States is a deeply religious nation and founded in the liberal tradition. Therefore, “the idea that there is an inherent tension between liberalism and faith is further problematic because the

⁹⁵ *Ibid.*, p. 163.

⁹⁶ *Ibid.*

country that owed the most to Locke, the United States, did not, especially at its founding, experience any major conflict between the two.”⁹⁷ Our religious tradition has stayed with us since our founding, and to say that liberalism and religion are incompatible would be to ignore the country that was the most liberal at its founding. In fact, Wolfe points out that the evangelical tradition had a deep impact on the American church-state separation. He specifically points to John Leland, who was both a dedicated Baptist evangelical, but also a significant contributor to Thomas Jefferson and James Madison and the theory of church-state separation. Leland knew that the right to believe had to be protected and that the realm of religion should be left wholly outside of the government in order to foster toleration.

Liberalism can of course be construed in terms of freedom *from* or freedom *for* religion. We should not be bound to the oppressive, dogmatic and superstitious beliefs of religious state powers. In this way, citizens should be free from religion. We have the right not to adhere to any religious claims and not to be bound to something we don’t believe. At the same time, we must have the right to believe and practice what we choose. If we voluntarily choose our faith, we should have the freedom for religion in order to practice our beliefs. One without the other creates a society in which citizens are not able to fully express themselves. The liberal tradition esteems openness, and to be open one must have the right to choose religion, as well as be free from religious oppression if one decides not to adhere to any beliefs. Wolfe concludes that “liberalism’s enemy is not religion but religious oppression and its friend is not skepticism but freedom, including religious freedom.”⁹⁸ Liberals must not allow the state to exercise a punitive civic religion, and must stand adamantly against those who wish to establish a state religion. However, at the same

⁹⁷ *Ibid.*, p. 164.

⁹⁸ *Ibid.*, p. 167.

time it must continue to stay faithful to its roots and remain sympathetic to believers while fostering an environment of free worship.

After suggesting the proper stance that liberals should have towards religion, Wolfe turns to examine the relationship in our current modern culture. He suggests that in the United States we may be seeing a renewed Enlightenment in the spirit of the old French skeptics. This can be attributed to the rise of the religious right in politics and the subsequent response of secular leftists. Religious beliefs have been steadily declining in society, and it seems religion has to struggle to stay relevant and influential. As an example, Wolfe details the movement of the Southern Baptist Convention and its vigorous political agenda. In contrast to John Leland, the Baptist who argued for separation of church and state, the SBC has decided to join together with other Protestant churches so that they might bring religion back into the public sphere and reshape American politics. The SBC has decidedly turned their back on their heritage in order to “seek nothing less than a constitutional revolution that would repudiate the First Amendment in favor of a new religious establishment.”⁹⁹ This type of church-state cooperation has led many Americans to feel distrustful of religion and has ushered in wide spread skepticism. Writers on the political left, and also new atheists, such as Sam Harris, Christopher Hitchens, and Richard Dawkins spew the same discontent for religious establishments as did Voltaire and Diderot. These thinkers claim to be liberals, but yet their writings prove them to be quite illiberal towards religious belief. Hitchens claims that, “religion is fascism” and Sam Harris holds the belief that “no one is free to believe nonsense.” There is always an important place for free inquiry; however these contemporary thinkers are closed-minded in their persistence

⁹⁹ *Ibid.*, p. 170.

of militant nonbelief. They refuse to allow any semblance of religion into society, and they fail to acknowledge the importance that religion plays in liberalism. The new atheists argue wholly for freedom *from* religion while failing to recognize the necessity of freedom *for* religion. From this vantage point, Wolfe shows that the new advocates of liberalism in our culture are closed minded and ultimately antagonistic to the liberal tradition

What are religious liberals to do in the face of the oppressive voices from the thinkers of the anti-religious renewed “enlightenment?” Wolfe proposes that “believing” liberals have two options to choose from in the face of this oppression. They can either argue for liberal toleration of religion and the right to believe, in the tradition of John Locke and John Leland. Or they can conclude that in the end liberalism and religion are in fact incompatible. In the case of the first response, Christians must rely solely on the idea of individual rights which has proved extensively difficult. Rather, it is easier for believers to adopt the second perspective and consider themselves “resident aliens in a liberal political order.”¹⁰⁰ Wolfe points to the Duke theologian Stanley Hauerwas to demonstrate this point. Hauerwas believes that liberalism has corrupted and diluted Christianity, and thus it is not surprising that we have ended up at this point of contention. It “emasculated Christianity in the name of social peace.”¹⁰¹ In conjunction with Hauerwas, many non-believing postmodernists have joined with him in declaring that religion and liberalism are incompatible. To them religion is so far other worldly that it cannot be defined in modern terms and to try and define would inevitably lead to intolerance to those who hold different religious beliefs. However, this type of thought is too abstract to correctly show that liberalism and religion are incompatible. To these

¹⁰⁰ *Ibid.*, p. 174.

¹⁰¹ *Ibid.*

thinkers, Wolfe says that “If liberalism can respond to the revival of religion, even conservative religion, in the spirit of Locke more than in the spirit of Paine, it may be possible to have liberalism and religion at the same time.”¹⁰²

In order to respond to the revival of religion properly, Wolfe proposes that liberalism now has a triple duty towards religion. The first of these is to, “wage a campaign on behalf of open mindedness, liberals have to defend their views against conservative denominations that once made religious liberty central to their outlook on the world but no longer do.”¹⁰³ It is the duty of liberals to defend religious toleration against those conservative groups that have tied themselves too closely to politics, like the Southern Baptist Convention. It is important to distinguish between religious and state matters and, in the spirit of John Leland, we must argue avidly for the rights of the believers by separating the earthly from the divine. Those conservatives who wish to ingrain their beliefs into politics “lose their capacity to engage in matters of the spirit.”¹⁰⁴ Christians must not become too politically ingrained, because it is dangerous to their own religious liberty. It is the duty of liberals to defend the rights of the religious on the grounds that religion and government should be separated.

The second duty of liberalism is “to protect tolerance against the shrill voices of its neo-Enlightenment critics.”¹⁰⁵ Those such as Christopher Hitchens and Sam Harris who seek to usher in a new period of enlightened knowledge by eradicating religion must be refuted and not taken seriously. They are advancing inept refutations to true scholars and they engage in nothing more than a shouting match against the straw men they gladly

¹⁰² *Ibid.*, p. 176.

¹⁰³ *Ibid.*, p. 177.

¹⁰⁴ *Ibid.*, p. 178.

¹⁰⁵ *Ibid.*, p. 179.

set up and tear down. It is the job of liberals to defeat these thinkers and argue in favor of religious freedom. Wolfe invokes John Stuart Mill, who was by no means religious; to show that just because you do not admire religion does not mean you should eradicate it. In the end, “whether those ideas turn out to be true or false, society will be better off if their free expression is allowed.”¹⁰⁶ The ideas of these neo-enlightenment thinkers are incredibly illiberal towards religious belief, and they must not be taken seriously by those hoping to further the liberal cause.

Lastly, liberalism’s third duty is “to defend the idea of religious freedom against postmodernists who find it an impossible goal to achieve.”¹⁰⁷ These people find it impossible to be open to the faithful because they believe it is impossible to take seriously someone for whom revelation comes before reason. As a result, they believe that the religious “must, as a condition for entry into public debate, put aside their conviction.”¹⁰⁸ This leads to the conclusion the liberalism and religion are incompatible. Rather, Wolfe argues that it is liberalism’s duty to encourage believers to bring their faith into matters of public policy and to voice their opinion in matters of public debate. This is the “liberal bargain” and it must be continued in order to foster religious toleration. Whether or not we believe that reason is superior to revelation, it is the responsibility of liberals to allow for the faithful to express their views in a democratic fashion.

Wolfe proposes that a “place for religion must be guaranteed” in the future of liberalism.¹⁰⁹ However I don’t believe that his explanation adequately addresses the extensive issue of religious liberty in our society. The thesis that liberalism must have a

¹⁰⁶ *Ibid.*, p. 180.

¹⁰⁷ *Ibid.*, p. 181.

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*, p. 186.

place for religion is important, but Wolfe seems to marginalize belief by writing that it not interfere with the political agenda he proposes. Furthermore, he fails to consider the current clash between liberalism and religious associations. The problem seems too simplified, and there do not seem to be any practical solutions to the major religious clashes prevalent today. Wolfe fails to grasp the crux of the tension between liberalism and religion in modern society. His proposal is not an answer to the major questions facing us today concerning religious liberties but rather a passing attempt to soothe the religious community of believers.

The idea that liberals must create a place for religion is extremely important, and in this regard, I believe that Alan Wolfe has correctly understood the proper relationship between liberalism and religion. However, his argument does not suffice in our current culture. He has placed religion on the fringe of society, and although he calls for its toleration he refuses to tolerate it to the point where it interferes with his political agenda. He believes religion, and specifically Christianity, are too hopelessly compromised today to be a political threat in America. This is reflected in the trend of our society's defense of religious liberties today.

In the end, Wolfe's proposal stands much to due to L.T. Hobhouse by granting the "expression of personal devotion," but not Christian practices that may affect politics. Wolfe thinks that if society is overrun by Christianity, "it will not last long as a political system."¹¹⁰ It is to be tolerated in so far and as long as the supposed "zealous" do not have too much political sway. Once again, this falls short of fully expressing the issue of religious liberty. Are those companies who do not wish to provide contraception to

¹¹⁰ *Ibid.*, p. 184

employees too zealous to have their religious liberty? Are those who do not wish to recognize homosexual marriages too radical to be protected? Wolfe, like Hobhouse, does not address the clashes between liberalism and religious association and fails in giving a practical defense of religious liberty. He does not tackle the pertinent issues facing our culture today or the current battles in the courtroom shaping our religious freedoms. I think this is further proof of the potentially tragic end for religious liberty in its relationship to liberalism.

Ultimately, Wolfe does not present the problems of liberalism and religion accurately. He deliberately downplays the tensions between religious association and liberalism and he only presents a solution to solve the problems that are not at the forefront. It is not workable to acknowledge religious freedoms in the personal sphere, but ignore the rights of religious groups. This presents an inherent conflict for the religious and Wolfe fails to provide a salutary answer to this pressing issue. I believe that this speaks to the magnitude of the crisis facing us today. The liberal temper, in its ever pressing push for freedom, presents a challenge not just to personal freedoms, but also to religious associations that come into direct conflict with the liberal agenda of individual liberty. It is not only Wolfe who does not provide an answer to this conflict. Rather, it is our entire liberal culture that has refused to properly address this issue. This has led us to a time of crisis in which our answers to perceived problems are not satisfactory. In the end, the answers our liberal society provides us have not given substantive solutions as to how to address the problems of religious associations and personal freedom.

CHAPTER SEVEN

Conclusion

We all know that Liberalism and Christianity are in tension. There are constant clashes between liberal goods and religious individuals. Television news and newspapers illuminate this problem on a nearly daily basis. Even outside of the United States, it is evident that liberalism and religion in general are also in tension seen in the struggle between the liberal west and certain religious fundamentalists in the Middle East. In this thesis, I have shed light on why this is the case. We have shifted historically from a two spheres model (the Locke and Von Mises model) to a model where the state claims the right to arbitrate the tensions (the Hobhousean model). However, it is clear that the state cannot be a neutral arbitrator. At the same time, I've shown through Supreme Court jurisprudence that the Courts' handling of this question has not settled into a pattern.

Therefore, I have clarified the need for some pressing theoretical work to be done in this area. In this thesis I traced the historical development of liberalism into the modern era, showing how we ended up with our current conflicts. Today many citizens are confused about this problem, or do not understand that the problem even exists. We must continue to clarify the proper relationship between liberalism and religion if we are ever going to find a solution. The path we are on right now will only continue to exacerbate the conflicts that we see on a daily basis. Liberals and religionists alike must be willing to engage in meaningful conversation in order to come up with a workable model of balancing the liberal temper and devout religious claims. Liberals must not be so quick to

relegate religion to the fringes of society, and religionists must be willing to critically engage society in a meaningful way.

There must be serious work done in Christian theology for Christians properly to understand how their faith relates to the political climate they engage. Most modern Christians are unable to understand their responsibility when their faith collides with laws or the political climate as a whole. Therefore, I believe this issue requires serious consideration and discussion in Christian circles. In order to understand the potential threat that the liberal temper poses to Christianity, Christians must first understand how they are called to relate to their polity. Religious individuals must be aware that they bear a responsibility to protect their freedoms. This responsibility starts with a critical examination of the proper relationship between faith and our current political culture.

In addition, liberals must be willing to work with religionists and recognize the potentially damaging nature of the liberal temper. In its constant pursuit of freedom, the modern liberal temper tends to relegate religious belief as second rate and not worthy of protection. We have now reached a place where Christian belief is seen as antiquated and standing in the way of the next wave of freedoms. Liberals want to see religion moved to the fringes of society where it will exert little influence. This antagonism has come about slowly but has reached a tipping point in our modern society. The liberal temper must be checked in order to create a space for religious freedom moving forward. This place of contention between liberals and Christians will not be solved until both parties are willing to critically engage each other on a level that moves beyond political rhetoric and religious dogma. In the end, there is serious theoretical work to be done in this field if we are to reconcile the two in any significant way.

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